

TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PD-23 (rev. 7), “EMPLOYEE POLITICAL ACTIVITY AND PARTICIPATION IN
EMPLOYEE ORGANIZATIONS”
FEBRUARY 1, 2017
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Attachment A: PERS 19, Notice of Prohibitions (02/17)



TEXAS DEPARTMENT
OF
CRIMINAL JUSTICE

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August 1, 2010

EXECUTIVE DIRECTIVE

SUBJECT: EMPLOYEE POLITICAL ACTIVITY AND PARTICIPATION IN
EMPLOYEE ORGANIZATIONS

AUTHORITY: Tex. Gov't Code §§ 305.001-.036, 556.004, 556.005, 556.006, 556.007,
556.008, 556.009, 617.001-.005; Tex. Elec. Code § 255.003

APPLICABILITY: Texas Department of Criminal Justice (TDCJ)

EMPLOYMENT AT WILL CLAUSE:

These guidelines **do not** constitute an employment contract or a guarantee of continued employment. The TDCJ reserves the right to change the provisions of these guidelines at any time.

Nothing in these guidelines and procedures limits the executive director's authority to establish or revise human resources policy. These guidelines and procedures are adopted to guide the internal operations of the TDCJ and **do not** create any legally enforceable interest or limit the executive director's, deputy executive director's, or division directors' authority to terminate an employee at will.

POLICY:

All employees of the TDCJ shall comply with state legislative mandates and TDCJ policy regarding political aid and legislative influence. In addition, TDCJ employees shall comply with the procedures within this directive relating to participation in employee organizations.

DEFINITIONS:

"Employee Organization" is an organization in which employees participate that exists in whole or in part to: (1) serve as an advocacy organization for employees of Texas state government; or (2) deal with the TDCJ concerning grievances, labor disputes, wages, hours of employment, or working conditions.

"Internal Mail System" is a system operated by the TDCJ to deliver written documents to the Texas Board of Criminal Justice and TDCJ employees.

“Lobbyist” is a person who: (1) is required to register by Texas Government Code §§ 305.001-.036; and (2) by direct communication with government officers, engages in efforts to persuade members of the legislative or executive branches to take specific actions.

“Nonpublic Forum” is a location where public communication has not traditionally been allowed and where no state or federal law stipulates that public communication be allowed.

“State Resources” include state equipment, supplies, postage, state time, such as working hours, and premises.

“Strike” is a work stoppage by a body of workers to enforce compliance with demands made by the body of workers or the workers’ representatives.

“TDCJ Premises” are premises owned, leased, or contracted by the TDCJ.

PROCEDURES:

I. Employee Political Activity

A TDCJ employee is encouraged to exercise the employee’s rights and responsibilities as a citizen in the political process through various activities. These activities may include voting, participating as a voter registrar, contributing personal money to the employee’s preferred candidates or political parties, and actively engaging in campaigning or fundraising and endorsements. However, employee political activities shall comply with the provisions within this directive.

A. Notice of Prohibitions

A state agency employee is required to comply with Texas Government Code §§ 556.004, 556.005, 556.006, 556.007, 556.008, and 556.009. These sections include several prohibitions relating to legislative influence by state agency employees. The PERS 19, Notice of Prohibitions (Attachment A), includes these sections of the Texas Government Code.

A copy of the PERS 19 shall be provided to each newly hired employee in the Direct Hire Packet the employee receives during the Direct Hire Session in accordance with PD-97, “Training and Staff Development.” An employee shall sign a receipt indicating the employee received a copy of the PERS 19. The TDCJ shall maintain the signed receipts in a manner accessible for public inspection.

B. Political Campaign Materials

TDCJ premises are nonpublic forums, except as otherwise noted in this directive. Therefore, while an employee, both on- and off-duty, is on TDCJ premises, the employee is prohibited from distributing, displaying, or wearing any form of political campaign materials, for example, buttons, handbills, or posters. Political campaign bumper stickers affixed on an employee’s personal vehicle are permitted.

C. Use of the TDCJ Internal Mail System

An employee is prohibited from knowingly using or authorizing use of the TDCJ's internal mail system for the distribution of political advertising. This prohibition does not apply to the distribution of political advertising that is:

1. Delivered to the premises of the TDCJ through the U.S. Postal Service; or
2. The subject of or related to an investigation, hearing, or other official proceeding of the TDCJ.

An employee who violates this prohibition commits a Class A misdemeanor offense and shall be reported to the Office of the Inspector General (OIG). Employees shall report occurrences or allegations of criminal offenses in accordance with AD-16.20, "Reporting Incidents/Crimes to the Office of the Inspector General," immediately upon becoming aware of such conduct or as soon as practical. Reports may be made directly to the OIG or through the employee's supervisor. Supervisory staff shall ensure that incidents reported to them are also reported to the OIG. All employees shall report conduct or activity the employee believes to be a violation in accordance with ED-02.01, "Texas Department of Criminal Justice Ethics Policy."

II. Participation in Employee Organizations

A. Employee's Right to Participate

The TDCJ recognizes the right of an employee to participate in employee organizations and acknowledges that employee participation in employee organizations is a matter of individual choice. The TDCJ will not require, encourage, discourage, or prohibit participation in employee organizations. Adverse employment actions will not be taken against an employee because of the employee's decision to participate or to not participate in an employee organization. Managers and supervisors within the TDCJ shall observe and support the TDCJ's policy regarding participation in employee organizations.

B. Prohibitions on Collective Bargaining and Strikes

Texas Government Code §§ 617.001-.005 includes the following prohibitions relating to employee organizations:

1. An official of the state or a political subdivision of the state may not enter into a collective bargaining contract with an employee organization regarding wages, hours, or conditions of employment of public employees;
2. An official of the state or a political subdivision of the state may not recognize an employee organization as the bargaining agent for a group of public employees; and

3. A public employee may not strike or engage in an organized work stoppage against the state or a political subdivision of the state.

C. Use of TDCJ Premises for Activities

The use of TDCJ premises for activities relating to employee organizations is limited to the following:

1. Within Offices or Units

Employees shall be permitted to engage in non-disruptive oral discussions regarding employee organizations to the same extent discussion of other non-work-related matters is permitted.

2. Parking Lots

An off-duty employee is permitted to distribute leaflets, collect dues, and solicit membership for employee organizations in a unit's or office building's parking lot, provided prior notice is given to the receptionist or front picket officer. This activity shall be limited to a maximum number of two employees per location.

3. Clubhouses

Employee organizations shall be allowed to use clubhouses to the same extent and in the same circumstances that non-employee organizations are allowed to use clubhouses.

4. Employee Bulletin Boards

An employee who is a member of an employee organization shall be permitted to post notices on any bulletin board designated for personal use by employees. However, the notice shall not be of a derogatory, inflammatory, or discriminatory nature against any individual or the TDCJ.

Bryan Collier
Executive Director

Texas Department of Criminal Justice
Notice of Prohibitions

Texas Government Code § 556.009 requires state agencies to provide each officer and employee of the agency a copy of Texas Government Code §§ 556.004, 556.005, 556.006, 556.007, and 556.008 and requires a signed receipt on delivery. If the provisions within these sections are changed, the agency is required to provide a new copy to each officer and employee of the agency and obtain a new receipt. A state agency must maintain receipts collected from officers and employees in a manner accessible for public inspection.

Texas Government Code § 556.004. PROHIBITED ACTS OF AGENCIES AND INDIVIDUALS.

- (a) A state agency may not use any money under its control, including appropriated money, to finance or otherwise support the candidacy of a person for an office in the legislative, executive, or judicial branch of state government or of the government of the United States. This prohibition extends to the direct or indirect employment of a person to perform an action described by this subsection.
- (b) A state officer or employee may not use a state-owned or state-leased motor vehicle for a purpose described by Subsection (a).
- (c) A state officer or employee may not use official authority or influence or permit the use of a program administered by the state agency of which the person is an officer or employee to interfere with or affect the result of an election or nomination of a candidate or to achieve any other political purpose.
- (d) A state employee may not coerce, attempt to coerce, command, restrict, attempt to restrict, or prevent the payment, loan, or contribution of any thing of value to a person or political organization for a political purpose.
- (e) For purposes of Subsection (c), a state officer or employee does not interfere with or affect the results of an election or nomination if the individual's conduct is permitted by a law relating to the individual's office or employment and is not otherwise unlawful.

Texas Government Code § 556.005. EMPLOYMENT OF LOBBYIST.

- (a) A state agency may not use appropriated money to employ, as a regular full-time, part-time, or contract employee, a person who is required by Chapter 305 to register as a lobbyist. Except for an institution of higher education as defined by Section 61.003, Education Code, a state agency may not use any money under its control to employ or contract with an individual who is required by Chapter 305 to register as a lobbyist.
- (b) A state agency may not use appropriated money to pay, on behalf of the agency or an officer or employee of the agency, membership dues to an organization that pays part or all of the salary of a person who is required by Chapter 305 to register as a lobbyist. This subsection does not apply to the payment by a state agency of membership fees under Chapter 81.
- (c) A state agency that violates Subsection (a) is subject to a reduction of amounts appropriated for administration by the *General Appropriations Act* for the biennium following the biennium in which the violation occurs in an amount not to exceed \$100,000 for each violation.
- (d) A state agency administering a statewide retirement plan may enter into a contract to receive assistance or advice regarding the qualified tax status of the plan or on other federal matters affecting the administration of the state agency or its programs if the contractor is not required by Chapter 305 to register as a lobbyist.

Texas Government Code § 556.006. LEGISLATIVE LOBBYING.

- (a) A state agency may not use appropriated money to attempt to influence the passage or defeat of a legislative measure.
- (b) This section does not prohibit a state officer or employee from using state resources to provide public information or to provide information responsive to a request.

Texas Government Code § 556.007. TERMINATION OF EMPLOYMENT.

A state employee who causes an employee to be discharged, demoted, or otherwise discriminated against for providing information under Section 556.006 (b) or who violates Section 556.004 (c) or (d) is subject to immediate termination of employment.

Texas Government Code § 556.008. COMPENSATION PROHIBITION.

A state agency may not use appropriated money to compensate a state officer or employee who violates Section 556.004 (a), (b), or (c), Section 556.005, Section 556.006 (a), or who is subject to termination under Section 556.007.