

MODEL ETHICS POLICY FOR TEXAS STATE AGENCIES

Pursuant to Section 572.051(d) of the Texas Government Code, the Office of the Attorney General (OAG) has developed the following model ethics policy. The following state entities may use this policy in order to satisfy the legal requirement that each entity adopt an ethics policy by January 1, 2008:

- (1) a department, commission, board, office, or other agency that is in the executive branch of state government, has statewide authority, and was created by the Texas Constitution or a statute of this state;
- (2) a public university system or a public institution of higher education, other than a junior college; and
- (3) a river authority created under the Texas Constitution or a statute of this state.

However, no state entity is required to utilize the model ethics policy when developing and/or adopting its own policy.

The OAG developed the model ethics policy to function as a general policy that can be used as a guide for minimum levels of ethical requirements for state employees. Noting the many differences among state entities, the OAG recommends that each entity develop an ethics policy that addresses the entity's unique situation and organizational needs.

THE [STATE AGENCY'S] ETHICS POLICY

I. OVERVIEW

Pursuant to Section 572.051(c) of the Texas Government Code, the [agency] promulgates the following ethics policy.

This ethics policy prescribes standards of conduct for all [agency] employees.

This ethics policy does not supersede any applicable federal or Texas law or administrative rule.

All [agency] employees must familiarize themselves with this ethics policy.

All [agency] employees must abide by all applicable federal and Texas laws, administrative rules, and [agency] conduct policies, including this ethics policy. An [agency] employee who violates any provision of the [agency's] conduct policies is subject to termination of the employee's state employment or another employment-related sanction. An [agency] employee who violates any applicable federal or Texas law or rule may be subject to civil or criminal penalties in addition to any employment-related sanction.

II. STANDARDS OF CONDUCT

A. An [agency] employee shall not:

- (1) accept or solicit any gift, favor, or service that might reasonably tend to influence the employee in the discharge of official duties, or that the employee knows or should know is being offered with the intent to influence the employee's official conduct;
- (2) intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised his or her official powers or performed his or her official duties in favor of another;
- (3) disclose confidential information, information that is excepted from public disclosure under the Texas Public Information Act (Tex. Gov't Code Ann. ch. 552), or information that has been ordered sealed by a court, that was acquired by reason of the employee's official position, or accept other employment, including self-employment, or engage in a business, charity, nonprofit organization, or professional activity that the employee might reasonably expect would require or induce the employee to disclose confidential information, information that is excepted from public disclosure under the Texas Public Information Act, or information that has been ordered sealed by a court, that was acquired by reason of the employee's official position;
- (4) accept other employment, including self-employment, or compensation or engage in a business, charity, nonprofit organization, or professional activity that

could reasonably be expected to impair the employee's independence of judgment in the performance of the employee's official duties;

(5) make personal investments, or have a personal or financial interest, that could reasonably be expected to create a substantial conflict between the employee's private interest and the public interest;

(6) utilize state time, property, facilities, or equipment for any purpose other than official state business, unless such use is reasonable and incidental and does not result in any direct cost to the state or [agency], interfere with the employee's official duties, and interfere with [agency] functions;

(7) utilize his or her official position, or state issued items, such as a badge, indicating such position for financial gain, obtaining privileges, or avoiding consequences of illegal acts;

(8) knowingly make misleading statements, either oral or written, or provide false information, in the course of official state business; or

(9) engage in any political activity while on state time or utilize state resources for any political activity.

B. An [agency] employee shall:

(1) perform his or her official duties in a lawful, professional, and ethical manner befitting the state and [agency]; and

(2) report any conduct or activity that the employee believes to be in violation of this ethics policy to [agency designee].

The following requirements are only statutorily applicable to employees or former employees of "regulatory agencies." Tex. Gov't Code Ann. § 572.054(b). However, Subsection III(3) of this policy does not statutorily apply to an agency regulating the

operation or inspection of motor vehicles or an agency charged with enforcing the parks and wildlife laws of this state. Tex. Gov't Code Ann. § 572.055(c). Furthermore, other law that restricts the representation of a person before a particular state entity by a former employee of that entity will prevail over the revolving door policy found in Subsection III(2). Tex. Gov't Code Ann. § 572.054(e); Op. Tex. Ethics Comm'n No. 275 (1995).

III. REGULATORY AGENCIES

(1) Definitions.

(a) "Participated" means to have taken action through decision, approval, disapproval, recommendation, giving advice, investigation, or similar action. Tex. Gov't Code Ann. § 572.054(h)(1).

(b) "Particular Matter" means a specific investigation, application, request for a ruling or determination, rulemaking proceeding, contract, claim, accusation, charge, arrest, or judicial or other proceeding. Tex. Gov't Code Ann. § 572.054(h)(2).

(c) "Business entity" means any entity recognized by law through which business for profit is conducted, including a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, or trust. Tex. Gov't Code Ann. § 572.002(2).

(d) "Regulatory Agency" means and department, commission, board, or other agency, except the secretary of state and the comptroller of public accounts, that:

- (i) is in the executive branch of state government;
- (ii) has authority that is not limited to a geographical portion of this state;
- (iii) was created by the Texas Constitution or a statute of this state; and
- (iv) has constitutional or statutory authority to engage in regulation.

Tex. Gov't Code Ann. § 572.002(8).

(2) A former employee of the [agency], who was compensated, as of the last date of state employment, at or above the amount prescribed by the General Appropriations Act for step 1 - salary group A17 of the position classification salary schedule, may not represent any person or entity, or receive compensation for services rendered on behalf of any person or entity, regarding a particular matter in which the former employee participated during the period of state service or employment, either through personal involvement or because the case or proceeding was a matter within the employee's official responsibility.

(a) Subsection III(2) of this policy does not apply to a rulemaking proceeding that

was conducted before the employee's service or employment ceased.

(b) In Subsection III(2), the secretary of state and the comptroller of public accounts are not excluded from the definition of "regulatory agency."

(3) An association or organization of employees of the [agency] may not solicit, accept, or agree to accept anything of value from a business entity regulated by the [agency] and from which the business entity must obtain a permit to operate that business in this state or from an individual directly or indirectly connected with that business entity.