

TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PD-81 (rev. 7), “Multiple Employments with the State”
August 1, 2013
TABLE OF CONTENTS

<u>SECTION</u>	PAGE NUMBER
<u>AUTHORITY</u>	1
<u>APPLICABILITY</u>	1
<u>EMPLOYMENT AT WILL CLAUSE</u>	1
<u>POLICY STATEMENT</u>	1
<u>DEFINITIONS</u>	1
<u>DISCUSSION</u>	2
 <u>PROCEDURES</u>	
I. General Provisions	2
A. Primary Employer	2
B. Conditions	2
C. Limitations	2
D. Administrative Separation	3
II. Approval Process	3
A. Employee Responsibilities	3
B. Warden or Department Head Responsibilities	3
C. Division Director Responsibilities	3
D. Human Resources Director Responsibilities	4
III. Human Resources Representative Responsibilities	4
A. Approved Requests	5
B. Disapproved Requests	5
IV. Changes to Employee’s Position or Work Schedule	5
V. Coordination of Benefits and Pay	5
 Attachment A	 PERS 407 – Request for Multiple Employments (08/13).....7
Attachment B	List of State Agencies and Higher Education Institutions (08/13).9



TEXAS DEPARTMENT
OF
CRIMINAL JUSTICE

NUMBER: PD-81 (rev. 7)

DATE: August 1, 2013

PAGE: 1 of 10

SUPERSEDES: PD-81 (rev. 6)
January 1, 2009

EXECUTIVE DIRECTIVE

SUBJECT: MULTIPLE EMPLOYMENTS WITH THE STATE

AUTHORITY: Tex. Gov't Code Chapter 667; *Fair Labor Standards Act* (FLSA), 29 U.S.C. § 201

APPLICABILITY: Texas Department of Criminal Justice (TDCJ)

EMPLOYMENT AT WILL CLAUSE:

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

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

POLICY:

An employee of the TDCJ shall receive approval from the human resources director or designee in accordance with the procedures within this directive before accepting additional employment with another state agency or institution of higher education.

DEFINITIONS:

"Multiple Employments" are simultaneously paid employments for more than one state agency. Certain higher education institutions are considered state agencies for the purpose of multiple employments, to include state universities and community colleges.

DISCUSSION:

If an employee of the TDCJ is requesting approval to work at another state agency or the Windham School District while employed with the TDCJ, the employee shall submit a PERS 407, Request for Multiple Employments (Attachment A), for approval in accordance with the procedures within this directive. If an employee of the TDCJ is requesting approval to work for any other employer, for example a private employer, contract work, local government agency, or independent school district, the employee shall submit a PERS 398, Request for Outside Employment, for approval in accordance with PD-80, "Outside Employment."

Certain higher education institutions are considered state agencies for the purpose of multiple employments, to include state universities and community colleges. Private higher education institutions are not state agencies. (See Attachment B, List of State Agencies and Higher Education Institutions; this list may not be all-inclusive.)

PROCEDURES:

I. General Provisions

A. Primary Employer

The TDCJ shall be considered the primary employer for all full-time and part-time employees. The other state agency to which a TDCJ employee is applying or has received approval for multiple employments shall be considered the secondary employer.

B. Conditions

The following conditions shall be met in order for multiple employments with the state to be approved:

1. A conflict of interest shall not exist between the employee's TDCJ office or position and the employee's position with the secondary employer; and
2. The proposed multiple employments shall not interfere with the performance of duties with the TDCJ.

C. Limitations

1. An employee shall not hold more than one TDCJ position.
2. An employee shall not work part-time or full-time for the TDCJ and full-time for another state agency.

3. An employee's work hours or work cycle shall not be changed to accommodate multiple employments unless there is a clear benefit to the TDCJ.

D. Administrative Separation

An employee shall be administratively separated from TDCJ employment if it is determined that the employee is:

1. Working full time for another state agency;
2. Employed by another state agency prior to receiving approval for such employment; or
3. Employed by another state agency after a request for such multiple employments was not approved.

II. Approval Process

Requests for multiple employments shall be submitted and processed as follows:

A. Employee Responsibilities

An employee who elects to pursue a secondary employment with another state agency shall complete and submit a PERS 407, Request for Multiple Employments, to the employee's warden or department head.

B. Warden or Department Head Responsibilities

The warden or department head shall:

1. Review the PERS 407;
2. Indicate approval or disapproval on the PERS 407; and
3. If the PERS 407 is approved, forward the original to the appropriate division director.

A PERS 407 forwarded to the division director shall include original signatures. Original documents sent via fax shall be accepted.

C. Division Director Responsibilities

The division director or designee shall review the PERS 407 to determine if there is any conflict of interest between the multiple employments.

1. If the division director or designee determines a conflict of interest exists, the division director or designee shall return the PERS 407 to the employee's human resources representative with a written explanation for the return.
2. If no conflict of interest is found, the division director or designee shall forward the original PERS 407 to the human resources director for approval.

D. Human Resources Director Responsibilities

The human resources director or designee shall review a request and indicate approval or disapproval on the PERS 407. If a PERS 407 is incomplete, incorrect, or does not contain sufficient information, it shall not be approved.

1. If disapproved, the human resources director or designee shall return the PERS 407 form to the employee's human resources representative with a written explanation for the disapproval.
2. If approved, the human resources director or designee shall:
 - a. Provide the employee's human resources representative with two copies of the approved request;
 - b. Provide the employee with a copy of the approved PERS 407 form; and
 - c. Scan the original PERS 407 form into the employee's Master Personnel File.

III. Human Resources Representative Responsibilities

A. Approved Requests

The human resources representative shall:

1. Maintain one copy of the approved PERS 407, Request for Multiple Employments, in the employee's unit or department human resources file; and
2. Provide one copy to the employee's supervisor.

B. Disapproved Requests

If the request is not approved at any point, the PERS 407 shall be returned to the employee's human resources representative with a written explanation for the disapproval. The human resources representative shall:

1. Maintain the disapproved PERS 407 in the employee's unit or department human resources file;
2. Distribute a copy to the employee; and
3. Distribute a copy to the warden or department head.

IV. Changes to Employee's Position or Work Schedule

An employee's approved PERS 407, Request for Multiple Employments, shall be valid only while the employee remains in the TDCJ position and work schedule held at the time the request was approved and shall be valid only for the multiple employment position and work schedule described on the approved request. If an employee's position or work schedule changes within the TDCJ or with the previously approved secondary employer, a new PERS 407 shall be required. However, the employee may continue employment with the previously approved secondary employer pending approval or disapproval of the new request.

V. Coordination of Benefits and Pay

Upon approval of multiple employments, the TDCJ payroll department shall coordinate with the secondary state agency payroll department to ensure the following stipulations are followed:

- A. There shall be an official record of the compensation to be received by the employee from TDCJ and the secondary employer, including salary, bonus, per diem or other types of compensation.
- B. The employee may not receive benefits from the state exceeding the benefits provided for one full-time employee.
- C. TDCJ and the secondary employer shall maintain personnel and leave records, including vacation and sick leave, in compliance with the provisions of applicable state law.
 1. Completely separate leave records shall be maintained for each employment.

2. Time worked in one position shall not be used as additional tenure credit for purpose of longevity or annual leave accrual for the other position.
 3. Upon an employee's separation from one of the multiple employments, the leave balances accrued under the former employment shall not be transferred to the remaining employment.
 4. The employee shall be entitled to receive longevity or hazardous duty payment for only one employment.
 5. Overtime compensation shall accrue to each employment totally independent of the other, except when an employee is subject to the overtime provisions of the Fair Labor Standards Act (FLSA). When an FLSA non-exempt employee's time worked for the secondary employer combined with the time worked for TDCJ results in the employee being eligible for overtime compensation, the employee shall be compensated for such overtime in accordance with the FLSA by the secondary employer.
 6. The employee shall accrue state service credit for all purposes as if the employee had one employment.
- D. For salary or wages paid after December 31, 1995, the "benefit replacement pay" contributed by the state toward an employee's portion of social security tax liability shall be subject to the overall limit specified under law.
- E. The total state contribution toward an employee's group insurance shall be limited to no more than the amount specified in the applicable state law for full-time active employees.

Brad Livingston
Executive Director

Texas Department of Criminal Justice
Request for Multiple Employments
(Type or Print in Black Ink)

TDCJ EMPLOYEE INFORMATION

Name: _____ Month/Day of Birth: _____
Last First MI

TDCJ Job Title: _____ Unit/Department: _____

Salary Group/Pay Rate: _____

FLSA Exempt or FLSA Non-Exempt (Check One) Full-Time or Part-Time (Check One)

TDCJ Regular Work Days and Hours: (Indicate AM or PM) _____

Description of TDCJ job duties: _____

SECONDARY EMPLOYMENT INFORMATION

Agency Name: _____

Physical Location: _____

Position Applied For: _____ Proposed Starting Date: _____
(mm/dd/yyyy)

Work Days and Hours: (Indicate AM or PM) _____

FLSA Exempt or FLSA Non-Exempt (Check One) Full-Time or Part-Time (Check One)

Length of Proposed Employment: From: _____ To: _____ Estimated Work Hours Monthly: _____
(mm/dd/yyyy) (mm/dd/yyyy)

Estimated Monthly Salary: _____ Description of job duties with secondary employer: _____

CERTIFICATION

The proposed multiple employment shall not interfere with the performance of my TDCJ duties. I understand that a person employed by more than one state agency or institution of higher education may not receive benefits from the state that exceed the benefits provided for one full-time employee. I further understand that TDCJ shall not be responsible for overtime compensation if the time worked for TDCJ combined with the time worked for the secondary employer results in eligibility for overtime compensation. The secondary employer shall be responsible for such overtime compensation. I have read PD-81 which sets forth the requirements of Texas Government Code Chapter 667.

If this request is approved and either my current TDCJ job or my secondary job changes, a new request shall be required and shall be submitted.

Employee Signature _____ Date (mm/dd/yyyy) _____

Note to Employee: With few exceptions, you are entitled upon request: (1) to be informed about the information the TDCJ collects about you; and (2) under Texas Government Code §§552.021 and 552.023, to receive and review the collected information. Under Texas Government Code §559.004, you are also entitled to request, in accordance with TDCJ procedures, that incorrect information the TDCJ has collected about you be corrected.

SECONDARY EMPLOYER APPROVALS

Supervisor Name: _____ Address: _____ _____	Title: _____ Telephone Number: (____) _____ <small>area code</small> E-mail Address: _____ Supervisor Signature: _____ Date: (mm/dd/yyyy)
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Human Resources Representative: _____	
Name: _____ Address: _____ _____	Title: _____ Telephone Number: (____) _____ <small>area code</small> E-mail Address: _____ Human Resources Representative Signature: _____ Date: (mm/dd/yyyy)

TDCJ APPROVALS

Warden or Department Head Recommend: <input type="checkbox"/> Approval <input type="checkbox"/> Disapproval
Comments: _____

Warden or Department Head Printed Name

Warden or Department Head Signature Date: (mm/dd/yyyy)

Division Director Conflict of interest between the two jobs? <input type="checkbox"/> Yes <input type="checkbox"/> No
Comments: _____

Division Director or Designee Printed Name

Division Director or Designee Signature Date: (mm/dd/yyyy)

Human Resources Director Recommend: <input type="checkbox"/> Approval <input type="checkbox"/> Disapproval
Comments: _____

Human Resources Director or Designee Printed Name

Human Resources Director or Designee Signature Date: (mm/dd/yyyy)

List of State Agencies and Higher Education Institutions

(List may not be all inclusive)

Abilene State Supported Living Center	Galveston College	Richmond State Supported Living Center
Adjutant General's Department	Grayson County College	Rio Grande Compact Commission
Alamo Community College District	Health and Human Services Commission	Rio Grande State Center
Alvin Community College	Health Professions Council	Rusk State Hospital
Amarillo College	Hill College	Sam Houston State University
Angelina College	Houston Community College	San Angelo State Supported Living Center
Angelo State University	Howard College	San Antonio State Hospital
Austin Community College	Jacksonville College	San Antonio State Supported Living Center
Austin State Hospital	Kerrville State Hospital	San Jacinto College District
Austin State Supported Living Center	Kilgore College	School for the Blind and Visually Impaired
Big Spring State Hospital	Lamar Institute of Technology	Soil & Water Conservation Board
Blinn College	Lamar State College – Orange, Port Arthur	South Plains College
Board of Architectural Examiners	Lamar University	South Texas College
Board on Barber Examiners	Laredo Community College	Southwest Collegiate Institute
Board of Pharmacy	Lee College	Southwest Texas Junior College
Brazosport College	Legislative Budget Board	State Bar of Texas
Brenham State Supported Living Center	Legislative Reference Library of Texas	State Board for Educator Certification
Cancer Prevention and Research Institute of Texas	Lone Star College System	State Board of Education
Central Texas College	Lubbock State Supported Living Center	State District Courts
Cisco College	Lufkin State Supported Living Center	State Emergency Management Council
Clarendon College	McLennan Community College	State Office of Risk Management
Coastal Bend College	Mexia State Supported Living Center	State Prosecuting Attorneys Office
College of the Mainland	Midland College District	Stephen F. Austin State University
Collin County Community College	Midwestern State University	Sul Ross State University
Corpus Christi State Supported Living Center	Navarro College	Sunset Advisory Commission
Court of Appeals, First thru Fourteenth Districts of Texas	North Central Texas College	Tarleton State University
Court of Criminal Appeals	North Texas State Hospital	Tarrant County College
Credit Union Commission	Northeast Texas Community College	Teacher Retirement System of Texas
Dallas County Community College District	Odessa College	Temple College
Del Mar College	Office of Administrative Hearings	Terrell State Hospital
Denton State Supported Living Center	Office of Consumer Credit Commissioner	Texarkana College
Department of Aging and Disability Services	Office of Court Administration	Texas A&M University System
Department of Family and Protective Services	Office of Injured Employee Counsel	Texas Alcoholic Beverage Commission
Department of Public Safety	Office of Public Insurance Counsel	Texas Animal Health Commission
Department of Savings and Mortgage Lending	Office of State-Federal Relations	Texas Board of Chiropractic Examiners
El Paso Community College	Office of the Attorney General	Texas Board of Criminal Justice
El Paso Psychiatric Center	Office of the Governor	Texas Board of Examiners of Psychologists
El Paso State Supported Living Center	Office of Violent Sex Offender Management	Texas Board of Law Examiners
Employees Retirement System of Texas	Optometry Board	Texas Board of Nursing
Firefighters' Pension Commission	Panola College	Texas Board of Plumbing Examiners
Frank Phillips College	Paris Junior College	Texas Board of Professional Engineers
	Prairie View A&M University	Texas Board of Professional Geoscientists
	Public Utility Commission of Texas	Texas Board of Professional Land Surveying
	Railroad Commission of Texas	
	Ranger College	

List of State Agencies and Higher Education Institutions
(List may not be all inclusive)

Texas Board of Veterinary Medical Examiners	Texas Higher Education Coordinating Board	Texas Transportation Institute
Texas Bond Review Board	Texas Historical Commission	Texas Veterans Commission
Texas Commission on Environmental Quality	Texas House of Representatives	Texas Water Development Board
Texas Commission on Fire Protection	Texas Juvenile Justice Department	Texas Woman's University
Texas Commission on Jail Standards	Texas Legislative Council	Texas Workforce Commission
Texas Commission on Law Enforcement Officer Standards and Education	Texas Lottery Commission	Texas Workforce Commission Civil Rights Division
Texas Commission on State Emergency Communications	Texas Medical Board	Trinity Valley Community College
Texas Commission on the Arts	Texas Municipal Retirement System	Tyler Junior College
Texas Comptroller of Public Accounts	Texas Office for Prevention of Developmental Disabilities	University of Houston System
Texas Correctional Office on Offenders with Medical or Mental Impairments Advisory Committee	Texas Office of Public Utility Counsel	University of North Texas System
Texas Cosmetology Commission	Texas Parks & Wildlife	University of Texas System
Texas County and District Retirement System	Texas Pension Review Board	Vernon College
Texas Department of Agriculture	Texas Public Finance Authority	Victoria College
Texas Department of Banking	Texas Racing Commission	Waco Center for Youth
Texas Department of Criminal Justice	Texas Real Estate Commission	Weatherford College
Texas Department of State Health Services	Texas Department of Assistive and Rehabilitative Services	Western Texas College
Texas Department of Housing and Community Affairs	Texas School for the Deaf	Wharton County Junior College
Texas Department of Human Services	Texas Secretary of State	
Texas Department of Information Resources	Texas Senate	
Texas Department of Insurance	Texas Southern University	
Texas Department of Insurance Liquidation Division	Texas Southmost College	
Texas Department of Licensing & Regulation	Texas State Auditor's Office	
Texas Department of Transportation District	Texas State Board of Dental Examiners	
Texas Education Agency	Texas State Board of Examiners of Professional Counselors	
Texas Engineering Extension Services	Texas State Board of Podiatric Medical Examiners	
Texas Ethics Commission	Texas State Board of Public Accountancy	
Texas Executive Council of Physical and Occupational Therapy Examiners	Texas State Commission on Judicial Conduct	
Texas Facilities Commission	Texas State Library and Archives Commission	
Texas Forest Service	Texas State Preservation Board	
Texas Funeral Service Commission	Texas State Securities Board	
Texas General Land Office	Texas State Technical College	
	Texas State Treasury	
	Texas State University System	
	Texas Statewide Health Coordinating Council	
	Texas Supreme Court	
	Texas Tech University System	

Questions should be directed to the Human Resources Division, 936-437-4088.