



HHS Ethics Policy

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The HHS Ethics Policy incorporates standards of ethical conduct, guidance from statutory law, HHS Human Resources work rules, HHS Travel Policy, HHS Computer Policy and other relevant sources. Throughout the policy, relevant sources are cited to and hyperlinks are provided.

I. STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE TEXAS HEALTH AND HUMAN SERVICES SYSTEM

The following standards of conduct apply to every employee and form the basis for this policy. Where a situation is not specifically covered in this ethics policy, employees shall apply the principles set forth below in determining whether their conduct is proper.¹

- (1) Employees shall protect and conserve state property and shall not use it for other than authorized activities.
- (2) Employees shall act impartially and not give inappropriate preferential treatment to any private organization or individual.
- (3) Employees shall adhere to all laws and regulations that provide equal opportunity for all persons regardless of race, color, religion, sex, national origin, age, or disability.
- (4) Employees shall disclose waste, fraud, abuse, corruption and ethical concerns to appropriate authorities.
- (5) Employees shall not 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 official actions of the employee or the agency.
- (6) Employees shall not accept other employment or engage in a business or professional activity that the employee might reasonably expect would require or induce the employee to disclose confidential information acquired because of his or her official position.
- (7) Employees shall not accept other employment or compensation that could reasonably be expected to impair the employee's independence of judgment in the performance of the employee's official duties.
- (8) Employees shall not make personal investments that could reasonably be expected to create a substantial conflict between the employee's private interests and the public interest.

¹ The Texas Legislature enacted minimum standards of acceptable conduct for all state employees. Those standards are located in [Chapter 572](#) of the Government Code and serve as a basis for disciplinary action, if necessary. In addition to those minimum standards, all HHS employees must adhere to the HHS Standards of Ethical Conduct.

- (9) Employees shall not intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the employee's official powers or performed the employee's official duties in favor of another.
- (10) Employees shall endeavor to avoid any conduct creating the appearance that they are violating the law or the ethical standards set forth in this policy. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

A. Related Statutes

In addition to the standards of ethical conduct set forth in this section, there are federal and state conflict of interest statutes that prohibit certain conduct. Criminal conflict of interest statutes of general applicability to all employees are summarized in the appropriate sections of this policy and must be taken into consideration in determining whether conduct is proper. Citations to other generally applicable statutes relating to employee conduct are discussed throughout and employees are further cautioned that there may be additional statutory and regulatory restrictions applicable to them generally or as employees of their specific agencies or operational areas. Because HHS employees are considered to be on notice of the requirements of any statute, an employee should not rely upon any description or synopsis of a statutory restriction, but should refer to the statute itself and obtain the advice of their supervisor or an HHS Ethics Office ethics advisor.

B. Disciplinary Action

Violations of these provisions must be reported promptly, verbally or in writing, to your supervisor. A violation of this policy, related statutes or internal operating manuals addressing ethics may be cause for appropriate corrective or disciplinary action, up to and including termination. For example, employees working on the federal Social Security program are expected to follow all federal Social Security Administration policies and procedures related to ethics, including the reporting of fraud, waste and abuse. In some cases, failure to follow these standards and the HHS Work Rules located in the Health and Human Services Human Resources Manual, Chapter 4: Employee Conduct—Work Rules at <http://hhscx.hhsc.state.tx.us/hr/HRM/ch4.htm#conductwork>) will violate one of the criminal statutes referred to in this policy.

Disciplinary action will be based on the expectation that HHS employees are familiar with the Standards of Ethical Conduct and are aware of required duties and responsibilities. Such action shall be in accordance with applicable provisions of the HHS Human Resources Manual and may be in addition to any action or penalty prescribed by law. Employment with an HHS agency requires compliance with this policy.

C. Ethics Advice

HHS employees are encouraged to seek advice about the HHS Ethics Policy, including the incorporated Standards of Ethical Conduct, related statutes and internal agency operating manuals addressing ethics, by contacting your supervisor or an HHS Ethics Office ethics advisor. Employees can access the office and related resources at [HHS Ethics Office](#).

Disciplinary action will not be taken against an employee who engages in conduct in good faith reliance upon the advice of an agency ethics advisor; provided the employee, in seeking such advice, has made full disclosure of all relevant circumstances.

The HHS Ethics Office is an independent office, reporting directly to the Chief of Staff, and is the designated resource in the HHS system for ethics guidance and policy interpretation. Employees may contact the Ethics Office directly regarding any good faith report or to ask questions about this policy and applicable operating procedures, rules, laws and regulations. Retaliation against an HHS employee who makes a good faith report of any actual or potential ethics violation or appearance of impropriety will not be tolerated by HHS executive leadership.

II. ACCEPTANCE OF BENEFITS

Public servants are generally prohibited from accepting certain gifts or “benefits.” Violations of these laws carry criminal penalties, and complaints alleging such violations are handled by local prosecutors.

The statutory definition of “benefit” is “anything reasonably regarded as pecuniary gain or pecuniary advantage, including the benefit of any third party in whose welfare the employee is interested—such as a family member.” This definition does not include benefits received from another governmental entity. For examples of benefits, the Texas Ethics Commission has stated in their advisory opinions that the following gifts are benefits: a \$50 clock, a hotel room, a hunting trip, football tickets, a \$160 rifle, and a \$60 restaurant meal.

Ex: Y works for DFPS and was invited to attend a conference hosted by another state agency. The agency receives federal funds to host the conference every year and has the authority to waive or discount registration for state employees employed with CPS. The discount or waiver is not a benefit within the meaning of the prohibition.

With limited exceptions, HHS employees may not accept any gift, gratuity, or entertainment whatsoever from a prohibited source. The term “prohibited source” includes but is not limited to a vendor or entity that contracts with or is likely to become interested in a contract or other transaction with the agency; lobbying firms or lobbyists; an affiliated interest of a lobbying firm; anyone employed by or affiliated with a vendor or lobbyist; an entity subject to audit, inspection or investigation by HHS as noted in [Section 660.016](#) of the Government Code; and legal counsel for a party adverse to HHS. This definition does not include a group of entities serving in the collective capacity as sponsors of a conference or public event at which agency employees attend. However, employees must remain vigilant of the potential appearance of impropriety associated with even the smallest token from such entities.

A. Bribery

State criminal law prohibits the offering, solicitation, and/or acceptance of a gift in return for your decision, opinion, recommendation, vote, or other exercise of official discretion. See [Penal Code § 36.02](#). A violation of this law is a second-degree felony, punishable by imprisonment for 2 to 20 years, a fine of not more than \$10,000, or both.

An attempt to bribe is an “offer to confer any benefit with the intent of influencing the employee in a specific exercise of official action.” A bribery offense occurs even if a benefit is offered after an employee leaves the agency if the benefit relates back to a discretionary act on the job. Common sense should raise a question about whether something is a bribe. If you have a question about bribery, please contact the [HHS Ethics Office](#).

Ex.1: X works as a pharmacist for the Medicaid program but dreams of a big job at Y pharmaceutical company. X is good friends with the company’s VP of Government Programs who told X that the company wants to have more drugs in the Medicaid program. X’s friend also knows that X wants another job and asks X if some favorable decisions can be made to benefit the company. X’s agency job includes recommending drugs for preferred status in the Medicaid program, so X begins to routinely recommend drugs from Y pharmaceutical. Shortly thereafter, the company announced the creation of a new high-salary job and X is hired. The creation of this job for X in exchange for a benefit provided by X to Y could suggest bribery and/or the misuse of X’s position for personal gain.

Ex.2: X managed a team that reviewed and approved consumer products for inclusion in the WIC Program. X was also very involved in charity work for a local nonprofit food bank. When meeting with prospective vendors, X often talked about his volunteer work, passed out brochures about the nonprofit and encouraged the vendors to donate goods or sponsorships to the food bank. At a minimum, his actions could create an appearance of impropriety. This would be true even if these actions took place outside of work hours. If the vendors cooperated and were then awarded a contract with the program, the facts could suggest bribery and/or the misuse of X’s position for personal gain or benefit of another.

B. Honoraria

State law makes it a criminal offense for a public servant to accept an honorarium, *i.e.*, money or other monetary compensation, for services the public servant would not have been asked to provide but for the person’s status as a public servant. See [Penal Code § 36.07](#). This prohibition extends to a request for or acceptance of a payment of an honorarium to a third party if the speaker agrees to speak in exchange for such payment. A violation of Section 36.07 is a Class A misdemeanor, punishable by a fine of not more than \$4,000, jail confinement for not more than one year, or both.

This prohibition means, for example, that as an HHS employee you may not accept a gift or payment for giving a speech if your official position was a reason for your invitation to speak. You may, however accept meals, transportation, and lodging in connection with a work-related

speech as long as they are not from an entity that your agency intends to audit, examine, or investigate or is auditing, examining, or investigating and your speech is more than perfunctory. You may also accept a gift that is not a “benefit” such as a certificate or plaque or something of a minimal value.

Ex.: If an HHS employee is invited to speak at a meeting of current or potential vendors to the agency on the topic of contracting with her agency, she cannot accept anything more than transportation, lodging, and meals for speaking at the meeting. However, if the employee’s agency intends to audit, examine, or investigate or is auditing, examining, or investigating the person or entity paying the travel costs, she cannot accept the transportation, lodging, or meals.

C. Exceptions to the Prohibition on Benefits to Public Servants

As public servants, HHS employees are generally prohibited by Penal Code, except where stricter agency policies apply, from receiving any “benefit.” There are, however, exceptions to these prohibitions. **You may accept a gift, payment, or contribution as long as the gift, payment, or contribution fits into any one of the following categories.**

- **Items Worth Less Than \$50:** You may accept an item with a value of less than \$50, which may include food, from someone who is not a prohibited source. As previously stated, the term “prohibited source” includes but is not limited to a vendor or entity that contracts with or is likely to become interested in a contract or other transaction with the agency; lobbying firms or lobbyists; an affiliated interest of a lobbying firm; anyone employed by or affiliated with a vendor or lobbyist; an entity subject to regulation, audit, inspection or investigation by HHS as noted in [Section 660.016](#) of the Government Code; and legal counsel for a party adverse to HHS. **This exception does not apply to cash, checks, gift cards or negotiable instruments.** See [Texas Attorney General Opinion GA-0527 \(2007\)](#) (*gift certificates are considered cash equivalents*). When considering questions of value, employees should consult with their supervisor and use their best judgment.
- **Independent Relationship:** There is an exception from the general prohibition on the acceptance of benefits or a gift based on the following:
 - Kinship
 - A personal relationship independent of your official status
 - A professional relationship independent of your official status
 - A business relationship independent of your official status

Ex.1: X and Y are college friends and former roommates. They spend summer vacations together at Y’s cabin in east Texas. X now works in contract management and Y works for a vendor. They can still vacation together but must be mindful of any potential conflict of interest or appearance of impropriety.

Ex.2: X and Y are former business partners. They owned and co-managed a small adoption placement firm. Although they maintained their friendship, Y no longer has an interest in the

firm and works at DFPS as an adoption counselor. May Y accept lunch invitations from X, if X is paying? Yes, however Y must always be mindful of the potential appearance of impropriety.

- **Fees For Services:** You may accept a payment to which you are lawfully entitled in a capacity other than your official status. In this case, you may accept the offer without restriction. Remember, you may not take an honorarium for a service that you would not have been asked to provide but for your official status.

Ex.: Y is a singer-songwriter and receives compensation for performing at weddings on the weekends. She is legally entitled to payment for her services.

- **Political Contributions:** You may accept a political contribution as a candidate or officeholder as defined by [Title 15, Election Code](#).
- **Government Property:** You may accept an item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the entity.
- **Food & Entertainment:** Benefits in the form of food or entertainment are permissible if accepted as a “guest” at a local reception, event or gathering of persons attending from a variety of organizations in addition to HHS agencies. This type of event is sometimes referred to as a widely attended gathering and requires attendance of 25 or more people, attendance is related to work responsibilities and a sponsor of the event issued the invitation. For most state *employees* there is no applicable reporting requirement. However, the agency head and board members may be required to report certain gifts on their annual personal financial statement.

Ex.1: State employees receiving a mass email invite from a coalition of vendors to attend a conference focusing on recent trends in technology. If the sponsors are inviting public and private sector employees for the purposes of an educational exchange, the employees may attend and accept snacks, small promotional items and randomly drawn door prizes because this falls within the Food & Entertainment exception, i.e., as a widely attended gathering of more than 25 people related to their work experience. All HHS employees are encouraged to consult with their supervisors and use their best judgment when assessing the appropriateness of accepting such benefits.

Ex.2: An after-work professional gathering for networking purposes and exchange of ideas is sponsored by a law firm and attorneys from both public and private practice are invited by the firm. This event qualifies for the exception because it is for a large diverse gathering, related to work and the invitation was sent directly from the sponsor.

Ex.3: An advocacy group offered X complimentary seats at a baseball game. Sporting events do not meet the definition of a widely attended gathering because they do not generally provide an opportunity for a work related exchange of ideas like a networking reception or educational event.

Ex.4: A small group of state employees attended a strategy meeting with a nonprofit organization to discuss possible collaborations to improve client services. The nonprofit provided lunch for the meeting participants. This is not a widely attended gathering because its purpose is to explore collaborative options instead of furthering educational or professional networking objectives.

- Transportation, Lodging, and Meals: You may accept transportation meals and lodging as described by section II B. Honoraria.
- Services to a First Responder: Complimentary legal advice or legal services relating to a will, power of attorney, advance directive, or other estate planning document rendered:
 - To a public servant who is a first responder; and
 - Through a program or clinic that is:
 - Operated by a local bar association or the State Bar of Texas; and
 - Approved by the head of the agency employing the public servant, if the public servant is employed by an agency.

In this section, “first responder” means:

- A peace officer whose duties include responding rapidly to an emergency;
 - Fire protection personnel, as that term is defined by [Section 419.021](#), Government Code;
 - A volunteer firefighter who performs firefighting duties on behalf of a political subdivision and who is not serving as a member of the Texas Legislature or holding a statewide elected office;
 - An ambulance driver; or
 - An individual certified as emergency medical services personnel by the Department of State Health Services.
- Gifts to State Agencies: The provisions of the Government Code and the Penal Code that regulate gifts to public officers and employees, do not apply to gifts given to a state agency. The statutes applicable to each HHS agency will determine whether the agency has the authority to accept gifts. If the agency has the authority to accept gifts, it may only do so if the gifts can be used in carrying out the agency’s powers and duties. Such gifts are state property and cannot be used for private purposes. Even in legally permissible circumstances, management should consider whether the acceptance of the gift would create an appearance of impropriety.
 - Benefits from External Sources Because of an Agency Approved Collaborative Effort: An HHS agency may accept goods and services received from external sources as a result of a negotiated effort to benefit a program that the agency is authorized to administer.
 - Gifts from an HHS Agency: An HHS employee may receive and accept a gift from an HHS agency in accordance with various provisions of the HHS HR Manual. *See [HHS HR Manual Section H \(Employee Award Programs\) and Section I \(Employee Service Awards\)](#).*
 - Gifts from Consumers and the Community: A state supported living center or state hospital employee may accept from a consumer, consumer’s family member, or consumer’s friend unsolicited baked goods that can be shared and eaten during work hours or arts and crafts of

minimal monetary value. This is also true of gifts received by agency employees from local community groups.

- Disaster Response Personnel: Employees working in response to a disaster situation may accept food, beverages and small sundries provided during their time of service.
- Inspections: If an employee's job requires the employee to accept something, e.g., a sample of food at a regulated entity, it is not considered a benefit.
- De Minimus Items: Goods and services of minimal value, such as coffee mugs, coasters, key rings or other promotional items are not prohibited benefits as long as they are unsolicited and not offered or accepted in exchange for any action or inaction on the part of an HHS employee.

Because no list would be complete, HHS employees are expected to be aware of the potential perceptions created by the acceptance of even token gifts from parties with whom they conduct public business and to avoid accepting gifts that may create an appearance of impropriety or potential conflict of interest.

D. Proper Disposition of Prohibited Benefits

An HHS employee who receives a prohibited gift may dispose of the gift in one of the following ways.

- Return any tangible item to the source, if possible, at the source's expense.
- If it is not practical to return a tangible item because it is perishable, the item may, at the discretion of the employee's supervisor or an HHS Ethics Office ethics advisor, be given to a tax-exempt charitable organization formed for educational, religious or scientific purposes or destroyed.
- For any entertainment, favor, service, benefit or other intangible, reimburse the source by paying the market value. Subsequent reciprocation by the employee does not constitute reimbursement.

Employees should keep a record of all actions taken to comply with these provisions including obtaining receipts for any items donated to charity. An employee who promptly complies with the requirements of this provision will not be deemed to have improperly accepted an unsolicited gift. An employee who promptly consults with an HHS Ethics Office ethics advisor to determine whether acceptance of an unsolicited gift is proper and who, upon the advice of the ethics advisor, returns or otherwise disposes of the gift in accordance with these provisions will be considered in compliance with this policy.

III. GROUP SOLICITATION OF PERSONS OR ORGANIZATIONS WHO DO BUSINESS WITH THE AGENCY

State law places special restrictions on organizations made up of people employed by state regulatory agencies. For additional details, please refer to [Section 572.055](#) of the Government Code.

An association or organization of an HHS agency's employees may not solicit, accept, or agree to accept anything of value from a business entity or a person associated with such an entity that is regulated by the employees' agency and that must obtain a permit from the employees' agency to operate in Texas.

Ex. 1: An association of DFPS employees is prohibited from soliciting a donation to the group from a DFPS-licensed child-care agency.

Ex. 2: An organization of DADS employees is prohibited from accepting anything of value from a person who represents a nursing home.

IV. TRAVEL

Except as provided in Section II, B above, HHS employees are responsible for ensuring that all travel on behalf of the agency is planned, authorized and reimbursed in compliance with all applicable laws, policies and procedures developed by the [State of Texas Comptroller](#) and the [HHS Agency Travel Policy](#). For additional information, refer to Chapter 660 of the Government Code and various travel laws and regulations contained in the [General Appropriations Act, Article IX, Part 5](#). All travel must be planned for maximum economy and efficiency and all expenses submitted for reimbursement must be directly associated with official state business.

A. Combining State and Personal Business

When traveling on official business, an agency employee may take personal time and return from the business trip later if the combination is cost neutral or saves the state travel money. The employee must detail the savings on the appropriate forms provided by the agency travel department; list the off-duty and on-duty times, and claim reimbursement only for the on-duty times.

Ex.: X traveled to Washington, D.C. on official agency business. His meetings began Wednesday, so he flew to Washington on Tuesday night. His meetings concluded on Friday afternoon but he decided to stay in Washington until Sunday to visit family. This is permissible if no additional hotel, travel or meal charges accrue to the state. In addition, X must ensure that his return flight will not incur additional fees or fare increases. X's travel voucher should reflect that he was on duty from Thursday night until Friday afternoon and that he was off-duty from

Friday afternoon until he begins his travel back to the office. He may only seek reimbursement for the on-duty times.

B. Employee Travel Credit Cards

The use of state travel charge cards provide a savings for the state and a benefit to HHS employees who must travel as a requirement of their official duties. State travel charge cards are only issued and may only be used for official state business. Specific criteria apply when determining eligibility for issuance of a card. The requirements include but are not limited to (1) qualifying for the charge card based on the employee's credit ratings, not salary levels; (2) not having had a previous state card revoked; (3) not failing to return any overpayments from previous travel vouchers; and (4) not being indebted to the State of Texas.

HHS employees with state travel charge cards are responsible for submitting travel reimbursement requests and using the funds to timely pay the charges on their state charge card accounts. Inappropriate and unauthorized charges may result in the cancellation of the card and disciplinary action. Examples of inappropriate or unauthorized charges include, but are not limited to, the following:

- Meal or tip while on business at agency headquarters or the home city;
- Meal expenses incurred while not on state business;
- Alcoholic beverages;
- Excess airline baggage charges for personal belongings;
- Tips and gratuities;
- Mileage for an employee's personal vehicle for a family trip; and
- Personal purchases unrelated to business-related travel expenses.

Ex.: X accompanied his supervisor on a high-level trip. Although he knew the agenda for the trip, he neglected to bring enough professional clothing. Since they are in a major city with great shopping, he plans to purchase a new suit for the next day. His purchase, although it is presumably for business use, is inappropriate and unauthorized. Instead, X should purchase new clothing at his own expense, or have his current clothing dry-cleaned at his own expense, if necessary.

Any questions that may arise regarding travel related expenditures or reimbursements should be referred to your supervisor or the HHS Travel Office.

C. Conferences and Training Seminars

Travel expenses associated with conferences and seminars are only reimbursable if the travel clearly involves justifiable state business. All payments for registration fees should follow the established procurement process and shall be paid directly to the sponsoring organization. Conferences and seminars sponsored by an HHS agency are required to use television, video-

conferencing and telephone conferencing technology to the greatest extent possible. Per the [HHS Agency Travel Policy](#), if travel is required, the employee must obtain a certificate from the Executive Commissioner or designee certifying that travel is the only option. HHS employees are encouraged to discuss attendance at conferences and seminars that may require travel with their supervisors to ensure that such activities will be reimbursable.

HHS employees attending conferences and seminars sponsored by HHS or outside entities must remain vigilant of the potential for conflicts of interest or appearances of impropriety.

Ex. 1: An IT employee should not accept a complimentary registration to attend an industry conference solely sponsored by and dedicated to marketing one particular software product. If the product is being used by the agency, the facts suggest a potential conflict of interest. If the product is not being used by the agency, the facts suggest an appearance of impropriety. In either case, it appears that the complimentary registration is being provided to influence the employee in the exercise of his official duties. Such action violates the HHS Ethics Policy and may involve violation of various criminal laws.

Ex. 2: X receives approval to attend an educational seminar. One of the sponsors is a major vendor for HHS. The sponsor invites X to a VIP dinner during the conference that includes a chance to mingle with many of the speakers. X cannot accept the dinner invitation from a vendor. This invitation and the benefit constitute a gift from a prohibited source. However, if the sponsor provided dinner for all conference attendees, as part of the official conference agenda, X would be able to attend the dinner.

Ex. 3: As the local lead on planning your division's regional conference, you've secured a new hotel as the venue. In exchange for booking the conference and guest rooms, the hotel provided a complimentary suite on the concierge floor. Because you are acting in your official capacity and on behalf of the agency, you cannot accept the suite for personal use. You must inform your Division Director who in turn will make the decision on how use of the room will be allocated. All such decisions must be made with the goal of saving public funds.

D. Frequent Flier Miles, Bonus Points, and Other Travel Benefits

The Penal Code permits HHS and other state employees traveling on official business to accept frequent flier miles, bonus points, food coupons and other travel benefits for personal use. Penal Code [Section 39.02](#).

V. CONFLICTS OF INTEREST

State law makes it a criminal offense for an employee to engage in conduct that conflicts with the proper performance of their official duties. As previously stated, the minimum standards for state conflicts of interest laws can be found in [Section 572.051](#) of the Government Code. A conflict of interest exists when an employee's private interest conflicts or interferes with their ability to perform their public duties. A few examples of a conflict of interest include, but are not limited to the following.

- Using or attempting to use an HHS position for advantage in a personal matter or
- Accepting a gift, a service, a job, or professional activity that could appear to influence job performance or disclose confidential information.

A. Pecuniary Interest

An HHS employee may not have a pecuniary interest—economic or monetary interest in a lobbying firm; or an affiliated interest of a lobbying firm, whether as an officer, a director, a partner, an owner, an employee, an attorney, a consultant, or otherwise.

B. Personal Investments

The Standards of Ethical Conduct, provision 8, at the beginning of this policy state that a public servant shall not make personal investments that could reasonably be expected to create a substantial conflict between the public servant’s private interest and the public interest. *See also* [Section 572.051\(a\)\(4\)](#) of the Government Code.

HHS employees are required to exercise care in making personal investments and to avoid investments that create a conflict or may appear to create a conflict with their agency duties. HHS employees should not develop financial interests in organizations that may be regulated by an HHS agency or that receive or may receive substantial amounts of funding from an HHS agency.

VI. RESTRICTIONS ON EMPLOYMENT

The Standards of Ethical Conduct, provision 6, at the beginning of this policy provide that a public servant shall not accept other employment or engage in a business or professional activity that:

- Might reasonably require or induce the employee to disclose confidential information acquired by reason of her position as a public servant; or
- Could reasonably be expected to impair the employee’s independence of judgment in the performance of her official duties.

See [Sections 572.051\(a\)\(2\) and \(3\)](#) of the Government Code.

A. Dual State Employment

Although state law allows a state employee to work for more than one state agency, there are also state and federal guidelines that may prevent dual employment in certain instances. Government Code, [Section 667.007](#) requires a state employee to receive approval from the agency where they currently work before accepting additional employment with another state agency. At HHS, new employees who work for another state agency must also seek approval from HHS to continue their previous employment. The HHS Human Resources Manual Ch. 3 [General Employment](#), Subchapter F. [Dual State Agency Employment](#) sets out the conditions for

dual state employment and the process for an employee to obtain approval for such employment. Note that if permission is granted, it may be revoked at a later date, if any conflict or potential appearance of impropriety arises. If that event, the employee may be requested to resign from one of the agencies.

B. Outside Employment & Volunteer Activity

An HHS employee may not maintain second employment with a company or volunteer with an entity that could benefit from access to confidential information the employee knows as a result of the employee's official position. An HHS employee who manages a certain type of contract should not take a second job with a vendor in that same type of business, even if that vendor does not have a current contract with the employing HHS agency. The employee might unintentionally disclose information that may prove helpful to the vendor in future contract bids. The HHS Human Resources Manual, Chapter 3, Subchapter G. [Outside Employment \(Moonlighting\)](#) describes the restrictions on outside employment and sets out the approval process that an HHS employee must pursue before accepting outside employment.

Ex.: An HHS employee manages a contract with Vendor X for the employing HHS agency. The employee should not accept employment from a non-contracting vendor in competition with Vendor X. The outside employment might influence the employee's objectivity in managing the HHS agency contract with Vendor X.

Similarly, prior agency approval is required before an HHS employee may engage in a volunteer activity that may conflict with, or appear to conflict with, the employee's agency duties. The HHS Human Resources Manual, Chapter 3, Subchapter T. Non-Agency Activities describes the restrictions on certain volunteer activity and sets out the required approval process. When considering pursuing a volunteer activity, HHS employees should not volunteer with a (a) contractor that the employee monitors as an HHS employee; (b) facility that the employee has a regulatory responsibility for as part of his work duties; or (c) another state agency. HHS employees are required to decline simultaneous outside employment or volunteer activities that might threaten the ability of the employees to perform their HHS duties fairly, honestly, and efficiently.

C. The Revolving Door

State and federal law impose restrictions on the ability of former state employees to work in the private sector while conducting business with the agencies where they were once employed. Statutory restrictions on the activities of former state employees are intended to prevent those former employees from making unfair use of special knowledge, skill, or information obtained during state employment about a particular project or activity for personal financial gain as well as from exploiting friendships or contacts with current state employees for personal financial gain. Management recognizes that HHS employees develop portable skills and knowledge they can use in the private sector and the employees should not be unreasonably prevented from pursuing private sector employment. However, all former HHS employees should avoid conflicts of interest, improprieties, or the appearance of impropriety in a post-state employment situation.

1. Permanent Restrictions

State law *permanently* prohibits a former state employee at or above an A17 salary level from representing any person or receiving compensation for services rendered on behalf of any person regarding a particular matter in which the employee participated during his/her state employment. A person who violates this provision commits a Class A misdemeanor, punishable by a fine of not more than \$4,000, jail confinement for not more than one year, or both. *See* [Section 572.054](#) of the Government Code.

The statutory definition of a “particular matter” is “a specific investigation, application, request for a ruling or determination, rulemaking proceeding, contract, claim, charge, accusation, arrest, or judicial or other proceeding.” *See* Section 572.054(h)(2). However, the term does not include a rulemaking proceeding that was concluded before an agency officer or employee’s service or employment ceased. *See* Section 572.054(d). The Texas Ethics Commission has determined that a “matter” is something that involves the exercise of discretion by a particular agency. *See* [Texas Ethics Advisory Opinion No. 232 \(1994\)](#). Section 572.054(h)(1) of the Government Code defines the term “participated” as having taken action through decision, approval, disapproval, recommendation, giving advice, investigation, or similar action.

2. Time Limited Restrictions

There are time limited restrictions that apply to former members of a governing body, former heads of regulatory agencies and former or retired employees of all state agencies. For example, [Section 572.054](#) of the Government Code prohibits a former member of a governing body or a former executive head of a regulatory agency from making any communication to or appearance before an officer or employee of the agency in which the member or executive head served before the second anniversary of the last date of service or employment. This prohibition only applies to communications or appearances that are made (1) with the intent to influence; and (2) on behalf of any person in connection with any matter on which the person seeks official action.

Further, state law prohibits a state agency from entering into any of the following contracts with a former or retired employee of that agency for *one year* after the employee separates from the agency:

- An employment contract,
- A professional services contract, or
- A consulting services contract.

See [Section 2252.901](#) of the Government Code.

An “employment contract” includes a personal services contract regardless of whether the performance of the contract involves the traditional relationship of employer and employee. The term does not apply to an at-will employment relationship that involves the traditional relationship of employer and employee.

A “personal services contract” is a contract for the services of a particular individual.

“Professional services” are services in the following fields or services provided in connection with the professional employment or practice of a person licensed or registered in these fields: accounting, architecture, landscape architecture, land surveying, medicine, optometry, professional engineering, real estate appraising, or professional nursing.

“Consulting service” means the service of studying or advising a state agency under a contract that does not involve the traditional relationship of employer and employee.

There is an exception, however, for certain professional services contracts. A state agency may enter into a professional services contract with a business entity that employs a former or retired agency employee within one year of the employee’s last employment date, provided the former or retired employee does not perform services on projects for the business entity that the employee worked on while employed by the agency.

3. Agency Specific Restrictions

DADS and DFPS

The Department of Aging and Disability Services (DADS) and the Department of Family and Protective Services (DFPS) have agency specific statutory restrictions on certain post-employment activity. The statutory restrictions are located in Sections [22.0033](#) and [40.034](#) of the Texas Human Resources Code and are identical. They apply to former DADS and DFPS employees compensated at or above an A17 salary group as of the last date of state employment.

For one year from the last date of employment, a former DADS or DFPS employee may not directly or indirectly attempt, or aid in an attempt, to procure a contract with his/her former agency that relates to a program or service in which the former employee was directly concerned or for which the former employee had administrative responsibility. These restrictions do not apply if the former employee is employed by another state agency or a community center. A violation of these restrictions is a Class A misdemeanor, punishable by a fine of not more than \$4,000, jail confinement for not more than one year, or both.

HHSC

HHSC, as the state agency responsible for administration of the Medicaid program, has specific post-employment restrictions imposed by federal statute. Section [1396a\(a\)\(4\)](#) of United States Code (also known as Section 1902 of the Social Security Act) requires states to have in place restrictions against conflicts of interest where an employee has responsibility for the expenditure of “substantial amounts of funds” under the Medicaid State Plan. The required restrictions are located in the United States Code at 18 U.S.C. Sections [207](#) and [208](#) and are similar to those set out in Government Code Sections [572.051](#) and [572.054](#). Violations of these restrictions are punishable by not more than one-year imprisonment, a fine, or both.

4. Contractual Restrictions

The HHS agencies sometimes negotiate contracts with vendors and other entities that include post-employment restrictions that are stricter than the law. Employees are strongly advised to consult with their HHS Ethics Office ethics advisor and appropriate agency legal counsel regarding the applicability of such provisions to their individual circumstances.

As a rule, HHS employees should refer to all relevant laws and policies concerning post-state employment. Please consult with the HHS HR Department and the HHS Ethics Office with any questions that you might have.

VII. CIVIC ENGAGEMENT & POLITICAL ACTIVITY

HHS employees are strictly prohibited from using state funds and property for political purposes. For more details refer to [Article IX, Section 5](#) of the General Appropriations Act, [Chapter 556](#) of the Texas Government Code and 5 U.S.C., and [Sections 1501-1508](#), also known as the Hatch Act.

Provisions of the Hatch Act strictly prohibit a state or local officer whose salary is completely funded by federal funds from becoming a candidate in a partisan election. However, state law prohibits all HHS employees from coercing a state or local office or employee to make a political contribution or using official authority or influence to interfere with or affect the result of an election or nomination to office. Employees who violate these provisions risk forfeiture of compensation and disciplinary action up to, and including termination.

A. Elections

If an employee is an unpaid volunteer in a political campaign or other political activity, participation must be outside of work hours, or the employee must take leave while engaged in volunteer work. Leave time must be approved prior to the employee taking time off.

B. Permissible Political Activities

Employees may participate, on their own time, in certain political activities such as:

- Assisting in voter registration drives;
- Expressing opinions about candidates and issues;
- Wearing or displaying political badges, buttons, or stickers;
- Attending, organizing or managing political rallies and meetings;
- Joining a political club or party;
- Signing or circulating nominating petitions;
- Campaigning for or against referendum questions, such as constitutional amendments or municipal ordinances;

- Collecting contributions or selling tickets to political fundraising functions; or
- Distributing campaign materials in a partisan election outside of the workplace and subject to the preceding conditions.

VIII. FRAUD, WASTE AND ABUSE

The potential for, or occurrence of, fraud, waste and abuse is a significant management concern in any organization. At HHS, this concern is heightened due to the public's expectation of honesty and integrity in the management of the state Medicaid and other programs. Although the process for deterring, detecting and investigating known, alleged or suspected fraud at HHS has been in place, this policy incorporates that process as part of the HHS Ethics Policy.

The purpose of this policy is to accomplish the following:

- Minimize the impact of all potential or actual fraudulent or illegal acts at HHS by deterring such activity or detecting it as early as possible;
- Alert all HHS employees that there is a mechanism to report allegations of violations under the policy, and they will be fairly, objectively and thoroughly investigated; and
- Assure HHS employees that their rights and confidentiality will be safeguarded to the extent allowed by applicable laws.

This policy relates to all potential or actual fraudulent and other illegal activities within HHS involving agency employees in the conduct of their official duties, and includes but is not limited to the activities of theft, malfeasance, abuse of power or authority, kickbacks and embezzlement involving the loss, misappropriation or theft of any assets belonging to HHS for which the agency is responsible, including, but not limited to cash, checks, intellectual property, property and equipment, information and other data.

The following process must be followed by employees reporting any known, alleged or suspected fraud or other illegal activities at HHS.

- (1) Contact your immediate supervisor to report such activities. Contact may be verbal or written and may be made by anyone having knowledge. Your supervisor shall report all allegations to the HHS Ethics Office ethics advisor for a preliminary review and determination as to the necessity for proceeding with an investigation of the reported fraud or illegal activity. The ethics advisor may consult with the Office of Chief Counsel, Human Resources Department and any other agency staff as appropriate for advice and assistance. If an investigation is warranted, the ethics advisor and/or supervisor shall report the matter to the OIG for further action; or
- (2) HHS employees can always make a direct report to the OIG. An employee can choose to make the report anonymously or not. Reports of fraudulent or other illegal activities can be made to the Office of Inspector General's Fraud, Waste and Abuse Hotline by dialing 1-800-436-6184 or by submitting the form located at: <https://oig.hhsc.state.tx.us/WafRep/>. Reports can also be submitted to the State Auditor's Office by calling the Fraud, Waste and Abuse Hotline at 1-800-TX-AUDIT or by

completing the form at: <https://www.sao.state.tx.us/siu/hotline.html>.

IX. UNAUTHORIZED USE OF GOVERNMENT TIME, PROPERTY AND FACILITIES

Because HHS resources are intended to support agency business, employees are generally forbidden from using government time, property, facilities or equipment for purposes other than official business. However, an employee may use the Internet, telephone, and designated email address for limited personal purposes as long as they do not result in a cost to the agency. Examples of unauthorized use include misuse of personal computers, copiers, personal use of the agency's long distance number or fax equipment, and conducting any outside business on state time. Misuse of government property could result in disciplinary action up to and including termination.

A. Email

HHS employees may use the email system for communicating with others on non-official business provided such communication does not disrupt or interfere with official state business, is kept to a minimum duration and frequency, and is not political in nature. However, employees should remain aware that there is no expectation of privacy for anything sent or received through the agency's email system. For a more detailed discussion of the proper use of technology in the workplace, please refer to the [HHS Information Security Standards and Guidelines](#).

B. Disposition of Government Property

All property, equipment, telecommunication devices, and supplies issued to HHS employees for use in performing their jobs belongs to the agency. Upon separation from employment, all such property must be returned to HHS. Work papers, copies of official papers, and notes or diaries of official business are official records and must be returned at the time of separation or upon demand. The same rule applies to electronic building access cards, parking permits, keys, credit cards, and all other credentials.

C. Official Records and Property

All records and documents, including electronic files, are in the custody of agency employees for official purposes only. Disposal or destruction of records and documents must be made in accordance with the HHS Records Retention schedule. For more information about the schedule that was adopted by HHS, visit <https://www.tsl.texas.gov/slr/recordspubs/rrs4.html>.

The disposal of copies of confidential or sensitive personnel or financial information should be made by placing the documents in confidential trash containers or according to established division procedures.

Employees must promptly report the loss of any agency property to their Division Director. Employees will be held responsible for the loss, disposal, or theft of any official documents or agency-owned property when attributable to the employee's actions. Employees are cautioned

against leaving HHS documents and property, including laptops and mobile devices unprotected in automobiles, on public conveyances, in restrooms, or any other unsecured location. Specific steps must be taken when reporting lost or stolen devices. For more information, visit [Reporting a Lost/Stolen Device Process](#).

D. Copyrighted Material/Computer Software

Any copyrighted material, including but not limited to commercial publications and computer software, made available to employees is protected by copyright laws and may not be copied for any reason without written permission from the copyright owner.

E. Accounting for Money and Property

Any money, property, or other thing of value, directly or indirectly received by an HHS employee in conjunction with the performance of official duties must be accounted for, deposited, or otherwise disposed of in accordance with established agency procedures.

F. Checks Submitted with Legal Documents

Sometimes an employee receives a check or other payment that accompanies a legal request or order, such as a subpoena to appear as a witness in a court proceeding. If, in responding to the legal request/order, the employee will act in the role of an employee, e.g., testifying about the employee's job in a hearing involving the agency, then the employee must give the check or other payment to the appropriate person in the employee's agency – regardless of whether the check or other payment is payable to the employee or is in cash. The Chief Counsel for HHS or agency General Counsels must be consulted regarding any checks or payments associated with a legal request or order.