

## *Duties and Ethics of Public Sector Board Members under Texas Law*

### **General Authority and Duties**

1. ***Authority*** - A public college or university governing board that has been created or authorized by the state of Texas possesses only the authority vested by the state. General duties include the setting of policy; preserving institutional independence; appointing the chief executive officer; and, exercising fiduciary stewardship over finances.
2. ***Duty of Loyalty*** - A board member must be responsible and loyal to the interests of the institution he or she was appointed or elected to help govern. A member does not represent any other constituency, person, or entity that conflicts with those interests.
3. ***Duty of Unity*** - No single member of the board may speak for or otherwise bind the board, unless authorized to do so by vote of a majority of the board pursuant to an action taken in open or public session at a duly-constituted meeting of the board.
4. ***Committee Authority*** - Board committees (e.g., academic, finance and audit, planning and constructions, rules and regulations) may prepare policy initiatives in preparation for board meetings; however, that authority is limited to reporting and recommending policy to the board, unless authority to carry out a board directive has been delegated.

Texas *Education Code*, Section 51.532.

### **Conduct at Board Meetings and Beyond**

5. ***Duties of the Chair*** - The chair may speak for and represent the Board under a general grant of authority but may not take positions he or she knows not to be Board policy, unless first authorized to do so by the Board.
6. ***Right to Speak and Duty to Listen*** - A board member has the right to state his or her views, opinions, positions, and recommendations professionally and respectfully in the parliamentary manner established by the institution's rules as enforced by the chair. Likewise, a board member should listen respectfully to the views, opinions, positions, and recommendations of others, even those with whom he or she disagrees.
7. ***Duty to Respect Board Decisions*** - A board member should abide by and not subvert lawfully-taken board decisions. If, as a matter of principle, a board member must articulate a minority opinion, he or she may do; however, such opinion should be announced to the board through the chair, who may call upon the dissenting board member to articulate his or her opinion. In any case, the board member must refrain from subverting or otherwise derogating, to outside parties, lawfully taken Board decisions.

8. ***Duty of Confidentiality*** - A board member may not report the board's executive session discussions, deliberations, or statements of board members (including his or hers) to any third party without the board's permission.

### **Conflicts of Interest**

9. ***Gifts and Bribes*** - A board member may not accept or solicit any gift, favor or service that might reasonably tend to influence him or her in the discharge of official duties or that he or she knows or should know is being offered with the intent to influence his or her official conduct. Nor should he or she knowingly solicit, accept, or agree to accept any benefit for exercising or having exercised his or her official powers or duties in favor of another.
10. ***Business or Professional Activities*** - A board member may not engage in employment or in business or professional activities that might reasonably require or induce him or her to disclose confidential information acquired by virtue of his or her official position.
11. ***Employment*** - A board member may not accept employment or compensation that could reasonably be expected to impair his or her independence of judgment in the performance of his or her official duties.
12. ***Investments*** - A board member may not make personal investments that could reasonably be expected to create a substantial conflict between his or her private interest and the board's interest; nor, may he or her usurp an opportunity of the board to profit or benefit from any person or entity.

Texas Government Code, Chapter 572.051.

### **Relationships with Chancellor, Staff and Presidents**

13. ***Executive's Role*** - A board member must respect the role of the system chancellor, college or university president as the chief executive officer, respectively, for the system, college or university. The chief executive officer is charged with carrying out policy set by the board; and, while he or she must be responsive to board members, he or she is not obligated to honor policy initiatives set by individual board members that have not been authorized by the board.
14. ***Staff and Presidents*** - Board members customarily should not deal directly with system, college or university staff, except through specific or general grant of authority from the chancellor or president and should expect those staffs to keep the chancellor or president informed of such conversations.
15. ***Committees*** - When serving on standing or *ad hoc* committees, board members should timely inform the chancellor, the president, and the chair of scheduled committee meetings and keep them informed of the proceedings of meetings they are unable to attend.
16. ***Supervision*** - The chancellor or president reports to the chair day-to-day and to the board. The relationship should be collegial and professional.

## Questions to Guide Ethical Decisions

- Am I or a personal interest helped by the action in question?
- But for my position of power, do I not get the benefit?
- Is the action known to the public?
  - Would public knowledge make me uncomfortable?
- Would my actions fall within someone's job description?
- Is the action calculated to help a broader or narrower group of people?
- Could I defend the action publicly and credibly?

**TEXAS EDUCATION CODE, CHAPTER 51**

**SUBCHAPTER G. RESPONSIBILITIES OF GOVERNING BOARDS, SYSTEM ADMINISTRATIONS, AND INSTITUTIONS**

<p><b>§ 51.351. DEFINITIONS.</b> In this subchapter: (1) "General academic teaching institution," "governing board," "institution of higher education," "medical and dental unit," "public junior college," and "university system" have the meanings assigned by Section 61.003. (2) "System administration" means the administrative officers and employees of a university system who are assigned responsibility in relation to administration of two or more component institutions and are under the supervision of the chancellor or other chief executive officer of the university system. Added by <i>Acts 1987, 70th Leg., ch. 823, Sec. 1.09, eff. June 20, 1987</i>. Amended by <i>Acts 1991, 72nd Leg., ch. 526, Sec. 1, eff. Sept. 1, 1991</i>; <i>Acts 2005, 79th Leg., Ch. 292, Sec. 1, eff. June 17, 2005</i>; <i>Acts 2005, 79th Leg., Ch. 1181, Sec. 2, eff. September 1, 2005</i>.</p>	<p>(1) Applies to institutions of higher education, including public junior colleges.</p> <p>(2) Defines system administration.</p>
<p><b>§ 51.352. RESPONSIBILITY OF GOVERNING BOARDS.</b> (a) It is the policy of this state that the governing boards of institutions of higher education, being composed of lay members, shall exercise the traditional and time-honored role for such boards as their role has evolved in the United States and shall constitute the keystone of the governance structure. In this regard each governing board: (1) is expected to preserve institutional independence and to defend its right to manage its own affairs through its chosen administrators and employees; (2) shall enhance the public image of each institution under its governance; (3) shall interpret the community to the campus and interpret the campus to the community; (4) shall nurture each institution under its governance to the end that each institution achieves its full potential within its role and mission; and (5) shall insist on clarity of focus and mission of each institution under its governance.</p> <p>(b) The governing board of an institution of higher education shall provide the policy direction for each institution of higher education under its management and control.</p> <p>(c) In making or confirming appointments to a governing board, the governor and senate shall ensure that the appointee has the background and experience suitable for performing the statutory responsibility of a member of the governing board.</p> <p>(d) In addition to powers and duties specifically granted by this code or other law, each governing board shall: (1) establish, for each institution under its control and management, goals consistent with the role and mission of the institution; (2) appoint the chancellor or other chief executive officer of the system, if the board governs a university system; (3) appoint the president or other chief executive officer of each institution under the board's control and management and evaluate the chief executive officer of each component institution and assist the officer in the achievement of performance goals; (4) set campus admission standards consistent with the role and mission of the institution and considering the admission standards of similar institutions nationwide having a similar role and mission, as determined by the coordinating board; and (5) ensure that its formal position on matters of importance to the institutions under its governance is made clear to the coordinating board when such matters are under consideration by the coordinating board.</p> <p>(e) Each member of a governing board has the legal responsibilities of a fiduciary in the management of funds under the control of institutions subject to the board's control and management</p> <p>(f) The governing board of each general academic teaching institution and each public junior college within a 100-mile radius of that institution shall adopt a policy to enhance the transfer of students based on the recommendations of the permanent advisory committee under Section 51.3521 of this code. Added by <i>Acts 1987, 70th Leg., ch. 823, Sec. 1.09, eff. June 20, 1987</i>. Amended by <i>Acts 1991, 72nd Leg., ch. 526, Sec. 2, eff. Sept. 1, 1991</i>.</p>	<p>(a) Traditional role of governing boards:</p> <p>(1) Preserve institutional independence and administrative authority;</p> <p>(2) Enhance institution's public image;</p> <p>(3) Act as liaison with community;</p> <p>(4) Nurture each institution; and,</p> <p>(5) State clear mission.</p> <p>(b) Provide policy direction.</p> <p>(c) If appointed, suitable background required.</p> <p>(d) Statutory duties:</p> <p>(1) Establish goals;</p> <p>(2) Name chancellor;</p> <p>(3) Name and assist president;</p> <p>(4) Set admission standards; and</p> <p>(5) Make clear to THECB board position on important matters.</p> <p>(e) Fiduciary responsibility for managing funds.</p> <p>(f) Adopt policy to enhance junior to senior college transfers.</p>

**TEXAS GOVERNMENT CODE CHAPTER 572**

**FINANCIAL DISCLOSURE, CONDUCT, AND CONFLICTS OF INTEREST**

**SUBCHAPTER A. GENERAL PROVISIONS**

<p><b>§ 572.001. POLICY; LEGISLATIVE INTENT.</b> (a) It is the policy of this state that a state officer or state employee may not have a direct or indirect interest, including financial and other interests, or engage in a business transaction or professional activity, or incur any obligation of any nature that is in substantial conflict with the proper discharge of the officer's or employee's duties in the public interest. (b) To implement this policy and to strengthen the faith and confidence of the people of this state in state government, this chapter provides standards of conduct and disclosure requirements to be observed by persons owing a responsibility to the people and government of this state in the performance of their official duties. (c) It is the intent of the legislature that this chapter serve not only as a guide for official conduct of those persons but also as a basis for discipline of those who refuse to abide by its terms. Added by <i>Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.</i></p>	<p>Prohibits state officers and employees from engaging in business transactions or professional activities that substantially conflict with their official duties.</p> <p>This is a guide for official conduct <u>and</u> a basis for discipline.</p>
<p><b>§ 572.002. GENERAL DEFINITIONS.</b> In this chapter: (1) "Appointed officer" means: (B) an individual appointed with the advice and consent of the senate to the governing board of a state-supported institution of higher education; (D) an individual who is a member of the governing board or commission of a state agency, who is not appointed, and who is not otherwise: (i) an elected officer; (ii) an officer described by Paragraphs (A) through (C); or (iii) an executive head of a state agency. (5) "Executive head of a state agency" means the director, executive director, commissioner, administrator, chief clerk, or other individual who is appointed by the governing body or highest officer of the state agency to act as the chief executive or administrative officer of the agency and who is not an appointed officer. The term includes the chancellor or highest executive officer of a university system and the president of a public senior college or university as defined by Section 61.003, Education Code.</p> <p>(10) "State agency" means: (A) a department, commission, board, office, or other agency that: (i) is in the executive branch of state government; (ii) has authority that is not limited to a geographical portion of the state; and (iii) was created by the Texas Constitution or a statute of this state; (B) a university system or an institution of higher education as defined by Section 61.003, Education Code, other than a public junior college; or (C) a river authority created under the Texas Constitution or a statute of this state. Added by <i>Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.</i> Amended by <i>Acts 1997, 75th Leg., ch. 1134, Sec. 12, Sept. 1, 1997; Acts 2005, 79th Leg., Ch. 1253, Sec. 1, eff. June 18, 2005.</i></p>	<p>Commissioners, chancellors, and presidents are covered.</p> <p>Defines state agency to include university systems and institutions of higher education.</p>
<p><b>§ 572.003. DEFINITION: APPOINTED OFFICER OF MAJOR STATE AGENCY.</b> (a) In this chapter, "appointed officer of a major state agency" means an individual listed in Subsection (b) or (c). (c) The term means a member of: (17) governing board of a public senior college or university as defined by Section 61.003, Education Code, or of The University of Texas Southwestern Medical Center at Dallas, The University of Texas Medical Branch at Galveston, The University of Texas Health Science Center at Houston, The University of Texas Health Science Center at San Antonio, The University of Texas System Cancer Center, The University of Texas Health Science Center at Tyler, University of North Texas Health Science Center at Fort Worth, Texas Tech University Health Sciences Center, Texas State Technical College--Harlingen, Texas State Technical College--Marshall, Texas State Technical College--Sweetwater, or Texas State Technical College--Waco; (18) the Texas Higher Education Coordinating Board; Added by <i>Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.</i> Amended by <i>Acts 1995, 74th Leg., ch. 76, Sec. 5.06(a), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 238, Sec. 3, eff. May 22, 2001; Acts 2003, 78th Leg., ch. 817, Sec. 10.04, eff. Sept. 1, 2003; Acts 2007, 80th Leg., R.S., ch. 937, Sec. 3.09, eff. September 1, 2007.</i></p>	<p>Governing board members are covered, specifically including members of the Texas Higher Education Coordinating Board.</p>

**TEXAS GOVERNMENT CODE CHAPTER 572**

**FINANCIAL DISCLOSURE, CONDUCT, AND CONFLICTS OF INTEREST (cont.)**

<p><b>§ 572.005. DETERMINATION OF SUBSTANTIAL INTEREST.</b> An individual has a substantial interest in a business entity if the individual: (1) has a controlling interest in the business entity; (2) owns more than 10 percent of the voting interest in the business entity; (3) owns more than \$25,000 of the fair market value of the business entity; (4) has a direct or indirect participating interest by shares, stock, or otherwise, regardless of whether voting rights are included, in more than 10 percent of the profits, proceeds, or capital gains of the business entity; (5) is a member of the board of directors or other governing board of the business entity; (6) serves as an elected officer of the business entity; or (7) is an employee of the business entity. Added by <i>Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.</i></p>	<p>Substantial interest in a business entity (as would trigger the requirement to disclose the interest) includes:</p> <ol style="list-style-type: none"> <li>1) Controlling interest</li> <li>2) Holding more than 10% of voting interest</li> <li>3) Owning more than \$25K of fair market value</li> <li>4) Having more than 10% interest in profits</li> <li>5) Being on governing board</li> <li>6) Serving as elected officer</li> <li>7) Being an employee</li> </ol>
<p><b>§ 572.008. VENUE.</b> An offense under this chapter, including perjury, may be prosecuted in Travis County or in any other county in which it may be prosecuted under the Code of Criminal Procedure. Added by <i>Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.</i></p>	<p>Offenses will be prosecuted, principally in Travis County</p>

**TEXAS GOVERNMENT CODE CHAPTER 572**

**FINANCIAL DISCLOSURE, CONDUCT, AND CONFLICTS OF INTEREST (cont.)**

**SUBCHAPTER B. PERSONAL FINANCIAL STATEMENT**

<p>§ 572.021. <b>FINANCIAL STATEMENT REQUIRED.</b> Except as provided by Section 572.0211, a state officer, a partisan or independent candidate for an office as an elected officer, and a state party chair shall file with the commission a verified financial statement complying with Sections 572.022 through 572.0252.  <i>Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993; Amended by Acts 2003, 78th Leg., ch. 249, Sec. 5.01, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 1253, Sec. 2, eff. June 18, 2005; Acts 2005, 79th Leg., ch. 630, Sec. 2, eff. June 17, 2005.</i></p>	<p>Requirement to provide verified financial statement.</p>
<p>§ 572.0211. <b>FILING BY HOLDOVER OFFICER NOT REQUIRED.</b> (a) An appointed officer who resigns from office and who ceases to participate in the state agency's functions is not required to file a financial statement that is due because of service in that office after the effective date of the resignation. (b) An appointed officer whose term of office expires and who ceases to participate in the functions of the state agency is not required to file a financial statement that is due because of service in that office after the date the term of office expires. (c) An appointed officer of a state agency that is abolished or whose functions are transferred to another state agency is not required to file a financial statement that is due because of service after the date that the agency is abolished or the functions of the agency are transferred. (d) An appointed officer who resigns or whose term of office expires who does not intend to participate in the functions of the state agency shall deliver written notice of the officer's intention to the governor and the commission.  <i>Added by Acts 2005, 79th Leg., ch. 630, Sec. 1, eff. June 17, 2005.</i></p>	<p>Obligation to provide financial statement ceases upon resignation, even if the statement is already due.</p>
<p>§ 572.022. <b>REPORTING CATEGORIES.</b> (a) If an amount in a financial statement is required to be reported by category, the individual filing the statement shall report whether the amount is: (1) less than \$5,000; (2) at least \$5,000 but less than \$10,000; (3) at least \$10,000 but less than \$25,000; or (4) \$25,000 or more. (b) The individual filing the statement shall report an amount of stock by category of number of shares instead of by category of dollar value and shall report whether the amount is: (1) less than 100 shares; (2) at least 100 but less than 500 shares; (3) at least 500 but less than 1,000 shares; (4) at least 1,000 but less than 5,000 shares; (5) at least 5,000 but less than 10,000 shares; or (6) 10,000 shares or more. (c) The individual filing the statement shall report a description of real property by reporting: (1) the street address, if available, or the number of lots or number of acres, as applicable, in each county, and the name of the county, if the street address is not available; and (2) the names of all persons retaining an interest in the property, excluding an interest that is a severed mineral interest. (d) For a gift of cash or a cash equivalent such as a negotiable instrument or gift certificate that is reported in accordance with Section 572.023(b)(7), the individual filing the statement shall include in the description of the gift a statement of the value of the gift.  <i>Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 249, Sec. 5.02, eff. Sept. 1, 2003; Acts 2007, 80th Leg., R.S., ch. 342, Sec. 1, eff. September 1, 2007; Acts 2007, 80th Leg., R.S., ch. 342, Sec. 2, eff. September 1, 2007.</i></p>	<p>Details what is to be reported and how.</p>

**TEXAS GOVERNMENT CODE CHAPTER 572**

**FINANCIAL DISCLOSURE, CONDUCT, AND CONFLICTS OF INTEREST (cont.)**

<p><b>§ 572.023. CONTENTS OF FINANCIAL STATEMENT IN GENERAL.</b> (a) A financial statement must include an account of the financial activity of the individual required by this subchapter to file a financial statement and an account of the financial activity of the individual's spouse and dependent children if the individual had actual control over that activity for the preceding calendar year. (b) The account of financial activity consists of: (1) a list of all sources of occupational income, identified by employer, or if self-employed, by the nature of the occupation, including identification of a person or other organization from which the individual or a business in which the individual has a substantial interest received a fee as a retainer for a claim on future services in case of need, as distinguished from a fee for services on a matter specified at the time of contracting for or receiving the fee, if professional or occupational services are not actually performed during the reporting period equal to or in excess of the amount of the retainer, and the category of the amount of the fee; (2) identification by name and the category of the number of shares of stock of any business entity held or acquired, and if sold, the category of the amount of net gain or loss realized from the sale; (3) a list of all bonds, notes, and other commercial paper held or acquired, and if sold, the category of the amount of net gain or loss realized from the sale; (4) identification of each source and the category of the amount of income in excess of \$500 derived from each source from interest, dividends, royalties, and rents; (5) identification of each guarantor of a loan and identification of each person or financial institution to whom a personal note or notes or lease agreement for a total financial liability in excess of \$1,000 existed at any time during the year and the category of the amount of the liability; (6) identification by description of all beneficial interests in real property and business entities held or acquired, and if sold, the category of the amount of the net gain or loss realized from the sale; (7) identification of a person or other organization from which the individual or the individual's spouse or dependent children received a gift of anything of value in excess of \$250 and a description of each gift, except: (A) a gift received from an individual related to the individual at any time within the second degree by consanguinity or affinity, as determined under Subchapter B, Chapter 573; (B) a political contribution that was reported as required by Chapter 254, Election Code; and (C) an expenditure required to be reported by a person required to be registered under Chapter 305; (8) identification of the source and the category of the amount of all income received as beneficiary of a trust, other than a blind trust that complies with Subsection (c), and identification of each trust asset, if known to the beneficiary, from which income was received by the beneficiary in excess of \$500; (9) identification by description and the category of the amount of all assets and liabilities of a corporation, firm, partnership, limited partnership, limited liability partnership, professional corporation, professional association, joint venture, or other business association in which 50 percent or more of the outstanding ownership was held, acquired, or sold; (10) a list of all boards of directors of which the individual is a member and executive positions that the individual holds in corporations, firms, partnerships, limited partnerships, limited liability partnerships, professional corporations, professional associations, joint ventures, or other business associations or proprietorships, stating the name of each corporation, firm, partnership, limited partnership, limited liability partnership, professional corporation, professional association, joint venture, or other business association or proprietorship and the position held; (11) identification of any person providing transportation, meals, or lodging expenses permitted under Section 36.07(b), Penal Code, and the amount of those expenses, other than expenditures required to be reported under Chapter 305; (12) any corporation, firm, partnership, limited partnership, limited liability partnership, professional corporation, professional association, joint venture, or other business association, including a publicly held corporation, in which both the individual and a person registered under Chapter 305 have an interest;</p>	<p>A state officer must report on:</p> <p>(a) Individual and family finances;</p> <p>(b) Financial activities, including:</p> <ul style="list-style-type: none"> <li>• Occupational income</li> <li>• Securities held, acquired, or sold (and net gain or loss if sold)</li> <li>• Interest, dividend, royalty, trust, or rental income in excess of \$500</li> <li>• Cosignatory obligations in excess of \$1,000</li> <li>• Real property or business interests held, acquired or sold (and net gain or loss if sold)</li> <li>• Personal or family member gifts in excess of \$250</li> <li>• Assets and liabilities of any business entity in which 50 percent or more of the entity was held, acquired, or sold.</li> <li>• Boards of directors of which the officer is a member</li> <li>• Identification of persons providing transportation, meals and lodging</li> <li>• Registration as a lobbyist</li> </ul>
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**TEXAS GOVERNMENT CODE CHAPTER 572**

**FINANCIAL DISCLOSURE, CONDUCT, AND CONFLICTS OF INTEREST (cont.)**

<p><b>§ 572.023. CONTENTS OF FINANCIAL STATEMENT IN GENERAL. CONT.</b>  <i>(13)</i> identification by name and the category of the number of shares of any mutual fund held or acquired, and if sold, the category of the amount of net gain or loss realized from the sale; and <i>(14)</i> identification of each blind trust that complies with Subsection <i>(c)</i>, including :</p> <p><i>(A)</i> the category of the fair market value of the trust; <i>(B)</i> the date the trust was created; <i>(C)</i> the name and address of the trustee; and <i>(D)</i> a statement signed by the trustee, under penalty of perjury, stating that: <i>(i)</i> the trustee has not revealed any information to the individual, except information that may be disclosed under Subdivision <i>(8)</i>; and <i>(ii)</i> to the best of the trustee 's knowledge, the trust complies with this section. <i>(c)</i> For purposes of Subsections <i>(b)(8)</i> and <i>(14)</i>, a blind trust is a trust as to which: <i>(1)</i> the trustee: <i>(A)</i> is a disinterested party; <i>(B)</i> is not the individual; <i>(C)</i> is not required to register as a lobbyist under Chapter 305; <i>(D)</i> is not a public officer or public employee; and <i>(E)</i> was not appointed to public office by the individual or by a public officer or public employee the individual supervises; and <i>(2)</i> the trustee has complete discretion to manage the trust, including the power to dispose of and acquire trust assets without consulting or notifying the individual. <i>(d)</i> If a blind trust under Subsection © is revoked while the individual is subject to this subchapter, the individual must file an amendment to the individual 's most recent financial statement, disclosing the date of revocation and the previously unreported value by category of each asset and the income derived from each asset. Added by <i>Acts 1993, 73<sup>rd</sup> Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78<sup>th</sup> Leg., ch. 249, Sec. 5.03, eff. Sept. 1, 2003.</i></p>	<ul style="list-style-type: none"> <li>• Mutual funds held, acquired or sold (and net gain or loss if sold)</li> <li>• Identification of data to be reported from blind trusts.</li> </ul>
<p><b>§ 572.024. INFORMATION ABOUT SERVICES FOR LOBBYISTS OR LOBBYIST EMPLOYERS.</b> A state officer who receives a fee for services rendered by the officer to or on behalf of a person required to be registered under Chapter 305, or to or on behalf of a person or entity that the officer actually knows directly compensates or reimburses a person required to be registered under Chapter 305, shall report on the financial statement the name of each person or entity for which the services were rendered and the category of the amount of each fee. Added by <i>Acts 1993, 73<sup>rd</sup> Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.</i></p>	<p>Must report fees earned from registered lobbyists.</p>
<p><b>§ 572.0252. INFORMATION ABOUT REFERRALS.</b> A state officer who is an attorney shall report on the financial statement: <i>(1)</i> making or receiving any referral for compensation for legal services; and <i>(2)</i> the category of the amount of any fee accepted for making a referral for legal services. Added by <i>Acts 2003, 78<sup>th</sup> Leg., ch. 249, Sec. 5.04, eff. Sept. 1, 2003.</i></p>	<p>State officers who are lawyers must report referral fees.</p>
<p><b>§ 572.026. FILING DATES FOR STATE OFFICERS AND STATE PARTY CHAIRS.</b> <i>(a)</i> Not later than April 30 each year, a state officer or a state party chair shall file the financial statement as required by this subchapter. <i>(b)</i> An individual who is appointed to serve as a salaried appointed officer or an appointed officer of a major state agency or who is appointed to fill a vacancy in an elective office shall file a financial statement not later than the 30th day after the date of appointment or the date of qualification for the office, or if confirmation by the senate is required, before the first committee hearing on the confirmation, whichever date is earlier. <i>(c)</i> An individual who is appointed or employed as the executive head of a state agency shall file a financial statement not later than the 45th day after the date on which the individual assumes the duties of the position. A state agency shall immediately notify the commission of the appointment or employment of an executive head of the agency. <i>(d)</i> An individual required to file a financial statement under Subsection <i>(a)</i> may request the commission to grant an extension of not more than 60 days for filing the statement. The commission shall grant the request if it is received before the filing deadline or if a timely filing or request for extension is prevented because of physical or mental incapacity. The commission may not grant more than one extension to an individual in one year except for good cause shown. Added by <i>Acts 1993, 73<sup>rd</sup> Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78<sup>th</sup> Leg., ch. 249, Sec. 5.05, eff. Sept. 1, 2003; Acts 2005, 79<sup>th</sup> Leg., ch. 1253, Sec. 3,4, eff. June 18, 2005; Acts 2007, 80<sup>th</sup> Leg., R.S., Ch. 248, Sec. 1, eff. May 25, 2007.</i></p>	<p><i>(a)</i> April 30 filing date.</p> <p><i>(b)</i> Employees must file before 30<sup>th</sup> day after appointment.</p> <p><i>(c)</i> Agency heads must file before 45<sup>th</sup> day after assuming duties.</p> <p><i>(d)</i> May request 60 day extension.</p>

**TEXAS GOVERNMENT CODE CHAPTER 572**

**FINANCIAL DISCLOSURE, CONDUCT, AND CONFLICTS OF INTEREST (cont.)**

<p>§ 572.028. <b>DUPLICATE STATEMENTS.</b> If an individual has filed a financial statement under one provision of this subchapter covering the preceding calendar year, the individual is not required to file a financial statement required under another provision of this subchapter to cover that same year if, before the deadline for filing the statement under the other provision, the individual notifies the commission in writing that the individual has already filed a financial statement under the provision specified.  <i>Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.</i></p>	<p>Obligated to file only one financial statement yearly.</p>
<p>§ 572.029. <b>TIMELINESS OF FILING.</b> (a) The deadline for filing a financial statement required by this subchapter is 5 p.m. of the last day designated in the applicable provision for filing the statement. (a-1) The commission shall remove the home address of a judge or justice from a financial statement filed under this subchapter before: (1) permitting a member of the public to view the statement; or (2) providing a copy of the statement to a member of the public. (b) If the last day for filing the financial statement is a Saturday, Sunday, or holiday included under Subchapter B, Chapter 662, the statement is timely if filed on the next day that is not a Saturday, Sunday, or listed holiday. (c) A financial statement is timely filed if it is properly addressed and placed in the United States Post Office or in the hands of a common or contract carrier not later than the last day for filing the financial statement. The post office cancellation mark or the receipt mark of a common or contract carrier is prima facie evidence of the date the statement was deposited with the post office or carrier. The individual filing the statement may show by competent evidence that the actual date of posting was different from that shown by the marks. <i>Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993; Amended by Acts 2007, 80th Leg., R.S., Ch. 638, Sec. 1, eff. June 15, 2007.</i></p>	<p>(a) Time for filing is 5:00 p.m. on day designated.</p> <p>(b) Statement is filed timely if properly addressed and mailed.</p>
<p>§ 572.032. <b>PUBLIC ACCESS TO STATEMENTS.</b> (a) Financial statements filed under this subchapter are public records. The commission shall maintain the statements in separate alphabetical files and in a manner that is accessible to the public during regular office hours. (b) During the one-year period following the filing of a financial statement, each time a person requests to see the financial statement, excluding the commission or a commission employee acting on official business, the commission shall place in the file a statement of the person's name and address, whom the person represents, and the date of the request. The commission shall retain that statement in the file for one year after the date the requested financial statement is filed. (c) After the second anniversary of the date the individual ceases to be a state officer, the commission may and on notification from the former state officer shall destroy each financial statement filed by the state officer. <i>Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.</i></p>	<p>(a) Statements are public records.</p> <p>(b) People asking to see statements must identify selves (identities purged after a year).</p> <p>(c) Two years after leaving service, a former state officer <u>may request</u> destruction of statements.</p>
<p>§ 572.033. <b>CIVIL PENALTY.</b> (a) The commission shall determine from any available evidence whether a statement required to be filed under this subchapter is late. On making a determination that the statement is late, the commission shall immediately mail a notice of the determination to the individual responsible for filing the statement and to the appropriate attorney for the state. (b) If a statement is determined to be late, the individual responsible for filing the statement is liable to the state for a civil penalty of \$500. If a statement is more than 30 days late, the commission shall issue a warning of liability by registered mail to the individual responsible for the filing. If the penalty is not paid before the 10th day after the date on which the warning is received, the individual is liable for a civil penalty in an amount determined by commission rule, but not to exceed \$10,000. (c) This section is cumulative of any other available sanction for a late filing of a sworn statement. <i>Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 249, Sec. 5.06, eff. Sept. 1, 2003.</i></p>	<p>There are civil penalties, ranging from \$500 to \$10,000 for filing statements late.</p>

TEXAS GOVERNMENT CODE CHAPTER 572

FINANCIAL DISCLOSURE, CONDUCT, AND CONFLICTS OF INTEREST (cont.)

§ 572.034. **CRIMINAL PENALTY.** (a) An individual commits an offense if the individual is a state officer or candidate or state party chair and knowingly and willfully fails to file a financial statement as required by this subchapter. (b) An offense under this section is a Class B misdemeanor. (c) In a prosecution for failure to file a financial statement under this section, it is a defense that the individual did not receive copies of the financial statement form required by this subchapter to be mailed to the individual. Added by *Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.* Amended by *Acts 2005, 79th Leg., ch. 1253, Sec. 5, eff. June 18, 2005.*

Knowing and willful failure to file is a *Class B Misdemeanor* (fine up to \$2,000; jail up to 180 days; or both).

TEXAS GOVERNMENT CODE CHAPTER 572

FINANCIAL DISCLOSURE, CONDUCT, AND CONFLICTS OF INTEREST (cont.)

SUBCHAPTER C. STANDARDS OF CONDUCT AND CONFLICT OF INTEREST PROVISIONS

<p>§ 572.051. <b>STANDARDS OF CONDUCT.</b> (a) A state officer or employee should not: (1) accept or solicit any gift, favor, or service that might reasonably tend to influence the officer or employee in the discharge of official duties or that the officer or employee knows or should know is being offered with the intent to influence the officer's or employee's official conduct; (2) accept other employment or engage in a business or professional activity that the officer or employee might reasonably expect would require or induce the officer or employee to disclose confidential information acquired by reason of the official position; (3) accept other employment or compensation that could reasonably be expected to impair the officer's or employee's independence of judgment in the performance of the officer's or employee's official duties; (4) make personal investments that could reasonably be expected to create a substantial conflict between the officer's or employee's private interest and the public interest; or (5) intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the officer's or employee's official powers or performed the officer's or employee's official duties in favor of another. (b) A state employee who violates Subsection (a) or an ethics policy adopted under Subsection (c) is subject to termination of the employee's state employment or another employment-related sanction. Notwithstanding this subsection, a state officer or employee who violates Subsection (a) is subject to any applicable civil or criminal penalty if the violation also constitutes a violation of another statute or rule. (c) Each state agency shall: (1) adopt a written ethics policy for the agency's employees consistent with the standards prescribed by Subsection (a) and other provisions of this subchapter; and (2) distribute a copy of the ethics policy and this subchapter to: (A) each new employee not later than the third business day after the date the person begins employment with the agency; and (B) each new officer not later than the third business day after the date the person qualifies for office. (d) The office of the attorney general shall develop, in coordination with the commission, and distribute a model policy that state agencies may use in adopting an agency ethics policy under Subsection (c). A state agency is not required to adopt the model policy developed under this subsection. (e) Subchapters E and F, Chapter 571, do not apply to a violation of this section. (f) Notwithstanding Subsection (e), if a person with knowledge of a violation of an agency ethics policy adopted under Subsection (c) that also constitutes a criminal offense under another law of this state reports the violation to an appropriate prosecuting attorney, then, not later than the 60th day after the date a person notifies the prosecuting attorney under this subsection, the prosecuting attorney shall notify the commission of the status of the prosecuting attorney's investigation of the alleged violation. The commission shall, on the request of the prosecuting attorney, assist the prosecuting attorney in investigating the alleged violation. This subsection does not apply to an alleged violation by a member or employee of the commission. Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993; Amended by Acts 2007, 80th Leg., R.S., ch. 629, Sec. 1, eff. June 15, 2007.</p>	<p>(a) A state officer or employee must:</p> <ul style="list-style-type: none"><li>(1) Not accept gift that could influence him/her;</li><li>(2) Not disclose confidential information;</li><li>(3) Maintain independence of judgment;</li><li>(4) Avoid conflicts of interest;</li><li>(5) Not solicit or accept benefit for exercising one's duty.</li></ul> <p>(b) Discipline and termination</p> <p>(c) Each agency shall:</p> <ul style="list-style-type: none"><li>(1) adopt a policy</li><li>(2) Distribute copy of policy and subchapter by 3<sup>rd</sup> day of employment</li></ul> <p>(d) Role of the AG</p> <p>(e) Investigation by prosecuting attorney into alleged criminal violation</p>
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**TEXAS GOVERNMENT CODE CHAPTER 572**

**FINANCIAL DISCLOSURE, CONDUCT, AND CONFLICTS OF INTEREST (cont.)**

<p><b>§ 572.052. REPRESENTATION BY LEGISLATORS BEFORE STATE AGENCIES; CRIMINAL OFFENSE.</b> (a) A member of the legislature may not, for compensation, represent another person before a state agency in the executive branch of state government unless the representation: (1) is pursuant to an attorney-client relationship in a criminal law matter; or (2) involves the filing of documents that involve only ministerial acts on the part of the commission, agency, board, department, or officer. (b) A member of the legislature commits an offense if the member violates this section. An offense under this subsection is a Class A misdemeanor. Added by <i>Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.</i> Amended by <i>Acts 1997, 75th Leg., ch. 1134, Sec. 15, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 249, Sec. 5.07, eff. Sept. 1, 2003.</i></p>	<p>Legislators who are lawyers are limited in their advocacy before executive branch agencies.</p>
<p><b>§ 572.054. REPRESENTATION BY FORMER OFFICER OR EMPLOYEE OF REGULATORY AGENCY RESTRICTED; CRIMINAL OFFENSE.</b> (a) A former member of the governing body or a former executive head of a regulatory agency may not make 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 date the member or executive head ceased to be a member of the governing body or the executive head of the agency if the communication or appearance is 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. (b) A former state officer or employee of a regulatory agency who ceases service or employment with that agency on or after January 1, 1992, may not represent any person or receive compensation for services rendered on behalf of any person regarding a particular matter in which the former officer or employee participated during the period of state service or employment, either through personal involvement or because the case or proceeding was a matter within the officer's or employee's official responsibility. (c) Subsection (b) applies only to: (1) a state officer of a regulatory agency; or (2) a state employee of a regulatory agency who is compensated, as of the last date of state employment, at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule, including an employee who is exempt from the state's position classification plan. (d) Subsection (b) does not apply to a rulemaking proceeding that was concluded before the officer's or employee's service or employment ceased. (e) Other law that restricts the representation of a person before a particular state agency by a former state officer or employee of that agency prevails over this section. (f) An individual commits an offense if the individual violates this section. An offense under this subsection is a Class A misdemeanor. (g) In this section, the comptroller and the secretary of state are not excluded from the definition of "regulatory agency." (h) In this section: (1) "Participated" means to have taken action as an officer or employee through decision, approval, disapproval, recommendation, giving advice, investigation, or similar action. (2) "Particular matter" means a specific investigation, application, request for a ruling or determination, rulemaking proceeding, contract, claim, charge, accusation, arrest, or judicial or other proceeding. Added by <i>Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.</i></p>	<p>Former governing member or agency head is barred for two years (after leaving service) from advocating before the agency.</p> <p>Violation of this section is a <i>Class A Misdemeanor</i> (fine of up to \$4,000; jail up to one year; or both).</p>
<p><b>§ 572.056. CONTRACTS BY STATE OFFICERS WITH GOVERNMENTAL ENTITIES; CRIMINAL OFFENSE.</b> (a) A state officer may not solicit or accept from a governmental entity a commission, fee, bonus, retainer, or rebate that is compensation for the officer's personal solicitation for the award of a contract for services or sale of goods to a governmental entity. (b) This section does not apply to: (1) a contract that is awarded by competitive bid as provided by law and that is not otherwise prohibited by law; or (2) a court appointment. (c) In this section, "governmental entity" means the state, a political subdivision of the state, or a governmental entity created under the Texas Constitution or a statute of this state. (d) A state officer who violates this section commits an offense. An offense under this subsection is a Class A misdemeanor. Added by <i>Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.</i></p>	<p>(a) Can't accept payment for awarding a state contract.</p> <p>(b) Exceptions include a contract awarded by competitive bid or a court appointment.</p>

**TEXAS GOVERNMENT CODE CHAPTER 572**

**FINANCIAL DISCLOSURE, CONDUCT, AND CONFLICTS OF INTEREST (cont.)**

<p><b>§ 572.058. PRIVATE INTEREST IN MEASURE OR DECISION; DISCLOSURE; REMOVAL FROM OFFICE FOR VIOLATION.</b> (a) An elected or appointed officer, other than an officer subject to impeachment under Article XV, Section 2, of the Texas Constitution, who is a member of a board or commission having policy direction over a state agency and who has a personal or private interest in a measure, proposal, or decision pending before the board or commission shall publicly disclose the fact to the board or commission in a meeting called and held in compliance with Chapter 551. The officer may not vote or otherwise participate in the decision. The disclosure shall be entered in the minutes of the meeting. (b) An individual who violates this section is subject to removal from office on the petition of the attorney general on the attorney general's own initiative or on the relation of a resident or of any other member of the board or commission. The suit must be brought in a district court of Travis County or of the county where the violation is alleged to have been committed. (c) If the court or jury finds from a preponderance of the evidence that the defendant violated this section and that an ordinary prudent person would have known the individual's conduct to be a violation of this section, the court shall enter judgment removing the defendant from office. (d) A suit under this section must be brought before the second anniversary of the date the violation is alleged to have been committed, or the suit is barred. (e) The remedy provided by this section is cumulative of other methods of removal from office provided by the Texas Constitution or a statute of this state. (f) In this section, "personal or private interest" has the same meaning as is given to it under Article III, Section 22, of the Texas Constitution, governing the conduct of members of the legislature. For purposes of this section, an individual does not have a "personal or private interest" in a measure, proposal, or decision if the individual is engaged in a profession, trade, or occupation and the individual's interest is the same as all others similarly engaged in the profession, trade, or occupation. Added by <i>Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.</i></p>	<ul style="list-style-type: none"> <li>• Must disclose any personal or private interest in matters pending before a state board or commission.</li> <li>• Disclosure shall be entered in the minutes.</li> <li>• May not vote or participate in the decision.</li> <li>• Violation is grounds for removal from office.</li> <li>• At trial standard of proof required for removal is preponderance of the evidence.</li> <li>• Actions seeking removal must be brought within two years of the alleged infraction.</li> </ul>
<p><b>§ 572.059. INDEPENDENCE OF STATE AND LOCAL OFFICERS ACTING IN LEGISLATIVE CAPACITY.</b> (a) In this section, "legislative measure" includes: (1) a bill, resolution, order, or other proposal to adopt, enact, amend, or repeal a statute, ordinance, rule, or policy of general application; (2) a proposal to adopt, enact, amend, or repeal, or to grant a variance or other exception to, a zoning ordinance; or (3) a proposed constitutional amendment or charter amendment subject to a vote of the electorate. (b) For purposes of Subsection (a), a measure that is applicable to a class or subset of persons or matters that is defined in general terms without naming the particular persons or matters is a measure of general application. (c) To protect the independence of state and local officers acting in a legislative capacity, a state or local officer, whether elected or appointed, including a member of the governing body of a school district or other political subdivision of this state, may not be subject to disciplinary action or a sanction, penalty, disability, or liability for: (1) an action permitted by law that the officer takes in the officer's official capacity regarding a legislative measure; (2) proposing, endorsing, or expressing support for or opposition to a legislative measure or taking any action permitted by law to support or oppose a legislative measure; (3) the effect of a legislative measure or of a change in law proposed by a legislative measure on any person; or (4) a breach of duty, in connection with the member's practice of or employment in a licensed or regulated profession or occupation, to disclose to any person information, or to obtain a waiver or consent from any person, regarding: (A) the officer's actions relating to a legislative measure; or (B) the substance, effects, or potential effects of a legislative measure. Added by <i>Acts 2003, 78th Leg., ch. 1206, Sec. 1, eff. June 20, 2003.</i></p>	<p>A state officer is not legally liable for:</p> <ol style="list-style-type: none"> <li>(1) Official actions taken that are permitted by law;</li> <li>(2) Proposing, endorsing or opposing legislation if doing so is otherwise permitted by law;</li> <li>(3) The effect of legislation on any person;</li> <li>(4) Failure to disclose information that the officer's licensed profession requires to be confidential.</li> </ol>

TEXAS GOVERNMENT CODE CHAPTER 572

FINANCIAL DISCLOSURE, CONDUCT, AND CONFLICTS OF INTEREST (cont.)

<p><b>§ 572.060. SOLICITATION OF OR RECOMMENDATIONS REGARDING CONTRIBUTIONS TO CHARITABLE ORGANIZATIONS AND GOVERNMENTAL ENTITIES.</b> (a) Unless otherwise prohibited by the Code of Judicial Conduct, a state officer or state employee may: (1) solicit from any person a contribution to: (A) an organization that: (i) is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code; (ii) does not attempt to influence legislation as a substantial part of the organization's activities; and (iii) has not elected under Section 501(h), Internal Revenue Code of 1986, to have that subsection apply to the organization; or (B) a governmental entity; or (2) recommend to any person that the person make a contribution to an organization or entity described by Subdivision (1). (b) A monetary contribution solicited or recommended as provided by Subsection (a) must: (1) be paid or made directly to the charitable organization or governmental entity by the person making the contribution; (2) be in the form of a check, money order, or similar instrument payable to the charitable organization or governmental entity; or (3) be in the form of a deduction from a state employee's salary or wage payment under the state employee charitable campaign under Subchapter I, Chapter 659. (c) A contribution solicited or recommended as provided by Subsection (a) that is not a monetary contribution must be delivered directly to the charitable organization or governmental entity by the person making the contribution. (d) A contribution paid as provided by Subsection (b) or delivered as provided by Subsection (c) is not: (1) a political contribution to, or political expenditure on behalf of, the state officer or state employee for purposes of Title 15, Election Code; (2) an expenditure for purposes of Chapter 305; or (3) a benefit to the state officer or state employee for purposes of Sections 36.08 and 36.09, Penal Code. Added by Acts 2005, 79th Leg., ch. 53, Sec. 1, eff. Sept. 1, 2005.</p>	<p>As to charitable solicitations, a state officer or employee may:</p> <ol style="list-style-type: none"><li>(1) Solicit contributions to 501(c)(3) organizations;</li><li>(2) Recommend to others that they contribute to such organizations.</li></ol>
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