

YOUTH SERVICES POLICY

Title: Ethics for Public Employees: Nepotism, Prohibited Relations, Gifts, Ethics Opinions Next Annual Review Date: 04/13/2018	Type: A. Administrative Sub Type: 2. Personnel Number: A.2.38
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References: Louisiana Code of Governmental Ethics (La. R.S. 1950, Title 42; Chapter 15); La. R.S.24:56 (Lobbying Act); La. R.S.42:1101 et seq; La. R.S. 42:1112, 42:1115(A)(1) or (B), and 42:1170; United States Code 32 U.S.C.502; Chapter 6 "Rules for State Board of Ethic www.ethics.state.la.us ; State Civil Service General Circular Number 2014-002; YS Policy Nos. A.2.1 "Employee Manual" and A.2.1 (b) "General Employment Information"; A.2.3 "Outside Employment, Second Jobs"; A.2.24 "Staff Development and Training Plan", A.2.55 "Time and Attendance", and D.9.9 "Reimbursable Expenses"; ACA Standard 2-CO-1C-24 (Administration of Correctional Agencies", and the Office of Risk Management	
STATUS: Approved	
Approved By: <i>Mary L. Livers, Deputy Secretary</i>	Date of Approval: 04/13/2016

I. AUTHORITY:

Deputy Secretary of Youth Services (YS) as contained in La. R.S. 36:405, La. R.S. 24:56, the Louisiana Code of Governmental Ethics and State Civil Service General Circular Number 2014-001. Deviation from this policy must be approved by the Deputy Secretary.

II. PURPOSE:

To ensure that all employees, as well as persons doing business with, seeking to do business with, regulated by YS/OJJ or interested in matters under the jurisdiction of YS/OJJ are aware of the constraints imposed by the Louisiana Code of Governmental Ethics; and to define professional conduct and ethical standards of conduct for YS/OJJ employees.

To outline the rights and prohibitions of employees to address members of the Legislature as contained in State Civil Service General Circular Number 2014-002.

III. APPLICABILITY:

All YS/OJJ classified or unclassified employees, temporary and/or permanent, full-time and/or part-time, WAE's (when actually employed), contract providers, interns and volunteers.

IV. DEFINITIONS:

For the purpose of this policy, the following definitions apply:

Agency Head - The chief executive or administrative officer of an agency or any member of a board or commission who exercises supervision over the agency.

Annual Leave - Leave with pay granted an employee for the purpose of rehabilitation, restoration and maintenance of work efficiency, transaction of personal affairs, or in conjunction with the Family Medical Leave Act (FMLA).

Entity - Means a sole proprietorship, partnership, corporation, a limited liability company or other organization, whether for-profit or not-for-profit, that is not a governmental entity or agency.

Louisiana Employees Online (LEO) – Statewide management system which includes the Comprehensive Public Training Program (CPTP) providing online courses accessible to all state employees and which can be accessed at: <http://www.civilservice.louisiana.gov/Divisions/Training/Default.aspx>.

Public Employee - Anyone, whether compensated or not, who is:

- (i) An administrative officer or official of a governmental entity who is not filling an elective office;
- (ii) Appointed by any elected official when acting in an official capacity, and the appointment is to a post or position wherein the appointee is to serve the governmental entity or an agency thereof, either as a member of an agency, or as an employee thereof;
- (iii) Engaged in the performance of a governmental function; and/or
- (iv) Under the supervision or authority of an elected official or another employee of the governmental entity.

Public employee does not mean anyone whose public service is limited to periodic duty in the National Guard, pursuant to 32 U.S.C.502.

A public employee shall be in such status on days on which the public employee performs no services, as well as days on which the public employee performs services. The termination of any particular term of employment of a public employee shall take effect on the day the termination is clearly evidenced.

Public employee includes all classified or unclassified employees, temporary and/or permanent, full-time and/or part-time, WAE's (when actually employed) and contract providers.

Public Servant – A public employee or an elected official.

Relative- Includes the public employee's children, the spouses of his/her children, his/her brothers/sisters and their spouses, his/her parents, his/her spouse, the parents of his/her spouse, his/her aunts/uncles, his/her cousins, and his/her grandchildren and grandparents.

Training Records Entry Completed (TREC) - The database used to track training hours of all YS employees.

Unit - YS Central Office, Secure Care Facilities and Community Based Services (CBS) Regional Offices.

Unit Head - Deputy Secretary, Facility Directors and Regional Managers.

YS Central Office (CO) - Offices of the Deputy Secretary, Assistant Secretary, Undersecretary, Chief of Operations, Deputy Assistant Secretary, General Counsel, Regional Directors, and their support staff.

V. POLICY:

It is the Deputy Secretary's policy that YS/OJJ employees, contract providers, interns and volunteers of the Agency are to serve the public with respect, concern, courtesy and responsiveness, and in compliance with the Louisiana Code of Governmental Ethics. All employees, contract providers, interns and volunteers shall demonstrate the highest standards of personal integrity, truthfulness and honesty, and shall through personal conduct on or off duty, inspire public confidence and trust in government. The Agency adheres to professional and ethical standards that govern its relationships with the public, employees and youth, promotes a safe and humane work environment, affords courteous and respectful treatment, requires diligent performance, and responsible use of state resources.

It is also the Deputy Secretary's policy that a YS/OJJ employee shall make a request to the Louisiana State Board of Ethics if that employee has a question about current or planned activity, especially outside employment, and whether that activity presents a conflict with or violation of the state ethics laws.

In addition, classified employees are prohibited from engaging in efforts to support or oppose a candidate, party or faction in an election. These constitutional restrictions do not prohibit a classified employee from expressing themselves either privately or publicly on issues that may be pending before the legislature or other public body.

However, the Lobbying Act, La. R.S.24:56, does prohibit any state employee classified or unclassified "in his official capacity or on behalf of his employer" from communicating with a legislator in an attempt to influence the passage or defeat of legislation. This prohibition does not prohibit the giving of factual information to the legislature, whether the employee is acting in his official capacity or not (refer to State Civil Service General Circular Number 2014-002).

General Information about the Louisiana Code of Governmental Ethics and Restrictions/Prohibited Activities is also contained in YS Policy No. A.2.1 (a).

VI. PROCEDURES:

- A. A copy of the Louisiana Code of Governmental Ethics shall be available in Legal Services and in each unit's Human Resources Liaison's Office.

B. The Louisiana Code of Governmental Ethics ensures the following public protections:

1. The public confidence in the integrity of government;
2. The independence and impartiality of elected officials and public employees;
3. That government decisions and policies are made in the proper channel of the government structure; and
4. That public office and employment are not used for private gain.

C. Employee actions shall be guided by the following eight (8) principles of ethical conduct:

1. To abide by all applicable laws or rules pursuant to legal authority while on or off duty;
2. To refrain from any conduct in an official capacity that detracts from the public's image of anyone in criminal justice or state government employment;
3. To perform their duties and apply the law within the scope of their authority impartially;
4. To refrain from any conduct that discredits the Agency or its employees, or impairs their ability to provide YS/OJJ services;
5. To treat all with respect and courtesy including youth, arrestees, visitors and colleagues;
6. To not compromise their integrity or that of their peers or profession, by the acceptance or solicitation of favors or gifts in return for favors, or that may provide the mere appearance of such, i.e. quid pro quo;
7. To not compromise their integrity by attempting to influence any outcomes when a conflict of interest exists; and
8. To strictly observe the confidentiality of information that may be available to them as YS/OJJ employees.

D. Nepotism

1. No relative of a Unit Head of YS may be employed by that Unit Head.

2. During the interview process, each applicant must advise the interviewing supervisor or the interview panel of any relative(s) who is working for YS/OJJ by filling out the "Relatives Employed with Youth Services", [see Attachment A.2.38 (a)]. If a relative member works for YS/OJJ, the agency-designated ethics liaison, in conjunction with Legal Services, must make a determination whether or not the hiring of the applicant will cause a violation of this policy. No one shall be hired in violation of this policy.
3. An employee has a continuing duty to notify his supervisor if the employee learns that a relative has been hired by YS.

Exceptions:

1. The re-employment of a retiree whose employment was allowed under the provisions of the Louisiana Code of Governmental Ethics on the date of retirement is not prohibited.
2. Employees hired prior to April 1, 1980 (the effective date of the state statutes cited herein) are not affected by the nepotism provisions of the Louisiana Code of Governmental Ethics, nor is an employee whose relative becomes an Agency Head if the employee has been employed by YS for at least one (1) year prior to the relative's appointment to the position.
3. The current employment status of individuals employed on the effective date of this policy is not affected; however, future movements of employees within YS/OJJ could be affected. Employees cannot be transferred into a position in violation of this policy.

E. Prohibited Contractual Relations:

1. No employee or relative of the employee shall participate in a transaction involving YS/OJJ in which the employee has a personal substantial economic interest of which the employee may be reasonably expected to know.
2. No employee shall participate in a transaction involving YS/OJJ in which, to the employee's actual knowledge, any of the following persons has a substantial economic interest:
 - a. Any relative of the employee;
 - b. Any entity in which the employee has a substantial economic interest of which the employee may reasonably be expected to know;
 - c. Any entity of which the employee is an officer, director, trustee, partner, or employee;
 - d. Any person or entity with whom the employee is negotiating or has an arrangement concerning prospective employment; or

- e. Any person or entity that is a party to an existing contract with such employee, or with any legal entity in which the employee exercises control or owns an interest in excess of twenty-five percent (25%), and who by reason thereof is in a position to affect directly the economic interests of such employee.
3. Every employee shall disqualify himself from participating in a transaction involving YS/OJJ when a violation of this policy would result.
4. No employee shall bid on or enter into any contract, subcontract or other transaction that is under the supervision or jurisdiction of the agency of such employee. This prohibition on bidding extends to the relative(s) of the employee and any legal entity in which the collective family interest exceeds twenty-five percent (25%).

F. Gifts

1. No employee shall solicit or accept, directly or indirectly, anything of economic value as a gift or gratuity from any person or from any officer, director, agent or employee of such person, if such employee knows or reasonably should know that such person:
 - a. Has or is seeking to obtain contractual or other business or financial relationships with the employee's agency;
 - b. Is seeking, for compensation, to influence the passage or defeat of legislation by the employee's agency;
 - c. Conducts operations or activities which are regulated by YS/OJJ; or
 - d. Has substantial economic interests which may be substantially affected by the performance or non-performance of the employee's official duty.
2. Any thing is a "thing of economic value" for purposes of this law and policy. The only exceptions are as follows:
 - a. Promotional items having no substantial resale value, such as caps, pens, cups, t-shirts and the like, that must bear the company's name or logo; and
 - b. Food and/or drink items that are consumed as the personal guest of the giver, while in the presence of the giver, as long as the amount per person of such food and/or drink is less than sixty dollars (\$60). The maximum allowable amount herein is subject to change.

G. Abuse of Office

Public employees are prohibited from using their position to their economic or political advantage.

1. No public employee may use the authority of the employee's office or position, directly or indirectly, in a manner intended to compel another public servant or other person to provide the employee or anyone else with a thing of economic value that the public employee is not entitled to by law.
2. A public employee is prohibited from using the authority of the employee's office or position, directly or indirectly, in a manner which is intended to compel or coerce any person to engage in political activity.

H. Outside Compensation

1. No public servant shall receive anything of economic value, other than compensation and benefits from the governmental entity to which the public servant is duly entitled, for the performance of the duties and responsibilities of office or position.
2. To legally receive payments for non-public service, the work the public employee performs cannot be devoted substantially to the responsibilities, programs or operations of the agency of the public servant and in which the public servant has participated; nor can it draw substantially upon official data or ideas which have not become part of the body of public information.
3. No public employee [or a business over which a public employee exercises control or owns an interest in excess of twenty-five percent (25%)] shall receive any thing of economic value for or in consideration of services rendered, or to be rendered, to or for any person during the employee's public service unless such services are as follows:
 - a. Bona fide and actually performed by the public servant or by the entity;
 - b. Not within the course of public servant's official duties;
 - c. Not prohibited by R.S. 42:1112 or by applicable laws or regulations governing non-public employment for such public servant; and
 - d. Neither performed for nor compensated by any person from whom such public servant would be prohibited by R.S. 42:1115 (A) (1) or (B) from receiving a gift.

I. Outside Employment

1. Pursuant to YS Policy No. A.2.3, outside employment by a YS/OJJ employee must be approved by Legal Services and disclosed prior to engaging in the outside employment. If Legal Services determines that a possible conflict exists, the employee must make a formal request for an advisory opinion from the State Board of Ethics.
2. The employee must send a copy of the State Board of Ethics opinion request to Legal Services at the same time the request is forwarded to the State Board of Ethics. Copies of any written correspondence between the State Board of Ethics and the employee, especially the Board's written opinion, must also be sent to Legal Services as soon as received by the employee.

3. If the State Board of Ethics' opinion declares that the employee's outside employment or other activity creates a violation, the employee must cease that employment or activity if it has already started.

If it has not yet occurred, the employee shall not engage in that activity. An employee who does not follow the dictates of the State Board of Ethics shall be terminated.

J. Prohibited Relationships with Subordinates

No YS employee acting in a supervisory capacity shall engage in conduct that compromises their integrity by creating a conflict of interest with subordinate staff in their chain of command. Relationships between those acting in a supervisory capacity and subordinates, whether the supervision is direct or indirect, that go beyond the normal and common type of work friendship may give the appearance of impropriety and favoritism and are therefore prohibited.

K. State Board of Ethics' Opinions

1. Many YS/OJJ employees are self-employed or employed by another person or entity as a second job in addition to their YS/OJJ positions. There is often a question about whether this additional employment might violate the Louisiana Code of Governmental Ethics as a prohibited transaction or other prohibited activity, especially when the employment is directly or indirectly related to the functions performed by YS/OJJ and its contractors. Additionally, questions concerning gifts, nepotism and other matters covered by the Louisiana Code of Governmental Ethics arise from time to time.

Pursuant to La. R.S. 42:1170, YS/OJJ has a designated ethics liaison person located within Legal Services who can provide general advice and information, but the ethics liaison person may not give personal legal advice or make declarations of what is and is not ethical when it concerns an identified employee and a specific set of facts. The State Board of Ethics is the body which makes the ultimate decision as to whether or not an activity violates the Louisiana Code of Governmental Ethics.

2. Requests for advisory opinion may be submitted to the address below:

LOUISIANA ETHICS ADMINISTRATION PROGRAM

P.O. Box 4368

Baton Rouge, Louisiana 70821

3. The State Board of Ethics renders written advisory opinions with respect to situations covered by any law which it administers. Requests for advisory opinions must be in writing, signed and submitted by a person or governmental agency with a demonstrable and objective interest in the opinion requested. The Board does not render advisory opinions with respect to past conduct, but can provide crucial advice on how to avoid problems in the future.
4. Rules regarding advisory opinions can be viewed in Chapter 6 of the Rules for the State Board of Ethics. All of the rules, as well as advisory opinions and ethics violation decisions are available at the State Board of Ethics website at www.ethics.state.la.us.

VII. LOUISIANA CODE OF ETHICS VIOLATIONS:

A willful violation of the Louisiana Code of Governmental Ethics shall subject the agency head (the public employee having the authority to hire and fire the employee), the immediate supervisor of the employee, and the employee to disciplinary action and/or penalties. (Refer to YS Policy No. A.2.1)

VIII. RIGHTS/PROHIBITIONS TO ADDRESS LEGISLATURE:

- A. Any state employee classified or unclassified “in his official capacity or on behalf of his employer” is prohibited from communicating with a legislator in an attempt to influence the passage or defeat of legislation pursuant to the Lobbying Act, La R.S.24:56.
- B. The act of expressing matters of personal concern in a personal capacity are not prohibited, but if an employee wishes to express these matters during duty hours, it must be done while on annual leave (refer to State Civil Service General Circular Number 2014-002 and YS Policy No. A.2.55).
- C. Questions and answers regarding employee rights to address members of the Legislature, and supporting or opposing issues of public interest are available on the Civil Service website: http://www.civilservice.louisiana.gov/files/general_circulars/2014/GC2014-002.pdf.

IX. STAFF DEVELOPMENT:

- A. Required training for Secure Care employees:
 1. New hires shall receive pre-service/orientation training within 90 days of hire through classroom instruction by Legal Services.
 2. All employees shall receive annual in-service training provided by OJJ staff who have completed the Ethics for Public Employees training provided by the Louisiana Ethics Board or by completing the LA Code of Governmental Ethics course in LEO.

- B. Required training for CO and CBS employees:
 - 1. New hires shall receive pre-service/orientation training within 90 days of hire through classroom instruction provided by OJJ staff who have completed the Ethics for Public Employees training provided by the Louisiana Ethics Board or by completing the LA Code of Governmental Ethics course in LEO.
 - 2. All employees shall receive annual in-service training through the same method noted in B.1 above. .
- C. If the training is provided via LEO, the unit must also provide training on this policy. This training must occur during the same month as the previous year's training. Policy training may be conducted via e-mail with "Read Receipt" maintained for ORM Auditor Review.
- D. All records of compliance shall be tracked and maintained through LEO and/or TREC.

Previous Regulation/Policy Number: A.2.38

Previous Effective Date: 08/06/2015

Attachments/References:

A.2.38 (a) Relatives Employed with Youth Services 6-2011.docx