

Employees Retirement System of Texas  
Ethics Policies and Related Information

- I. ERS Ethics Policy Summary.....1
- II. Deterring, Detecting and Investigating Potential or Actual Fraud and Other Illegal Acts .....2
- III. Standards of Conduct.....3
  - A. Computer Crimes .....3
  - B. Handguns and Other Weapons .....3
  - C. Criminal History Checks and Self-Reporting Requirements .....4
  - D. Employee Arrests and/or Convictions.....5
  - E. Dress Code .....6
  - F. Customer Service and Communicating Respectfully .....6
  - G. Drug and Alcohol Abuse in the Workplace.....6
  - H. Solicitation on ERS Premises .....7
  - I. Violence in the Workplace .....7
  - J. Ethics .....7
  - K. Conflict of Interest .....8
    - 1. Acceptance of Gifts.....8
    - 2. Ethical Decisions.....9
    - 3. Honorarium .....9
    - 4. Other Codes of Ethics.....9
  - L. Limited Personal Use of ERS Property .....9
    - 1. No Privacy Expectations .....10
    - 2. Inappropriate Personal or Non-Official Use of ERS Property.....10
    - 3. Misuse of Official Position or Issued Items .....10
    - 4. Telephone Usage.....10
    - 5. Use of E-Mail .....11
    - 6. Use of Internet .....11
    - 7. Use of Voice Mail.....11
  - M. Other Employment.....11
    - 1. Multiple Employment with the State.....11
    - 2. Off-Duty Employment.....11
    - 3. Outside Contracting .....11

N. Public Communication.....	12
1. Release of Confidential Information.....	12
2. Data Requests from Political Offices and Associations.....	12
3. Media Inquiries and Public Presentations.....	13
4. Political Activity .....	13
5. Political Influence .....	13
6. Publicity Restrictions.....	13
7. Social Media Policy.....	13
IV. Investment Policy Code of Ethics, Personal Investment Activities and Related	
Addenda .....	15
1. Personal Transactions .....	15
2. Gifts, Benefits, or Favors.....	17
3. Attendance at Business Meetings/Functions .....	17
4. Conflict of Interest .....	18
5. Use of Placement Agents.....	19
6. Insider Trading and Confidentiality.....	19
7. Ethics Training.....	19
8. Compliance and Enforcement.....	19
Addendum IV – Use of Placement Agents .....	20
Addendum V – Insider Trading and Confidentiality Policy .....	24
Addendum VII – CFAI Standards of Professional Conduct.....	28
V. ERS Rule 63.19 Standard of Conduct for Financial Advisors and Service	
Providers .....	30
VI. ERS Procurement and Contracting Ethics.....	31
A. Standards of Conduct.....	31
B. Confidentiality.....	31
C. Conflicts of Interest.....	31
VII. Conflict of Interest Statement .....	33
VIII. Texas Ethics Commission Brochures .....	34
A. <i>Revolving Door, A guide to the Revolving Door Provisions (for officers and employees leaving a state agency)</i> .....	34
B. <i>“Can I Take It?” A Guide for Officers and Employees in the Executive Branch of State Government</i> .....	34

## I. ERS Ethics Policy Summary

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It is important for an organization to have a strong ethical culture, and ERS is committed to encouraging ethical behavior among its staff as reflected in ERS' Ethics Policy and by requiring annual ethics training. ERS' Ethics Policy consists of the Standards of Conduct that is found in Section 7 of ERS' Personnel Policy and Procedure Manual that each person receives when hired at ERS. For certain investment-related staff, the ERS Investment Policy also contains ethics requirements that must be followed by those employees.

The Ethics Policy establishes minimal requirements that are not to be considered all-inclusive. The following is a brief reminder of some important aspects of ERS' Ethics Policy:

- Duties must be performed with fairness, propriety, and competence and must preserve the public's trust in ERS.
- ERS employees must maintain the highest level of ethics as public servants, and must follow the standards of conduct outlined in the Ethics Policy and in Texas Government Code, Chapter 572 and Texas Penal Code, Chapters 36 and 39.
  - An employee may not use or attempt to use his/her position for the purpose of obtaining personal and/or financial benefit, favor, concession, gifts, or other advantage. An employee must avoid behaviors that have the perception of a conflict of interest.
  - An employee may not accept or solicit any gift, favor, or service that might reasonably tend to influence such person in the discharge of official duties or that he/she knows or should know is being offered with the intent to influence the employee's official conduct.
  - An employee may not intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised official powers or performed official duties in favor of another.
  - An employee may not accept employment in any business or professional activity that he/she might reasonably expect would require or induce the disclosure of confidential information acquired by reason of his/her official position.
  - An employee may not accept other employment or compensation that could reasonably be expected to impair his/her independence or judgment in the performance of official duties.
- In addition, an employee may not make personal investments that could reasonably be expected to create a substantial conflict between the employee's private interest and public interest.
- ERS expects employees to avoid behavior that has the perception of a conflict of interest with their work at the agency and to use sound judgment in making ethical decisions. Seek guidance from the ERS ethics advisor or management if you have any doubt on the right course of action to take. The Deputy Executive Director and General Counsel is the agency's ethics advisor and is available to assist both employees and supervisors to resolve ethical concerns.
- Employees must not accept any benefit in the course of their employment with ERS.
  - A benefit is anything reasonably regarded as economic gain or economic advantage, and includes benefits to any other person in whose welfare the beneficiary is interested.
  - In limited situations, non-cash items of promotional or commemorative value do not fall within the definition of a benefit for purposes of Texas Penal Code § 36.01(5) (i.e., snacks or refreshments, greeting cards, plaques, certificates of achievement or recognition and trophies that are solely for presentation).
    - An employee who receives any gift from a person or organization that has an interest or that might in the future have an interest in matters within the jurisdiction of ERS must deliver that item to the Executive Office where the Deputy Executive Director or her designee will determine the manner of disposition of all gifts.
- An employee who violates any provision of the ERS policies is subject to disciplinary action including termination of employment or another employment-related sanction. An employee who violates any applicable federal or Texas law or rule may also be subject to civil or criminal penalties in addition to any employment-related sanction.
- Agency employees who work in a professional area where there is a code of ethics (for example, internal auditing, public accounting, or investments) must also abide by the ethical conduct requirements of their respective professional fields.
- All persons responsible for investment decisions, or involved in the management of ERS assets, are governed in their personal investment activities by the Investment Policy Code of Ethics, the code of conduct established by the CFA Foundation and by applicable state and federal laws and regulations.
- Employees are encouraged to use their immediate chain of command as a first effort in resolving any questions or concerns related to employee ethics, conflicts of interest, or standards of conduct if it is appropriate under the circumstances. You may also seek the guidance of the ERS ethics advisor with any ethics-related questions or concerns.
- ERS employees should report any conduct or activity that they in good faith believe to be in violation of the Ethics Policy to the Deputy Executive Director and General Counsel personally or anonymously through the "Report an Ethics Violation" link on the Connect Home page. ERS prohibits any action against an employee for good faith reporting of an ethics violation.

## II. Deterring, Detecting and Investigating Potential or Actual Fraud and Other Illegal Acts

The potential for, or occurrence of, fraud and other illegal acts is a significant and sensitive management concern in any organization. At the Employees Retirement System of Texas (ERS), this concern is heightened by the breadth and complexity of the responsibilities of this agency, as well as the public expectation of honesty and integrity in government, and particularly regarding public trust funds. This policy formalizes the process, and assigns the responsibility of coordinating all efforts of compliance with this policy to the Internal Auditing Department.

The purpose of this policy is to minimize the impact of all potential or actual fraudulent or illegal acts at ERS by deterring such activity or detecting it as early as possible; to alert the public that there is a mechanism by which such activities can be reported and investigated; and to ensure the fair, objective and thorough investigation and reporting of all such activities while safeguarding individual rights and maintaining confidentiality in accordance with applicable law. All documents related to an investigation are considered audit work papers.

This policy relates to all potential or actual fraudulent and other illegal activities: (1) within ERS involving its employees in the conduct of their employment responsibilities, which includes, but is not limited to theft, malfeasance, insider trading, abuse of power or authority, kickbacks and embezzlement; (2) that involve the loss, misappropriation or theft of any assets belonging to ERS or for which ERS is responsible, including, but not limited to cash, checks, securities, intellectual property, property and equipment, information and other data.

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

Every effort will be made to maintain the anonymity and protect the rights of all individuals who may be directly connected with the reported fraud or illegal activity.

This policy should not be perceived as a substitute for management's responsibility to be alert to and to deter fraud or other illegal acts in its daily activities.

### III. Standards of Conduct

The Employees Retirement System of Texas (ERS) supports the state workforce by offering competitive benefits at a reasonable cost. Each employee must perform his/her duties with fairness, propriety and competence in order to enhance the lives of our customers through the efficient delivery of high quality benefits at the lowest practical cost. Each employee must preserve the public's trust in ERS. These Standards of Conduct for ERS employees establish minimal requirements that are not to be considered all-inclusive. The absence of a specific rule covering any act that may discredit an employee or the agency does not mean that the act is permissible.

Disciplinary action will be based on the presumption that the employee has read and is familiar with the Standards of Conduct and is aware of his/her obligations. Compliance with the Standards of Conduct does not create a right to future employment. ERS is an at-will employer and all employees serve at the discretion of the Executive Director.

#### A. Computer Crimes

Under the provisions of Texas Penal Code, Title 7, Chapter 33, it is a criminal offense for ERS employees, agents of the ERS, temporary workers or any independent contractor to knowingly access an agency computer, computer network, or computer system without the effective consent of ERS. It is also a crime to knowingly obtain a benefit, defraud or harm another, or alter, damage or delete property.

Additional information about the ERS policy on computer usage is on the Computer Access Security Policy and Employee Acknowledgement form that all new employees must read and sign.

#### B. Handguns and Other Weapons

Employees, including employees licensed to carry a handgun under Chapter 411, Tex. Gov't Code, are prohibited from carrying a handgun or any other object that could reasonably be used as a weapon onto ERS' premises or in any ERS-owned or leased vehicles. For the purposes of this policy, "premises" is defined as a building or a portion of a building, but does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage or other parking area.

The following 2 notices apply to ERS employees:

Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter ERS property with a concealed handgun.

Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter ERS property with a handgun that is carried openly.

The prohibition does not apply to lawfully-possessed firearms or ammunition kept in locked, privately owned motor vehicles parked in parking lots, parking garages or other parking areas provided by ERS; however, employees should be aware of potential personal liability associated therewith and take all necessary precautionary measures to prevent harm or damage.

If an employee suspects that another employee on the premises may have a weapon, he/she should notify the Building Security Coordinator immediately. Employees who violate this Handgun policy will be subject to immediate dismissal and other applicable legal action.

### C. Criminal History Checks and Self-Reporting Requirements

In accordance with Texas Government Code, Chapter 411.1402, ERS may obtain criminal history record information maintained by the Texas Department of Public Safety (DPS) for all job applicants. The criminal history information may be used to evaluate an applicant for employment. All ERS job postings will state that the agency conducts a criminal history check on the primary and secondary candidate(s) recommended for the position. All applicants for ERS positions who have not resided within the state of Texas for the past 2 years must also undergo an FBI background check.

Criminal history record information may also be obtained on current or former employees. Records can also be obtained on prospective consultant, contract worker, independent contractor, intern, volunteer, and a candidate for appointment or election to the board of trustees of the retirement system or an advisory committee to the board when applicable. The Executive Director, Deputy Executive Director, Deputy Executive Director and General Counsel or their designee may approve a request for a criminal history check on current or former employees.

**FBI Background Check:** The criminal history record information for all external and internal applicants selected to fill "covered person" positions, as that term is defined in the ERS Investment Policy, shall also include an FBI background check. Covered persons include all ERS Investments staff, Investment Accounting staff, some Information Systems staff, the Investment Compliance Auditor, the Deputy Executive Director, Executive Director and persons the Executive Director may designate as Covered Persons. An FBI background check requires the applicant/employee to have his or her fingerprints taken at a location designated by the Texas Department of Public Safety. ERS will reimburse the employee, when applicable, the actual cost charged by DPS for taking the required fingerprints.

ERS employees shall self-report for any arrests and/or convictions for: (a) felonies and (b) any other crimes reflecting a lack of good moral character, lack of trustworthiness, or that the person may pose a continuing danger to others. The arrest and conviction information must be reported immediately to the employee's Division Director, Deputy Executive Director and General Counsel, or Human Resources Director. Employees do not need to self-report other arrests/convictions if they are more than ten (10) years old.

An arrest or conviction is not an automatic cause for an adverse personnel action. However, failure to report an arrest or conviction may result in corrective action up to and including termination of employment.

ERS will review all criminal arrests and convictions on a case-by-case basis based on factors that include, but that are not limited to the:

- Nature and seriousness of each offense and its relationship to the job's duties.
- Number of offenses committed by the individual.
- Length of time since the offense.
- Individual's work performance and/or history.
- Accuracy of the information on the individual's employment application.
- Explanation the applicant or employee provides in the event of an arrest or criminal conviction.

**Confidentiality.** ERS may not release or disclose criminal history information, including self-reported felony convictions, except on court order. Human Resources will discuss reported convictions with the Executive Director, Deputy Executive Director, Deputy Executive Director

and General Counsel, and/or appropriate Division Director to determine the nature and seriousness of the offense(s) and its relationship to the duties of the position.

Human Resources will use the secure shred process to destroy the DPS criminal history check after it is used to make an employment decision or to take a personnel action, or no later than the 180th day after the date of receipt of the information, whichever is later.

#### D. Employee Arrests and/or Convictions

This policy is designed to provide employees with the appropriate notification procedures in the event of an arrest and/or conviction. Failure to comply with the notification procedures identified below may result in disciplinary action, up to and including termination of employment. Additionally, the employee may be subject to disciplinary action if he/she fails to follow the call-in procedure or has an unapproved absence due to an arrest or a criminal proceeding.

When an employee is arrested, he/she must:

- notify his/her immediate supervisor or appropriate division management at the earliest possible opportunity but no later than the end of the first business day following an arrest.
- provide his/her immediate supervisor or appropriate division management with an official offense report as soon as possible but no later than 14 calendar days from the date of the arrest.
- provide his/her immediate supervisor or appropriate division management with periodic updates of the pending case.
- provide his/her immediate supervisor or appropriate division management with official documentation regarding the outcome of the proceedings as soon as possible but no later than 5 calendar days after the conviction or unfavorable disposition.

ERS reserves the right to take disciplinary action if an internal investigation reveals that any misconduct took place, regardless of the outcome of any criminal proceeding.

When a supervisor is made aware of an arrest of one of their employees, they must:

- immediately notify their chain of command, Deputy Executive Director and General Counsel, Director of Human Resources, and Deputy Executive Director.
- request an official offense report from the employee.
- keep the chain of command informed of each development in the case.

The Division Director, Director of Human Resources, Deputy Executive Director and General Counsel, and the Deputy Executive Director shall collectively decide the appropriate action(s) required to address criminal matters involving an ERS employee, based upon relevant factors such as whether the activity leading to the arrest and/or conviction:

- is directly related to the employee's job;
- has rendered the employee unable to perform the job satisfactorily;
- would lead a reasonable person to refuse to work with the employee;
- compromises ERS' effectiveness in fulfilling its responsibilities;
- has created publicity that could diminish ERS' image; or
- evidence exists of abuse of authority and/or belligerence during the arrest.

Upon learning of an employee's arrest, conviction, acquittal, and/or disposition, the employee's Division Director, Deputy Executive Director and General Counsel, Director of Human Resources, and the Deputy Executive Director may decide to:

- permit the employee to continue working at ERS pending the outcome of the criminal proceedings or an internal investigation, but require that the employee use appropriate accrued leave for all matters resulting from the arrest and/or charge;
- suspend the employee with or without pay pending the outcome of the criminal proceedings or an internal investigation;
- permit the employee to resign; or

- terminate the employee's at-will employment.

#### E. Dress Code

All ERS employees interact to some degree with the public in the performance of their duties. Grooming and dress should conform to business standards that reflect a conscientious approach to serving the public and to employment with ERS. If employees are unsure as to what is considered business attire for their department, they should check with their supervisor or Human Resources for guidance.

Examples of inappropriate dress at any time includes, but is not limited to:

- Tank tops;
- Muscle shirts;
- Shirts or blouses that expose the midriff;
- Shorts, other than dressy shorts as part of a suit or Capri pants;
- Mini skirts;
- Collarless shirts for men, unless banded collar dress shirt;
- T-shirts with words other than ERS;
- Sweat suits or wind suits;
- Flip flops (such as shower shoes); and
- Overly baggy clothing.

Jeans are appropriate attire to wear on Friday, the designated casual dress day; however, the above listed items are not appropriate for casual dress days. On holiday workweeks when the last ERS business workday is other than a Friday, employees may wear jeans. Supervisors may approve the wearing of other casual apparel, such as jeans, for certain positions on days other than casual day, depending on the type of work being performed. Supervisors have the discretion to allow employees to wear items listed as inappropriate dress if business necessity or other circumstances warrant the exception (for example, employees undergoing chemotherapy treatment may ask to wear hats in the building).

#### F. Customer Service and Communicating Respectfully

Quality customer service and effective communication are the cornerstones of ERS' business. Employees provide customer service to members, vendors, contractors, visitors, and other employees at ERS. The ERS standard for customer service is to respond to requests for information or assistance in a timely and respectful manner, deliver quality results, and demonstrate a positive and professional attitude that consistently meets the customer's expectations.

ERS expects employees to communicate in a professional and respectful manner in all of their interactions with customers and co-workers.

#### G. Drug and Alcohol Abuse in the Workplace

It is the intent of ERS to provide its employees with a safe work place that is drug and alcohol-free. The following activities are prohibited on ERS' property and during active duty: manufacturing, distributing, dispensing, possessing, selling, purchasing, or being under the influence or illegal use of alcoholic beverages, toxic inhalants, controlled substances, and drugs. ERS' funds may not be used for the payment of salary to an employee who uses alcoholic beverages while on active duty or for the purchase of alcoholic beverages when such expense is submitted on a travel voucher.

Illegal use of drugs or alcohol in the work place or elsewhere may subject an employee to disciplinary action. An employee whose job performance is adversely affected by the use of alcohol, drugs, or other controlled substances is encouraged to seek rehabilitative assistance. Employee participation in a rehabilitative program does not preclude ERS' use of disciplinary action, including termination, if the employee is unable to perform the essential functions of the job.

#### H. Solicitation on ERS Premises

Permission will not be granted to any individual or group for the purpose of soliciting, either in or on ERS premises, when such activities disrupt or interfere with the work of the employees or the orderly operation of business activities.

#### I. Violence in the Workplace

ERS has ZERO tolerance for violence in the workplace toward any person including an employee, contractor or customer. Violence in the workplace includes, but is not limited to:

- Causing physical injury to another person;
- Making threatening remarks;
- Aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress;
- Intentionally damaging agency property or property of another employee;
- Possession of a weapon, which is broadly defined to include anything that could be used by someone to inflict harm on another, while on ERS' property or while on agency business; and
- Committing acts motivated by, or related to, sexual harassment or domestic violence.

Violations of this policy will result in disciplinary action, up to and including termination.

Employees should not make independent decisions on how to handle a possible violent situation. All threats of (or actual) violence, both direct and indirect must be reported as soon as possible to your immediate supervisor or any other member of management. These include threats by employees, as well as threats by customers, contractors, solicitors, or other members of the public. When reporting a threat of violence, the employee should be as specific and detailed as possible. As appropriate, the ERS may contact law enforcement agencies to assist with any report of violence in the building and on agency grounds.

#### J. Ethics

The ERS expects its employees to maintain the highest level of ethics as public servants and to follow the standards of conduct outlined in this policy section and in Texas Government Code, Chapter 572 and the Texas Penal Code, Chapters 36 and 39. ERS employees shall perform their official duties in a lawful, professional, and ethical manner befitting the state and ERS. Additionally, ERS expects employees to avoid behavior that has the perception of a conflict of interest with their work at the agency. Employees must use sound judgment in making ethical decisions and seek guidance from the ERS Ethics Advisor or management if they have any doubt on the right course of action. The Deputy Executive Director and General Counsel is the agency's ethics advisor and is available to assist both employees and supervisors to resolve ethical concerns.

ERS employees must abide by all applicable federal and Texas laws, administrative rules and ERS standards of conduct policies, including this ethics policy. An employee who violates any provision of the ERS policies is subject to disciplinary action including termination of employment or another employment-related sanction. An employee who violates any applicable federal or

Texas law or rule may be subject to civil or criminal penalties in addition to any employment-related sanction.

All ERS employees are required to take at least one (1) hour of ethics-related training every year.

ERS employees should report any conduct or activity they believe to be in violation of this ethics policy to the Deputy Executive Director and General Counsel. Employees may also seek the guidance of the ERS ethics advisor with any ethics-related concerns or questions. Employees may utilize the "Report an Ethics Violation" link on the Connect Home page to notify ERS management of possible violations of this policy.

This ethics policy does not supersede any applicable federal or Texas law or administrative rule.

#### K. Conflict of Interest

The following are standards of conduct from Texas Government Code, Chapter 572.051 that apply to all ERS employees. Violation of any of these standards is grounds for dismissal.

An employee may not use or attempt to use his/her position for the purpose of obtaining personal and/or financial benefit, favor, concession, gifts, or other advantage. An employee must avoid behaviors that have the perception of a conflict of interest.

An employee may not accept or solicit any gift, favor, or service that might reasonably tend to influence such person in the discharge of official duties or that he/she knows or should know is being offered with the intent to influence the employee's official conduct.

An employee may not intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised official powers or performed official duties in favor of another.

An employee may not accept employment in any business or professional activity that he/she might reasonably expect would require or induce the disclosure of confidential information acquired by reason of his/her official position.

An employee may not accept other employment or compensation that could reasonably be expected to impair his/her independence or judgment in the performance of his/her official duties.

An employee may not make personal investments that could reasonably be expected to create a substantial conflict between the employee's private interest and public interest.

#### **1. Acceptance of Gifts**

A benefit is anything reasonably regarded as economic gain or economic advantage and includes benefits to any other person in whose welfare the beneficiary is interested.

Employees must not accept any benefit in the course of their employment with the ERS. An employee who receives any gift from a person or organization that has an interest or that might in the future have an interest in matters within the jurisdiction of the ERS must deliver that item to the office of the Deputy Executive Director. The Deputy Executive Director will determine the manner of disposition of all gifts. The Deputy Executive Director may assign a designee to review and decide on the disposition of gifts.

In limited situations, non-cash items of promotional or commemorative value do not fall within the definition of a benefit for purposes of Texas Penal Code § 36.01(5). Snacks or refreshments, greeting cards, plaques, certificates of achievement or recognition and trophies that are solely for presentation are not considered gifts or benefits by the Texas Ethics

Commission (Opinion No.61). However, the Deputy Executive Director will decide if an item given to agency employees falls into this category of promotional or commemorative value.

## **2. Ethical Decisions**

Employees are encouraged to use their immediate chain of command as a first effort in resolving any questions or concerns related to employee ethics, conflict of interest, or standards of conduct. The Deputy Executive Director and General Counsel is the agency's ethics advisor and is available to assist both employees and supervisors to resolve ethical concerns.

## **3. Honorarium**

Texas Penal Code § 36.07. Acceptance of Honorarium, states "a public servant commits an offense if the public servant solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant's official position or duties."

This section of the penal code does not prohibit an employee from accepting food, lodging, transportation and entertainment received in connection with a conference or similar event in which the employee is providing services such as a speech or conducting a seminar. Employees should contact the Deputy Executive Director and General Counsel for further information on such benefits and reporting requirements. There could be certain reporting requirements for accepting meals or lodging.

## **4. Other Codes of Ethics**

Agency employees who work in a professional area where there is a code of ethics (for example, internal auditing, public accounting, or investments) must also abide by the ethical conduct requirements of that professional field.

### **Prohibited Investment Activities**

All persons responsible for investment decisions, or involved in the management of ERS assets, are governed in their personal investment activities by the Code of Ethics and Personal Investment Activities by the ERS Board of Trustees and by the code of conduct established by the CFA Foundation and applicable state statutes.

## **L. Limited Personal Use of ERS Property**

ERS' property consists of office furniture, equipment and information technology, including, but not limited to telephone lines, facsimile and photocopy machines and personal computers, installed and maintained for ERS' business. Use of ERS' property for personal business by employees, non-employees, interns, or any other persons is prohibited. Violations or abuse of this policy can result in disciplinary action, up to and including termination.

ERS employees are permitted limited use of certain property for non-official purposes if that use does not interfere with official business and if it involves minimal expense to ERS. The privilege extended to employees does not include modifying equipment, loading software (including toolbars, applications, or executable files) or making configuration changes to equipment or software. The privilege to use ERS' property for non-official purposes may be revoked or limited at any time by the Executive Director or designee.

## **1. No Privacy Expectations**

ERS employees do not have a right of privacy, nor should they have an expectation of privacy, while using ERS office furniture, equipment or information technology, including accessing the Internet, using e-mail or voice mail. By using ERS' property, it is implied that employees are giving their consent to ERS to monitor, record and store communications, with or without cause, including, but not limited to, accessing the Internet or using e-mail.

Communications sent to or received by an ERS employee and any other person using the ERS' information technology, or any other method, is public information and may be subject to disclosure under the Open Records/Public Information Act. The Deputy Executive Director, or designee, may at anytime, with or without the user's knowledge, intercept, access, retrieve, read or disclose to others any message or computer file created, sent or received by a user of ERS information technology.

All ERS employees, and other persons with authorized access to ERS' computer system, are required to read and sign the form, "Computer Access Security Policy Employee Acknowledgment and Consent to Access to and Disclosure of Electronic Mail."

## **2. Inappropriate Personal or Non-Official Use of ERS Property**

Misuse or inappropriate use of agency property for personal or non-official purposes includes, but is not limited to:

- Using equipment to maintain or support a personal private business;
- Making excessive photocopies for personal purposes;
- Overuse of facsimile machines or transmitting a facsimile to a long-distance telephone number;
- Removing any ERS property, equipment, or supply items from the premises for personal use or without authorization;
- Allowing use of any ERS property by non-ERS personnel;
- Any other personal use of any ERS property that could cause congestion, delay, or disruption of service to any ERS system or equipment including, but not limited to video, sound or other large file attachments in connection with the ERS computer system; creation, copying, transmission or retransmission of inappropriate subject matter or chain letters or other unauthorized mass mailings, regardless of subject matter; Engaging in any political activity while on ERS time or utilizing ERS resources for political activity.

## **3. Misuse of Official Position or Issued Items**

ERS employees are prohibited from using their official positions, or state issued items, such as badges, indicating such a position for financial gain, obtaining privileges, or avoiding consequences of illegal acts.

ERS employees shall not knowingly make misleading statements, either oral or written, or provide false information, in the course of official ERS business.

## **4. Telephone Usage**

Occasional personal use of the telephone is permissible; however, personal calls should be as brief as possible and should not interfere with work or disturb other employees. Personal long-distance calls and facsimiles billed to ERS are prohibited, including personal phone calls received via ERS' long distance networks. Abuse of telephone privileges can lead to disciplinary action, up to and including termination.

## **5. Use of E-Mail**

Employees may access the e-mail system for non-official business, provided the communication:

- does not disrupt or interfere with official ERS business;
- is kept to a minimal duration and frequency; and
- does not include activities that are illegal, inappropriate or offensive to fellow employees or the public. Such activities include, but are not limited to, hate speech, or material that ridicules others on the basis of race, creed, religion, color, sex, disability, national origin or sexual orientation.

Use discretion when sending system distribution messages and limit these messages to operational issues of the ERS. Examples of the appropriate use of system-wide messages include administrative leave, maintenance issues, inclement weather, emergency issues and other operational issues.

## **6. Use of Internet**

Employees may access Internet sites on official business as required to properly perform ERS-related duties, and on non-official business if the work of the ERS is not disrupted. Access of any Internet site that contains objectionable or otherwise offensive information is prohibited.

## **7. Use of Voice Mail**

The voice mail system is designed as a back-up system to be used only when a person is unable to answer the phone. Voice mail is not to be used as the primary answering tool when a person is available to answer the call, nor is it to be used to screen calls. Employees should check and respond to voice mail messages promptly.

## **M. Other Employment**

Before accepting non-state employment or engaging in private business that might be in conflict with ERS employment, an employee must seek approval from his/her supervisor and/or division director.

### **1. Multiple Employment with the State**

In certain situations, it is legally permissible for an employee to have multiple jobs with the state. But an employee must inform both initial and secondary employers of his/her intent to accept multiple positions with the state. An employee who is legally employed in two positions within Texas state government is subject to certain provisions.

### **2. Off-Duty Employment**

An employee may be terminated from ERS if the employee accepts outside (non-state) employment or becomes engaged in private business where the activity or work hours interfere with the efficiency of the employee's performance of, or are considered to be in conflict with, the employee's position at ERS.

### **3. Outside Contracting**

ERS may not enter into a contract for consulting or professional services or employment with a former employee of the agency for twelve months following the employee's termination.

Employment contracts include personal service contracts regardless of whether the performance of the contract involves the traditional relationship of employer and employee.

## N. Public Communication

### 1. Release of Confidential Information

Records of members/annuitants, participants, and beneficiaries under the administration and custody of ERS are treated as confidential information and not subject to public disclosure. ERS is not required to accept or comply with a request for these records or information about these records or to seek an opinion from the Attorney General because these records are exempt from the public access provisions of the Public Information Act. Records may be released to a member, annuitant, participant, retiree, beneficiary, or alternate payee or to an authorized attorney, family member, or representative acting on behalf of the members/annuitants, participants, retirees, or beneficiaries. ERS may release the records to an administrator, carrier, or agent or attorney acting on behalf of ERS, to another governmental entity having a legitimate need for the information to perform the purposes of ERS or if subject to a valid subpoena.

Any employee who has access to confidential information is required to maintain strict confidentiality and privacy. An employee must not disclose or accept other employment or engage in charity, nonprofit, or professional activity that would require or induce the employee to disclose confidential information, information that is exempted from public disclosure under the Texas Public Information Act, or information that was acquired by reason of the employee's official position.

Failure to maintain confidentiality could result in disciplinary action, up to and including termination. Confidential information includes, but is not limited to:

- Information concerning matters relating to marriage, family relationships, child rearing, and education;
- Certain information regarding past and current service in Texas military forces as defined in Government Code, Chap. 437;
- Intimate or embarrassing facts, the publication of which would be highly objectionable and not the legitimate concern of the public; and
- All medical information concerning members, annuitants, participants, and beneficiaries.

### 2. Data Requests from Political Offices and Associations

All employees who receive a data request from a political office or association (e.g. Governor's office, the LBB, Legislative Council, legislative office, lobby group) must immediately forward the request to [datarequest@ers.texas.gov](mailto:datarequest@ers.texas.gov). This email is monitored by a data triage team, who will log, assign, and track it in the Data Dashboard. This is to ensure that ERS provides timely, consistent, accurate data and messaging to external stakeholders, and to avoid duplication of effort within the agency.

In general, if an external request comes from a political office or lobby group, and it requires the generation of new data, repackaging of existing data, or development of special messaging, it must be tracked and reviewed by the data triage team before leaving the building. If an external request can be answered with published data in a phone call or quick email, it does not have to be formally tracked, but all emailed responses to political offices or associations should be copied to [datarequest@ers.texas.gov](mailto:datarequest@ers.texas.gov). The data triage team does not track legal, media, or open records requests.

If you are unsure whether a data request should be tracked, please consult with the data triage team at [datarequest@ers.texas.gov](mailto:datarequest@ers.texas.gov).

### **3. Media Inquiries and Public Presentations**

The Executive Director or a designated representative is the only person authorized to make official policy announcements and statements to the news media regarding ERS. An employee in an official capacity, who is requested to make a public presentation, including television or radio appearance, will coordinate the speaking engagement and subject matter with their respective division director and the Deputy Executive Director prior to accepting such an invitation. The Executive Director, or designee, must also grant prior approval if the engagement involves the use of funds for out-of-state travel purposes.

### **4. Political Activity**

Employees shall not engage in any political activity while on ERS time or utilize ERS resources for political activity.

### **5. Political Influence**

Employees working at ERS have the full right to freedom of association and political participation guaranteed by the state and federal constitutions, subject to some limitations outlined in Texas Government Code, Chapter 556.004. ERS employees are required to abide by the pertinent state and federal laws restricting political influence. Violations may result in dismissal, fines, or other penalties. These limitations do not prevent any official or employee from furnishing non-confidential information to any member of the Legislature or committee, any other state official or employee or to any citizen.

Each new employee will be provided a copy of the "Political Aid and Legislative Influence Prohibited" section of the Government Code, Chapter 556.004 at the time of orientation and required to sign the Acknowledgement Form indicating he/she has read and understand the rules.

### **6. Publicity Restrictions**

Texas Government Code, Chapter 2113.107 prohibits the use of agency funds for the purpose of publicizing or directing attention to any individual official or employee of ERS. The agency may not use funds for public relations purposes. The above prohibition does not prevent the dissemination of information with respect to work, legal responsibilities, or activities of an agency, provided that the person designated by ERS to communicate for the agency issues the information.

### **7. Social Media Policy**

Social media such as Facebook and Twitter allow users to connect with people by participating in an online community. ERS established social media sites are administered by the Benefits Communications Division according to the Social Media Guidelines and External Facebook Policy. Communications on the ERS social media site is public information, may be subject to disclosure under the Public Information Act and retained according to the Texas State Records Retention Schedule.

All employees must receive written approval from a member of the Benefits Communications (BCOM) social media team before posting or commenting on any social media site representing ERS, one of its programs or one of its projects. Employees must receive written approval from a member of the BCOM social media team before initiating any type of social media site representing ERS.

Employees must adhere to the Social Media Guidelines and External Facebook Policy and the ERS Policy and Personnel Manual, including the Standards of Conduct policy on use of agency equipment to access the internet during work hours, prohibition on public communication of confidential information and on the expectation that employees will communicate in a professional and respectful manner in all of their interactions with customers and co-workers when posting to social media sites.

Employees must adhere to the ERS Standards of Conduct policy which states that employees may, on a limited basis, use agency equipment to access the internet during work hours if it does not interfere with the completion of work assignments or ERS business and if it involves minimal expense to the ERS. Employees can also use personal communication devices such as cell phones or smart phones during work hours for non-ERS business, but it must not interfere with the completion of work assignments or disrupt the work environment.

Violation of this policy and/or the Social Media Guidelines and External Facebook Policy can lead to disciplinary action, up to and including termination. An employee could be subject to disciplinary action if he or she represents themselves as an authorized commenter of ERS or communicates what is interpreted to be official ERS business on their personal social media site.

## IV. Investment Policy Code of Ethics, Personal Investment Activities and Related Addenda

### A. Code of Ethics and Personal Investment Activities

High ethical standards are essential for the success of ERS and to maintain its fiduciary duty to its Beneficiaries. Therefore, all “Covered Persons” (which includes all ERS Investment-Related Staff and any other ERS non-investment Staff who the Executive Director determines have access to confidential ERS investment trading information, all members of the Board and the IAC, the Executive Director and the Deputy Executive Director) shall be governed in their personal investment activities by the Standards of Professional Conduct established by the CFA Institute (CFAI) and applicable state statutes, and each such person shall sign a yearly affirmation of compliance with this Policy and with the Code of Ethics of the CFAI. The broad purposes of this section are to maintain integrity in the management and oversight of ERS investments and prevent the misuse of material, non-public information. In addition, ERS Covered Persons are subject to the ERS Insider Trading and Confidentiality Policy.

The personal transactions provisions do not apply to Trustees and IAC members because they do not participate in the selection of individual securities, which are instead selected by ERS Staff; however, the Insider Trading and Confidentiality Policy does apply to Trustees and IAC members. To the extent Board and IAC members participate in the evaluation, review and approval of private market investments, Board and IAC members must certify that they will not, either for themselves or on behalf of any person or entity, participate in private market investment transactions in which ERS has invested or for which they received confidential information regarding such investment.

Pursuant to Texas Government Code § 815.210, except for an interest in the Trust as a Beneficiary, a Trustee or employee of the Board may not have a direct or indirect interest in the gains or profits of any investment made by the Board and may not receive any pay or emolument for services other than the person’s designated compensation and authorized expenses.

#### 1. Personal Transactions

The personal transaction requirements included in this Code of Ethics apply only to the Executive Director, Deputy Executive Director, ERS Investment-Related Staff and any other staff designated as “Restricted Persons”. A current list of Restricted Persons will be maintained by the Investment Compliance Officer. In addition to the annual affirmation, each Restricted Person shall submit a quarterly affirmation of compliance with the personal trading requirements of this Code of Ethics.

All Restricted Persons shall obtain the approval of the CIO or a designee appointed by the CIO prior to making personal trades in securities in which ERS is invested or is considering investment. Similarly, the CIO, the Deputy Executive Director, and the Executive Director shall obtain pre-trade approval from the Investment Compliance Officer. Such trade approval is only valid for the trading day on which the approval is requested.

For purposes of the pre-clearance requirement described above, the term “security” is defined as publicly traded stocks, bonds, and certain derivative instruments but does not include.

- a) open-end mutual funds, closed-end funds or exchange traded funds (ETFs) that are based on broad-based securities indices, or
- b) derivatives linked to the performance of such closed-end funds or ETFs.

Furthermore, the pre-clearance requirement described above does not apply to any acquisitions or dispositions of any security that are not deliberate or willful on the part of the Restricted Person, including, without limitation:

- a) the purchase or sale of any security that is effected in an account over which a Restricted Person has no direct or indirect influence or control;
- b) the acquisition of any security pursuant a dividend reinvestment program; or
- c) the acquisition of any security through a stock dividend, stock split, reverse stock split, merger, consolidation, spin-off, or other similar corporate reorganization or distribution that is generally applicable to all holders of the relevant class of securities.

For purposes of the foregoing paragraph, a securities index will be considered "broad-based" if it satisfies the criteria adopted by both the U.S. Securities and Exchange Commission and the U.S. Commodity Futures Trading Commission; namely:

- 1. if it has more than nine component securities;
- 2. none of its component securities comprises more than 30% of its weighting;
- 3. no group of five of its component securities together comprise more than 60% of its weighting; and
- 4. the lowest weighted component securities comprising, in the aggregate, 25% of the index's weighting have an aggregate dollar value of average daily trading volume (ADTV) of more than \$50 million (or in the case of an index with 15 or more component securities, \$30 million).

"Personal Trades" mean:

- a) transaction for a Restricted Person's own account, including a retirement or self-directed account (e.g., an IRA), in which the Restricted Person has direct or indirect influence or control over the timing of the trade of the security or derivative on a security, or
- b) a transaction for an account in which a Restricted Person has indirect beneficial ownership as recommended by Standard VI (A) of the CFAI Standards of Practice Handbook and/or direct or indirect influence or control or discretion over the timing of the trade of the security or a derivative on a security. Indirect beneficial ownership applies to accounts held by immediate family members. "Immediate family member" means a Restricted Person's spouse, minor children, and adults residing with such Restricted Person, and any trust or estate in which such Restricted Person or any other member of his/her immediate family is a Trustee or has a substantial beneficial ownership interest, unless such Restricted Person or other member of his/her immediate family has fully delegated all authority over such accounts and, therefore, does not control or participate in the investment decisions of such trust or estate.

Front running is prohibited. For purposes of this section of the policy, "front running" occurs when a Restricted Person buys or sells a security or a derivative on a security for personal financial gain or the financial gain of a third party other than ERS with advance knowledge of an ERS decision or recommendation to buy or sell a security or a derivative on a security. The preclearance requirements for a personal trade are intended to prevent front running.

Obtaining preclearance for a personal trade does not prevent the transaction from constituting front running under this Policy if the Restricted Person knows or should have known that a recommendation or decision for ERS to trade a security or a derivative on the security is pending or has been made but an order to trade has not yet been communicated to the ERS trading desk. All Restricted Persons assume the risk of a conflict or violation of this Policy by initiating any personal transactions that may be covered under this Policy despite any lack of intent by the individual to violate this Policy. A determination that this Policy was violated may be based on circumstantial evidence of such intent.

It is a violation of this Policy for a Restricted Person to delay, hinder, modify, or cancel any internal ERS recommendation, decision or trading order with the intent to facilitate a personal trade.

Restricted Persons shall also not personally participate in private market investment transactions that benefit from action taken by ERS.

All ERS Restricted Persons shall report to the Investment Compliance Officer on a quarterly basis regarding all personal investment activities. Similarly, the Investment Compliance Officer shall report to the Internal Auditor on a quarterly basis regarding all personal investment activities. An internal investigation will be promptly conducted into any questionable trade for violations of trading Policy. If it is determined that a Restricted Person violated this Policy, then any personal transactions at issue may be reversed, at the expense of the individual, he/she may be required to disgorge all profits, and he/she is subject to the full range of disciplinary actions under the ERS Personnel Policy and Procedure Manual and/or may be reported to applicable regulatory or law enforcement agencies when appropriate.

## **2. Gifts, Benefits, or Favors**

Covered Persons shall not solicit, accept, or agree to accept any gifts, personal benefits, or personal favors. The terms “gifts,” “personal benefits” and “personal favors” include, without limitation, anything reasonably regarded as pecuniary gain or pecuniary advantage, including gifts or other economic benefits to any other person in whose welfare the Covered Person has a direct and substantial interest.

This prohibition does not apply to the following which may be accepted:

- i. gifts of books, pamphlets, articles or other such materials that contain information directly related to and used in performing the official ERS duties of the individual (provided that such items are less than \$50 in value);
- ii. gifts of nominal value (non-cash items of less than \$50.00 in value), modest items of food and refreshments on infrequent occasions so long as the donor is present, unsolicited advertising or promotional material and other items of nominal intrinsic value;
- iii. a fee prescribed by law to be received by an individual or any other personal benefit to which the individual is lawfully entitled or which is given as legitimate consideration in a capacity other than the individual's position with ERS; and
- iv. a gift or other personal benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the individual's position with ERS.

Notwithstanding the foregoing, absolutely no gifts, personal benefits, or personal favors may be accepted from Placement Agents, as defined in Addendum IV.

## **3. Attendance at Business Meetings/Functions**

Covered Persons are prohibited from accepting invitations to functions, the costs of which will be borne by brokers, dealers, corporations, or the Trust's master trust custodian, consultants or external advisors (donors) except as provided herein.

- i. Covered Persons may accept invitations, including meals, transportation, and lodging to seminars and conferences when such event has a presentation or discussion of topics pertinent to the investment of the Trust's assets or relates to the official ERS duties of the individual and is not otherwise prohibited by law. This exception applies only where the services rendered by Covered Persons are more than merely perfunctory as in accordance with applicable laws, such as when ERS Investment Related Staff speak at or actively plan the seminar or conference with specific approval from the CIO.
- ii. Covered Persons may accept invitations, including meals and ground transportation, to receptions and business meals when the donor or a representative of the donor is present and such event has a presentation or discussion of topics pertinent to the investment of the Trust's assets or relates to the official ERS duties of the individual and is not otherwise prohibited by law.
- iii. This prohibition also does not apply to the acceptance of meals, transportation and lodging in connection with private market advisory committee meetings, seminars, and conferences,

where the services rendered by ERS Investment-Related Staff are more than merely perfunctory as in accordance with applicable laws.

- iv. Attendance by Covered Persons at events sponsored by donors that may incidentally involve entertainment or recreation may in some cases be in the best interest of ERS. However, those ERS Investment-Related Staff must obtain specific approval of their attendance at such events from the CIO. The CIO must obtain such approval from the Deputy Executive Director for attendance at such events. This approval will not be given for elaborate or expensive entertainment events.
- v. All persons to whom this Policy applies shall use reasonable care and judgment not to place themselves in a situation that might cause, or be perceived to cause, a loss of independence or objectivity.

#### **4. Conflict of Interest**

All Covered Persons who become aware of a personal conflict of interest that affects their duty owed to ERS have an obligation not only to disclose that conflict, but to cure it. Conflicts of interest may include, but not be limited to the following:

- i. Covered Persons may not under any circumstances accept offers, by reason of their service, relationship or employment with ERS, to trade in any security or other investment on terms more favorable than those available to the general investing public or, in the case of private market investments, a similarly situated investor.
- ii. Covered Persons may not participate in outside employment and/or business activities where the activity interferes with the efficiency of the individual's performance of, or could be considered to be in conflict with, the individual's service, relationship or employment with ERS, unless such outside employment and/or business activities have previously been disclosed and approved. The Executive Director will provide such approval in the case of ERS Investment-Related Staff, the Deputy Executive Director and IAC members, and the Board will provide such approval in the case of the Executive Director or a Trustee.
- iii. In accordance with Texas Government Code § 572.054, Trustees and the Executive Director may not for two years after ceasing to be in their respective positions at ERS (Former ERS Official) make any communication to, or appearance before, an officer or employee of ERS, on behalf of the Former ERS Official or on behalf of any other person or entity, with the intent to influence agency action to benefit the person seeking such action. This restriction does not apply to the Former ERS Official merely providing information to ERS so long as such communication is done without the intent to influence any actions by ERS. A violation of this prohibition is a Class A misdemeanor.
- iv. Furthermore, ERS may not enter into a contract with a former ERS Executive Director for four years after such former ERS Executive Director leaves ERS, or with a person or entity that employs such former ERS Executive Director, unless the Board approves the contract and otherwise complies with Texas Government Code § 669.003.
- v. In accordance with Texas Government Code § 572.054, Covered Persons may not at any time represent any person or entity, or receive compensation for services rendered on behalf of any person or entity, regarding a "particular matter" after such individual leaves his/her position at ERS. This prohibition applies if, during such individual's tenure at ERS, that individual "participated" in the particular matter, either through personal involvement or because the particular matter was within such individual's official responsibility. This prohibition does not prevent an individual from working on similar matters after leaving ERS that are not the exact matter on which an individual worked during his/her tenure at ERS.

For purposes of clarification of this prohibition, (1) "participated" means to have taken action as an officer or employee through making a decision, providing approval or disapproval, making a recommendation, giving advice, investigating, or similar action; and (2) "particular matter" means a specific investigation, application, request for a ruling or termination, rulemaking proceeding, contract, or judicial or other proceeding.

The Board, or the Executive Director in the case of ERS Investment-Related Staff, IAC members or the Deputy Executive Director, may provide an exception to this prohibition if not doing so would be imprudent on the part of ERS and such exception is not a violation of state law. A violation of this prohibition is a Class A misdemeanor.

- vi. A person may cure a conflict of interest by promptly addressing it in the following manner. If the person may prudently withdraw from action on a specific issue in which a conflict exists, he/she may cure the conflict in that manner provided that:
  - a) the person may be and is effectively separated from influencing the action taken;
  - b) the action may properly be taken by others; and
  - c) the nature of the conflict is not such that the person must regularly and consistently withdraw from decisions that are normally his/her responsibility with respect to ERS. Trustees and IAC members must disclose any conflicts regarding matters that are before the Board or IAC and not vote on the matter.

**5. Use of Placement Agents.**

See Addendum IV for Placement Agent and Political Contributions Policies and Procedures.

**6. Insider Trading and Confidentiality**

See Addendum V for the Insider Trading and Confidentiality Policy.

**7. Ethics Training**

All Covered Persons shall receive periodic ethics training at least annually.

**8. Compliance and Enforcement**

- i. The Board will enforce this Policy through the Executive Director, who is responsible for its implementation with respect to ERS Investment-Related Staff, the Deputy Executive Director and IAC members.
- ii. The full range of disciplinary options under the ERS Personnel Policy and Procedure Manual may be used with respect to employees of ERS who violate this Policy, up to and including termination.
- iii. The Board is responsible for the enforcement of this Policy with respect to violations by individual Trustees or the Executive Director through resolutions of reprimand, censure, or other appropriate parliamentary measures, including requests for resignation.
- iv. Any Covered Person with knowledge of a violation of this Policy must report such violations to the General Counsel and the Investment Compliance Officer. No retaliatory action will be taken for any such report made in good faith.
- v. A violation of this Policy may be reported to applicable regulatory or law enforcement agencies when appropriate.
- vi. Anyone scrutinizing a transaction or issue for compliance with this Policy and applicable laws and regulations will be undertaking such review after the fact, with the benefit of hindsight. As a practical matter, before engaging in any transaction, an individual should carefully consider how the Executive Director, General Counsel, Investment Compliance Officer and Internal Auditor and state and federal enforcement authorities and others might view the transaction or issue in hindsight.

## **PLACEMENT AGENT AND POLITICAL CONTRIBUTIONS POLICIES AND PROCEDURES**

### **Purpose and Scope**

ERS recognizes that Placement Agents work to establish dialogue and facilitate communication between private investment funds and investors. However, ERS requires transparency and accountability of the roles Placement Agents play in sourcing investment opportunities for ERS. To this end, ERS' Placement Agent and Political Contributions Policies and Procedures (these "Policies and Procedures") require (a) the broad, timely, and updated disclosure, by both ERS' consultants and by Funds in which ERS invests, of all Placement Agent relationships and Placement Fees and (b) certain practices by Funds with respect to Placement Fees.

Furthermore, these Policies and Procedures also apply to attempts to influence ERS investment decisions through contact with members of the Board of Trustees or IAC or contact with, or Contributions made for the benefit of, Texas Elected Officials.

The goals of these Policies and Procedures are to help ensure that ERS investment decisions are made exclusively on the merits of the investment opportunity by individuals who owe a fiduciary duty to ERS and to ensure that all investment decisions and recommendations are free from improper influence or the appearance thereof. Any capitalized terms used but not defined herein have the meanings ascribed to such terms in the ERS Investment Policy.

### **Required Disclosures**

Consultants: These Policies and Procedures apply to all third party consultants assisting in the diligence on any Fund in which ERS invests or is considering investing. Prior to performing any substantive business diligence on a Fund to make an investment recommendation to ERS, a consultant must submit to ERS a disclosure statement regarding any business arrangements such consultant has with such Fund or with any Placement Agents used by such Fund, including Placement Fees that are paid or payable, services that are performed, and any other pertinent information about such business arrangements. The disclosure statement shall include, but not be limited to, any arrangement under which a Fund compensates the consultant or under which a Placement Agent compensates the consultant. If any such business arrangement is described in the disclosure statement, the consultant must also provide ERS access to a copy of any written agreement governing such business arrangement or, in the event there is no written agreement, a written summary of the material terms of the business arrangement.

The disclosure statement shall further state whether the consultant has compensated or has any agreement or arrangement to compensate any ERS officer, director, member of the Board of Trustees or IAC, or employee with respect to any investment recommendation made by the consultant, and any such compensation, agreement or arrangement will bar the consultant from performing any services for or on behalf of ERS and from receiving any further compensation from ERS.

The disclosure statement shall also include information regarding any payment of or the incurrence of an obligation to pay by the consultant any Contribution to any Texas Elected Official during the prior two years or the engagement in any Bundling with respect to any Texas Elected Official during the prior two years. The disclosure statement must also contain information regarding any communications relating to any recommendation that ERS invest in the Fund that the consultant had with any Texas Elected Official or any member of the Board of Trustees or IAC during the prior two years.

With respect to the disclosures described above, the disclosure statement shall cover the consultant and the consultant's affiliates and their respective officers, directors, principals, partners, managers, members, shareholders, employees, and consultants, as well as any political action committee controlled by any of the foregoing. Further, the disclosure statement shall include any actions taken indirectly which, if taken directly, would be required to be disclosed under these Policies and Procedures.

Funds: These Policies and Procedures also apply to all Funds in which ERS invests. Any Fund in which ERS is considering investing must submit to ERS a disclosure statement regarding the payment of or the incurrence of an obligation to pay any Placement Fees. If the disclosure statement states that any Placement Fees were paid or are payable, the Fund must also provide ERS access to a copy of any written agreement under which the Fund has agreed to pay such Placement Fees or, in the event there is no written agreement, a written summary of the material terms of the agreement, including at least the name of the person receiving the Placement Fee (including the names of its principals if an entity), the amount of the Placement Fee, the anticipated date of payment of the Placement Fee, and the services to be rendered to receive the Placement Fee. The disclosure statement must further state whether the Fund and/or its Placement Agent is or has been subject to any present or past civil or criminal litigation, administrative proceeding, or, to the Fund's knowledge, inquiry or investigation related to the payment of or the incurrence of an obligation to pay any Placement Fees.

Any Fund in which ERS is considering investing must also submit to ERS a disclosure statement regarding (a) any payment of or the incurrence of an obligation to pay any Contribution by the Fund and/or its Placement Agent to any Texas Elected Official within the two year period prior to ERS' investment in the Fund or (b) the engagement in any Bundling with respect to any Texas Elected Official within the two year period prior to ERS' investment in the Fund. Such disclosure statement must also contain information regarding any communications regarding ERS' potential investment in the Fund that the Fund and/or its Placement Agent had with any Texas Elected Official or any member of the Board of Trustees or IAC during the two year period prior to ERS' investment in the Fund. The disclosure statement must further state whether the Fund and/or its Placement Agent is or has been subject to any present or past civil or criminal litigation, administrative proceeding, or, to the Fund's knowledge, inquiry or investigation related to the payment of or the incurrence of an obligation to pay any Contribution to, or any Bundling with respect to, any Texas Elected Official or any public pension official in any other state.

Staff will provide each Fund in which ERS may invest a copy of these Policies and Procedures at the commencement of due diligence. A Fund must make the disclosures described above to ERS promptly thereafter. The disclosures must be made again, with any relevant updates since the time of the initial disclosures, contemporaneously with ERS' investment in such Fund. Further, all disclosure statements must include any actions taken indirectly which, if taken directly, would be required to be disclosed under these Policies and Procedures. ERS hereby notifies Funds and Placement Agents that ERS is subject to the Texas Public Information Act, and they should be aware that information provided to ERS under these Policies and Procedures may not be confidential.

#### **Placement Agent Registration, Compliance with Laws, and Relationships**

Placement Agents used by Funds must register with the SEC or the Financial Industry Regulatory Authority in accordance with applicable law, and a copy of such registration must be delivered to ERS along with the disclosures described above. A Placement Agent that is not so registered may not receive a Placement Fee in connection with an investment in a Fund by ERS. If a Placement Agent is registered as a lobbyist with any state or federal governmental agency, such registration must be disclosed as well, and such Placement Agent must certify that it is in compliance with all applicable state and federal laws regulating lobbyists.

Funds and Placement Agents must certify that they are in compliance with all applicable laws and regulations, including, but not limited to, the Investment Advisers Act of 1940 and any rules or regulations promulgated thereunder,<sup>1</sup> as such may be amended from time to time.

A Fund must further disclose whether any person or entity included in the definition of Placement Agent herein is a current or former member of the Board of Trustees or IAC; employee of ERS; officer, director, principal, partner, manager, member, shareholder, employee, consultant, or affiliate of an ERS consultant; or member of the immediate family of any such natural person.

#### **Placement Fee and Contribution Practices by Funds**

Unless such amounts are completely offset by reductions to management fees or other fees payable by ERS to a Fund, neither ERS nor any ERS investment in a Fund may be burdened with or liable for any Placement Fee or any

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<sup>1</sup> Such rules or regulations to include, but not be limited to, 17 C.F.R. 275.206(4)-5, 17 C.F.R. 275.204-2, and 17 C.F.R. 275.206(4)-3, as such may be amended from time to time.

expenses or other amounts paid, payable, reimbursed, or reimbursable to a Placement Agent (including with respect to indemnification of a Placement Agent for any reason).

No ERS investment may be made in a Fund if it is determined by ERS that:

- a) any contacts with any Texas Elected Official or member of the Board of Trustees or IAC,
- b) any Contributions to any Texas Elected Official, either directly or through Bundling, or
- c) any payments to or relationships with an ERS consultant assisting ERS with the investment in such Fund have created an unacceptable risk to, or the appearance of impropriety with respect to, the integrity or reputation of ERS or its investment program or have been made in violation of these Policies and Procedures or applicable laws or regulations.

### **Violations**

All Funds in which ERS invests shall agree in writing upon ERS' admittance to such Fund that, should any of the disclosures made by the Fund be found to be materially false or misleading or should any aspect of these Policies and Procedures be materially violated by the Fund or its Placement Agent (any such occurrence, as determined by ERS, being a "Violation"), ERS shall have the option to exercise any or all of the following remedies, which shall be cumulative rather than exclusive and which shall be in addition to any other remedies available pursuant to applicable law:

- (a) ERS shall have the right to withdraw without penalty from the Fund;
- (b) ERS shall have the right to cease making any further capital contributions to the Fund (including for management fees, expenses, investments, and recalls of previously distributed amounts) without penalty; and/or
- (c) ERS shall have the right to require the Fund to repay to ERS the aggregate amount of management fees paid by ERS to the Fund for the two-year period preceding either the Violation or the discovery by ERS of the Violation, whichever is greater, along with any carried interest payable to the Fund for investments made during the two-year period.

In addition to ERS' remedies set forth above, any Fund or Placement Agent that ERS determines has committed a Violation shall not solicit new investments from ERS for a period of five years after such Violation is discovered by ERS.

If at any time after initial disclosures are made pursuant hereto, any consultant, Fund, or other party subject to these Policies and Procedures discovers or reasonably should have discovered that there has been a Violation, such party shall immediately deliver written notice of such Violation to ERS. For purposes of this paragraph, "Violation" shall refer to a materially false or misleading disclosure or a material violation of these Policies and procedures by any consultant, Fund, Placement Agent, or other party subject to these Policies and Procedures.

### **Policy Interpretation**

It is intended that these Policies and Procedures be construed and administered so that they comply with all applicable federal and state laws and regulations, as such may be amended from time to time. ERS' Executive Director is authorized to approve from time to time variances from the disclosures and procedures set forth above in furtherance of such compliance or as he/she deems to be in the best interest of ERS, consistent with both ERS' fiduciary responsibilities and the purpose and scope of these Policies and Procedures.

All parties responsible for complying with and making disclosures pursuant to these Policies and Procedures should consider the spirit as well as the literal text hereof. In cases where uncertainty exists as to whether a particular disclosure should be made to ERS, these Policies and Procedures should be interpreted to require disclosure.

### **Definitions**

"Bundling" means to coordinate Contributions from one or more persons, entities, or political action committees or to solicit any person, entity, or political action committee to make any Contribution.

"Contribution" means any payment, gift, subscription, loan, advance, or deposit of money or anything of value made for the purpose of influencing any election for any federal, state, or local office; paying a debt incurred in connection

with any such election; or paying the transition or inaugural expenses of a successful candidate for office. The size of a Contribution shall not be taken into account when determining whether a disclosure of a Contribution must be made, and the entitlement of the contributor to vote for a Texas Elected Official likewise shall not be taken into account. Any Contribution that has been returned by a Texas Elected Official shall be included in disclosure statements as well.

“Fund” means a private equity fund, a private real estate fund, private infrastructure fund, private credit fund, a separate account, a hedge fund, or any other type of private investment vehicle and, with respect to the disclosures to be made pursuant hereto, also refers to any such Fund’s general partner, sponsor, manager, and affiliates, and the respective officers, directors, members, principals, partners (other than unaffiliated limited partners who are investors only), employees who perform policy-making functions or who solicit ERS for business, and managers of each, as well as any political action committee controlled by any of the foregoing. Any time periods set forth herein applicable to any person or entity described in this definition of “Fund” shall fully apply to such person or entity, even if such person or entity was not associated with the private investment vehicle for the entire time period.

“Placement Agent” means any placement agent, finder, or other party, whether or not affiliated with a Fund, that receives a Placement Fee or that is a party to an agreement or arrangement, written or oral, to receive a Placement Fee. The term Placement Agent also includes affiliates of the Placement Agent and the officers, directors, principals, partners, managers, members, and shareholders of both the Placement Agent and such affiliates. The term Placement Agent also includes any employees of any such entities who solicit ERS for investment in a Fund. Any party that shares in any amount of a Placement Fee or that has an agreement or arrangement, written or oral, to share in any amount of a Placement Fee, and such party’s officers, directors, principals, partners, managers, members, and shareholders, is also included in the term Placement Agent. Any person or group of people who become employees of a Fund or an affiliate of a Fund for a temporary period during such Fund’s fund-raising period and who would be a Placement Agent under these Policies and Procedures if not so hired are included in the term Placement Agent as well.

“Placement Fees” means placement fees, finder’s fees, brokerage fees, retainer fees, success fees, commissions, incentive compensation, or any other compensation or consideration, or any obligation or liability, contingent or otherwise, for any such compensation or consideration.

“Texas Elected Official” means:

- a) any elected official of the State of Texas, including, but not limited to, the Governor, the Lieutenant Governor, the Comptroller of Public Accounts, the Attorney General, any member of the Texas Supreme Court, or any member of the Texas Legislature (or any candidate for any such office),
- b) any election committee, campaign fund or political action committee for any person described in subsection (a) that funds or is eligible to fund such person’s candidacy for any political office (federal, state, or local), or any political party, to the extent any contributions thereto are earmarked for such person’s candidacy for any political office (federal, state, or local),
- c) any spouse, ex-spouse, parent, child (including by adoption or in a step-relationship), sibling, niece, nephew, aunt, or uncle of any person described in subsection (a), or
- d) any person employed under any Texas state political office named in subsection (a).

## **INSIDER TRADING AND CONFIDENTIALITY POLICY**

### **1. Applicability**

All Covered Persons and other persons designated as having access to any ERS Information or any other Material, Non-public information are subject to this Insider Trading and Confidentiality Policy.

### **2. Definitions**

“ERS Information” means any Material, Non-public information regarding specific ERS investment transactions or proposals and related activity; potential ERS contracts with outside consultants, advisors, contractors, or vendors; or any other Material, Non-public information arising out of a person’s work for ERS.

“Material,” with respect to any information, means any information that a reasonable investor would consider important in making a decision to buy, hold, or sell securities. For purposes of this policy, any information that could be expected to affect the price of a security, whether it is positive or negative, should be considered Material.

“Non-public,” with respect to any information, means information that is not widely available to the public. In the event that there is any question about whether or not information is considered Non-public, such question should immediately be brought to the attention of the General Counsel and Investment Compliance Officer. The General Counsel in consultation with the Investment Compliance Officer, upon review of applicable facts, laws, regulations, and/or after consultation with outside counsel or other appropriate persons, shall make the determination of whether the information is Non-public for purposes of this policy.

“Covered Persons” with regard to the Insider Trading Policy means all members of the ERS Board of Trustees, IAC members, ERS Investment-Related Staff (and any other non-investment staff who have access to non-public ERS Information), the Executive Director, and the Deputy Executive Director.

### **3. Insider Trading and Confidentiality Policy**

Any information that is Non-public and whose premature disclosure could affect ERS, an actual or potential business opportunity or relationship of ERS, or a company the securities of which ERS owns or is considering buying shall be confidential. Covered Persons should assume that all Non-public information gained as a result of association with ERS is confidential. Covered Persons must safeguard this Non-public information whether generated internally or acquired from outside sources and must use it only for ERS-related matters. In order to control access to this Non-public information, business-related communications between ERS Investment-Related Staff and other employees in different divisions of ERS should be kept to a minimum. ERS employees should generally be highly sensitive to the potential for disclosure of any Non-public information when discussing ERS matters with persons outside of their own divisions.

Each Covered Person having access to any ERS Information or any other Material, Non-public information:

- 1) shall consider the information to be proprietary to ERS and confidential in nature and must safeguard that information as such person would any other property of ERS;
- 2) must be aware that:
  - a) any purchase or sale
    - i) by ERS of securities as a result of such person's actions while he/she is aware of Material, Non-public information relating to those securities or
    - ii) by such person of securities while aware of Material, Non-public information relating to those securities, and
  - b) any disclosure of that information to others ("tippees") who may then trade in those securities is prohibited by the federal securities laws as "insider trading" and punished severely by both civil (money) and criminal penalties, including:
    - i) for Covered Persons (or their "tippees") who trade or cause ERS to trade on Material, Non-public information, a civil penalty of up to three times the profit gained or loss avoided, a criminal fine of up to \$1,000,000 (no matter how small the profit), and a jail term of up to ten years; and
    - ii) for ERS and its supervisory personnel, if applicable, if any such person fails to take appropriate steps to prevent insider trading, a civil penalty of up to \$1,000,000 or, if greater, three times the profit gained or loss avoided as a result of the Covered Person's violation; and a criminal penalty of up to \$2,500,000.

A Covered Person who tips information to a person ("tippee") who then trades is subject to the same penalties as the tippee, even if the Covered Person did not trade and did not profit from the tippee's trading.

No Covered Person having access to ERS Information or any other Material, Non-public information related to particular securities may, directly or through family members or other persons or entities:

- a) use that information in making decisions related to buying or selling securities, or engaging in other actions, on behalf of ERS,
- b) buy or sell those securities or engage in any other action to take personal advantage of that information, or
- c) pass that information on to others outside ERS, including family and friends, in each case until the information is no longer Non-public or is no longer Material.

The use of Non-public information is also restricted by Texas Penal Code § 39.06 in the following ways:

- 3) A person commits an offense if such person, in reliance on Non-public information to which he/she has access by virtue of his/her state office or state employment:

- a) acquires or aids another to acquire a pecuniary interest in any property, transaction, or enterprise that may be affected by the information;
  - b) speculates or aids another to speculate on the basis of the information; or
  - c) as a public servant, coerces another into suppressing or failing to report that information to a law enforcement agency.
- 4) A person commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he/she discloses or uses Non-public information for a nongovernmental purpose that he/she has access to by means of such person's state office or state employment.
  - 5) An offense described in Texas Penal Code § 39.06 is a felony of the third degree, provided that a public servant coercing another into suppressing or failing to report information to a law enforcement agency is a Class C misdemeanor.

#### **4. Compliance and Enforcement**

The General Counsel and Investment Compliance Officer are responsible for enforcement of this policy, including oversight of training for Covered Persons and periodic review of this policy to determine its effectiveness and the adequacy of its implementation. In the event the General Counsel or Investment Compliance Officer has any conflict or appearance thereof in enforcing or administering any aspect of this policy, the Internal Auditor shall perform any act that they are required to perform.

At the time of hiring or other association with ERS, each Covered Person shall be provided with a copy of this policy, and each such Covered Person shall sign a certification that he/she has received and read the policy and has agreed that he/she is responsible for compliance. Thereafter, on a yearly basis, each Covered Person will be required to re-certify that he/she has read and will comply with this policy. In addition, the Investment Compliance Officer shall conduct or arrange for training sessions to discuss compliance with this policy no less than once per year.

ERS' Internal Audit division shall also maintain the following records:

- 6) updated and historical archival copies of this policy as amended and supplemented from time to time;
  - signed acknowledgements of receipt of this policy by all Covered Persons;
  - records of any violations of this policy by Covered Persons and the corrective action taken in response;
  - complaint files containing complaints from employees or others having dealings with ERS Covered Persons related to this policy and
  - any other records in connection with the maintenance or enforcement of this policy as may be deemed necessary by the Investment Compliance Officer.

The Investment Compliance Officer shall be responsible for ensuring that ERS and its Covered Persons are informed of their requirement to comply with this policy.

Any Covered Person or other ERS employee who has information that he/she believes tends to indicate a violation of this policy shall promptly bring this information to the direct attention of the General Counsel and Investment Compliance Officer, who may decide to enlist the aid of outside counsel or other appropriate person to further evaluate the circumstances and decide on any further action.

If, upon investigation, the General Counsel and/or Investment Compliance Officer determines that a Covered Person has violated any provision of this policy, the full range of disciplinary options under ERS' Personnel Policy and Procedure Manual may be used against such Covered Person, up to and including termination. The General Counsel may also refer the violation to the relevant state or federal enforcement authorities for civil or criminal prosecution.

Anyone scrutinizing a transaction for compliance with this policy and the securities laws will be undertaking such review after the fact, with the benefit of hindsight. As a practical matter, before engaging in any transaction, a Covered Person should carefully consider how the General Counsel or Investment Compliance Officer (or Internal Auditor, when applicable) and state and federal enforcement authorities and others might view the transaction in hindsight.



# CODE OF ETHICS AND STANDARDS OF PROFESSIONAL CONDUCT

## PREAMBLE

The CFA Institute Code of Ethics and Standards of Professional Conduct are fundamental to the values of CFA Institute and essential to achieving its mission to lead the investment profession globally by promoting the highest standards of ethics, education, and professional excellence for the ultimate benefit of society. High ethical standards are critical to maintaining the public's trust in financial markets and in the investment profession. Since their creation in the 1960s, the Code and Standards have promoted the integrity of CFA Institute members and served as a model for measuring the ethics of investment professionals globally, regardless of job function, cultural differences, or local laws and regulations. All CFA Institute members (including holders of the Chartered Financial Analyst® (CFA®) designation) and CFA candidates must abide by the Code and Standards and are encouraged to notify their employer of this responsibility. Violations may result in disciplinary sanctions by CFA Institute. Sanctions can include revocation of membership, revocation of candidacy in the CFA Program, and revocation of the right to use the CFA designation.

## THE CODE OF ETHICS

Members of CFA Institute (including CFA charterholders) and candidates for the CFA designation ("Members and Candidates") must:

- Act with integrity, competence, diligence, respect and in an ethical manner with the public, clients, prospective clients, employers, employees, colleagues in the investment profession, and other participants in the global capital markets.
- Place the integrity of the investment profession and the interests of clients above their own personal interests.
- Use reasonable care and exercise independent professional judgment when conducting investment analysis, making investment recommendations, taking investment actions, and engaging in other professional activities.
- Practice and encourage others to practice in a professional and ethical manner that will reflect credit on themselves and the profession.
- Promote the integrity and viability of the global capital markets for the ultimate benefit of society.
- Maintain and improve their professional competence and strive to maintain and improve the competence of other investment professionals.

## STANDARDS OF PROFESSIONAL CONDUCT

### I. PROFESSIONALISM

- A. Knowledge of the Law.** Members and Candidates must understand and comply with all applicable laws, rules, and regulations (including the CFA Institute Code of Ethics and Standards of Professional Conduct) of any government, regulatory organization, licensing agency, or professional association governing their professional activities. In the event of conflict, Members and Candidates must comply with the more strict law, rule, or regulation. Members and Candidates must not knowingly participate or assist in and must dissociate from any violation of such laws, rules, or regulations.
- B. Independence and Objectivity.** Members and Candidates must use reasonable care and judgment to achieve and maintain independence and objectivity in their professional activities. Members and Candidates must not offer, solicit, or accept any gift, benefit, compensation, or consideration that reasonably could be expected to compromise their own or another's independence and objectivity.

- C. Misrepresentation.** Members and Candidates must not knowingly make any misrepresentations relating to investment analysis, recommendations, actions, or other professional activities.
- D. Misconduct.** Members and Candidates must not engage in any professional conduct involving dishonesty, fraud, or deceit or commit any act that reflects adversely on their professional reputation, integrity, or competence.

### II. INTEGRITY OF CAPITAL MARKETS

- A. Material Nonpublic Information.** Members and Candidates who possess material nonpublic information that could affect the value of an investment must not act or cause others to act on the information.
- B. Market Manipulation.** Members and Candidates must not engage in practices that distort prices or artificially inflate trading volume with the intent to mislead market participants.

### III. DUTIES TO CLIENTS

- A. Loyalty, Prudence, and Care.** Members and Candidates have a duty of loyalty to their clients and must act with reasonable care and exercise prudent judgment. Members and Candidates must act for the benefit of their clients and place their clients' interests before their employer's or their own interests.
- B. Fair Dealing.** Members and Candidates must deal fairly and objectively with all clients when providing investment analysis, making investment recommendations, taking investment action, or engaging in other professional activities.
- C. Suitability.**
1. When Members and Candidates are in an advisory relationship with a client, they must:
    - a. Make a reasonable inquiry into a client's or prospective client's investment experience, risk and return objectives, and financial constraints prior to making any investment recommendation or taking investment action and must reassess and update this information regularly.
    - b. Determine that an investment is suitable to the client's financial situation and consistent with the client's written objectives, mandates, and constraints before making an investment recommendation or taking investment action.
    - c. Judge the suitability of investments in the context of the client's total portfolio.
  2. When Members and Candidates are responsible for managing a portfolio to a specific mandate, strategy, or style, they must make only investment recommendations or take only investment actions that are consistent with the stated objectives and constraints of the portfolio.
- D. Performance Presentation.** When communicating investment performance information, Members and Candidates must make reasonable efforts to ensure that it is fair, accurate, and complete.
- E. Preservation of Confidentiality.** Members and Candidates must keep information about current, former, and prospective clients confidential unless:
1. The information concerns illegal activities on the part of the client or prospective client,
  2. Disclosure is required by law, or
  3. The client or prospective client permits disclosure of the information.

### IV. DUTIES TO EMPLOYERS

- A. Loyalty.** In matters related to their employment, Members and Candidates must act for the benefit of their employer and not deprive their employer of the advantage of their skills and abilities, divulge confidential information, or otherwise cause harm to their employer.
- B. Additional Compensation Arrangements.** Members and Candidates must not accept gifts, benefits, compensation, or consideration that competes with or might reasonably be expected to create a conflict of interest with their employer's interest unless they obtain written consent from all parties involved.
- C. Responsibilities of Supervisors.** Members and Candidates must make reasonable efforts to ensure that anyone subject to their supervision or authority complies with applicable laws, rules, regulations, and the Code and Standards.

### V. INVESTMENT ANALYSIS, RECOMMENDATIONS, AND ACTIONS

- A. Diligence and Reasonable Basis.** Members and Candidates must:
1. Exercise diligence, independence, and thoroughness in analyzing investments, making investment recommendations, and taking investment actions.
  2. Have a reasonable and adequate basis, supported by appropriate research and investigation, for any investment analysis, recommendation, or action.
- B. Communication with Clients and Prospective Clients.** Members and Candidates must:
1. Disclose to clients and prospective clients the basic format and general principles of the investment processes they use to analyze investments, select securities, and construct portfolios and must promptly disclose any changes that might materially affect those processes.
  2. Disclose to clients and prospective clients significant limitations and risks associated with the investment process.
  3. Use reasonable judgment in identifying which factors are important to their investment analyses, recommendations, or actions and include those factors in communications with clients and prospective clients.
  4. Distinguish between fact and opinion in the presentation of investment analysis and recommendations.
- C. Record Retention.** Members and Candidates must develop and maintain appropriate records to support their investment analyses, recommendations, actions, and other investment-related communications with clients and prospective clients.

### VI. CONFLICTS OF INTEREST

- A. Disclosure of Conflicts.** Members and Candidates must make full and fair disclosure of all matters that could reasonably be expected to impair their independence and objectivity or interfere with respective duties to their clients, prospective clients, and employer. Members and Candidates must ensure that such disclosures are prominent, are delivered in plain language, and communicate the relevant information effectively.
- B. Priority of Transactions.** Investment transactions for clients and employers must have priority over investment transactions in which a Member or Candidate is the beneficial owner.
- C. Referral Fees.** Members and Candidates must disclose to their employer, clients, and prospective clients, as appropriate, any compensation, consideration, or benefit received from or paid to others for the recommendation of products or services.

### VII. RESPONSIBILITIES AS A CFA INSTITUTE MEMBER OR CFA CANDIDATE

- A. Conduct as Participants in CFA Institute Programs.** Members and Candidates must not engage in any conduct that compromises the reputation or integrity of CFA Institute or the CFA designation or the integrity, validity, or security of the CFA Institute programs.
- B. Reference to CFA Institute, the CFA Designation, and the CFA Program.** When referring to CFA Institute, CFA Institute membership, the CFA designation, or candidacy in the CFA Program, Members and Candidates must not misrepresent or exaggerate the meaning or implications of membership in CFA Institute, holding the CFA designation, or candidacy in the CFA program.

## **V. ERS Rule 63.19 Standard of Conduct for Financial Advisors and Service Providers**

### **34 Tex. Admin. Code § 63.19. Standard of Conduct for Financial Advisors and Service Providers**

In accordance with Tex. Gov't Code § 2263.004, financial advisors and service providers ("Financial Advisors") who receive, directly or indirectly, more than \$10,000.00 in compensation from the System during a fiscal year, and who provide financial services to the System, the System's Board of Trustees, or the individual members of the Board of Trustees regarding the management or investment of the System's funds, shall comply with all applicable standards of conduct with which they are required to comply in accordance with federal or state laws and regulations, relevant trade and professional associations and the System's Investment Policy. Financial Advisors must agree to comply with these standards of conduct as a prerequisite to establishing and continuing any business relationship with the System. Failure to comply with applicable standards of conduct authorizes the System to terminate any business or contractual relationship at the System's discretion.

## VI. ERS Procurement and Contracting Ethics

All ERS employees involved in procurement and/or contracting must act in an ethical, impartial, transparent, and professional manner in accordance with state law and the ERS Ethics policy. Any erosion of public trust or appearance of impropriety is detrimental to the integrity of the purchasing and contracting processes.

### A. Standards of Conduct

All ERS employees are required to comply with the ERS Personnel Policy and Procedure Manual (“Manual”). ERS expects its employees involved in procurement and contracting to maintain the highest level of ethics as public servants and to follow the standards of conduct outlined in Texas Government Code, Chapter 572, and the Texas Penal Code, Chapters 36 and 39, which are also reflected in the Manual.

ERS employees shall perform their official duties in a lawful, professional, and ethical manner befitting the state of Texas and ERS. Additionally, ERS expects employees to avoid behavior that has the perception of a conflict of interest when performing work on behalf of ERS. When participating in a procurement or contract matter, employees must use sound judgment in making ethical decisions and seek guidance from the ERS Deputy Executive Director and General Counsel, who is ERS’ Ethics Officer, or management if they have any doubt as to the right course of action.

In accordance with ERS’ Manual, an ERS employee shall not:

- Accept or solicit any gift, favor, or service that might reasonably tend to influence the discharge of official duties or the ERS employee knows or should know is being offered with the intent to influence their official conduct;
- Accept other employment or compensation that could reasonably be expected to impair the ERS employee’s independence of judgement in the performance of his/her official duties;
- 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;
- Intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the ERS employee’s official powers or performed official duties in favor of another; or
- Make personal investments that could reasonably be expected to create a substantial conflict between the ERS employee’s private interest and the public interest.

### B. Confidentiality

All ERS employees and independent contractors must sign a confidentiality and no communications certification (“Nondisclosure Agreement”). The Nondisclosure Agreement requires ERS employees and independent contractors to agree not to disclose or otherwise divulge any confidential information gathered during any solicitation process.

### C. Conflicts of Interest

There are multiple situations in which ERS employees are required to disclose a conflict of interest or verify that no potential or actual conflict of interest will occur should he/she participate in the procurement and/or contract management processes, including the following:

- All staff subject to § 1.2 of the Texas Procurement Manual must sign an annual conflict of interest statement.

- Under Texas Government Code § 2262.004, ERS purchasing personnel, as defined by statute, must disclose certain relationships with stakeholders of a business entity before a contract for the purchase of goods or services that has a value of at least \$1 million can be awarded to that business entity. This is done so on the Disclosure Statement for Purchasing Personnel, also referred to as the Nepotism Disclosure Form.
- For formal solicitations, ERS requires subject matter experts evaluating the responses (“Evaluation Team Members”) to sign a form verifying his/her participation in the evaluation process will not result in an actual or perceived conflict of interest and that his/her will participate in the process in an unbiased manner, to the best of his/her ability, and in line with the best interests of ERS and its Participants (“No Conflict Form”).
- For those contracts referenced under Texas Government Code § 2261.251(b), ERS employees or officials involved in the procurement or the contract management must certify his/her participation will not result in either an actual or perceived conflict of interest per Texas Government Code § 2261.252(a). For these same contracts, Texas Government Code § 2261.252 prohibits ERS from contracting with a private vendor if certain agency employees or officials identified by statute have a financial interest, as defined by statute, in that private vendor.

In its solicitation documents, ERS also requires a potential contractor to warrant and represent in its response to ERS’ request that it does not have, nor shall it permit, any conflicts of interest that would impair its ability to perform the services required under the relevant contract. ERS’ standard contract also contains extensive conflicts of interest provisions, including a provision stating that the contractor warrants and represents that, to the best of its knowledge and belief, there are no relevant facts or circumstances that could give rise to any actual or perceived conflict of interest.

ERS’ Deputy Executive Director and General Counsel evaluates each disclosed potential conflict of interest to determine whether it is necessary to address any disclosed potential or actual conflict of interest and the best means of adequately addressing such potential or actual conflict of interest.

## **VII. Conflict of Interest Statement**

### **Conflict of Interest Statement Texas Government Code Title 10, Subtitle D, Section 2155.003**

Under Section 2155.003 of the Texas Government Code, a Employees Retirement System of Texas (ERS) employee may not have an interest in, or in any manner be connected with a contract or bid for a purchase of goods or services by an agency of the state; or in any manner, including by rebate or gift, accept or receive from a person to whom a contract may be awarded, directly or indirectly, anything of value or a promise, obligation, or contract for future reward or compensation. Any individual who interacts with public purchasers in any capacity is required to adhere to the guidelines established in Section 1.2 of the State of Texas Procurement Manual which outlines the ethical standards required of public purchasers, employees, and vendors who interact with public purchasers in the conduct of state business. Entities who are interested in seeking business opportunities with the State must be mindful of these restrictions when interacting with public purchasers of ERS or purchasers of other state agencies.

## VIII. Texas Ethics Commission Brochures

- A. Revolving Door, A guide to the Revolving Door Provisions (for officers and employees leaving a state agency)
- B. "Can I Take It?" A Guide for Officers and Employees in the Executive Branch of State Government

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# Revolving Door

## A GUIDE TO THE REVOLVING DOOR PROVISIONS

*THIS GUIDE IS FOR former board members, officers, and employees of certain agencies in the executive branch of state government. Chapter 572 of the Government Code contains three revolving door provisions. Each provision applies to different groups of former members, officers, and employees.*

*The revolving door provisions do not apply to former officers or employees of the legislative or judicial branches of state government.*

**Caveat:** *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 the second and third provisions in section 572.054. For example, a former employee of the Public Utility Commission is not subject to the second or third revolving door provisions because the Public Utilities Regulatory Act contains a specific revolving door provision that applies to former employees of the Public Utility Commission.*

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### The First Revolving Door Rule

#### Two-year Prohibition Applicable to Former State Officers and Employees

The first revolving door rule applies to all former state officers and employees of a state agency.

With respect to a contract for which a state agency first advertises or otherwise solicits bids, proposals, offers, or qualifications between September 1, 2015, and August 31, 2017, if a state officer or employee has participated on behalf of the agency in a procurement or contract negotiation involving any person, then he or she may not accept employment from that person for two years after the date he or she leaves the agency.

With respect to a contract for which a state agency first advertises or otherwise solicits bids, proposals, offers, or qualifications on or qualifications on or after September 1, 2017, if a state officer or employee of a state agency participated on behalf of the agency in a procurement or contract negotiation involving any person, then he or she may not accept employment from that person for two years after the date the contract is signed or the procurement is terminated or withdrawn.

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### The Second Revolving Door Rule

#### Two-year Prohibition Applicable to Former Board Members and Executive Directors

The second revolving door rule applies to all former board members and former executive heads of regulatory agencies. For two years after a board member or executive head leaves a regulatory agency, he or she *may not* appear before or communicate with officers or employees of the agency with the intent to influence the board on behalf of any person in connection with any matter on which the person seeks official action.

The law is not an absolute prohibition on communications to an agency by a former board member or former executive head of the agency. *The restriction applies only to communications and appearances intended to influence agency action.* If, for example, a current board member calls a former board member to get information about past board activities, the former board member is free to provide information -- as long as the former board member does not try to influence the actions of the current board. This restriction applies regardless of who initiated the contact and even if a former board member or executive head is communicating on their "own behalf" with the intent to influence agency action, subject to any constitutional due process right to be heard by the agency.

### The Third Revolving Door Rule

#### Continual Prohibition Applicable to Former Board Members and Upper-level Employees

The third revolving door rule deals with work on specific “matters” and applies to all former officers and certain former employees of regulatory agencies.

**Former Officers.** The provision applies to a former “officer” of a regulatory agency. Board members of state agencies are officers. An individual elected or appointed as the head of an agency that does not have a board is an officer.

For example, the Agriculture Commissioner and the Insurance Commissioner are state officers.

**Former Employees Paid at or Above Certain Level.** The provision applies to a former employee of a regulatory agency whose ending pay was at or above the amount prescribed for salary group A17, of the state position classification salary schedule. (The 2020-2021 General Appropriations Act prescribed the minimum annual salary for that salary group (A17) as \$36,976 for fiscal years 2020 and 2021.) A former employee who received that amount or more at the time of leaving state employment is subject to the third revolving door rule, regardless of whether the former employee held a classified position or a position exempt from the classification schedule.

An officer or employee subject to the third revolving door prohibition *may never* represent a person or receive compensation for services rendered on behalf of any person regarding a "particular matter" in which he or she "participated" while serving with the agency, either through personal involvement or because the matter was within his or her official responsibility. In this context, "participated" means to have taken action as an officer or employee through decision, approval, disapproval, recommendation, giving advice, investigation, or similar action.

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The most common question raised about the third revolving door rule is whether proposed future employment would involve work on a "particular matter" that a person participated in as a state officer or employee. A "particular matter" is defined narrowly to mean something quite specific, such as an investigation, application, contract, rulemaking, or other administrative proceeding.

This means a person subject to the third revolving door prohibition may work on matters similar to matters he or she worked on as a state employee, but not on exactly the same matters. For example, a former employee of a regulatory agency who worked on Permit Application X at the agency could not leave the agency and work on Permit Application X on behalf of the applicant. The former employee could, however, work on Permit Application Z, even if Permit Application Z involved issues similar to the issues raised in connection with Permit Application X.

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**Representation of  
Nonprofit Organizations or  
Governmental Bodies**

All of the revolving door laws apply to activity on behalf of a "person." Under the revolving door laws, a "person" is an individual or business entity. It does not include a nonprofit organization or governmental body.

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**Penalties**

A violation of the second or third revolving door provisions is a Class A misdemeanor.

The Texas Ethics Commission may assess a civil penalty for a violation of any of the three revolving door laws.

## Texas Ethics Commission

P.O. Box 12070

Austin, Texas 78711

(512) 463-5800

TDD: (512) 735-2989

<http://www.ethics.state.tx.us>



If you have questions, please contact the Ethics Commission at (512) 463-5800.

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*Revised October 3, 2019*

# REVOLVING DOOR



## *LEAVING A STATE AGENCY?*

*A Texas Ethics Commission Guide to the  
Revolving Door Provisions in Chapter 572  
of the Texas Government Code*

# Can I Take It?

## RULE NO. 1

### YOU MAY NEVER TAKE ANYTHING AS CONSIDERATION FOR AN OFFICIAL ACT

The bribery law prohibits payments or gifts made in exchange for an official act. An official act includes a vote, a recommendation, and any other exercise of official discretion.

## RULE NO. 2

### YOU MAY NOT ACCEPT AN HONORARIUM FOR SERVICES YOU WOULD NOT HAVE BEEN ASKED TO PROVIDE BUT FOR YOUR OFFICIAL STATUS

This means, for example, that you may not accept a gift or payment for giving a speech if your official position was a reason for your being asked to give the speech. You may, however, accept meals, transportation, and lodging in connection with a speech as long as your speech is more than merely perfunctory. Also, you may accept a gift that is not a "benefit" such as a plaque or something of minimal value like a coffee cup, key chain, or "gimme" cap.

**THE OTHER RULES:** If acceptance of a gift or payment is permissible under Rule Nos. 1 and 2, the next step is to determine whether or not the person making the offer is a registered lobbyist.

## A. IF THE PERSON MAKING THE OFFER IS A REGISTERED LOBBYIST:

### 1. You may not accept:

- ✗ Loans, cash, or negotiable instruments other than political contributions.
- ✗ Travel or lodging for a pleasure trip. (Incidental transportation such as a short ride in a car or taxi is permissible.)

### 2. You may accept:

- ✓ Political contributions as a candidate or officeholder.
- ✓ Food and beverages if the lobbyist is with you. There is no annual limit on the value of food and beverages you may accept from a lobbyist.
- ✓ Entertainment worth up to \$500 in a calendar year. (Entertainment includes, for example, sports events and concerts.) The lobbyist providing the entertainment must be present for the event.
- ✓ Gifts, other than awards and mementos, that together do not exceed \$500 in value during a calendar year.
- ✓ Awards and mementos worth not more than \$500. This is not an annual cap, but a cap on the value of each individual award or memento.
- ✓ Travel and lodging in connection with a fact-finding trip or to a seminar or conference at which you are providing services, such as speaking, and the services are more than perfunctory. Any lobbyist who is providing travel or lodging must be present at the event.
- ✓ Tickets or other expenditures for attendance at a political fundraiser or charitable event if the lobbyist is present at the event.

Note: You can find out if someone is a registered lobbyist by calling the disclosure filings section of the Texas Ethics Commission at 512-463-5800 or by going to [www.ethics.state.tx.us/dfs/search\\_LOBBY.html](http://www.ethics.state.tx.us/dfs/search_LOBBY.html).

## PLEASE NOTE

Your name will appear on a lobbyist's activities report:

- if expenditures for your food, lodging, transportation, or entertainment in a day exceed \$132.60,\* which is 60 percent of the amount of the legislative per diem;
- if expenditures for a gift, award, or memento exceed \$50; or
- each time an expenditure is made for you to attend political fundraisers or charity events, regardless of the amount spent.

\* effective January 6, 2019

## B. IF THE PERSON MAKING THE OFFER IS NOT A REGISTERED LOBBYIST:

A state officer or employee may not take any benefit from a person subject to the regulation, inspection, or investigation by that person or that person's agency. (A "benefit" is anything reasonably regarded as pecuniary gain or advantage.) There are, however, many exceptions to this general rule. **You may accept a gift, payment, or contribution as long as the gift, payment, or contribution fits into *any one* of the following categories.**

- ✓ ITEMS WORTH LESS THAN \$50: You may accept an item with a value of less than \$50. This exception does not apply to cash, checks, or negotiable instruments.
- ✓ INDEPENDENT RELATIONSHIP: There is an exception from the general prohibition on the acceptance of benefits for a gift based on
  - kinship
  - a personal relationship independent of your official status
  - a professional relationship independent of your official status
  - a business relationship independent of your official status.

(over)

- ✓ **FEES FOR SERVICES:** You may accept a payment to which you are lawfully entitled in a capacity other than your official status. In this case you may accept the offer without restriction. Remember, you may not take an honorarium for a service that you would not have been asked to provide but for your official status.
- ✓ **POLITICAL CONTRIBUTIONS:** You may accept a political contribution as a candidate or officeholder.
- ✓ **GOVERNMENT PROPERTY:** You may accept an item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the entity.
- ✓ **FOOD, ENTERTAINMENT, TRANSPORTATION, & LODGING:** Benefits in the form of food, lodging, transportation, or entertainment are permissible if accepted as a "guest" and reported in accordance with any applicable reporting requirement. To accept something as a guest, the donor must be present. As to reporting requirements, certain elected officeholders, state agency board members, and state agency heads are required to file annual personal financial statements on which they must report certain gifts worth more than \$250. For most state *employees*, there is no applicable reporting requirement.

#### **DONATIONS TO CHARITY**

**If you receive an unsolicited benefit that you are prohibited from accepting, you may donate the benefit to a recognized tax exempt charitable organization formed for educational, religious, or scientific purposes.**

### **Texas Ethics Commission**

P. O. Box 12070  
Austin, Texas 78711-2070

(512) 463-5800  
Fax (512) 463-5777

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# *Can I Take It?*



*A Guide for Officers and Employees in the Executive Branch of State Government.*

*Note: Employees of the Governor or Lieutenant Governor should refer to the "Can I Take It?" brochure specifically applicable to those offices.*

**Revised January 3, 2019**