

Agency Policies

Performance, Conduct and Disciplinary Action Process

Policy Number: HR-18-01

Type of Policy: Human Resources and Personnel

Date: May 2018

All Texas Parks and Wildlife Department (TPWD) employees are responsible for knowing and complying with the current laws, regulations, rules, and policies that govern their duties. As public servants, TPWD employees must represent the agency and the State of Texas in an appropriate manner at all times. Nothing in this policy shall be construed to impact the at-will status of employees.

DEFINITIONS

Bullying:

Repeated acts of hostility toward an employee that create a work environment in which the employee cannot reasonably function or perform normal duties. Examples include but are not limited to name calling, public or private humiliation, using profanity or shouting, excluding from general workplace activity, non-constructive performance feedback, or threats of adverse employment actions.

Disciplinary action:

Any corrective action taken with the intent to influence an employee to improve performance or discontinue acts of misconduct.

Job abandonment:

An abrupt informal resignation expressed orally or in writing; leaving the work site without authorization; or unapproved absence for three consecutive scheduled workdays due to incarceration or other non-protected activity. This also includes an employee's failure to make themselves available to TPWD personnel while on investigative leave.

Misconduct:

Any instance of conduct that is noncompliant with standards of conduct. See examples below.

Resignation:

The voluntary separation of an employee.

Separation:

The end of an employee's employment with TPWD.

Supervisor:

An employee who has responsibility for the daily operations of another employee, the authority to effectively reward other employees, and the authority to take or recommend disciplinary actions.

Termination:

The involuntary separation of an employee.

Unscheduled or unapproved leave:

Any leave that is not approved by the employee's supervisor in accordance with the TPWD Employee Leave policy.

PERFORMANCE

Employees are expected to:

- Perform all job duties, including consistently meeting standards of quantity and quality.
- Follow operational procedures and guidelines that establish how work is to be performed.

Examples of poor performance include but are not limited to:

- Inefficiencies that affect timely completion of tasks and assignments.
- Not meeting deadlines without good cause.
- Failure to perform or inconsistency in performing tasks to expected standards.
- Errors that diminish the quality of work or result in rework, or wastes of materials and resources.

Supervisors should provide written standards and guidelines for performing essential job functions and provide training for employees who are new to specific tasks and assignments.

CONDUCT

Employees are expected to:

- Conduct themselves in a courteous, respectful, ethical, and trustworthy manner toward fellow employees and the public.
- Perform all duties in a safe manner. This includes compliance with an employee's medical restrictions.
- Comply with directives given by supervisors, managerial personnel, Human Resources (HR) Division, investigators, and other authorities within the agency. Failure to comply with such directives is insubordination. However, employees are not required to follow a directive to perform:
 - An act that is a violation of law. The employee may refuse to follow the directive and shall immediately notify TPWD Internal Affairs.
 - An act that is a violation of policy, or an act that could endanger the health, welfare or safety of any person. In such instances, the employee should immediately notify another supervisor within the employee's division and the HR Division.

Examples of misconduct include but are not limited to:

- Violation of any policy, including but not limited to the provisions of this Performance, Conduct and Disciplinary Action Process policy
- Bullying, fighting, or making threats of physical harm or property damage, or otherwise physically or verbally abusing other employees or customers, or engaging in workplace violence, including, but not limited to in social media
- Furnishing confidential or sensitive information to an unauthorized person
- Discrimination such as sexual harassment, use of racial slurs, or other intentional acts of discrimination or retaliation against employees or members of the public
- Humor, jokes, or other comments which might be insulting or demeaning to others, including ethnic, racial, or sexual comments which create an intimidating, hostile, or offensive work environment
- Engaging in criminal conduct or offenses that have a demonstrable effect on an impartial assessment of trustworthiness and/or any conviction that precludes continued employment in the current position
- Illegal sexual proposition or contact with minors, workers under court supervision, or any other persons who cannot legally give consent

- Failure to cooperate or interfering with a complaint investigation by refusing to participate, withholding information or being untruthful
- Untruthfulness in the scope of employment
- Willful violation of TPWD fiscal controls
- Theft or fraud
- Falsification of government-related records, including employee time records, employment applications, scientific and research records, or other TPWD records
- Use of computer resources for viewing pornographic materials, cyber bullying, or committing any type of illegal conduct
- Willful or negligent damage to property owned, rented, leased, or used by TPWD
- Job abandonment
- Failure to abide by established TPWD safety rules that results in serious injury or death
- Refusal to submit to drug or alcohol testing as required by law and/or policy
- Failure to obtain and maintain all required licenses and certifications and/or failure to notify supervisor if the license or certification is suspended or revoked as required by policy, but no later than one (1) business day

Appropriate Dress and Appearance

Employees are expected to:

- Dress appropriately for their job duties and to observe appropriate grooming standards while on duty and while riding in or operating a TPWD vehicle or vessel. Clothing with profanity or derogatory statements or images is prohibited.
- Wear the appropriate uniform and conform to grooming standards specified by their divisions. No unapproved items of clothing or accessories may be worn with the uniform. Uniformed employees should check with their supervisors prior to wearing any accessories that are not an official part of the uniform.

Safety regulations may dictate specific dress requirements for employees performing certain job functions.

Employees dressed inappropriately may be asked to leave the workplace. Employees leaving work for inappropriate dress will be required to use their available leave time for time away from work.

Managers are responsible for establishing and enforcing the dress code and should communicate their expectations regarding appropriate dress to all employees in their programs. Managers should consider the type of work being performed and the level of contact with the public when determining appropriate dress in their areas. Standards must be applied equitably in a nondiscriminatory manner.

Time and Attendance

Employees are expected to:

- Work their scheduled work hours. Abuse of leave, including patterns of unscheduled tardiness or absenteeism and use of sick leave is prohibited.
- Give notice of unscheduled absence or tardiness no later than 30 minutes into their scheduled workday (i.e., “no call no show”).

Ethics and Standards of Trust

Employees are expected to:

- Sign a [PWD-1008 Code of Conduct Statement](#) ↓ (Word 19.7 KB) verifying they have read and agree to comply with this Performance, Conduct and Disciplinary Process Policy and TPWD’s Fraud Policy (BF-05-01).
- Comply with the requirements of relevant law while on TPWD property, in the course and scope of assigned duties, or when violation of the law would have a direct effect on ability to meet job-related expectations.
- Provide honest, true and accurate statements to the best of their knowledge and belief in the course of TPWD investigations or any other administrative proceeding.
- Refrain from soliciting donations (except for donations to TPWD as authorized by TPWD fundraising policies), selling items or products, or making deliveries to employees during work hours without Division Director approval.
- Maintain ethical standards. Please refer to HR-08-01 Employee Ethics Policy for information about specific ethical obligations for TPWD and state employees.

Use of State Property and Resources

State property and resources, including work time, may only be used for state purposes. Tex. Gov’t Code §2203.004; Tex. Constitution Art. III, §51; Ethics Advisory Opinion 372 (1997).

- **Vehicles and Equipment.** Employees may not use state vehicles or equipment for personal use or in connection with a political activity. Tex. Gov't Code §556.004. Employees may not use state vehicles to travel to bars or other establishments that have the primary purpose of entertainment unless a TPWD-related event is being held at such establishment and the employee is attending on behalf of TPWD. Please refer to OP-01-01 Fleet Management Policy & Procedures for additional information on vehicle use.
- **Facilities.** Employees may not use TPWD resources for personal use in a manner that is not accessible to the general public. Employees must pay all required user fees when using state facilities for non-state business. Any exceptions must be authorized in writing by the executive director or designee.
- **Computers and Technology and Office Resources.** As a general rule, employees may only use such items for state purposes. Please refer to HR-08-01 Employee Ethics Policy for specific information about use of state resources.

Nepotism and Fraternization

Employees are subject to legal and ethical restrictions on hiring and supervising other employees. Maintaining professional objectivity and avoiding conflicts of interest are very important to TPWD, and as a result, some relationships between managerial, supervisory and subordinate staff are prohibited. Please refer to HR-08-01 Employee Ethics Policy for specific information.

Use of Tobacco Products and Non-Smoking Tobacco Devices

Smoking includes use of tobacco cigarettes, cigars, pipe tobacco, e-cigarette), personal vaporizers, or electronic nicotine delivery systems. Smoking in TPWD buildings and vehicles is prohibited. Smoking is restricted to areas designated by signage and is prohibited within 25 feet of doors, open windows or fresh air intake vents that could result in smoke entering into interior spaces.

All smoking material must be extinguished and disposed of in designated receptacles. Littering or disposal in receptacles with combustible material is specifically prohibited.

Smoking is prohibited when using, handling or transporting flammable liquids, adhesives epoxies or other such materials.

Alcohol and Drug Free Workplace

General Policy

- TPWD employees are prohibited from using alcoholic beverages while on active duty. No TPWD funds can be used for the payment of salaries to any employee who uses alcoholic beverages while on active duty. TPWD-paid travel expenses cannot be expended for alcoholic beverages. (*Tex. Gov't Code §§2113.012, 2113.101*)
- TPWD is a drug-free workplace. The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited at TPWD. (*2 C.F.R. §182.205(a)*). Controlled substances include but are not limited to the following (*21 C.F.R. §§1308.11-13.08.15*):
 - opiates;
 - stimulants;
 - narcotics;
 - depressants;
 - hallucinogenics; and,
 - anabolic steroids.
- TPWD employees are prohibited from being on duty, including breaks, while consuming or under the influence or impairment of alcohol, controlled substances, illegal drugs, or inhalants. Being on duty while under the influence of a prescription drug is prohibited, unless the employee has a current prescription for the drug and the drug does not result in impairment of the employee's ability to safely and effectively conduct the employee's job duties.
- TPWD employees are prohibited from operating a vehicle, vessel, equipment, or machinery in the course and scope of employment, including while on travel status for TPWD, while the employee is
 - under the influence or impairment of alcohol, controlled substances, illegal drugs, or inhalants;
 - under the influence of a prescription drug, unless the employee has a current prescription for the drug and the drug does not result in impairment of any kind; or

- under the impairment of an over-the-counter or non-prescription drug.
- A TPWD employee shall notify his or her supervisor in writing as soon as possible but no later than five (5) calendar days following any arrest or conviction related to alcohol, controlled substances, illegal drugs, or inhalants. Supervisors shall report such arrest or conviction to the Employee Relations, Policy and Procedures Manager in the TPWD Human Resources Division, who will ensure that appropriate federal aid staff are notified, if required. (2 C.F.R. §182.205). Certain types of employees, such as commissioned peace officers, may be required to provide such notice sooner than five (5) calendar days following any arrest or conviction.
- Employees will not use alcoholic beverages or possess open containers of alcoholic beverages when in TPWD uniform (including TPWD-logo attire), regardless of whether the employee is in the course and scope of employment.
- Notwithstanding other provisions of this policy, law enforcement personnel engaged in official law enforcement duties may possess alcohol, controlled substances, illegal drugs, or inhalants if the substance is classified and documented as evidence or is used for training purposes.

Possession and Use of Alcohol in Certain Situations

- **Consumption on State Property.** Employees are prohibited from possessing or consuming alcohol on any state owned or controlled property, regardless of whether the employee is on-duty, with the following exceptions:
 - **Consumption of Alcohol as Visitor.** A TPWD employee who is visiting a TPWD facility as a member of the public, is not performing official duties, and is not in uniform (including TPWD-logo attire) is allowed to consume alcohol, as long as such consumption is otherwise legal and in compliance with the facility's rules regarding alcohol possession, consumption and display.
 - **Consumption of Alcohol in State Housing.** A TPWD employee and an employee's family who live in TPWD housing, and guests to the state-owned housing, are allowed to consume alcohol as long as the employee is clearly off duty, not in uniform (including TPWD-logo attire), is in the

immediate confines of the employee's residence and yard, and is not in public view.

- **Consumption at an Event** (see below).
- **Consumption while Off-Duty during Retreats, Seminars, Special Events and Other Business Outings.** An employee is prohibited from consuming alcohol while attending a retreat, seminar, special event, or other business outing ("event") that the employee is attending primarily as a result of the employee's status as a TPWD employee, regardless of whether the event held at a TPWD facility or an off-site location, unless:
 - The employee is off duty when any alcohol is consumed;
 - The employee is not in uniform (including any TPWD-logo attire);
 - The employee complies with any rules or regulations of the location at which the alcohol is being served and consumed;
 - The employee does not consume alcohol to the point of becoming impaired;
 - The employee does not engage in inappropriate conduct, including, but not limited to humor, jokes, or other comments which might be insulting or demeaning to others, including ethnic, racial, or sexual comments, or any type of sexual harassment; and,
 - The employee does not operate a TPWD vehicle with breath alcohol concentration of any detectable amount.
 - Notwithstanding other provisions of this policy, if an employee is representing TPWD at an event, the employee's manager may prohibit the employee from consuming alcohol at the event.
- **Possession in TPWD Vehicles**
 - For purposes of this policy, an "open container" means a bottle, can, or other receptacle that contains any amount of alcoholic beverage and that is open, that has been opened, that has a broken seal, or the contents of which are partially removed.
 - Employees are prohibited from possessing an open container of alcohol in an agency vehicle at any time; provided, however, if an open container is capable of being resealed or closed, it may be transported in the trunk of a vehicle, the bed of truck, or if the vehicle does not have a trunk, the area

behind an upright seat so long as the container is inaccessible to any passenger in the vehicle.

- Employees may possess unopened containers of alcohol in a TPWD vehicle if the employee is in official travel status; the transported alcohol is not in view of the public at any time; and the transported alcohol is not accessible to occupants of the vehicle at any time while in transport.
- Employees are prohibited from stopping to purchase alcohol while in a TPWD vehicle.

Licensing

Employees may not perform tasks without first possessing the necessary licenses and certifications. Employees must obtain any licenses and certifications stipulated as a condition of employment by the specified deadline, and must maintain all required licensing and certifications during the term of employment. Failure to secure or maintain the necessary licensing and certifications by the deadline will subject an employee to termination of employment.

Supervisors are responsible for ensuring employees obtain and maintain required licenses and certifications. Supervisors may not permit an employee to perform tasks if he or she does not possess the required licenses or certifications.

REPORTING VIOLATIONS OF LAW AND POLICY

Employees must report violations in the following manner:

- An employee who becomes aware of an alleged violation of criminal law must immediately report the matter to TPWD Internal Affairs.
- An employee who becomes aware of alleged discrimination, sexual harassment or retaliation must immediately report the matter to the HR Division. An employee should report other policy or non-criminal law violations to a supervisor or manager in their reporting chain, or to the HR Division.
- An employee must immediately notify his or her supervisor if the employee receives a citation while operating a TPWD vehicle or vessel. Please refer to the Driver Safety Policy (OP-15-01) for more information.
- An employee must notify his or her supervisor and Internal Affairs if the employee is charged with or arrested for a criminal offense, regardless of

whether the conduct leading to the arrest or charge occurred during work hours or involved state property. However, an employee is not required to report a citation for a Class C traffic violation (e.g. speeding) that does not occur on state time or in a TPWD vehicle or vessel.

DISCIPLINARY ACTION

Employees may be subject to disciplinary action, including termination of employment, for violating the provisions of any TPWD policy, including those set forth in this policy. Employees may also be subject to disciplinary action for misconduct that occurs while not on active duty.

The purpose of disciplinary action is to foster positive change in employee performance or conduct, when such performance or conduct is not meeting the documented expectations of TPWD, and to appropriately respond to misconduct. While disciplinary actions may be administered in progression, no specific action is a prerequisite for any other action.

All disciplinary actions above counseling shall be administered in coordination with the HR Division and the Legal Division to minimize risk and liability to TPWD.

Disciplinary Considerations and Options

The existence of a counseling or disciplinary process **does not** constitute an employee entitlement or right to such a process or otherwise affect the at-will status of employees.

The types of disciplinary action include, but are not limited to (in order of seriousness):

- Counseling
- Performance improvement plan (PIP)
- Written reprimand
- Suspension without pay
- Demotion
- Termination

Supervisors and/or Division Directors must seek guidance from the HR Division and the Legal Division regarding anticipated disciplinary action greater than a documented counseling.

The type of disciplinary action that is appropriate in a particular circumstance will depend on a number of factors, including:

- The seriousness of the misconduct or performance deficiency;
- The frequency of the misconduct or performance deficiency;
- The employee's overall conduct, performance and tenure;
- The effect of the misconduct or performance deficiency on other employees or the public; and
- Any extenuating circumstances surrounding the misconduct or performance deficiency.

An employee receiving disciplinary action other than counseling is not eligible for a pay increase (other than legislatively mandated increases) for six months after the date of the disciplinary action.

Types of Disciplinary Actions

Counseling. An oral discussion conducted face-to-face or by telephone in which the supervisor gives the employee feedback regarding the employee's failure to meet performance or conduct expectations. A supervisor may also provide the employee a written memo regarding the deficiencies, but at a minimum, the supervisor should maintain a written account of the counseling discussion.

Performance Improvement Plan (PIP). A written memo that identifies performance deficiencies and necessary improvements; sets the conditions for performance monitoring; and gives notice that additional disciplinary action may result if improvements are not immediately made and sustained. The supervisor should place the employee on a PIP as soon as a repetitive performance deficiency is noticed, provide frequent feedback to the employee, and take action at appropriate times rather than waiting for end of year evaluation cycles.

Written Reprimand. A formal written notification of the employee's misconduct or failure to meet performance expectations and the potential consequences if the employee's conduct or performance does not improve.

Suspension without Pay. A period of involuntary leave without pay.

Demotion. An involuntary change in duty assignment of an employee to a position with a lower minimum salary rate. An employee who is demoted to a position in a lower

salary group in Salary Schedule A will receive a salary rate at least one step below the rate the employee received before demotion. An employee who is demoted from a position in Salary Schedule B or C to a position in Salary Schedule A will have his or her salary reduced to a rate at least 3.4% below the rate he or she received before the demotion. Tex. Gov't Code §659.257.

Termination of employment. The involuntary separation of an employee from his or her employment with TPWD.

Imposing Disciplinary Action

Supervisors may engage in employee counseling as they deem appropriate. Supervisors may request assistance in writing a counseling memo from the HR Employee Relations staff or the State Parks Staff Services Director (State Parks personnel only).

Supervisors may issue written reprimands with or without the issuance of a Letter of Intent (LOI), as described below. However, all written reprimands must be coordinated through HR Employee Relations staff and the Legal Division for review before issuance to an employee.

For all anticipated disciplinary actions greater than written reprimand, the following process shall apply:

- The supervisor shall notify the HR Employee Relations staff (except for State Parks Division supervisors, who should notify the State Parks Staff Services Director).
- In consultation with the Legal Division, the parties shall draft and review an LOI to impose disciplinary action.
- The supervisor will present the LOI to the employee, and the employee will have 3 calendar days to provide a written response.
- After reviewing the employee's response, the division, Employee Relations, and Legal Division staff will draft and review a corrective action memo detailing the disciplinary action to be imposed.
- The supervisor shall present the corrective action memo to the employee.

In certain situations, TPWD may proceed directly to imposition of corrective action without issuing an LOI, such as when an employee has already provided a statement addressing the misconduct in the course of an investigation.

Copies of all LOIs, employee responses, and corrective action memos shall be maintained by the HR Division and will be placed in the employee's personnel file.

Disciplinary Action Grievance

Note: This Disciplinary Action Grievance process is not applicable to the positions of Executive Director, Deputy Executive Director, Division Director, Deputy Division Director, and the heads of Internal Audit and Internal Affairs.

1. An employee may file a disciplinary action grievance when formal disciplinary action has been taken which results in a loss of pay.
2. An employees who resigns in lieu of termination or in lieu of other disciplinary action is not eligible to file a disciplinary action grievance.
3. The employee must submit the disciplinary action grievance to the Director of Human Resources within 10 business days of being notified of the action.
4. Human Resources will assemble a packet of information that includes the information from the employee and the division for Executive Office review.

Outside Employment and Outside Activity Policy

Policy Number: HR-18-03

Type of Policy: Outside Employment and Outside Activity Policy

Date: August 2018, New August 2018

All policies are in compliance with federal and state law and statutes and with the Texas Parks and Wildlife Code. The most current version of this policy will always be the on-line version.

DEFINITIONS

Hobbies:

Activities of interests in which the employee does not generate income that is reportable to the Internal Revenue Service.

Outside employment:

Work for hire, including self-employment, that is separate from a person's work for Texas Parks and Wildlife Department (TPWD) and for which the person receives some form of compensation that must be reported to the Internal Revenue Service as income. Outside employment may also be referred to as "dual employment."

Outside activity:

Participation in a professional activity for which a person does not receive compensation or holding an elected or appointed office.

Primary employment:

A person's employment with TPWD.

Secondary employment:

Any employment outside of TPWD.

OUTSIDE EMPLOYMENT APPROVAL

A TPWD employee must have prior approval by the employee's division director, the Legal Division, and the Human Resources Division before employee begins performing the scope of work.

Peace officers are subject to additional requirements related to outside employment.

General Requirements

- Employees may not accept outside employment that may adversely affect TPWD's operations or reputation or that would create an actual or perceived conflict of interest with their TPWD employment.
- Employees may not accept outside employment that might reasonably require or induce the employee to disclose confidential information acquired as a result of their TPWD employment, or that would reasonably tend to impair independent judgment in the performance of official duties.
- An employee may not engage in off-duty employment on property owned or controlled by TPWD.
- TPWD may set additional limitations on outside employment for specific circumstances. For example, special rules might be adopted on the type of self-employment operations that could be conducted from a state residence.
- Employees who work in a bona fide executive, administrative or professional capacity (Fair Labor Standards Act (FLSA) exempt position) may not simultaneously serve as an officer, employee or paid consultant for a Texas trade association in the field of conservation, outdoor recreation or commercial fishing. Please refer to the Employee Ethics Policy (HR-08-01) for more information.

TPWD Peace Officers

Game Wardens must also abide by the Law Enforcement Division General Orders §1.290 Dual Employment.

State Parks Division peace officers will also be governed by the Law Enforcement Division General Orders §1.290 Dual Employment, until such time as outside employment provisions are added to the State Parks Division's General Orders.

OUTSIDE EMPLOYMENT WITH ANOTHER STATE AGENCY, STATE INSTITUTION OF HIGHER EDUCATION, OR STATE OFFICE

An employee may be employed in more than one state position if:

- The secondary employment is required by law or of benefit to the State, and there is no conflict with the original office or position.

- The secondary employment is due to membership in the military reserves or retirement from the military service.
- The duties and responsibilities of the secondary employment are unrelated to and do not conflict with the primary employment with TPWD.

The following requirements apply to employment with multiple state entities:

- Employees must provide their TPWD supervisors with sufficient contact information for their secondary employment supervisors, including name, telephone number, and email address.
- Each workweek, employees must report their secondary employment scheduled hours and actual hours worked to their TPWD supervisors.
- Completely separate leave records must be maintained for the primary and secondary employment by each employer. TPWD will use their official time keeping system for records keeping.

Supervisors are responsible for ensuring that employees who are not exempt from the FLSA do not work more than a combined forty hours in a work week at the two positions; or if such an employee does work more than forty hours in a work week, the supervisor is responsible for ensuring the employee receives compensatory time at the rate of time and one half.

Benefits Information for TPWD Employees with Multiple State Employment

- Upon termination of one employment, the leave balances accrued under that employment may not be transferred to the remaining employment.
- The state contribution toward the employee's portion of social security tax liability will be limited to the overall limit specified by the legislature.
- The total state contribution toward the employee's group insurance will be limited to no more than the amount established by the legislature for full-time active employees.
- The employee will be entitled to receive a longevity payment for no more than one employment.

REQUESTING APPROVAL OF OUTSIDE EMPLOYMENT

Employees must submit form PWD-0419 Dual Employment Request (or similar memorandum format) to their direct supervisor.

- The memo should contain information regarding the secondary employment, including the scheduled work hours, salary, duties to be performed, the expected duration, and the name of the place of employment.
- The employee's direct supervisor should forward it through the chain of command to the Division Director.
- If Division Director approves the outside employment request, the request is then forwarded to the Legal Division and Human Resources Division for review and approval. The Chief Operating Officer will make final determinations in questionable cases.
- Once all parties approve the request, the Human Resources Division sends a notification memo to the employee and the Division for routing to appropriate staff. Copies of all outside employment requests and notification memos are retained in the employee's master personnel file.

OUTSIDE ACTIVITIES

Employees may engage in outside activities without prior approval unless otherwise prohibited by law or other TPWD policy. However, if an employee believes an outside activity may create a conflict of interest with TPWD operations or reputation, the employee should inform their supervisor. A supervisor may require an employee to submit a request for approval of the outside activity in the same manner as required for approval of outside employment requests. If at any point an employee's outside activity relates to TPWD, the employee may need to recuse themselves or otherwise act to prevent a conflict of interest from occurring.

Please refer to the Employee Ethics Policy (HR-08-01) for more information. For specific information on running for or holding a political office, please refer to the Public Office and Political Activity Policy #HR-18-04.

APPENDIX 1 Policy History

1. This is a new policy that encompasses the Outside Employment provisions previously in HR-03-10 Standards of Performance and Conduct.

2. The Law Enforcement General Orders are referenced in lieu of offering separate policy language.
3. Eliminated the Division Director waiver that allows employees, their friends or immediate family members to participate in any commercial activity regulated by the Department by which they may derive a benefit.
4. Eliminated the provision that allow immediate supervisors to permit outside employment activities to commence while the approval is pending.
5. Eliminated the provision that allows outside employment to be denied for employees who if they have been subject to disciplinary action or a performance review of "needs improvement" or lower during the past year or if the employee's performance does not currently meet expectations
6. Candidacy for Public Office and Political Influence is covered in separate policy.

Fraud Policy

Policy Number: BF-05-01

Type of Policy: Budget and Finance

Date: October 19, 2004, revised February, 2005

All policies are in compliance with federal and state law and statutes and with the Texas Parks and Wildlife Code. The most current version of this policy will always be the on-line version.

PURPOSE

- Promote an environment that deters and detects fraud as early as possible.
- Communicate employee responsibilities concerning fraudulent acts.
- Require each employee to sign a [PWD 1008 Code of Conduct Statement](#) ↓
(Word 19.7 KB) verifying receipt of this **Fraud Policy** and the [Standards of Performance and Conduct Policy HR-03-10](#).
- Detail employee training requirements.
- Communicate the consequences of committing fraudulent acts.

FRAUD DEFINITION

Fraud generally involves a willful or deliberate act with the intention of obtaining an unauthorized benefit, such as money or property, by deception or other unethical means. All fraudulent acts are included under this policy. Examples of fraudulent acts include, but are not limited to, such things as:

- Theft, embezzlement, or other financial irregularities
- Forgery or alteration of documents
- Misappropriation of funds, property and equipment, supplies, inventory, or any other asset
- Accepting kickbacks and bribes

SCOPE OF POLICY

This policy relates to all fraudulent activities involving the following:

- Department employees in the conduct of their employment responsibilities.
- The loss, misappropriation or theft of any assets belonging to the Department or for which the Department is responsible. These assets include, but are not limited to, cash, checks, property and equipment, inventory, intellectual property, information and other data.

This policy does not relate to such activities involving any individual, group, organization, government or other entity which is not a part of the Department, unless such activity may have involved an employee of the Department in the conduct of his or her employment responsibilities, or unless such activity involved the loss, embezzlement, misappropriation or theft of any assets belonging to the Department or for which the Department is responsible.

GENERAL POLICY

All employees are expected to maintain the highest standards of honesty and respect for Department resources. **Department management is responsible** for creating a workplace environment that promotes ethical behavior and deters fraudulent activities by developing, implementing, and maintaining effective fraud prevention and detection measures, **and encouraging and facilitating all agency employees to report any known or suspected fraud.**

EMPLOYEE RESPONSIBILITIES

- Employees are expected to act in accordance with this **Fraud Policy** and the department's [Standards of Performance and Conduct Policy HR-03-10](#).
- Employees are expected to report suspected or known fraud to appropriate department management.

CODE OF CONDUCT STATEMENT

All employees are required to sign a [PWD 1008 Code of Conduct Statement](#) ↓
(Word 19.7 KB) verifying they have read and agree to comply with this **Fraud Policy** and the Department's [Standards of Performance and Conduct Policy HR-03-10](#).

TRAINING

Fraud prevention and detection training is mandatory for all employees every two years. New employees must initially receive the training during New Employee Orientation.

DISCIPLINE PROCESS

Employees who commit fraudulent acts or who fail to report known or suspected fraud are subject to the Department's [Disciplinary Process Policy HR-03-05](#). If criminal statutes are violated, an employee may also be subject to criminal prosecution.

Employee Ethics Policy

Policy Number: HR-08-01

Type of Policy: Human Resources and Personnel

Effective: February 1, 2019

All policies are in compliance with federal and state law and statutes and with the Texas Parks and Wildlife Code. The most current version of this policy will always be the on-line version.

BACKGROUND

This ethics policy is adopted as required by the provisions of the Texas Government Code, Section 572.051(c), and is applicable to all Department employees. The Department is required to distribute a copy of this policy to each new employee no later than the third business day after beginning employment with the Department. Hiring supervisors will review the policy with new employees and provide them a copy at the time of in-processing with the department.

DEFINITIONS

Benefit –

Anything reasonably regarded as financial gain or financial advantage. A benefit has been determined by the Texas Ethics Commission to include items such as a meal, a rifle, a clock, a football ticket, a salary, a hotel room, or a free membership in an organization.

Legitimate Consideration –

A payment received that reflects the actual value of the goods or services provided in exchange for the payment.

Particular Matter –

A specific investigation, application, request for a ruling or determination, rulemaking proceeding, contract, claim, accusation, charge arrest, or judicial or other proceeding.

Public Official –

A state official, officer, or judge, or a board member of a state agency or political subdivision.

Trade Association –

A cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest. (Parks & Wildlife Code §11.0122(a).

GENERAL POLICY

All Texas Parks and Wildlife Department (Department) employees are expected to engage in ethical conduct, including complying with applicable laws, acting fairly and honestly and avoiding even the appearance of impropriety. Department employees should report any conduct or activity that they believe to be in violation of this ethics policy to the Director of Human Resources.

ACCEPTANCE OF BENEFITS

Bribery

As a public servant, an employee of the Department commits bribery if the employee solicits, offers, gives, agrees to give, accepts or agrees to accept a benefit in exchange for a decision, opinion, recommendation, vote or other exercise of official discretion. Common sense should tell an employee if something is intended to be a bribe. (Penal Code § 36.02)

Honoraria

Department employees may not solicit, agree to accept or accept an honorarium in consideration for services they would not have been asked to provide but for their official position. For example, an employee may not accept a speaker's fee for giving a presentation or making a speech if the employee's position with the Department is one of the reasons the employee was asked to speak. (Penal Code § 36.07)

Exception

An employee may accept food, transportation and lodging in connection with a speech or presentation that is more than merely perfunctory.

Gifts or Benefits from Persons or Entities Receiving Funds From TPWD

Department employees are prohibited by law from accepting a gift, gratuity, or other thing of value, including travel, from:

- A person who is employed by or participates in the management of a business entity or other organization that receives funds from the Department or receives funds as a result of a contract with the Department;
- A person who owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization that receives funds from the Department or receives funds as a result of a contract with the Department;
- A person a significant portion of whose business consists of furnishing goods or services to an entity or organization described by the two paragraphs above; or
- An agent, representative, attorney, employee, officer, owner, director, or partner of an entity, organization, or person described by the three paragraphs above.

(Texas Parks & Wildlife Code § 11.0261(a))

Exceptions

- A Department employee may accept travel expense reimbursement from the official nonprofit partner designated by the commission (the Texas Parks and Wildlife Foundation), if the expenses arose out of performance of activity related to the employee's official duties regarding the partner, and the expenses are sufficiently documented. (Texas Parks & Wildlife Code § 11.0261(b))
- An employee of the State Parks Division may accept a gratuity if the employee's primary duty involves serving food or beverages in a restaurant, cafeteria or other food service establishment located in a state park and operated by the department, the gratuity is offered by a customer in appreciation of food or beverages served by the employee and is reported by the employee, the department has designated the employee as an employee authorized to accept a gratuity and the employee reports the gratuity in accordance with commission rules. (Texas Parks & Wildlife Code § 11.0262(a); 31 Texas Administrative Code §59.221)

Other Prohibitions on Gifts or Benefits

- A Department employee who exercises discretion in connection with contracts, payments, purchases, claims or other TPWD monetary transactions may not accept a benefit from anyone the employee knows is interested in or likely to become interested in a transaction of this type. (Penal Code § 36.08(d))
- A Department employee may not solicit, accept or agree to accept any benefit from a person the employee knows is subject to regulation, inspection or investigation by TPWD. (Penal Code § 36.08(a))

- A Department employee may not use or disclose official information with the intent to benefit himself or another. (Penal Code § 39.06)
- A Department employee may not accept or solicit any gift, favor or service that might reasonably tend to influence the employee in the performance of the employee's job duties, or that the employee knows or should know is being offered with the intent to do so. (Government Code § 572.051(1))
- A Department employee may not solicit, accept or agree to accept a benefit for having exercised official powers or performed official duties in favor of another. (Government Code § 572.051(5); Penal Code §36.02(a))
- A Department employee may not solicit or accept a benefit from a person known to be in the custody of the Department. (Penal Code § 36.08(b))
- A Department employee may not solicit or accept transportation or lodging from a lobbyist. (Government Code § 305.024)

Exceptions

- A Department employee may accept a benefit from a friend, relative or business associate with whom the employee has a relationship independent of Department business, if the benefit is given on account of that relationship rather than the employee's job at TPWD, and the benefit is not otherwise prohibited by this policy. (Penal Code § 36.10(a)(2))
- An employee may accept a payment for goods or services for which the employee gives legitimate consideration in a capacity other than as an employee of the Department. (Penal Code § 36.10(a)(1))
- An employee may accept a non-cash item of less than \$50 in value, if the person or entity giving the item is not a recipient of funds from the Department. (Penal Code § 36.10(a)(6))
- An employee may accept food and entertainment as a guest if the person offering the food or entertainment is present and if the person providing the food and entertainment is not a recipient of funds from the Department. (Penal Code §36.10(c); Parks and Wildlife Code §11.0261). If the person providing food, entertainment or gifts is a lobbyist or someone acting on behalf of a lobbyist, an employee may not accept more than a total of \$500 a year in food, entertainment or gifts. (Government Code § 305.024)
- A Department employee may accept transportation or lodging from a non-lobbyist as a guest if the person offering the lodging or transportation is present and is not a recipient

of funds from the Department. (Penal Code §36.10(c); Government Code §305.024(a)(1)(A); Parks & Wildlife Code §11.0261).

- An employee may accept transportation or lodging from a lobbyist for a fact-finding trip if the lobbyist is present and the fact-finding trip is related to an employee's official duties. An employee may accept transportation or lodging from a lobbyist for a conference or seminar if the employee will be providing services that are more than perfunctory in the employee's official capacity, such as making a presentation. (Penal Code § 36.10(a)(6); Government Code § 305.0245(3).

A Department employee who receives an unsolicited benefit that the employee is prohibited from accepting may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious or scientific purposes. (Penal Code § 36.08(i))

Nepotism

- An individual may not be appointed or hired for a position within Texas Parks and Wildlife Department which is paid directly or indirectly from public funds if the individual is the Executive Director's or a Commissioner's spouse, or the following relatives of the Executive Director, a Commissioner, or the Executive Director's or Commissioner's spouse: father or mother, son or daughter, brother, sister, grandchild, grandparent, great grandparent, great grandchild, uncle or aunt, great uncle or great aunt, first or second cousin, child of great uncle or aunt, nephew or niece, child of first cousin, grand nephew or niece, or the spouse of one of the listed relatives. An adopted child is considered to be the child of an adopted parent for this purpose. (Government Code §573.041)
- A Department employee may not directly supervise, be in the reporting chain, or participate in employment decisions (i.e. hiring, terminating, compensation enhancements, etc.) involving a parent, child, spouse (or significant other), brother or sister, brother-in-law or sister-in-law, son-in-law or daughter-in-law, niece or nephew or first or second cousin of the employee or his or her spouse.

Fraternization

- All managerial and supervisory personnel are prohibited from marrying, dating, engaging in sexual activity or being involved in such relationships of intimate mutual caring with anyone in their direct line of reporting; and with anyone for whom they may exercise ultimate managerial control (including temporary or interim periods).

- Personnel are required to notify their managers of such relationships immediately. When such occurs, it is the responsibility of the parties involved to resolve the matter through reassignment or resignation. The agency is under no obligation to facilitate reassignment. If the parties fail to resolve the matter, the agency may terminate the managerial employee.

USE OF RECORDS/INFORMATION

- An employee shall not use records/information in which the employee has access in his or her official capacity and which has not been made public to, (1) acquire or aid another in acquiring a financial interest in any property, transaction or enterprise that may be affected by the information; or (2) speculate or aid another in speculating on the basis of the information. (Texas Penal Code § 39.03(a))
- An employee is prohibited from distributing information considered confidential under the terms of the Texas Public Information Act or other applicable law. (Texas Government Code § 552.352(a))
- An employee is prohibited from destroying, mutilating, removing or altering a public record without lawful permission. (Texas Government Code § 552.351(a)).

OUTSIDE EMPLOYMENT OR ACTIVITIES

Outside Employment

An officer or employee of the Department should not:

- Accept other employment, including self-employment, or engage in a business or professional activity that the officer or employee might reasonably expect would require or induce the office or employee to disclose confidential information acquired by reason of the official position. (Government Code § 572.051(2))
- Accept other employment or compensation, including self-employment, or engage in a business, charity, nonprofit organization or professional activity that could reasonably be expected to impair the officer or employee's independence of judgment in the performance of the officer or employee's official duties. (Government Code § 572.051(3))
- Be employed by the Department in a Fair Labor Standards Act overtime exempt position (a bona fide executive, administrative or professional capacity) if the person is an officer, employee or paid consultant of a Texas trade association in the field of conservation,

outdoor recreation or fishing, or if the person's spouse is an officer, manager or paid consultant of one of those groups (Parks & Wildlife Code § 11.0122).

Revolving Door

A former Department employee who was paid as of the last date of his or her state employment at or above Salary Group B15 shall not:

- Represent or be paid for services by a person or entity regarding a particular matter in which the former employee participated during the period of state employment, either through personal involvement or because the case or proceeding was a matter within the employee's official responsibility (Government Code § 572.054(b))

Please refer to [HR-18-01 Performance, Conduct and Disciplinary Action Process](#), for additional information on off-duty employment or multiple employment with the State.

Outside Activities

A Department employee should not:

- Use his or her official position, or state-issued items such as a badge indicating such position, for financial gain, to obtain privileges, or to avoid the consequences of illegal acts. For example, an employee may not make a decision or recommendation regarding the sale, disposal or surplus of TPWD property that results in a benefit to the employee. This provision does not prohibit an employee from accepting a discount for goods or services provided that the discount is equally available to all employees.
- Make personal investments or have a personal or financial interest that could reasonably be expected to create a substantial conflict between the officer's or employee's private interest and the public interest; (Government Code § 572.051(4))
- Use state time, property, facilities or equipment for any purpose other than official state business. The incidental personal use of a state telephone or computer by an employee is not prohibited, provided such use is brief, does not result in additional costs or damage to the state, does not otherwise interfere with the performance of the employee's job duties, and is not otherwise prohibited by Department policy or by the employee's manager. Incidental amounts of employee time are comparable to coffee breaks during the day. (Government Code § 2203.004; Texas Constitution Art. III, § 51; Ethics Advisory Opinion 372 (1997))

- Use a state-owned or state-leased motor vehicle to support the candidacy of a person running for an office in the legislative, executive or judicial branch of state government or an office in the U.S. government (Government Code § 556.004)
- Use state facilities, state funds or state time to attempt to influence the passage or defeat of a legislative measure. An employee may, upon request, furnish to any member of the Texas Legislature or legislative committee or to any other state official or employee or to any citizen information in the hands of the employee or official not considered under law to be confidential information. Employees may testify before legislative committees on their own time if testifying as a private citizen and such testimony does not result in a conflict-of-interest, or during working hours if representing the Department. (Government Code §§556.006, 556.007).
- Use official authority or influence or permit the use of a Department administered program to interfere with or affect the result of an election or nomination of a candidate, or to achieve any other political purpose. Employees may not coerce, restrict or prevent contributions to candidates or political organizations. (Government Code § 556.004) Any activity on behalf of a political candidate or campaign must occur during off-duty hours. Employees are not to usher candidates around Department buildings or Department controlled property for campaign purposes.
- Coerce or restrict, or attempt to coerce or restrict or prevent the payment, loan or contribution of a thing of value to a person or political organization for a political purpose. (Government Code § 556.004)