

- If an employee believes that he/she has been subjected to a materially adverse action after filing a formal complaint, he/she should follow the Retaliation policy.

Chapter 5. Ethics and Integrity

Ethics and Integrity

Revised: 11/01/2011

The Office of the Attorney General (OAG) is committed to providing its employees with the necessary guidance and support for conducting its operations to the highest standards of ethics and integrity. As part of the agency's commitment to ethics and integrity and in compliance with Section 572.051(c)(1) of the Texas Government Code, the OAG provides this chapter as its Ethics Policy. Agency employees are expected to adhere to this policy and to avoid unethical conduct, including conflicts of interest and appearances of impropriety. Violation of any section of this policy may result in disciplinary action, up to and including termination of employment.

Ethics Advisor

Revised: 07/16/2009

The OAG shall have a licensed attorney serve as Ethics Advisor for the agency. The First Assistant Attorney General shall designate the Ethics Advisor, who will serve for an unspecified term and who must be an OAG attorney in good standing licensed by the State of Texas. The Ethics Advisor is the principal advisor to agency management and employees on ethics matters and shall:

- advise employees on issues regarding ethics and integrity, including conflicts of interest, ethical walls, and appearances of impropriety;
- provide guidance to agency lawyers regarding the Texas Disciplinary Rules of Professional Conduct;
- participate in the Fraud, Waste, and Abuse Prevention Program as provided in the procedures of that program;
- handle employee requests to provide outside legal representation and notices to engage in political activities; and
- provide advice and counsel to Executive Management on ethical issues that could affect the agency as a whole.

The Ethics Advisor may designate an attorney licensed in the State of Texas and employed at the OAG to act in his/her absence and may create ad hoc advisory committees for assistance on specific issues.

Information discussed with the [Ethics Advisor](#) will be confidential to the extent allowed by law.

Fraud, Waste, and Abuse

Revised: 04/01/2014

The OAG has a responsibility to prevent, detect, and report fraud, waste, and abuse of authority. In an effort to provide responsible stewardship through efficient and honest governance, the OAG has implemented a [Fraud, Waste, and Abuse Prevention Program](#) (formerly known as the Agency Integrity Program). This program forms part of the Ethics Policy and complies with Executive Order RP-36.

All OAG employees must receive training on the Fraud, Waste, and Abuse Prevention Program (FWAPP) every two years. All new employees must complete training on this program no later than the 5th business day following their first day of employment. Failure to comply with these requirements may lead to disciplinary action.

[FWAPP Training](#) is available on the OAG Intranet.

Conflicts of Interest: Procurement and Contracts

Revised: 10/01/2018

The Office of the Attorney General (OAG) is committed to adhering to ethical and transparent procurement and contract activities as well as serving as an efficient steward of taxpayer fund. Accordingly, any OAG employee who is involved in any procurement or contract activities must do so without any actual, potential, or apparent conflicts of interest.

Employee Disclosures and Recusals

An OAG employee involved in procurement or contract activities must immediately disclose in writing to the agency's Director of Procurement and Contract Operations any actual, potential, or apparent conflicts of interest arising from a procurement or contract activity.

If the Director of Procurement and Contract Operations determines that an actual, potential, or apparent conflict of interest exists, the employee must recuse him/herself from further involvement in procurement or contract activity identified by the Director of Procurement and Contract Operations.

Prohibited Procurement or Contract Negotiations

Per state law, the OAG cannot enter into a procurement contract with a vendor if any of the following persons has a financial interest in that vendor:

- The Attorney General;
- The First Assistant Attorney General;
- General Counsel;
- Director of Procurement and Contract Operations; or

- A family member of an employee identified above who is related to the employee within the second degree by affinity or consanguinity, as defined by Texas Government Code § 573.022 *et seq.*

These above-identified persons are considered to have a financial interest in an entity if the person:

- owns or controls, directly or indirectly, an ownership interest of at least one percent in the entity, including the right to share in profits, proceeds, or capital gains; or
- could reasonably foresee that a contract with the entity could result in a financial benefit to the employee.

A financial interest prohibited by this policy does not include a retirement plan, a blind trust, insurance coverage, or an ownership interest of less than one percent in a corporation.

Failure to Disclose

Failure to comply with this policy, including failing to disclose an actual, potential, or apparent conflict of interest, may result in disciplinary action, up to and including termination of employment.

Confidential and Privileged Information

Revised: 09/01/2013

Employees of the Office of the Attorney General (OAG) may not disclose confidential or privileged information, including information:

- protected by the attorney-client privilege or the attorney work-product privilege;
- ordered sealed by a court;
- acquired by reason of the employee's official position;
- defined as Sensitive Personal Information by the OAG's Sensitive Personal Information policy;
- protected by the Child Support Division's policies regarding confidentiality;
- considered confidential by law; or
- protected from public disclosure under the Texas Public Information Act.

It is not a violation of this policy to disclose confidential or privileged information if such disclosure is expressly authorized or required for OAG purposes or if appropriate disclosure has been explicitly approved by the OAG's [Public Information Coordinator](#) (PIC). (Detailed information on responding to open-records requests appears in the OAG's PIC Procedures Manual.)

In furtherance of this policy, OAG employees must abide by the agency's [Information Security Standards](#) and [Information Security Policy](#).

False or Misleading Information

Revised: 06/01/2014

An employee of the Office of the Attorney General (OAG) who intentionally, knowingly, recklessly, or negligently provides false or misleading information, either oral or written, in the course of conducting official OAG business, may be subject to corrective or disciplinary action, up to and including termination of his or her at-will employment. Such unacceptable conduct includes, but is not limited to, making false or misleading representations to division/regional management, Executive Administration, a court of law, or another governmental agency. It is also unacceptable conduct to hamper an investigation or make accusations with reckless disregard for the truth.

This policy does not apply to situations in which agency business requires false or misleading information, such as undercover operations conducted for law-enforcement purposes.

Bribery and Undue Influence

Revised: 07/16/2009

An OAG employee may not solicit, accept, or agree to accept any benefit as consideration for the employee's decision, opinion, recommendation, vote, or other exercise of discretion as an OAG employee. Such conduct may constitute a violation of the Texas Penal Code and/or the Fraud, Waste, and Abuse Prevention Program (FWAPP). Failure to follow this policy will lead to immediate termination and potential criminal charges.

An OAG employee shall promptly report to his/her division chief or the Ethics Advisor any attempted bribery or undue influence.

Gifts and Favors

Revised: 07/16/2009

An OAG employee shall not accept or solicit any gift, benefit, favor, or service, regardless of its value, that might reasonably tend to influence the employee in the discharge of his/her official duties, or that the employee knows or should know is being offered with the intent to influence the employee's official conduct. In addition, an employee may not intentionally or knowingly solicit, accept, or agree to accept any benefit, regardless of its value, for having exercised his/her official powers or performed his/her official duties in favor of another.

An employee who receives an offer of a gift, benefit, favor, or service that was made to influence or reasonably appears to have been made to influence an employee's official duties shall promptly report the incident to his/her immediate supervisor, his/her division chief, and/or Executive Deputy. An OAG employee shall never accept cash, a negotiable instrument, or any item with a value of \$50 or more from an opposing party/counsel; any entity that the employee knows is being investigated by the OAG; or any entity the employee knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of the employee's discretion.

Nevertheless, employees may accept unsolicited advertising or promotional items of a nominal value, such as pens, calendars, and notepads.

Employees presented with an offer of a gift, benefit, favor, or service should obtain guidance from the [Ethics Advisor](#).

Financial Interests

Revised: 07/16/2009

An OAG employee shall not make personal financial investments that create a conflict between his/her personal interests and the public's interest or that may otherwise erode the public's trust in government. An OAG employee shall not make decisions regarding financial investments based on information he/she has received confidentially and/or in his/her official capacity as an OAG employee. Employees should refer to the Confidential Information Policy.

Prizes

Revised: 07/16/2009

An OAG employee who wins a prize at an event in which he/she is attending in an official capacity is obligated to ensure that no appearance of impropriety or any violation of policy or law has occurred, particularly if the donor is a registered lobbyist. The authority to accept a prize depends on the nature and value of the prize and the circumstances under which the prize is won. Employees are encouraged to contact the [Ethics Advisor](#) for guidance.

Travel Rewards

Revised: 09/01/2009

OAG employees may accrue and redeem travel rewards, such as frequent-flier miles and hotel-reward points, obtained as a result of work-related travel. For specific guidelines on work-related travel, employees should refer to the [Travel Guidelines Policy](#).

Conferences and Speaking Engagements

Revised: 08/01/2012

An OAG employee who is invited to participate in a work-related conference or similar event shall notify his/her immediate supervisor, division chief, Executive Deputy, and the Communications Division (Communications Director or Outreach Director) before accepting such an invitation. All presentation materials must be approved by the Communications Director or Outreach Director. Upon approval, an OAG employee may accept transportation, meals, and lodging expenses in connection with a

conference or similar event in which the OAG employee renders services, such as addressing an audience at a seminar, as long as the services are more than merely perfunctory. Employees who receive an item of gratitude must notify the [Ethics Advisor](#). Cash, gift cards, or any type of negotiable instrument may never be accepted.

Employees should refer to the Outreach notice on the agency's intranet for additional guidance and approval procedures.

Witness Fees/Compensation

Revised: 06/01/2014

An employee of the Office of the Attorney General (OAG) who is subpoenaed or compelled to testify or appear at a proceeding in his/her official capacity shall promptly forward any fees paid for being a [witness](#) to the agency's Accounting Division. An employee may decline or refuse such a fee to be paid for being a witness at a proceeding in his/her official capacity. An employee may be entitled to recover expenses, such as mileage or meals for being a witness at a proceeding in his/her [one source](#). An employee who testifies in his/her personal capacity may accept standard witness fees but shall be required to use appropriate non-sick leave (e.g., annual leave) for any such absence. An employee who receives compensation beyond standard witness fees for testifying or for providing services at a trial (e.g., expert testimony) shall be required to follow OAG's Outside Employment Policy.

Non-Political Fundraisers and Solicitations

Revised: 08/17/2010

An agency employee may not engage in non-political fundraising activities or solicitations in public work areas (e.g., lobbies, elevators, restrooms, parking lots) or via agency e-mail distribution lists without prior approval from Executive Management.

To obtain such approval, an agency employee must submit a written request to his/her Division Chief at least thirty days prior to any non-political fundraising activity or event. The Division Chief shall promptly forward the request to the appropriate Executive Deputy who should consult with the Director of Human Resources. Non-political fundraising activities or solicitations that have a likelihood to disrupt the workplace or that reflect negatively on the agency will not be approved.

Non-political fundraising activities or solicitations made solely within an office or division are subject to the approval of the Division Chief or designee.

Engaging in non-political fundraising activities or solicitations without prior approval may lead to disciplinary action.

For specific guidelines on political fundraising activities or solicitations, employees should consult the Political Activities and Political Contributions policies.

Serving on a Board or as an Officer of an Organization

Revised: 07/16/2009

While the agency encourages employees to participate in activities that benefit the community, an OAG employee wishing to serve as an officer or board member of any organization that receives funds through the OAG must obtain written permission from his/her immediate supervisor, division chief, Executive Deputy, and the First Assistant Attorney General.

An OAG employee may be required to resign as an officer or board member if such activity negatively affects the performance of his/her official duties, in any way reflects negatively on the agency, or creates an actual or perceived conflict of interest.

In carrying out duties as an officer or board member of any organization, an OAG employee may not indicate, expressly or implicitly, that he/she is acting on behalf of the Attorney General, the OAG, or the State of Texas.

Running for Public Office

Revised: 05/01/2017

An employee of the Office of the Attorney General (OAG) who intends to run for public office, including governing bodies of school districts, cities, towns, or other local governmental districts, must submit a [Notice of Intent to Run for Public Office](#) to his/her immediate supervisor, who shall review the form, sign it, and forward it to the division chief. The form shall then be reviewed and acknowledged in the following order: appropriate Executive Deputy, Ethics Advisor, and First Assistant Attorney General. The original form shall be retained by the Ethics Advisor. The notice must be submitted to the employee's immediate supervisor no less than sixty days before the filing deadline. A properly completed notice must provide the following:

- the employee's signature and date of submission to the immediate supervisor;
- the employee's current position;
- the public office the employee is seeking;
- whether the employee will participate in a partisan election;
- whether the employee's position is funded completely by federal funds;
- whether the employee will resign if the employee wins the primary or general election;
- the anticipated number of non-sick leave hours the employee plans to use for campaign-related activities; and
- an acknowledgement that the employee:
 - has read this policy;
 - will perform all campaign activities during non-work times;
 - will not use government resources for any campaign-related activities;
 - will alert division management of any conflicts of interest that may arise;
 - will not misuse confidential information;
 - will avoid any actual or apparent conflicts of interest; and

- o will not perform any political activities while at work or on agency premises.

In order to avoid disciplinary action, an acknowledgement from the First Assistant Attorney General, the appropriate Executive Deputy, the employee's division chief, immediate supervisor, and the Ethics Advisor must be obtained before engaging in any conduct that would lead a reasonable person to believe that the employee is running for office (e.g., creating a website, forming an exploratory committee).

An employee whose position is completely funded by federal funds and who is running in a partisan election is subject to the Hatch Act/Hatch Act Modernization Act of 2012 and must resign from employment with the OAG before engaging in any campaign-related activity.

In reviewing an employee's notice, the following must be considered:

- whether the employee submitted a timely notice with all required information;
- whether the employee is subject to or may be subject to the Hatch Act/Hatch Act Modernization Act of 2012;
- whether the employee can reasonably run for office while performing his/her functions at the OAG;
- whether the employee's candidacy may affect his/her work performance;
- whether any conflicts of interest exist or may arise; and
- whether the employee's candidacy may lead to a disruption of the agency's goals.

Running for public office or engaging in campaign-related activity without giving prior notice, violating the Hatch Act/Hatch Act Modernization Act of 2012, or engaging in conduct that negatively reflects on the employee or the agency may lead to disciplinary action, including involuntary separation.

An employee running for office in a specific court or jurisdiction must recuse himself/herself from any work or appearances before the court or jurisdiction in which he/she is seeking office and must avoid any actual or apparent conflicts of interest as a result of running for office while employed at the OAG. The employee must coordinate recusal with his/her division management to ensure orderly and appropriate transfer of client matters and notice to the court or jurisdiction.

An approval to run for public office under this policy does not amount to an endorsement from the Attorney General, the Office of the Attorney General, any individual who signs the approval form, or employees of the OAG acting in their agency role. Any indication, explicit or implicit, of an agency endorsement may lead to immediate disciplinary action, up to and including involuntary separation.

Political Activities

Revised: 07/16/2009

An OAG employee may not use agency resources to engage in any political activity or engage in any such activity while performing functions on behalf of the OAG, whether on or off OAG premises. Any

employee who volunteers for a political campaign or other political activity must limit participation to non-working hours or must use accumulated leave. Any employee who is compensated to work for a political campaign must comply with the agency's Outside Employment Policy.

An OAG employee engaging in political activities is strictly forbidden from indicating, explicitly or implicitly, that he/she is acting on behalf of the Attorney General, the OAG, or the State of Texas.

Political Contributions

Revised: 08/01/2012

An OAG employee may make political contributions to candidates of his/her choice, but such contributions must not be made while at work and/or using agency resources. In addition, employees should be aware that federal and state laws govern the amount and timing of political contributions.

An OAG employee shall not make political contributions to the presiding Attorney General.

Pre-OAG Legal Employment

Revised: 07/16/2009

An OAG lawyer who has practiced law prior to working for the OAG may not work on any matter at the OAG on which he/she may have represented a party adverse to the OAG in that exact matter or in any substantially-related matter. In addition, OAG lawyers may not work on any matter at the OAG adverse to a former client about which he/she may have gained privileged or confidential information before joining the OAG. An OAG lawyer facing such a situation shall promptly report the issue to his/her division chief. The division chief shall promptly make appropriate adjustments, after consulting with the Ethics Advisor and the appropriate Executive Deputy.

An OAG lawyer may accept compensation for any law-related work he/she performed before joining the OAG, including pro-rated bonuses. For information on what non-OAG work can be completed by a recently hired OAG lawyer, employees should refer to the Outside Legal Representation Policy.

Negotiating for Future Employment

Revised: 07/16/2009

An OAG employee who is personally and substantially involved in a matter with an opposing entity/party may not negotiate for employment with the opposing entity/party or with counsel for the opposing entity/party while that matter is on-going.

Post-Agency Employment

Revised: 09/01/2015

Unless express written consent is obtained as stipulated in this policy, a former Office of the Attorney General (OAG) employee shall not represent any person or receive compensation for services rendered on behalf of any person regarding a particular matter in which the former employee participated while at the OAG, either through personal involvement or because the case or proceeding was a matter within the employee's official responsibility. In addition, during the 84th Legislative Session, the Legislature enacted Senate Bill 20, which states a former OAG employee who was personally involved on behalf of the OAG in a procurement or contract negotiation with a person shall not accept employment from that person within two years of the employee's last day of service with the OAG. This prohibition applies only to contracts entered into by the OAG after September 1, 2015.

Consent

Current or former employees seeking to obtain express written consent from the OAG for any of the purposes outlined above in this policy shall contact the Ethics Advisor in writing. Although employees may seek guidance from the Ethics Advisor, the Ethics Advisor does not act as their legal counsel. The Ethics Advisor shall consult with Executive Administration to determine whether express written consent can be provided. If approved, Executive Administration shall provide the express written consent.

Any express written consent provided by Executive Administration is predicated on the presumption that the employee requesting the consent has fully disclosed all relevant matters pertaining to the request. Express written consent can be withdrawn at any time at the sole discretion of Executive Administration. If express written consent is withdrawn, the OAG shall make a reasonable attempt to notify the former employee. Former agency employees who accept employment or receive compensation for services without first obtaining express written consent from the OAG do so at their own risk of violating state law.

Resolving Issues Related to Ethics or Conflict of Interest

All ethical or conflict-of-interest issues arising from post-agency employment shall be resolved by Executive Administration in consultation with the Ethics Advisor.

Lobbyist Spouse

Revised: 07/16/2009

An OAG employee must notify the First Assistant Attorney General, the appropriate Executive Deputy, his/her division chief, his/her immediate supervisor, and the Ethics Advisor in writing if his/her spouse is a registered lobbyist or intends to register as a lobbyist with the Texas Ethics Commission. An OAG employee shall not participate in any decision or matter within the OAG in which his/her spouse has a pecuniary interest.

Conflicts of Interest

Revised: 08/01/2021

The Office of the Attorney General recognizes that in rare situations, employees may face conflicts between professional duties and private interests or personal relationships. Conflicts may also arise due to the ethical obligations to a client (whether former or current). In facing those conflicts, OAG employees must exercise due care and due diligence and follow this policy as well as all laws, ethical regulations, and professional rules regarding conflicts of interest. Failure to do so may result in corrective or disciplinary action. Employees needing guidance regarding actual, potential, or apparent conflicts of interest must promptly seek guidance from division management and/or the Ethics Advisor.

In addition, agency employees must not handle agency matters that could affect private interests or personal relationships. Divisions may impose specific requirements complying with conflicts of interest as they relate to intra-division document sharing and communications of relevant matters.

Financial & Contract Decisions

An OAG employee must not make decisions regarding financial investments based on confidential information received in an official capacity as an OAG employee. In addition, employees involved in agency procurements and contracts must follow the [Conflicts of Interest: Procurement and Contracts](#) policy. Overall, agency employees must not handle agency matters that could affect private interests or personal relationships.

Agency Lawyers & Legal Staff

Agency legal staff, including assistant attorneys general, legal assistants, and law clerks must follow all applicable ethical rules including, but not limited to: Rule 1.06 of the Texas Disciplinary Rules of Professional Conduct (Conflict of Interest: General Rule); Rule 1.07 (Conflict of Interest: Intermediary); Rule 1.08 (Conflict of Interest: Prohibited Transactions); Rule 1.09 (Conflict of Interest: Former Client); Rule 1.10 (Successive Government and Private Employment); Rule 3.05 (Lawyer as Witness); and Rule 5.01 (Responsibilities of a Supervisory Lawyer). Lawyers who join the agency must be particularly aware of potential conflicts concerning former clients, including corporations and other state agencies, as well as federal or local government entities, and must promptly disclose such conflicts. Agency attorneys must proactively seek to identify conflicts within their caseloads and must promptly notify division management, which shall notify their Executive Deputy and may seek advice from the Ethics Advisor. Attorneys, however, must not refuse to perform any OAG work based on apparent conflicts of interest or ethical concerns without explicit approval from division management and Executive Administration.

Conflicts within a Division or Several Divisions

The OAG provides legal counsel to more than 300 state boards and agencies plus the Governor, the Legislature, and other governmental entities. The OAG may also be required to represent state employees individually and/or in their official capacity. As a result, an OAG division may be faced with a matter involving more than one client with conflicting interests or a matter that should not be handled by anyone currently in the division. In very rare situations, OAG divisions may represent opposing parties.

Addressing Conflicts

A division chief facing potential or actual conflicts of interests between or among current or former clients or affecting division staff must consult with the appropriate Executive Deputy and the Ethics Advisor regarding an action plan affecting the division. In addition, division management is responsible for monitoring conflicts and further actions, if applicable, and must notify the Ethics Advisor of any changes. If a conflict affects more than one division or requires transferring a case or client to another division, the appropriate Executive Deputy must also formally notify the First Assistant Attorney General, the Deputy Attorney General for Legal Counsel, and Ethics Advisor with a proposed action plan for approval through an Executive Approval Memo. Situations involving conflicts should be treated on a case-by-case basis and may require further actions such as:

- assigning a specific attorney to a particular client to prevent dual representation;
- informing clients of an actual or potential conflict of interest;
- ensuring that adequate ethical walls are in place within a division or the agency;
- sending an official notification to the employees in the affected division(s) with specific instructions regarding the ethical walls;
- documenting the conflict of interest and plan in the case file(s);
- transferring cases or clients to lawyers in other divisions; or
- a permanent or temporary transfer of an attorney or of the case (or type of case) to another OAG division.

The agency shall keep a confidential log (under the custody of the Ethics Advisor) of all documented conflicts of interest requiring the transfer of a case, client, or employee from a division to another division.

For questions or matters affecting contracts and procurement, employees should review the Conflicts of Interest: Procurement and Contracts policy.

Outside Legal Representation

Revised: 01/01/2017

Employees of the Office of the Attorney General (OAG) may not provide legal advice, perform legal services, or accept any employment for legal representation that is in addition to their official position

with the agency, except as provided in this policy. The only exceptions are explained below:

Exemption: Pro Se Representation

Pro se representation involves participating in a legal matter on one's own behalf without retaining a lawyer. Employees, whether licensed attorneys or not, may in very rare situations represent themselves in legal proceedings if approved by the appropriate division chief and the agency's Ethics Advisor following the approval process outlined in this policy.

Exemption: Unpaid Legal Work for a Friend or Family Member

An employee of the OAG who is a licensed attorney may occasionally engage in unpaid legal representation of a friend or family member if approved by the appropriate division chief and the agency's Ethics Advisor following the approval process outlined in this policy.

Exemption: Pre-Authorized Pro Bono Activities

From time to time, the Attorney General or the First Assistant Attorney General may allow OAG attorneys to participate on a temporary basis in certain pro bono activities (e.g., legal clinics, such as those temporarily established to assist in disaster relief efforts). Attorneys may volunteer to participate in these pre-approved activities without submitting the required approval documentation if the participation is approved in writing by the attorney's supervisor and does not interfere with their responsibilities at the OAG.

Exemption: Pro Bono Legal Services

Agency attorneys may provide legal representation to persons of limited means in civil matters without compensation through pro bono projects administered through the Volunteer Legal Services of Central Texas or another organization approved by the First Assistant Attorney General. Although the OAG supports participation in pro bono services, participants do not act as representatives or employees of the OAG with respect to matters they undertake, nor does the OAG necessarily endorse the positions taken on behalf of pro bono clients.

Attorneys may not hold meetings or meet with pro bono clients on agency premises. Because agency email accounts identify the user as an employee of the OAG, agency email accounts shall not be used to send or receive email correspondence relating to pro bono matters in order to avoid the appearance that the client or matter is represented by the OAG. Limited use of other state resources in support of approved pro bono activities is permitted as long as such use is consistent with agency policy. See policy concerning Use of Agency Resources.

Attorneys may not participate in pro bono programs that do not provide professional malpractice insurance for attorneys. The OAG assumes no liability for the pro bono activities performed by its

attorneys or employees.

Exemption: Newly-Hired Attorneys

Newly-hired OAG attorneys will be allowed to spend the minimal time needed to conclude any matters pending as of the date that he/she accepts the agency's offer of employment. The employee's division chief and the attorney should normally arrange for employment to commence only after work pending in all prior legal projects has been concluded.

Prior to commencement of employment with the OAG, the attorney shall provide the hiring division chief with a list of pending legal projects along with the estimated amount of time required for referral or resolution. The division chief shall then provide notice of these pending matters and time estimates to his/her Executive Deputy and the agency's Ethics Advisor.

If during the first six months of agency employment, an OAG attorney must provide continuing attention during regular working hours to matters originating from his/her prior practice, the attorney may be required to take eligible leave or leave without pay (if no eligible leave is available) to work on such matters. During this period, the employee may not use OAG equipment or resources for such purposes.

Approval for the attorney to work on prior legal projects that require attention after the initial six months of agency employment shall be allowed only on a case-by-case basis. The division chief should consider factors such as the attorney's unique capabilities or knowledge of the prior legal project; the inability of the attorney to find a suitable attorney to resolve or conclude the prior legal project; the attorney's ability to simultaneously accomplish his/her OAG workload; and the division chief's ability to distribute workload within the division due to a potential absence.

Approval Process for Outside Legal Activities

If an employee plans to engage in outside legal representation other than a pre-authorized agency pro bono activity, the employee must submit a [Request to Participate in Outside Legal Representation](#) form to his/her direct supervisor, division chief, and the [Ethics Advisor](#) before agreeing to participate in any outside legal matter. The request must adequately explain the legal proceeding and address the following factors, which will be considered in reviewing the request:

- the nature of the proposed matter;
- whether any actual or apparent conflicts of interest exist;
- whether any fees will be charged, requested or accepted, (including a request for sanctions);
- whether the employee can affirm that he/she will not represent himself/herself as an employee of the OAG in any capacity;
- the estimated time commitment by the attorney; the extent to which OAG resources may be used; and

- if the matter concerns representing a family member or friend, whether any attempts have been made to secure other legal representation.

Once a decision is made, the supervisor shall promptly provide written notice of the decision to the employee. A copy of all documentation concerning requests for approval and decisions shall be maintained by the division chief and the Ethics Advisor, pursuant to the records retention schedule.

Failure to comply with this policy could result in disciplinary action, up to and including dismissal.

Limitations

General Ban on Acceptance of Fees

An OAG employee may not accept fees for outside legal services or attorney referrals made after an attorney's date of employment. Nevertheless, fees that directly result from services or refunds provided prior to the attorney's OAG employment may be accepted. Additionally, fees earned during any approved period of leave without pay from agency employment may be accepted.

Use of the Name of the Attorney General

Employees who provide outside legal representation do so in an individual capacity and may not represent to anyone that they are acting on behalf of the Attorney General, the State of Texas, or the OAG. Employees shall not:

- use agency stationery or anything bearing the agency letterhead or logo;
- distribute agency business cards; or
- use any agency resource that associates the outside legal representation with the official work of the OAG.

Disciplinary Complaints

In the event that a claim or disciplinary complaint arises concerning any outside legal representation, an OAG attorney must notify his/her division chief and the Ethics Advisor as soon as possible, as required under the Professional Licenses and Grievances policy. The OAG is not obligated to provide any outside legal representation in a disciplinary matter related to such representation.

Conflicts of Interest

OAG employees shall not participate in any outside legal activities in which the employee is not a party and that could constitute a conflict of interest, such as handling or assisting with a matter in which:

- the federal government, State of Texas, or any officer or agency of the State or a political subdivision of the State, has a direct or substantial interest;

- the appearance of a conflict of interest or of impropriety arises;
- the ability of an attorney to perform his/her regularly assigned duties is compromised; or
- appearance before a state agency is required.

Certain activities are presumed to present a conflict of interest. For example, divorces involving children and suits affecting the parent-child relationship are presumed to create a conflict of interest. Divorces that do not involve any children, however, may be handled by OAG attorneys within the limitations of this policy.

Professional Licenses, Grievances, and Sanctions

Revised: 01/01/2019

Employees of the Office of the Attorney General (OAG) are expected to provide the highest quality of work at all times and to behave in a professional manner with respect to professional licenses, grievances, and sanctions as explained in this policy.

Licenses

Attorneys and other OAG employees who must be professionally licensed to perform their duties at the OAG must maintain their professional licenses while employed at the OAG. Failure to maintain professional licenses, including temporary suspensions, may lead to disciplinary actions, up to and including involuntary separation.

Grievances Filed Against OAG Employees

When an OAG employee has received notice of a grievance filed against him/her with a license-governing entity or disciplinary authority (e.g., State Bar of Texas), the employee must inform his/her immediate supervisor within three business days of receipt of the notice. If the grievance proceeds beyond a summary or inquiry dismissal, the employee must inform his/her division chief, the [Ethics Advisor](#), and the appropriate Executive Deputy within three business days of receipt of the notification. Depending on the circumstances of the case, the agency may allow agency representation of the employee before the license-governing entity or disciplinary authority or assist the employee with the grievance (e.g., response to the State Bar of Texas). Any written response to a work-related grievance must be reviewed and approved by the employee's division chief, the Ethics Advisor, and the appropriate Executive Deputy. A grievance that leads to a finding of misconduct or failure to follow this policy may result in disciplinary action, up to and including involuntary separation. Frivolous or unsupported grievances against OAG employees that are dismissed must not be addressed in performance evaluations or used as grounds for corrective or disciplinary actions.

Grievances Filed by OAG Employees

The OAG recognizes the responsibility of lawyers and other licensed professionals to report professional misconduct to the appropriate disciplinary authorities (e.g., State Bar of Texas). Nevertheless, before filing a formal grievance with a license-governing entity (e.g., State Bar of Texas, State Commission on Judicial Conduct, Committee on the Unauthorized Practice of Law, Texas Medical Board) regarding a matter affecting the OAG, an OAG employee must inform division management and the agency's [Ethics Advisor](#). The employee must give the Ethics Advisor at least 15 calendar days to consult with the appropriate Executive Deputy and division management regarding the matter prior to the filing of the formal grievance. Failure to provide timely notification of a grievance or the filing of a frivolous grievance may lead to disciplinary action, up to and including involuntary separation.

Sanctions

When a party to a case has moved for sanctions against an OAG employee or when a court or governmental body has imposed sanctions against an OAG employee or otherwise imposed a penalty on an OAG employee, held an OAG employee in contempt, or issued an order directed specifically at an OAG employee (not a party to a case) to perform or refrain from performing an act, within three business days, the employee must inform the following OAG personnel in writing:

- his/her immediate supervisor;
- his/her division chief;
- the [Ethics Advisor](#); and
- the appropriate Executive Deputy.

Depending on the circumstances of the situation, the agency may conduct an investigation, pay a financial penalty, appeal the order, or take other reasonable measures. If an OAG employee engages in misconduct or deficient performance that leads to a sanction, that employee may be subject to corrective or disciplinary action, up to and including involuntary separation. Failure to follow this policy may also result in a corrective or disciplinary action.

Employment Verifications, Recommendations, and References

Revised: 01/01/2021

Employment Verifications

Official requests for employment verifications for past or present employees of the Office of the Attorney General (OAG) must be referred to the Human Resources Division (HRD). Employees in any division other than HRD are strictly prohibited from responding to such requests. Employees who are contacted directly by external entities (e.g., prospective employers, financial institutions) requesting employment-verification information about current or former OAG employees must refer requestors to HRD at (512) 463-2009 or HR-Help@oag.texas.gov.

With respect to employment verifications, HRD may provide:

- the employee's period of employment at the OAG;
- the employee's current or last position or job title at the OAG; and
- verification of current or final salary rate at the OAG.
- If additional information is requested, external entities shall be notified by HRD of their rights under the Public Information Act.

Recommendations and References

An OAG employee is not required to provide oral or written recommendations or references for any current or former OAG employee, including former law clerks or interns.

An employee who chooses to provide a recommendation may disclose his/her position at the OAG and generally describe his/her association with the recommended individual. An OAG employee, however, must not indicate, implicitly or explicitly, that he/she is representing the Attorney General or the agency or that the Attorney General or agency is endorsing the recommended individual.

If an employee would like to provide a recommendation or positive reference in writing for a current or former OAG employee, including a former law clerk or intern, the recommending employee must send a recommendation notification. Agency letterhead and postage must not be used for any references, recommendations, or personal reasons without explicit and written permission from Executive Administration and the Ethics Advisor.

If an OAG employee is contacted as a reference but cannot provide positive information about the former or current employee, the employee should refer the requestor to the Human Resources Division for employment-verification information.

Failure to follow this policy may lead to corrective or disciplinary action.

Miscellaneous Integrity Issues

Revised: 01/01/2016

Employees shall be familiar with other sections of the Policies and Procedures Manual that may in other ways relate directly or indirectly to integrity and/or ethics:

- Controlled Substances and Alcohol
- Violence in the Workplace
- Harassment
- [Information Security Policy](#)
- Travel Guidelines
- Outside Employment
- Outside Legal Representation
- Nepotism