



Ethics at the City of Austin

City of Austin
Law Dept.

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Values and Ethics

- Ethics are the standards of public service that should inform
 - COA decision making,
 - the exercise of the powers entrusted to city employees and officials as public servants, and
 - the stewardship of public property under the city's control.

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The Core Values of Gov't Ethics Laws

- Transparency and accountability
- Separating personal interests from official decision making
- Ensuring COA actions aren't for sale
- Ensuring government property is used only for the public good
- Ensuring fairness in the administration of the government



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Core Values Ethics (cont'd)

- Ensuring decisions about public funding of contracts is based on qualifications and cost – not gifts or favors to decision influencers and decision makers
- Ensuring the public remains confident that government resources are used to benefit the public good – not for private benefit



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Group Pressure

- Employees are under constant pressure to subordinate their own judgment to the collective judgment of the organization
- Pressure to get the job done =
The most cited cause for ethical lapses on the organizational level



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Creating an Ethical Culture

- Organizational ethics is not a grassroots movement, it's a top-down initiative.
- It's not enough to talk the talk – City leaders and managers must walk the walk.



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City Employee Trainings

- Annual Employee Training
- Supervisory Training
- New Employee Training



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Ethical Issues May Arise Through:

- External Reports from:
 - **customers**
 - **the regulated community**
 - **the press**
 - **residents**



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Organizational Health

A healthy organization:

- encourages self reporting and inquiry
- protects internal reporting
- Tx Whistleblower Act – a state law remedy for protecting reports of illegal or unethical behavior.



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Reporting Wrongdoing is Required

- ▶ Illegal Acts
- ▶ Misuse of a City office or employment
- ▶ Violation of Policy in a way that impairs City operations
- ▶ Fraud
- ▶ Grossly inefficient practices or uses of resources



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Reporting an Ethics Violation

- Employees may report to
 - The employee's supervisor
 - Any other employee in the employee's chain of command up to and including the City Manager
 - **The City Auditor**
 - ◆ City Auditor's Integrity Unit Hotline
 - ◆ 974-2798 or 3-1-1
 - ◆ <https://austintexas.gov/page/integrity-violation-reporting-form>
 - ◆ A report may be anonymous
 - The Human Resources Department
 - A Law Enforcement Agency
- The policy is designed to encourage reporting



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Retaliation is Prohibited

- Retaliation is prohibited by Law and by City Policy
- Personnel Policies prohibit retaliation for reporting fraud or illegal acts. An employee who provides false information or otherwise fails to report in good-faith, is subject to disciplinary action.



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What is a Conflict of Interest?

- ▶ When personal interests or the interests of another intrude on a city official / employee's ability to adhere to the highest standards in decision making, or if it would appear to an observer, that there is a conflict of interest.

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City Employees/Officials should ask:

- Could there be **benefits (or consequences) for me that could cast doubt on my objectivity?**
- Do I have a **close personal or financial relationship with an interested party?**
- Have I received a **gift or hospitality from anyone who stands to gain or lose** by the way this issue is resolved?

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City Employees/Officials should ask:

- Could this situation have an influence on any future employment opportunities for me or the person in question?
- How would I feel if my (or the person's) role were portrayed in the media?
- Would I be happy if my (or the person's) personal connection to the issue became known to the public or to colleagues?



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Conflicts of Interest Rules Apply Three Ways

1. They may **prohibit** the conflict
2. They may **require recusal** (Taking the official/employee out of the loop)
3. They may leave the matter up to an **official/employee's judgment** (The law cannot always codify common sense)



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Secondary Employment

- A second job is permitted if...
 - **it doesn't interfere with an employee's City job**
 - **it doesn't create a conflict of interest**
 - **Approved by Department Director and HRD**



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Use of City Resources is

PROHIBITED in regard to Secondary Employment – the de minimis use policy does not apply

City Resources includes computers, phones, supplies, employee time, etc.



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When Does a Second Job Create a Conflict of Interest?

- A conflict exists when
 - **other employment or compensation**
 - **could reasonably be expected**
 - **to impair an employee's independence of judgment in performing City duties**
 - **Applies to temporary work**

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Self-Employment

- **Is subject to all the restrictions that apply to any second job**
- **May tempt an employee to use City time or resources**
- **The issue of self-employment is even more complicated if the employee's business plan is to seek City contracts**

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No Benefit From a City Contract

- ▶ Council Members and Council Aides
- ▶ the City Manager and ACMs
- ▶ Department heads and deputies
- ▶ City Clerk and deputy city clerks
- ▶ Municipal Court Clerk and deputy court clerks
- ▶ Municipal Judges and substitute judges
- ▶ the City Auditor and assistants to the city auditor
- ▶ City Attorney and assistant city attorneys
- ▶ Purchasing Agents and employees with the authority to purchase or contract for the City
- ▶ and the spouses / domestic partners of all of the above

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A Procurement - Related Job Presents Special Problems

- If a person has a financial interest, direct or indirect, in a contract resulting from a solicitation,
- The person *may not* be involved in the
 - **development,**
 - **evaluation, or**
 - **decision-making process**
 - **of any solicitation, or**
 - **oversight of a contract**

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Standards of Conduct (§2-7-62)

- No City Official may:
 - **Represent, directly or indirectly, any person, group or entity in any action or proceeding in the municipal courts that was instituted by or arising from a decision of a board, commission, committee, task force or other body on which the official services**



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Standards of Conduct (§2-7-62)

City Officials and employees may not:

- **Transact business in an official capacity with an entity in which they have a substantial interest.**
- **Reveal information related to the filing or processing of a complaint except for performance of official duties.**



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Standards of Conduct (§2-7-62)

City Officials and employees may not:

- **Use confidential information for a purpose other than official duties**
- **Formally appear before the body of which the official or employee is a member to advocate for themselves or another**



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Standards of Conduct (§2-7-62)

City Officials and employees may not:

- **Accept or ask for any gift or favor that might reasonably tend to improperly influence the individual in their official duties – or that the individual knows or should know was offered with the intent to improperly influence or improperly reward official conduct**



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Standards of Conduct (§2-7-62)

City Officials and employees may not:

- **Solicit or accept other employment to be performed or compensation to be received while still an official or employee if doing so could reasonably be expected to impair independence of judgment or performance of City duties**

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Standards of Conduct (§2-7-62)

City Officials and employees:

- **If an official or employee accepts or is soliciting a promise of future employment from a person or entity that has a substantial interest in a person, entity or property that would be affected by any decision upon which the official or employee might be reasonably expected to act, investigate, advise, or make a recommendation, the official or employee must disclose the conflict and take no further action on matters regarding a potential future employer**

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Standards of Conduct (§2-7-62)

City Officials and employees may not:

- **Use City resources (facilities, personnel, equipment, supplies) for private purpose except to the extent a limited / de minimis use is allowed** or to the extent same is lawfully available to the public or allowed to be
- **Accept remuneration, directly or indirectly, for campaign work regarding an item placed on the ballot if the persons**

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Standards of Conduct (§2-7-62)

City Officials and employees may not:

- **Engage in fraud or abuse as defined by Chapter 2-3**

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Abuse:

- use of a City office, employment, contract or other position with the City to obtain personal gain or favor from a citizen or other City employee or vendor.



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Fraud includes:

- unauthorized use of a City resource **for personal gain by deception**, including by forgery or altering a document;
- **misappropriation** of funds, supplies, or other City resources, through methods such as theft, embezzlement or misrepresentation;



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Fraud also includes:

- intentional **improper handling of or reporting of money** or a financial transaction;
- intentional **improper destruction or removal of records** or other City resources;
- **use of official City information for personal benefit.**

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Standards of Conduct

Salaried City Officials and employees may not:

- **Represent, for compensation, any other person, group, or entity before any department, commission, board or committee of COA**
- **Represent, directly or indirectly, any other person, group, or entity in any action or proceeding against interests of the City**
- **Represent, directly or indirectly, any other person, group, or entity before the municipal courts in an action instituted by a City official or employee in the course of official duties**

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Standards of Conduct

Salaried City Officials and employees may not:

- **Use their official position to secure a special privilege or exemption for self or others, or to harm another, or to secure confidential information for a purpose other than an official one**



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Standards of Conduct

Mayor and Council may not (for 2 years after leaving office):

- **Solicit or propose on a contract or enter a contract for sale to the City any goods or services other than real estate. (Exception: if a business relationship in the six months immediately preceding taking office if the solicitation is on behalf of the same business.**



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Standards of Conduct

Mayor and Council, members of their family, or anyone acting on their behalf may not (for 2 years after leaving office):

- Sell or lease any real estate to the City unless city council has designated the property for acquisition and would otherwise have to acquire the property through eminent domain.

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Conflicts That May Be Resolved by Recusal

- future employment
- officer of a nonprofit entity
- a “substantial interest”
 - in a business
 - in another person
 - in real estate

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Substantial Interest

A substantial interest may arise from:

- Ownership
- Income
- Control
- Debt
- Kinship



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How to Recuse

- Employees must notify their supervisor in writing of a conflict
- The supervisor must then reassign the matter



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How to Recuse

- Officials must recuse by open meeting sign-in sheet and if a substantial interest, by affidavit

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FINANCIAL DISCLOSURES

- City Code §§ 2-7-2, 2-7-71 and 2-7-72
- Must disclose any source of financial interest that is a substantial interest under the City Code
- Purpose – prevent conflicts of interest and transparency

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GIFTS: What are the ethical concerns?

- There is a power imbalance between the government and the governed.
 - **We regulate**
 - **We provide necessary services**
 - **We are a major player in the local economy**



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Gift Policy - 2-7-62(G)

- City officials / employees may not:
 - accept or solicit any gift or favor that might reasonably tend to influence them in the discharge of official duties,
 - accept or solicit any gift or favor that they should know has been offered with the intent to influence official conduct,
 - accept or solicit any gift or favor that they should know has been offered with the intent to reward official conduct.



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Gifts that Cannot be accepted

- **Cash gifts or gift cards**
- **Gifts from a vendor** – whether a meal, drinks, or something of higher value (exception – conference attendee tokens such as notepads or pens)
- **Honorariums** for speakers



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Gift Exceptions

- \$50 or less in value (cumulative for a year)
- **Attendance to an event or discounted admission** if there is a City-related business purpose of the official or employee to attend or participate in an official capacity – and attendance or participation is appropriate for the performance of that official's duties



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Gift Exceptions

- \$50 or less in value (cumulative for a year)
- Gifts between co-workers on special occasions
- Supervisors should ensure a gift received from a subordinate under their supervision is voluntarily given on an occasion of personal significance or at a time when gifts are traditionally exchanged, and fairly appropriate for the occasion

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Inappropriate Gifts

- Always return the gift to the donor, if possible.
- People understand when something is against the rules, and generally don't take offense.

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Gifts that cannot practicably be returned

- If returning the gift to the donor is impossible or impractical:
 - **Many non-profits will welcome the item.**
- Even when passing a gift on to a charitable organization, always let the donor know that, although the gesture was generous, City officials / employees cannot accept gifts.

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Lobbying Regulations

- City Officials must provide an opportunity for required disclosures for:
 - An in-person (not by video or phone) meeting
 - With any person being compensated by another to meet (need not be a lobbyist)
 - Exception – government employee on official business

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City Official =

- Mayor and Council, Mayor-Elect, Council Member-Elect
- Board Members and other appointees to City bodies listed in Code Section 2-1-3(C)
- Any employee whose duties are not solely clerical in nature

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Board Member Method for Disclosure

A Section 4-8-8(C) disclosure notice and hyperlink to a Monkey Survey is embedded in emails sent by a board member.

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Departmental Visitor Log

- City Clerk’s Office has a Standard Format (on its web page) for use at Reception Desk or at a large meeting (onsite or offsite)
- Office Outlook invite – for offsite meetings

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Outlook Example: Adding Disclosure

The screenshot shows an Outlook meeting invitation window. The 'To' field is filled with 'Guz, Bob'. The subject is 'Meeting' and the location is 'City Hall'. The start time is 'Thu 6/1/2017 2:00 PM' and the end time is 'Thu 6/1/2017 3:00 PM'. The main body of the invitation contains the following text:

Scheduled Meeting Disclosure Information:
Written disclosure is required by visitors when attending a scheduled meeting with a City Official regarding a municipal question for compensation on behalf of another person. Anyone scheduling or accepting a meeting invitation with a City Official must either acknowledge that the disclosure requirement does not apply or provide responses to the following:

1. Visitor's name and address
2. Name of the City Official you are meeting with
3. Name of the client or person on whose behalf you are appearing
4. Whether you received or expect to receive compensation for this meeting

The bottom of the window shows the name 'Hall, Stephanie'.

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Fundraising

It is generally not permissible to solicit businesses in the community to raise money to fund City services or programs.

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Fundraising

- "Employees cannot solicit funds for any purpose on the job without the express approval of the **Department Director and the City Manager.**" - Personnel Policy
- **This policy recognizes the potential for a business to feel at a disadvantage and requires that the decision to make such a solicitation be a high-level one.**

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Fundraising

- The policy also allows for a corporate perspective in deciding whether a solicitation is appropriate.
- Funds or goods received by the City from any outside source must be carefully accounted for.



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Use of City Property

- ▶ Misuse of government resources can be a criminal offense.
- ▶ "Misuse" = using property in a manner contrary to its purpose, including use for a personal benefit
- ▶ An employee's time on the job is a government resource.
- ▶ State law penalties range from a class C misdemeanor (up to \$500 fine) to first degree felony (5 to 99 years and a fine up to \$10,000), depending on the value of the misuse.



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Administrative Bulletins

- Use of Internal Communication System –
Deminimis Use okay
- Gifts or Favors: Acceptance and
Solicitation
- Solicitation of Gifts, Contributions, or
Items of Value by City Employees
- Employee Recognition / Charitable
Events
- Attendance at a Convention or
Admission to an Event

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Administrative Bulletins

- Secondary Employment
Acknowledgment
- Combined Charitable Campaigns
- City Vehicle Assignment Policy
- City Manager Delegation of Signature
Authority
- Cash Handling Policy

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Ethics Resources:

▶ **Ethics Helpline:**

ethicscompliance@austintexas.gov

or (512)974-2180

▶ **City Ethics & Open Government Webpage:**

<https://cityofaustin.sharepoint.com/sites/LAW/OGEC/SitePages/Home.aspx>

▶ **City Auditor's Integrity Hotline (Slide 11 of this Presentation)**

