

TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PD-81 (rev. 8), “MULTIPLE EMPLOYMENTS WITH THE STATE”
JUNE 1, 2019

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Attachment A: PERS 407, Request for Multiple Employments (06/19)

Attachment B: List of State Agencies and Institutions of Higher Education (06/19)



TEXAS DEPARTMENT
OF
CRIMINAL JUSTICE

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SUPERSEDES: PD-81 (rev. 7)
August 1, 2013

EXECUTIVE DIRECTIVE

SUBJECT: MULTIPLE EMPLOYMENTS WITH THE STATE

AUTHORITY: *Fair Labor Standards Act* (FLSA), 29 U.S.C. §§ 201–219; Tex. Educ. Code § 61.003(8); Tex. Gov’t Code §§ 493.001, 493.006(b), 667.001–.009; BP-02.08, “Statement of Internal Controls”

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 this directive limits the executive director’s authority to establish or revise human resources policy. This directive guides the operations of the TDCJ and **does not** create a legally enforceable interest for employees 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 of this directive before accepting additional employment with another state agency or institution of higher education.

DEFINITIONS:

“Conflict of Interest” is outside employment activity that conflicts with an employee’s official duties.

Examples of outside employment activity that represent a conflict of interest: (1) employment that might require or induce an employee to disclose confidential information acquired by reason of employment with the TDCJ; (2) employment in a

business, charity, non-profit organization, or professional activity, including self-employment, or receipt of compensation that could reasonably be expected to impair an employee's independence of judgment in the performance of the employee's official TDCJ duties; (3) employment intentionally or knowingly solicited, accepted, or agreed upon because the employee exercised official TDCJ powers or duties in favor of another; or (4) employment that includes activity conducted for personal profit that could reasonably be considered contrary to the best interest of the TDCJ.

In addition, a person may not be employed in a TDCJ *Fair Labor Standards Act* (FLSA) exempt position if: (1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of criminal justice; or (2) the person's spouse is an officer, manager, or paid consultant for a Texas trade association in the field of criminal justice.

"Institution of Higher Education" means any public technical institute, public junior college, public senior college or university, medical or dental unit, or public state college.

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

"Secondary Employer" is the other state agency or institution of higher education to which the TDCJ employee is applying for or has received approval for multiple employments.

"Work Cycle" is the consecutive seven-, eight-, or nine-day period of time during which the hours worked are computed to determine wage and time compensation.

DISCUSSION:

To request approval to work at another state agency or the Windham School District while employed with the TDCJ, an 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 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 institutions of higher education 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 Institutions of Higher Education; this list may not be all-inclusive. References in this directive to "state agency" include "public institutions of higher education."

PROCEDURES:

I. General Provisions

A. Primary Employer

The TDCJ is the primary employer for all TDCJ 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 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 may not hold more than one TDCJ position.
2. A TDCJ employee may not work full-time for another state agency, unless approved in accordance with this directive.
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 informed during Direct Hire Sessions about the restrictions on multiple employments in accordance with this directive and provided an opportunity to prepare a PERS 407 at that time. 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 unless approved in accordance with this directive;
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 employment 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 secondary employment with another state agency shall complete and submit a PERS 407 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. Forward the original PERS 407 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 no conflict of interest is found, the division director or designee shall forward the original PERS 407 to the human resources director for approval.
2. If 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.

D. Human Resources Director Responsibilities

The human resources director or designee shall review the 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 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; and
 - c. Forward the original PERS 407 to Employee Services for scanning into the employee's master human resources file.
2. If disapproved, the human resources director or designee shall:
 - a. Return a copy of the PERS 407 to the employee's human resources representative with a written explanation for the disapproval; and
 - b. Forward the original PERS 407 and explanation to Employee Services for scanning into the employee's master human resources file.

III. Human Resources Representative Responsibilities

A. Approved Requests

The human resources representative shall:

1. Maintain one copy of the approved PERS 407 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 is only valid while the employee remains in the TDCJ position and work schedule held at the time the request was approved and 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 approved secondary employer, a new PERS 407 is 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 the 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. The 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 may 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. An employee is only entitled to receive longevity or hazardous duty payment for one employment.
 - 5. Overtime compensation accrues to each employment independent of the other, except when an employee is subject to the overtime provisions of the FLSA. When an FLSA non-exempt employee's time worked for the secondary employer combined with the time worked for the 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 accrues 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 is subject to the overall limit specified under law.
- E. The total state contribution toward an employee’s group insurance is limited to no more than the amount specified in the applicable state law for a full-time active employee.

Bryan Collier
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 or Department: _____
Salary Group/Pay Rate: _____
FLSA Exempt ☐ or FLSA Non-Exempt ☐ (Check One) Full-Time ☐ or Part-Time ☐ (Check One)
TDCJ Regular Card Schedule 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 the TDCJ shall not be responsible for overtime compensation if the time worked for the 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 §§ 667.001--.009.

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: _____	Title: _____
Address: _____ _____	Telephone Number: (____) _____ area code
	Email Address: _____
Supervisor Signature: _____	Date: (mm/dd/yyyy)

Human Resources Representative: _____	
Name: _____	Title: _____
Address: _____ _____	Telephone Number: (____) _____ area code
	Email Address: _____
Human Resources Representative Signature: _____	Date: (mm/dd/yyyy)

TDCJ APPROVALS

Warden or Department Head Recommend: ☐ Approval ☐ 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? ☐ Yes ☐ No

Comments: _____

Division Director or Designee Printed Name

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

Human Resources Director Recommend: ☐ Approval ☐ Disapproval

Comments: _____

Human Resources Director or Designee Printed Name

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

INSTRUCTIONS

A. Requesting Employee:

Submit request to warden or department head for approval.

B. Warden or Department Head:

Forward the original PERS 407 to the appropriate division director.

C. Appropriate Division Director:

No Conflict of Interest Determined:

Forward original to the human resources director.

Conflict of Interest Determined:

1. Forward original with written explanation to Employee Services for scanning into the employee's master human resources file; and
 2. Provide a copy to the employee's human resources representative.
-

D. Human Resources Director:

Approved Request:

1. Provide the employee's human resources representative with two copies of the approved request;
2. Provide the employee with a copy of the approved PERS 407; and
3. Forward the original PERS 407 to Employee Services for scanning into the employee's master human resources file.

Disapproved Request:

1. Return a copy of the PERS 407 to the employee's human resources representative with a written explanation for the disapproval; and
 2. Forward the original PERS 407 and explanation to Employee Services for scanning into the employee's master human resources file.
-

E. Human Resources Representative:

1. Maintain a copy in the employee's unit or department human resources file, Employment section;
2. Provide a copy to the employee, if disapproved; and
3. Provide a copy to the employee's supervisor, if approved.

List of State Agencies and Institutions of Higher Education

(List may not be all inclusive)

Abilene State Supported Living Center	Civil Commitment Office, Texas	Fire Protection, Commission on
Accountancy, Board of Public	Clarendon College	Forest Service, Texas
Administrative Hearings, Office of	Coastal Bend College	Frank Phillips College
Affordable Housing Corporation	College of the Mainland	Funeral Service Commission
Aging and Disability Services, Dept. of	Collin County Community College	Galveston College
Agriculture, Department of	Competitive Government, Council on	Geoscientists, Board of Professional
AgriLife Extension Service, Texas	Comptroller of Public Accounts	Governor, Office of the
AgriLife Research, Texas	Consumer Credit Commissioner, Office of	Grayson County College
Alamo Community College District	Corpus Christi State Supported	Groundwater Protection Committee
Alcoholic Beverage Commission	County and District Retirement System	Guadalupe-Blanco River Authority
Alvin Community College	Court Administration, Office of	Gulf Coast Waste Disposal Authority
Amarillo College	Credit Union Department	Headwaters Groundwater Conservation
Anatomical Board	Criminal Appeals, Court of	Health and Human Services Commission
Angelina and Neches River Authority	Criminal Justice, Department of	Health Professions Council
Angelina College	Dallas County Community College	Health Services, Department of State
Angelo State University	Deaf, School for the	High Plains Underground Water Conserv.
Animal Health Commission	Del Mar College	Higher Education Coordinating Board
Apiary Inspection Service	Dental Examiners, Board of	Hill College
Appeals, Court of, First thru Fourteenth Dist.	Denton State Supported Living Center	Historical Commission
Appraiser Licensing and Certification Board	Developmental Disabilities, Office of	House of Representatives
Architectural Examiners, Board of	Drought Preparedness Council	Housing and Community Affairs, Dept. of
Arts, Commission on the	Education Agency	Houston Community College
Attorney General	Educational Technology, Center for	Howard College
Auditor	Educator Certification, State Board for	Information Resources (DIR), Dept. of
Austin Community College	Edwards Aquifer Authority	Injured Employee Counsel, Office of
Austin State Hospital	El Paso Community College	Insurance Counsel, Office of Public
Austin State Supported Living Center	El Paso Psychiatric Center	Insurance, Department of
Banking, Department of	El Paso State Supported Living Center.	Jacksonville College
Bar of Texas, State	Emergency Communications (911)	Jail Standards, Commission on
Big Spring State Hospital	Emergency Services Retirement System	Judicial Branch Certification Commission
Blind and Visually Impaired, School for the	Employees Retirement System	Judicial Conduct, Commission on
Blinn College	Engineering Experiment Station, TX	Judicial Council
Bond Review Board	Engineering Extension Service, TX	Juvenile Justice Department
Brazos River Authority (BRA)	Engineers, Board of Professional	Kerrville State Hospital
Brazosport College	Environmental Quality, Commission on	Kilgore College
Brenham State Supported Living Center	Ethics Commission	Lamar Institute of Technology
Canadian River Municipal Water Authority	Facilities Commission	Lamar State College – Orange, Port Arthur
Cancer Prevention and Research Institute	Family and Protective Services, Dept. of	Lamar University
Central Texas College	Feed and Fertilizer Control Service	Land Board, Veterans
Chiropractic Examiners, Board of	Finance Authority, Public	Land Office, General
Cisco College	Finance Commission	Land Surveying, Board of Professional

Laredo Community College	Pension Review Board	Sulphur River Basin Authority
Lavaca-Navidad River Authority	Pharmacy, Board of	Sunset Advisory Commission
Law Enforcement, Commission on	Physical and Occupational Therapy	Supreme Court
Law Examiners, Board of	Plumbing Examiners, Board of	Tarleton State University
Law Library	Podiatric Medical Examiners, Board of	Tarrant County College
Lee College	Prairie View A&M University	Teacher Retirement System
Legislative Budget Board	Preservation Board	Temple College
Legislative Council	Prosecuting Attorney, Office of the State	Terrell State Hospital
Legislative Reference Library	Psychologists, Board of Examiners	Texarkana College
Legislature	Public Safety, Department of	Texas A&M University System
Library and Archives Commission	Public Utility Commission	Texas Southern University
Licensing and Regulation, Department of	Public Utility Counsel, Texas Office of	Texas Southmost College
Lieutenant Governor, Office of	Racing Commission	Texas State Technical College
Lone Star College System	Railroad Commission	Texas State University System
Lottery Commission	Ranger College	Texas Tech University System
Lower Colorado River Authority	Real Estate Commission	Texas Woman's University
Lubbock State Supported Living Center	Red River Authority	Toxic Substances Coordinating Committee
Lufkin State Supported Living Center	Richmond State Supported Living	Transportation Institute, Texas
McLennan Community College	Rio Grande Regional Water Authority.	Transportation, Department of
Medical Board	Risk Management, Office of	Trinity River Authority
Mexia State Supported Living Center	Rusk State Hospital	Trinity Valley Community College
Midland College District	Sabine River Authority	Tyler Junior College
Midwestern State University	Sam Houston State University	University of Houston System
Military Department	San Angelo State Supported Living	University of North Texas System
Motor Vehicles, Department of	San Antonio State Hospital	University of Texas System
Municipal Retirement System	San Antonio State Supported Living	Upper Colorado River Authority
Navarro College	San Jacinto College District	Upper Guadalupe River Authority
Non-Anatomical Board	San Jacinto River Authority	Vernon College
North Central Texas College	Savings and Mortgage Lending, Dept. of	Veterans Commission
North Plains Ground Water Conserv. Dist.	Secretary of State	Veterinary Medical Diagnostic Lab
North Texas State Hospital	Securities Board	Veterinary Medical Examiners, Board of
North Texas Tollway Authority	Senate	Victoria College
Northeast Texas Community College	Skill Standards Board	Waco Center for Youth
Nueces River Authority	Soil and Water Conservation Board	Water Development Board
Nursing, Board of	South Plains College	Weatherford College
Odessa College	South Texas College	Western Texas College
Optometry Board	Southwest Collegiate Institute	Wharton County Junior College
Panhandle Groundwater Conservation Dist.	Southwest Texas Junior College	Wildlife Services, Texas
Panola College	State-Federal Relations, Office of	Windham School District
Paris Junior College	Stephen F. Austin State University	Workforce Commission
Parks and Wildlife Department	Sul Ross State University	

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