

**GUARDIANSHIP CERTIFICATION BOARD  
ETHICS POLICY  
(Including Amendments Through February 1, 2008)**

**1. Definitions**

“Agency” means the Office of Court Administration of the Texas Judicial System.

“Benefit” means anything reasonably regarded as pecuniary gain or pecuniary advantage to the beneficiary or to any other person in whose welfare the beneficiary has a direct and substantial interest.

“Board” means the Guardianship Certification Board.

“Contract” includes all contracts and amendments to contracts such as depository contracts; interagency and interlocal contracts; contracts for consultant services, professional services, and utility services; and requests for lease and leases for office space.

“Public member” means one of the four members appointed to the Board by the Supreme Court from a list of nominees provided by the governor.

“Texas trade association” means a cooperative and voluntarily joined statewide association of business or professional competitors in Texas designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

**2. Policy**

The purpose of this policy is to restate constitutional, statutory, and common-law principles of ethical conduct to guide Guardianship Certification Board members in the conduct of Board business. This is not an exhaustive treatment of all potential areas of conduct or misconduct.

**3. Membership on the Board**

A. It is grounds for removal from the Board if:

1. A member:

a. Is unable to discharge the member’s duties for a substantial part of the member’s term because of illness or disability;

b. Is absent from more than half of the regularly scheduled full Board meetings that the member is eligible to attend during a calendar year, unless the absence is excused by a majority vote of the Board;

c. Is an officer, employee, or paid consultant of a Texas trade association in the field of guardianship; or

- d. Is required to register as a lobbyist under Chapter 305, Government Code on behalf of a profession related to the operation of the Board.; or
  2. A member's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of guardianship.
- B. It is grounds for removal from the Board if the member is a public member and the member or the member's spouse:
1. Is certified by the Board or is registered, certified, or licensed by a regulatory agency in the field of guardianship;
  2. Is a person employed by or managing a business entity or other organization regulated by or receiving funds from the Agency;
  3. Owns or controls, directly or indirectly, more than a ten percent interest in a business entity or other organization regulated by or receiving funds from the Agency; or
  4. Uses or receives a substantial amount of tangible goods, services, or funds from the Agency, other than reimbursement authorized by law for expenses.
- C. Holding another office is incompatible with Board membership if one office might impose its policies on another office or subject it to control in some other way; i.e., if the duties of the two positions are inconsistent or in conflict, or if one office is subordinate to the other. Incompatibility is not the same as a conflict of interest, although it may involve a conflict of interest; incompatibility requires the involvement of two governmental offices or positions, while a conflict of interest - with a nongovernmental interest - may arise when only one office or position is involved.

#### **4. Training Requirement**

- A. A Board member may not vote, deliberate, or be counted as a member in attendance at a meeting of the Board until the member completes a training program that provides information regarding:
1. The legislation that created the Board;
  2. The role and functions of the Board;
  3. The current budget and the results of the most recent formal audit of the Board;
  4. The requirements of Rule 12 of the Rules of Judicial Administration, conflict of interest laws, and other laws relating to public officials; and

5. This and any other applicable ethics policies adopted by the Board or the Texas Ethics Commission, as well as the Board's Public Meetings Policy and Access to Board Records Policy.
- B. As often as necessary, the Director, or designee, shall provide Board members with information regarding requirements for office, to include responsibilities related to standards of conduct.

## **5. Standards of Conduct**

- A. A Board member is not required to file the personal financial statement required by Chapter 572, Subchapter B, Government Code.
- B. A Board member should not:
  1. Accept or solicit any gift, favor, or service that might reasonably tend to influence the Board member in the discharge of official duties or that the member knows or should know is being offered with the intent to influence the member's official conduct;
  2. Accept employment or engage in business or professional activity that the Board member might reasonably expect would require or induce the Board member to disclose confidential information acquired by reason of the official position;
  3. Accept other employment or compensation that could reasonably be expected to impair the Board member's independence of judgment in the performance of the Board member's official duties;
  4. Make a personal investment that could reasonably be expected to create a substantial conflict between the Board member's private interest and the public interest; or
  5. Intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the Board member's official powers or performed the Board member's official duties in favor of another.

## **6. Acceptance of Certain Benefits Prohibited**

- A. A Board member may not solicit, accept, or agree to accept any benefit in exchange for any exercise of official discretion.
- B. A Board member may not solicit, accept, or agree to accept a benefit from a person who the Board member knows or should know is:

1. Interested in a contract, purchase, claim, or other pecuniary transaction that may be substantially affected by the performance or nonperformance of the Board member's official duties; or
  2. Subject to certification, regulation, or investigation by the Board.
- C. A Board member may accept a benefit in a situation described by Section 6.B. above if the benefit is:
1. A fee or other benefit that the member is legally entitled to receive or for which the member has given legitimate consideration in a non-official capacity;
  2. A gift based on kinship or a relationship independent of the member's official status; or
  3. Not cash or a negotiable instrument and is an item worth less than \$50.
- D. A Board member may not solicit, accept, or agree to accept an honorarium in consideration for services that the member would not have been requested to provide but for the member's official position. Although other standards might be violated, this section does not prohibit a Board member from accepting meals, transportation, and lodging expenses in connection with a conference or similar event in which the Board member renders services, such as addressing an audience or engaging in a seminar, to the extent that those services are more than merely perfunctory.

## **7. Private Interest in Contract**

If a Board member has a financial interest in a contract between the Board and another entity, the contract is void. This result applies even if the financial interest is remote, contingent, or indirect, and the result cannot be cured by disclosure and recusal.

## **8. Nepotism**

- A. A Board member may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of a person who is to be directly or indirectly compensated from public funds if the person is related to the Board member or another Board member within the third degree by consanguinity or within the second degree by affinity.
- B. A person's relatives within the prohibited degree of relationship are:
1. within the third degree of consanguinity, the person's: parent, child, brother, sister, grandparent, grandchild, great-grandparent, great-grandchild, aunt who is a sister of a parent of the person, uncle who is a brother of a parent of the person, nephew who is a child of a brother or

- sister of the person, or niece who is a child of a brother or sister of the person.
2. within the second degree by affinity: the person's spouse; a parent, child, brother, sister, grandparent, or grandchild of the person's spouse; and the spouse of the person's parent, child, brother, sister, grandparent, or grandchild.
- C. The prohibition in Section 8.A does not apply if the person is employed in the position immediately before the appointment of the Board member to whom the person is related in the prohibited degree, and that prior employment is continuous for at least 30 days.
- D. If the prohibition in Section 8.A does not apply due to Section 8.C., and the person continues in the position, the Board member to whom the person is related in a prohibited degree may not participate in any deliberation or voting on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the person if that action applies only to the person and is not taken to affect a bona fide class or category of employees.

## **9. Abuse of Office**

- A. A Board member may not intentionally or knowingly violate a law relating to the member's office, or misuse government property, services, personnel, or other thing of value, in order to obtain a benefit or harm or defraud another person.
- B. A Board member acting under color of office, and knowing the conduct is unlawful, may not intentionally deny or impede another person's exercise or enjoyment of any right, privilege, power, or immunity, or subject another person to sexual harassment.
- C. A Board member may not use non-public information acquired by virtue of official status to speculate, achieve a pecuniary gain or acquire a pecuniary interest in any property, transaction, or enterprise that may be affected by the information, or aid another person in speculating, achieving a pecuniary gain or acquiring a pecuniary interest in any property, transaction, or enterprise that may be affected by the information.
- D. A Board member may not disclose or misuse non-public information that is acquired by virtue of official status, in order to obtain a benefit or harm or defraud another person.

## **10. Political Activity**

A Board member may not use the member's official authority or influence or permit the use of a program administered by the Board to interfere with or affect the result of an election or nomination of a candidate or to achieve any other political purpose.

**11. Conduct After Service**

A former Board member may not make any communication or appear before an officer or employee of the Board with intent to influence and on behalf of any person in connection with any matter on which the person seeks official action (or inaction), for a period of two (2) years after terminating service on the Board. This prohibition applies even if the Board initiates the contact and even if the former Board member is communicating on the member's own behalf, unless the former member is exercising his or her due process rights.

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\_\_\_\_\_, Chair  
Texas Guardianship Certification Board