

1.11 ETHICS / STANDARDS OF CONDUCT

This written Ethics Policy is adopted consistent with the standards prescribed in Subchapter C, Chapter 572, Government Code. A copy of this policy and Subchapter C will be distributed to each new employee not later than the third business day after the date the person begins employment with the agency.

1.11.1 Introduction

As government employees, our primary objective is to promote the common good, not our own interests. As public servants, we are held to a higher standard of conduct.

TWC expects employees to accept the responsibility that comes with being a public servant. TWC employees are to perform their official duties in a lawful, professional and ethical manner befitting the state and the agency, maintaining the public trust and making certain that state business is conducted in an honest and ethical manner.

TWC enforces the fundamental standards of ethics mandated by the Ethics/Standards of Conduct Policy. Violations of the ethics policy or standards of conduct may violate state and federal law in addition to TWC policies. This Ethics Policy does not supersede any applicable federal or Texas law or administrative rule. Responsible management reviews and determines appropriate disciplinary action for failure to abide by these policies.

1.11.2 Ethical Values

The Texas Workforce Commission Ethics Policy is a statement of the key values of our organization. The policy affirms that ethics are central to our mission and provides a broad framework to guide our employees in dealing with ethical dilemmas in the workplace. The policy articulates those principles to which we are morally bound in our relationship with our clients.

We believe in respect for the individual and the development of human potential;

We believe all persons are entitled to be treated with respect, compassion and dignity;

We believe in employment without bias and advancement through excellence;

We believe in openness and honesty in dealing with the general public and the people that we serve;

We believe in striving for excellence in government by providing the highest quality service;

We believe in conducting ourselves in a way that will avoid even the appearance of favoritism, undue influence or impropriety, so as to preserve public confidence;

We believe in performing our duties without favor or prejudice and in a manner that merits the confidence and trust of the public.

1.11.3 State Ethics Policy

State law mandates that no state officer or employee shall have a direct or indirect interest in, or engage in any business transaction or professional activity, or incur any obligation that conflicts with the proper discharge of that individual's duties for the state. Further, a state employee shall not:

- accept or solicit any gift, favor, or service deemed to be of personal benefit or value that might reasonably tend to influence the performance of official duties or that the employee knows, or should know, is being offered to intentionally influence the employee's official conduct;
- accept employment or engage in any business or professional activity that the employee might reasonably expect would require the employee to disclose confidential information that is obtained through the employee's official position, including information that is excepted from public disclosure by law or TWC rule under the Texas Public Information Act, or information that has been ordered sealed by a court;
- accept other employment, including self-employment, or compensation or engage in a business activity that could reasonably be expected to impair the employee's independence of judgment in performing official duties;
- make personal investments that could reasonably be expected to create a substantial conflict between the employee's private interest and the public interest; or
- intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised official powers or performed official duties as a favor.

For general advice on ethics issues, agency employees may contact the Ethics Advisor. Agency employees shall report any conduct or activity that the employee believes to be in violation of the ethics policy to their TWC management, as appropriate and/or the Director of Human Resources Management.

Agency employees who violate provisions of the Ethics policy are subject to disciplinary action, up to and including termination from employment. Further, any employee who violates the Ethics policy is subject to any applicable civil or criminal penalty if the violation also constitutes a violation of another statute or rule.

1.11.4 Bribery —Texas Penal Code § 36.02

The Texas Penal Code states that a state employee commits an offense if that employee knowingly or intentionally offers, gives, or agrees to give to another person any benefit as

a consideration for the employee's decision, opinion, recommendation, vote or other exercise of discretion as the employee or any benefit as consideration for a violation of a duty imposed by law on the employee.

Under the Texas Penal Code, any TWC employee who exercises any discretion as to TWC contracts is forbidden from accepting any benefit from any person interested in any TWC contract or from any person who is likely to become interested in any TWC contract in which the employee exercises discretion. Such behavior is a criminal offense under the Texas Penal Code.

That the public employee was not qualified to act in the desired manner or that the bribe was not solicited or accepted until after the exercise of discretion occurred or after the public employee ceased to be a public employee is not a defense to prosecution under the statute.

1.11.5 Gifts, Favors or Services—Texas Penal Code § 36.07 & 36.08

A TWC employee shall not accept or agree to accept, directly or indirectly, any favor, gift, loan, free service, or other item deemed to be of personal benefit of value in any form from any person or organization outside of TWC if it is intended, or would appear, to reward or influence the employee's official actions. This simply means that you should never accept anything if it might make you do your job differently, if you think the person giving it to you has the hope you will do your job differently, or if it might appear to others that you have done your job differently.

Examples

- A TWC employee shall not accept gift cards from LWDA Boards and service providers.
- A TWC employee shall not accept anything of benefit from a person subject to the agency's regulatory jurisdiction. Since TWC administers the unemployment insurance tax program, TWC has regulatory jurisdiction over virtually all employers in the state. This prohibition applies regardless of whether the donor is asking for something in return.
- A TWC employee shall not accept an honorarium for providing a service that the employee would not have been asked to provide if not for the employee's occupation or duties, such as making a speech regarding a TWC program.
- Employees shall not accept travel expenses, entertainment, or gifts deemed to be of personal benefit or value from any entity that might have an interest in influencing TWC.

1.11.5.1 Possible Exceptions

Possible exceptions to this policy include:

- accepting non-alcoholic beverages at business gatherings where they are served;
- accepting a complimentary lunch when representing TWC as a speaker at a luncheon meeting;
- accepting a benefit from a person such as a friend, relative or business associate with whom you have a relationship independent of your official status if the benefit is given based on that relationship and not on your official status;
- accepting compensation for services performed that are not related to, or based on, your official duties; or
- accepting transportation and lodging expense in connection with a conference or similar event in which the employee is serving in their official agency capacity, such as addressing an audience or otherwise engaging in a seminar to the extent that their services are more than merely routine.

For general advice on these and similar situations, agency employees may contact the Ethics Advisor, their TWC management, and/or the Director of Human Resources Management, as appropriate.

1.11.6 Standards of Conduct

TWC employees are expected to:

- serve the public with respect, concern and courtesy, conducting themselves in a manner that will enhance the public confidence in the agency and its staff;
- be courteous, fair, and impartial in all of their interactions with coworkers, customers, and the public, conducting agency business with competence, fairness, impartiality, efficiency, and effectiveness;
- project a professional, businesslike image;
- value cultural and individual differences and exhibit positive, nondiscriminatory behavior toward coworkers, customers, and the public; and
- willingly obey the laws of the United States and the State of Texas and the policies of TWC, following the spirit, as well as the letter of the law, and avoiding the appearance of undue influence, impropriety, or favoritism.

1.11.7 Conflict of Interest

TWC's effectiveness depends upon the extent to which TWC employees earn and hold the confidence and esteem of the people of Texas. To hold the public confidence, we must obey the literal requirements of the laws and regulations governing our activities, and we must demonstrate by our conduct that we support the moral and ethical principles which underlie these laws and regulations. We should never forget that, as public servants, we must always make the interests of the state our first consideration when there is any question of possible conflict.

1.11.7.1 Outside Business or Professional Activities or Employment

TWC employees shall not engage in any outside business or professional activities or accept employment in private enterprises if such activities or employment will:

- be in conflict with the interests of TWC or the State of Texas;
- interfere with the performance of official duties;
- reasonably be regarded as official duties; or
- use, or appear to use, information obtained through employment that is not generally available to the public.

Examples

- An employee involved in any phase of contract negotiations, development or oversight with a TWC contractor, subcontractor or vendor must immediately disclose any intent or consideration on the employee's part to work for or enter into any other ongoing relationship with said entity now or at any time in the future.
- An employee shall not on his/her own time use data obtained through employment but not generally available to the public or that identifies him/her with TWC unless prior approval of such identification has been obtained. Employees shall not use material prepared in the course of official duties for private gain. Prohibited use would include preparing publications using such data.
- TWC employees shall not engage in any outside employment, business, or other professional activity in which the employee acts as the representative of that entity before TWC.

TWC employees, as much as possible, shall avoid creating the appearance of impropriety. For general advice on these and similar situations, agency employees may contact the Ethics Advisor, their TWC management, and/or the Director of Human Resources Management, as appropriate.

1.11.7.2 Outside Employment Statement

Employees who are engaged in, or about to engage in, any outside activities or employment shall furnish a completed Form P-44, Outside Employment and Business Activity Statement, to their supervisor.

The supervisor shall submit the statements with recommendation to the appropriate department head for a determination as to conflict of interest. The department head shall submit a copy of each statement to the Director of Human Resources Management.

The mere ownership of real estate, stocks, bonds, or investments of this nature will not require the submission of an Outside Employment and Business Activity Statement, unless the ownership involves management responsibilities requiring a substantial amount of time and attention.

Upon indication that an employee is engaged in unreported outside business or professional activities or employment, the employee's supervisor will direct the employee to submit a completed Outside Employment and Business Activity Statement immediately.

1.11.7.3 Approval Process

Approval to engage in the outside employment or business or professional activity is based on the following guidelines:

- the activity is not prohibited by law, rule, regulation, order or directive;
- the activity is not conducted on TWC time and does not use TWC equipment, supplies, or materials;
- the employee will not use public or confidential information obtained through his/her employment with TWC;
- the activity does not involve an entity that contracts with TWC in which the employee or employee's spouse holds more than a ten percent interest;
- the activity will not impair the employee's ability to perform official TWC duties;
and
- the employee is not a paid consultant for an entity that contracts with TWC.

1.11.7.4 Dual Employment

Federal Government

Employees who accept a job with the federal government must submit an Outside Employment and Business Activity Statement, noting the amount of compensation. Exceptions are members of military reserves, persons retired from military service, or persons serving without salary as members of the governing bodies of school districts, cities, towns or other local governmental districts.

State Government

An employee must obtain prior approval to work for TWC and another state agency. TWC does not approve dual employment with other state agencies unless such employment can be shown to not cause TWC to incur increased financial liability under the overtime compensation requirements of the Fair Labor Standards Act (FLSA). Membership in the Texas State Guard or the Texas National Guard is not considered multiple state employment.

An employee approved for dual employment with TWC and another state agency is subject to the following provisions:

- each employing agency must maintain separate leave records;
- the employee cannot use time worked in one position as additional tenure credit for longevity or for annual leave accrual in the other position;
- the employee cannot transfer leave balances accrued at one agency to the other agency if the employee separates from one of the agencies;
- compensatory leave is earned and maintained separately;
- state contributions toward the employee's portion of Social Security tax liability are subject to the overall limit specified in state law;
- total state contribution toward the employee's group insurance is limited to no more than the amount specified in state law for a full-time active employee;
- longevity pay may be claimed at only one agency;
- the employee must make contributions to the Employees Retirement System through both agencies (dual retirement contributions increase the employee's average monthly salary for calculating retirement benefits); and
- an employee who separates from the agency where the employee has insurance coverage and remains employed by the other agency transfers insurance coverage

to the remaining agency. The employee contacts the benefits coordinator to make the change.

Requests for dual employment shall be sent to the Human Resources Management Department for review prior to approval by the Executive Director.

Multiple Employments Within the Same Agency

Multiple employments within the same agency are prohibited in which the sum total of percent time worked by an employee in more than one position exceeds 100% (40 hours).

1.11.7.5 Post-Employment Restrictions—Section 572.054, Government Code

An employee's state employment may, in some cases, affect the employee's future employment under the state's "revolving door" provisions. Under section 572.054(a) of the Government Code, Commissioners and the Executive Director shall not communicate with or attempt to influence actions of the agency for two years after they leave the agency.

The second "revolving door" provision, Section 572.054(b) of the Government Code, applies to Commissioners, the Executive Director, and employees who held a classification of pay group A17/B9 or above at the time they left the agency. The provision prohibits the employee from ever representing a person in regard to a "particular matter," in which the employee was involved during his/her employment. This means a specific matter on which the individual worked when employed by the agency, such as an investigation or a specific case. The employee may represent others before the agency on like matters, but never on that specific matter.

1.11.7.6 Limitations on Contracts with Previous Employees—Section 2252.901, Government Code

TWC shall not enter into a contract for consulting or professional services or into an employment contract with any individual who has previously been employed by the agency within the last twelve months. The term "employment contract" includes a personal services contract regardless of whether performance of such a contract involves the traditional relationship of employer and employee.

1.11.7.7 Financial Disclosure—Section 572.026, Government Code

TWC Commissioners and the Executive Director are required to file a financial disclosure statement with the Texas Ethics Commission no later than April 30 each year.