
Office of Court Administration
Ethics and Conduct Policy for Agency Employees

Revised September 27, 2017

Approved: 

**OFFICE OF COURT ADMINISTRATION
ETHICS AND CONDUCT POLICY FOR AGENCY EMPLOYEES**

1. Overview

The purpose of this policy is to describe the standards of conduct for all Office of Court Administration employees. The policy restates constitutional, statutory, and common-law principles of ethical conduct, and adopts some stricter standards to guide agency employees in the conduct of agency business. All OCA employees must familiarize themselves with this ethics policy, and must abide by all applicable federal and Texas laws, administrative rules, and OCA conduct policies, including this ethics policy. OCA has designated its general counsel as its ethics advisor, and all employees are encouraged to contact the ethics advisor with any questions or concerns about matters addressed in this policy.

Employees should report violations of this policy to their supervisor, the human resources director or the general counsel. The report may be oral or written (by email, regular mail, or deposited in the human resources division's or general counsel's agency mailbox) and may be anonymous. (Reports of fraud should be reported to OCA's general counsel – see Section 11 of this policy). OCA shall not retaliate nor permit retaliation against any employee who makes a good faith report of a violation of this policy, including a report of known, suspected or alleged fraud. A violation of this policy may result in discipline, up to and including termination.

2. Definitions

"Agency" or "OCA" means the Office of Court Administration of the Judicial System of Texas.

"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, including meals, transportation, and lodging.

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

"Employee" means an employee of OCA or one of the entities supported by OCA, including but not limited to the Judicial Branch Certification Commission, the Judicial Committee on Information Technology, the Texas Judicial Council, the Texas Indigent Defense Commission, or the Texas Forensic Science Commission.

"Employment contract" includes a personal services contract, but does not apply to an at-will employment relationship that involves the traditional relationship of employer and employee.

3. Standards of Conduct

An OCA employee shall not:

- a. 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;

- b. Disclose confidential information, information that is excepted from public disclosure under Rule 12 of the Rules of Judicial Administration, information that has been ordered sealed by a court, or information from a court that has been obtained by virtue of the employee's position with the agency and that has not been released to the public by the court;
- c. Accept other employment, including self-employment, or engage in business, charitable or professional activity that the employee might reasonably expect would require or induce the employee to disclose confidential information, information that is exempted from public disclosure under Rule 12 of the Rules of Judicial Administration, information that has been ordered sealed by a court, or information from a court that has been obtained by virtue of the employee's position with the agency and that has not been released to the public by the court;
- d. Accept other employment, including self-employment, or compensation or engage in a business, charitable 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;
- e. Make a personal investment, 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;
- f. 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;
- g. Knowingly make misleading statements or provide false information via any mode of communication, in the course of official state business;
- h. Use or invoke the employee's official position or employment with the state to attempt to obtain privileges, receive benefits, or avoid the consequences of illegal acts; or
- i. Make statements, via any mode of communication, purportedly on behalf of the agency but outside of his or her official capacity.

4. Equal Opportunity Employment

OCA upholds equal employment opportunity for all employees and applicants for employment regardless of their race, color, religion, national origin, sex, age, or disability. Discrimination will not be tolerated at OCA.

5. Sexual Harassment and Sexual Misconduct

OCA does not tolerate the harassment of any employee by any other employee or supervisor for any reason. Sexual harassment, a type of harassment and unlawful discrimination is defined under the law as:

- a. Unwelcome sexual advances, requests for sexual favors, or any other verbal or physical conduct of a sexual nature when (1) submission to the conduct is made either implicitly or

explicitly a condition of the individual's employment, or (2) submission to or rejection of the conduct is used as the basis for an employment decision affecting the harassed employee; or

- b. Harassment that has the purpose or effect of unreasonably interfering with the employee's work performance or creating an environment which is intimidating, hostile, or offensive to the employee.

Sexually-oriented jokes, remarks, gestures, or pictures in the workplace do not necessarily mean that sexual harassment has occurred. Nevertheless, such conduct is often offensive to other employees, and is thus prohibited by OCA. Engaging in such conduct may subject employees to appropriate disciplinary action.

If an employee believes that he or she has been or may be subjected to sexual harassment in the workplace, or an employee becomes aware of such conduct, they should contact their supervisor or OCA's human resources director. Any employee who becomes aware of any such conduct by any employee, supervisor, or manager should immediately advise his or her supervisor or the human resources director. Additional information regarding reporting sexual harassment and OCA's handling of complaints is available in OCA's Harassment Prevention Policy.

6. Acceptance of Benefits

- A. An OCA employee may not solicit, accept, or agree to accept any benefit in exchange for any exercise of official discretion.
- B. An OCA employee may not solicit or accept, on behalf of any person, a benefit from a person who the employee 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 employee's official duties; or
 - 2. Subject to regulation, certification or investigation by OCA or an OCA- affiliated agency.
- C. An OCA employee may accept a benefit in a situation described by Section 4. B. above if the gift does not raise the appearance of impropriety and if the benefit is:
 - 1. A non-cash item or items of less than \$50 in value;
 - 2. Food, lodging, transportation, or entertainment in any amount so long as the recipient is a guest at a meal or event at which the host also is present;
 - 3. From a person such as a friend, relative, or business associate with whom the employee has a relationship independent of his or her official status if the benefit is given on account of that relationship rather than the official status; or
 - 4. A fee, payment, or other benefit for which the employee has given legitimate consideration reflecting the actual value of the goods or services and in a capacity other than as a public servant.
- D. An OCA employee may not solicit, accept, or agree to accept an honorarium (such as a speaker's fee) in consideration for services that the employee would not have been

requested to provide but for the employee's official position. An OCA employee may not accept money for a travel expense reimbursement from a person that the agency or OCA-affiliated agency intends to audit, examine, or investigate or is auditing, examining, or investigating. An OCA employee may accept food, transportation, and lodging in connection with a conference or similar event in which the employee renders services, such as addressing an audience or engaging in a seminar, to the extent that those services are more than merely perfunctory.

7. Gifts to OCA

Although Chapter 72 of the Government Code gives OCA the authority to accept gifts, a gift can be accepted only if it can be used in carrying out the agency's powers and duties. A gift to the agency becomes state property, and an officer or employee of the agency is not permitted to use it for private purposes. Even legally permissible gifts may raise questions about impropriety; such questionable gifts either should be refused or should be donated to a tax-exempt charitable organization.

8. Use and Misuse of Government Property

A. General policy. Generally, State resources are to be used for State purposes, not private purposes. However, there are circumstances in which the incidental use of State property for personal purposes is allowed, when the use (1) does not result in direct cost to the State or the agency, (2) does not impede agency functions, (3) is not attributable to private commercial or business purposes, and (4) is limited to incidental amounts of employee time (comparable to brief coffee breaks during the day) that do not interfere with normal performance of an employee's work duties.

B. Telephones and fax machines. Agency telephones and fax machines should never be used for an employee's pecuniary benefit. Employees may make brief personal telephone calls and occasionally send and receive brief personal faxes so long as the calls and faxes do not impede the conduct of state business and do not incur charges to the agency. To limit printing costs, received personal faxes may not exceed a few pages on infrequent occasions. Because the agency incurs costs for long-distance calls on a per-call basis on regular agency lines and on an amount-of-use basis on the agency's "toll-free" line, employees must use a personal calling card or personal mobile phone for personal long-distance calls and faxes. An employee who violates this policy inadvertently or in an emergency must immediately contact the agency's accountant or purchaser to arrange reimbursement. OCA management occasionally will research the source of various calls that have incurred costs to the agency to determine if employees have violated this telephone and fax policy.

C. Online Communications and Internet use.

1. **General policy.** Although online communications and the Internet generally should be used only for legitimate state business, brief and occasional messages of a personal nature may be sent and received and the Internet may be used briefly and occasionally for personal reasons if the guidelines in this policy are met.

2. **Prohibited use.** Neither online communications nor the Internet may be used as follows:

- a. For accessing, posting, sharing, saving, sending, or receiving any objectionable or offensive material, including but not limited to material that is racist, sexist, threatening, sexually explicit, or obscene;
- b. To disable, impair, or overload the performance of any computer system or network, or to circumvent any system intended to protect the privacy or security of another user;
- c. For pecuniary benefit;
- d. For political activities or purposes or to promote establishment of a religion;
- e. For gambling or gaming;
- f. For any use that causes an excessive burden on the agency's e-mail or Internet system.

3. **No privacy interest.** All e-mail and Internet use records may be recorded and stored along with the source and destination, and agency management has the ability and right to view employees' e-mail and Internet records. Recorded e-mail messages and Internet use records are the property of OCA and the State of Texas. Thus, they may be subject to the requirements of Rule 12 of the Rules of Judicial Administration and the laws applicable to State records retention.

D. Printing and Copying. Printing or copying of personal documents shall not exceed a few pages on infrequent occasions.

E. Travel awards.

Air travel awards, such as frequent flyer miles that are credited directly to the traveler and not to the agency may be used by the employee for business or personal purposes.

Rental car travel awards, such as frequent car rental points, are credited back to the agency (OCA) and, therefore, are not available to employees for personal purposes. These credits will be redeemed for future car rentals secured directly by OCA.

Hotel or food discounts offered to an employee in the course of business travel should be used to defer the cost of the current travel. If that is not possible because the discounts are for future use, then the employee may use the discounts for business or personal purposes. Ride-share discount cards reimbursed with state funds may also be used for future business or personal purposes.

7. Political Activity.

An OCA employee may not use appropriated funds for influencing the outcome of any election, or the passage or defeat of any legislative measure (this does not prohibit testifying before or providing information to the Legislature as an invited resource witness). Similarly, an OCA employee may not use state time or state equipment to work on any individual's political campaign or to distribute political advertising.

8. Misuse of Official Information

- A. An OCA employee may not use agency or court non-public information to acquire or help another person to acquire a pecuniary benefit in any property, transaction, or enterprise affected by the information.
- B. An OCA employee may not speculate or aid another to speculate on the basis of agency or court non-public information.
- C. An OCA employee may not disclose or use the non-public information with the intent to obtain a benefit or to harm another.

9. Records Retention

OCA employees are required to maintain all records created in the performance of their job consistent with the retention requirements in OCA's Records Retention Schedule. Records should not be destroyed without the approval of an employee's supervisor and OCA's records manager. All contract solicitation documents and related contracts may not be destroyed until after the 7th anniversary of the date the contract is completed or expired. In some instances, such as in the event of a contract dispute or potential or actual litigation, records may be required to be maintained for a period longer than that prescribed in OCA's Records Retention Schedule. OCA's administrative director or general counsel will notify employees in the event a longer retention period is required.

10. Outside Employment

- A. **Definitions.** The term "outside employment" applies to the engagement of OCA employees in activities outside the agency for financial return or for compensation of any kind, including business or professional activities or employment in private enterprises.
- B. **Prior approval required.** OCA employees may not engage in outside employment without the approval of the administrative director. Approval will be granted unless the outside employment conflicts with the agency duties of the employee or with the best interests of OCA or of the State. Mere ownership of real estate, stocks or bonds, or similar investments ordinarily will not constitute outside employment, unless such ownership involves management responsibilities requiring a substantial amount of time or accounts for 10 percent or more of the outstanding stock in a corporation.
- C. **Approval process.** OCA employees engaged in, or intending to engage in, outside employment must complete an OCA "Outside Employment Statement" and submit it to a supervisor. Employees who work in an agency division must submit it to their division director; associate judges and assistants for the administrative judicial regions must submit it to their presiding judge; and other specialty courts employees must submit it to their supervising associate judge, who in turn submits it to the presiding judge. Based on the criteria stated above, the division director or presiding judge shall recommend approval or disapproval of the outside employment and submit the statement to the administrative director. A copy of the statement with the administrative director's approval will be submitted to OCA's human resources office for recordkeeping.
- D. **Use of State Resources.** OCA employees are prohibited from using agency or state resources for their outside employment, and may not hold meetings relating to outside

employment on agency premises. OCA employees may not use equipment or software paid for or owned by the state or located on agency premises (including but not limited to computers, long distance services, photocopying, fax or internet services) for outside employment purposes. OCA employees may not engage in outside employment on agency time, and outside employment must not impair the employee's agency work or productivity or the efficiency of the agency.

- E. **Use of Agency Name.** OCA employees who engage in outside employment do so in their individual capacity and may not represent to anyone that they are acting on behalf of the state, the agency, or a subdivision of the state. OCA employees may not use agency stationery or anything bearing the agency letterhead or logo, including business cards, or use anything else that might associate activities relating to outside employment with official OCA work.
- F. **Withdrawal of Approval.** Permission to engage in outside employment may be withdrawn by the administrative director if the director determines that the outside employment conflicts with the agency duties of the employee or with the best interests of the agency or the State.

11. Future Contracting or Employment

- A. A former OCA employee may not enter into an employment contract, a professional services contract, or a consulting services contract with OCA for at least one year after leaving OCA employment if appropriated funds will pay for the services. OCA may enter into a professional services contract with a business entity that employs the former OCA employee within one year of the employee's leaving the agency, provided the employee does not perform services for the business entity that are services the employee worked on while employed by OCA. The term "employment contract" does not apply to an at will employment relationship that involves the traditional relationship of employer and employee.
- B. A former OCA employee who worked on regulatory matters for the Judicial Branch Certification Commission, or its predecessor agencies, and whose compensation at the time of leaving state employment was at or above Step 1 of Salary Group 17 of the position classification schedule may not represent or receive compensation for services rendered on behalf of any individual or business entity regarding a particular regulatory matter in which the employee participated while employed by OCA.
- C. A former OCA employee who participated on behalf of OCA in a procurement or contract negotiation involving a person may not accept employment from that person before the second anniversary of the date the employee ceased employment with OCA.

12. Fraud Prevention and Detection

- A. **Responsibilities.** Each OCA employee is responsible to ensure the public's expectation of honesty and integrity in government is met. The agency's chief financial officer is responsible for coordinating efforts to prevent and detect fraud and will serve as the contact person for the Governor's Office on fraud prevention and detection activities at OCA. The general counsel is the first point of contact for reporting all known, alleged or suspected fraud or other illegal activities at OCA.

- B. Process.** OCA employees shall report any known, alleged or suspected fraud or other illegal activities at OCA to the general counsel. (Examples of fraud or other illegal activity include, theft, malfeasance, abuse of power or authority, "kickbacks", and embezzlement involving the loss, misappropriation or theft of any assets belonging to OCA or the State for which OCA is responsible, including, but not limited to cash, checks, intellectual property, property and equipment, information and other data.) The report may be oral or written (by email, regular mail, or deposited in the general counsel's agency mailbox) and may be anonymous. Reports may also be made directly to the state auditor at <https://sao.fraud.texas.gov/ReportFraud>.

The general counsel will make a preliminary determination of the necessity for proceeding with an investigation of the reported fraud or illegal activity. Before proceeding with an investigation, the general counsel will advise the administrative director and the chief financial officer of all facts known regarding the reported fraud or illegal activity. All personnel, files, data, records and equipment shall be made available to the general counsel to use in investigating the occurrence of, and extent of, any fraudulent or other illegal act. Upon completing the investigation, the general counsel will report the results of the investigation to the administrative director and the chief financial officer. The chief financial officer shall assume the duties of the general counsel if the general counsel is believed to be in with the suspected fraudulent activity.

- C. Reporting to State Auditor.** If the administrative director believes that OCA assets may have been lost, misappropriated, or misused; or that other fraudulent or unlawful conduct has occurred in relation to the operations of OCA, then he or she shall report the reason and basis for the belief to the state auditor.

13. Consequences of Violation

An OCA employee who violates this or other agency policy is subject to disciplinary action, up to and including termination. An OCA employee who violates federal or state law may also be subject to civil or criminal penalties.

14. Compliance Monitoring

This policy and OCA's Harassment Prevention Policy and Equal Employment Opportunity Policy shall be provided to each new OCA employee, contractor, vendor, or volunteer, and to members of boards or commissions that are staffed by OCA employees. Additionally, every OCA employee and member of a board or commission that is staffed by OCA employees shall be required to complete ethics training on an annual basis.

Under the direction of the OCA's Chief Financial Officer, OCA audit staff will conduct an annual review and risk evaluation to monitor compliance with this policy and provide guidance to directors regarding the results and assist in the reduction of identified problem areas.

**Acknowledgment - Receipt of Information
Concerning Office of Court Administration Ethics and Conduct Policy**

I acknowledge by my signature below that I, _____
(printed name)

received and read a copy of the Office of Court Administration Ethics and Conduct Policy for Agency

Employees on _____
(date)

(Employee Signature)

*******PLEASE RETURN A COPY OF THIS FORM TO HUMAN RESOURCES*******