

Personal Financial Statements

Texas Ethics Commission – October 2021

Helpful Information on Website (www.ethics.state.tx.us)

- ① **Frequently Asked Questions:** Home Page → Resources → Personal Financial Statement (PFS)
- ① **Forms and Instructions:** Home Page → Forms/Instructions → Personal Financial Statement
- ① **Importing Information (TEC Filers only):** Home Page → Filing Reports → TEC Filers → Personal Financial Statement Reports
- ① **Statutes governing PFSs:** Home Page → Opinions/Statutes/Rules → Personal Financial Disclosure → Requirements for State Officers and Candidates (Ch. 572 of the Gov't Code)
- ① **TEC Rules governing PFSs (minimal):** Home Page → Opinions/Statutes/Rules → Rules: Go to Chapter 40

Topics to Cover

- **Who** files a PFS?
- **Where** do you file the PFS?
- **When** do you file?
- **What** financial activity is included?

Purpose

A state officer or state employee may not have a direct or indirect interest, including financial or other interests . . . in substantial conflict with the proper discharge of the officer's or employee's duties in the public interest.

Tex. Gov't Code § 572.001(a)

Who Files with TEC?

- Officeholders & Candidates for Elective Office:
 - The Texas Legislature
 - Statewide elected office
 - Justice of a court of appeals (includes Texas Supreme Court and Criminal Court of Appeals) and district court judge
 - District Attorney
 - State Board of Education
- Includes an appointee to any of these offices

Tex. Gov't Code § 572.021

Who Files with TEC?

- State Agencies that exercise actual authority
 - Appointed members
 - Executive Heads
- Includes certain university systems and institutions of higher education
- Includes certain river authorities
- Certain gubernatorial appointees that file with the TEC are the only ones that may file on paper

Tex. Gov't Code §§ 572.021, 572.0291(b); Tex. Ethics Comm'n Op. Nos. 138 (1993)

Who Files with TEC?

- Former or retired judge sitting by assignment
- State party chairs
- Other Officials (e.g., Commissioners of Houston Port Authority file with TEC and port authority)

Tex. Gov't Code § 572.021, Tex. Special Dist. Local Laws § 5007.208

Who Files Locally?

- Certain county judicial officials
 - Statutory county court judges
 - Statutory probate court judges
 - Candidates for these offices
- Also have the option of filing with TEC

Tex. Local Gov't Code ch. 159, sub. C

Who Files Locally?

- Counties with population of 100K+
 - County judge
 - County commissioner
 - County attorney
 - Candidates for these offices
- Counties with population of 125K+
 - Justices of the Peace
- Counties with population of 125K+ and commissioners court requires filing
 - Other county officials and candidates

Tex. Local Gov't Code Chap. 159, sub. A and B

Who Files Locally?

- ISDs: Members of their Board of trustees must file if:
 - The board adopts resolution to require filing
 - Commissioner of Education may also require filing in some circumstances

- Municipal officers and candidates, if population of 100K+

- Directors of sports and community venue districts if county pop 3.3 mil+

Tex. Educ. Code § 11.064; Tex. Local Gov't Code chs. 145, 335

Filing Dates – TEC Filers

- ⦿ **Annual Deadline: April 30th**
General deadline if held office on Jan. 1 of that year
- ⦿ Appointed state officer of major state agency: **30 days** after appointment or qualification for office
- ⦿ Appointed executive head of state agency: **45 days** after assuming duties

Tex. Gov't Code § 572.026

Filing Dates – TEC Judicial Filers

- ⦿ Judicial appointees that file with TEC: if appointed on or before April 30th: **April 30th**
- ⦿ Retired judges sitting by assignment: if you sit by assignment on or before April 30th: **April 30th**
- ⦿ Retired judges sitting by assignment: if you do not sit until after April 30th: **you can wait until you are assigned a case to file your PFS, then you have 30 days from assignment to file your PFS**

Tex. Gov't Code § 572.026

Filing Dates – TEC Candidates, Nominees

- Candidates for state office: Not later than the later of:
 - the 60th day after the date of the regular filing deadline for ballot application for primary election; or
 - **February 12th**
 - Independent and write-in candidates may have different deadlines

- Candidates for state office in special election: **5 days** before election

- Nominees to fill vacancy for state elective office: **15 days** after certificate of nomination is filed

Tex. Gov't Code § 572.027

Filing Deadline – Extension

- ⦿ Only a TEC filer with the April 30th deadline may ask for a 60-day extension
- ⦿ Must be requested on or before April 30th
- ⦿ Request is made through the PFS electronic filing application
- ⦿ Extensions generally not available for other filers (e.g., filing as a candidate, appointed state officers or appointed executive heads of state agencies)

Tex. Gov't Code § 572.026

Filing Dates – Local Authority

- ◎ Some deadlines are the same as for state officers
- ◎ But there are some differences
- ◎ Contact your local filing authority to obtain deadlines, and possible extensions

Penalties

- ◎ TEC filers:
 - \$500 administrative penalty is automatically assessed if it is late
 - May request waiver or reduction of fine
 - May also be subject to a sworn complaint

- ◎ Local filers: Contact local gov't regarding penalties

- ◎ Criminal penalties may also apply

Tex. Gov't Code §§ 571.1731, 572.033, 572.034

Contents of PFS

- ◎ Covers financial activity for the preceding calendar year
- ◎ Broad range of activity is included: **20 separate categories**
- ◎ Includes activity relating to the filer's "family member" (spouse and dependent children)

Tex. Gov't Code §§ 572.023, 572.026

Ownership Interest

- ⦿ Must include financial activity in which the filer had an ownership interest
- ⦿ Includes community property
- ⦿ Also includes the filer's financial activity in which the filer held an ownership interest, including but not limited to community property; and the financial activity of the filer's spouse and dependent children if the filer exercised, or held the right to exercise, any degree of legal or factual control over the activity, notwithstanding a partition agreement

1 Tex. Admin. Code § 40.1 and 40.2

Actual Control

- ⦿ Must also include financial activity involving a spouse or dependent child **if** the filer exercised, or held the right to exercise, any degree of control over the activity
- ⦿ Includes a spouse's separate property

1 Tex. Admin. Code § 40.2

Summary

Filer must disclose activity if:

1. Filer has an ownership interest,

OR

2. Filer has control over the interest of a family member

PFS Form and Instructions on website (www.ethics.state.tx.us)

The screenshot shows the Texas Ethics Commission website. At the top left is the state seal and the text "Texas Ethics Commission Promoting Public Confidence in Government". At the top right is a "GOOGLE" logo with the text "ENHANCED BY". Below this is a dark navigation bar with the following items: "Resources", "Opinions/Statutes/Rules", "Filing Reports", "Training", "Forms/Instructions", "Search", and "Home". The "Forms/Instructions" item is circled in red. A dropdown menu is open from "Forms/Instructions", listing various categories: "Candidate/Officeholder", "Political Committee", "Political Party", "Individuals/Entities Direct Campaign Expenditure", "Legislative Caucus", "Speaker", "Personal Financial Statement", "Lobbyist", "Treasurer Appointment", "Security", "Affidavit", "Conflict Of Interest", "Sworn Complaint", and "Other". The "Personal Financial Statement" item is also circled in red. Below the navigation bar is a video player with a play button and a pause button. The video player has a white background with a blue play button and a white pause button. The video player is partially obscured by the dropdown menu. Below the video player is a dark grey banner with the text "Forms & Personal Financial Statement".

First Steps for TEC Filers: Form Security-PFS

FORM SECURITY FOR: PERSONAL FINANCIAL STATEMENT (Texas Ethics Commission Filers Only)		FORM SECURITY- PFS
<i>Please print or type everything other than your signature. See the next page for additional information.</i>		OFFICE USE ONLY
1 FILER ID # (Ethics Commission Filers)		Date Received
2 NAME OF FILER SUBMITTING PRIMARY EMAIL ADDRESS	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms	
3 AGENCY NAME (if filer is an agency head or board member)		
4 REASON FOR FILING THIS FORM (check at least one)	<input type="checkbox"/> I want to provide my primary email address for the Texas Ethics Commission to send email password links and other notices. <input type="checkbox"/> I want the Texas Ethics Commission to set/reset my password. <input type="checkbox"/> I want the Texas Ethics Commission to clear my Security Questions and Answers.	Date Hand-Delivered or Date Postmarked
4A PRIMARY EMAIL ADDRESS		Date Processed
5 FILER CONTACT TELEPHONE (to be used if email address is invalid)	AREA CODE PHONE NUMBER EXTENSION ()	Date Imaged

Send to: formsecurity@ethics.state.tx.us

Importing Information: TEC Filers



Texas Ethics Commission

Promoting Public Confidence in Government

A screenshot of the Texas Ethics Commission website's navigation menu. The menu is located at the top of the page and includes the following items: Resources, Opinions/Statutes/Rules, Filing Reports, Training, and Forms/Instructions. The "Filing Reports" item is circled in red. A dropdown menu is open under "Filing Reports", listing the following options: Login Now, Notices, TEC Filers, Campaign Finance Reports, Lobby Reports, Personal Financial Statement Reports, Connected Reports, Speaker Reports, and Legislative Caucus Reports. The "TEC Filers" option is highlighted with a white background and is also circled in red. Below the dropdown menu, there is a link for "Local Filers" and a text link for "1295 Filers: Certificates of Interested Parties". The background of the screenshot shows a video player with a play button and a pause button.

Importing Information

Instructional Videos on Using the Application

Importing PFS Parts from a Spreadsheet into the Application

- PFS Import Guide
- PFS Parts Templates:
 - Part 1A. Sources of Occupational Income
 - Part 2. Stock Template
 - Part 3. Bonds Template
 - Part 4. Mutual Funds Template
 - Part 5. Interest/Dividends Template
 - Part 7B. Interest in Business Entities
 - Part 8. Gift Info
 - Part 10A. Blind Trusts
 - Part 11. Business Associations Template
 - Contains examples for Parts 11A, 11B, and 11C
 - Part 12. Boards and Executive Positions
 - Part 13. Expenses Accepted Under Honorarium
 - Part 14. Interests in Business in Common with a Lobbyist
 - Part 15. Fees Received from Lobbyists
 - Part 16. Legislator Representing a Person Before State Agency
 - Part 17. Benefits from Functions Honoring Public Servant
 - Part 18. Legislative Continuance
 - Part 19. Contracts with Governmental Entity
 - Template #1
 - Template #2
 - Template #3
 - Part 20. Bond Counsel Services provided by a Legislator
- CSV Import File Format Verifier Application

Part 1A: Occupational Income

- ⦿ Refers to current occupational activity
- ⦿ Retirement income does not have to be reported as occupational income
- ⦿ However, investments in a retirement account may be reportable in another category - e.g., stocks, bonds, mutual funds, or dividends

Tex. Gov't Code § 572.023(b)(1); Tex. Ethics Comm'n No. Op. 392 (1998)

Part 1B: Retainers

This section asks for information about fees received by the filer or family member, or received by a business in which the filer or family member had a “substantial interest,” as a retainer for a claim on future services in case of need. Report such retainers only in cases in which the value of the amount of work actually performed during the calendar year did not equal or exceed the value of the retainer.

Tex. Gov’t Code §§ 572.005, 572.023(b)(1)

Parts 2-4: Stocks, Bonds and Mutual Funds

- ◎ Must disclose stocks, bonds, & mutual funds
 - Must disclose investments held in a managed fund
 - Not required to disclose stocks held in a mutual fund
 - Applies to filer and family member

- ◎ If you had several transactions involving stock of a particular entity, indicate the net gain or net loss resulting from those transactions for the entire year. You do not have to show the net gain or net loss from each sale of stock in the same business entity.

Tex. Gov't Code § 572.023(b)(2, 3 and 13); EAO 326

Part 5: Income from Interest, Dividends, Royalties & Rents

- ⦿ Must disclose income from interest, dividends, royalties, & rents, if they exceed \$900 during the year from any source
- ⦿ Income owed to the filer and family members, if the filer has actual control
- ⦿ If the source of the income is a publicly traded corporation, check that box and include only the corporation's name – do not include the address

Tex. Gov't Code § 572.023(b)(4); 1 Tex. Admin. Code § 40.11

Part 6: Personal Notes and Lease Agreements

- ⦿ Must disclose notes and other commercial paper, if the amount owed is more than \$1,790
- ⦿ Obligations owed by the filer
- ⦿ Obligations owed by the filer's family member, if the filer had "actual control"

Tex. Gov't Code § 572.023(b)(5)

Part 7A: Interests in Real Property

- ⦿ Must disclose any beneficial interest held in real property by filer or family member
- ⦿ Must also disclose anyone else who holds an interest, excluding spouse or dependent children

Tex. Gov't Code § 572.023(b)(6)

Part 7B: Interests in Business Entities

- ⦿ Must disclose any beneficial interests in business entities held by filer or family member
- ⦿ Must also disclose anyone else who holds an interest, excluding spouse or dependent children
- ⦿ Contrast with Part 11A

Tex. Gov't Code §§ 572.002(2), 572.023(b)(6)

Part 8: Gifts

- ⦿ Must disclose any gift valued at over \$450 received by filer or family member
- ⦿ Gift definition in Chap. 572 is broader than in Chap. 36 of the Penal Code or Chap. 305 of the Government Code (lobbyists)
- ⦿ Do not include:
 - Gifts reported by lobbyist as lobby expenditure;
 - Political contribution; or
 - Gift given by someone related to you within 2nd degree of consanguinity or affinity

Tex. Gov't Code § 572.023(b)(7); Tex. Ethics Comm'n No. Ops. EAO 29 (1992), 71 (1992), 415 (1999), 421 (1999), 428 (2000)

Part 9: Trust Income

- ⦿ Must disclose the source and amount of all income received as the beneficiary of a trust
- ⦿ Must also identify each trust asset from which income was received by the filer in excess of \$900
- ⦿ Does not include blind trusts; see Part 10

Tex. Gov't Code § 572.023(b)(8)

Part 10A: Blind Trusts

- ◎ Blind trust defined: where the trustee is:
 - a disinterested party;
 - not the filer;
 - not required to register as a lobbyist;
 - not a public officer or employee; and
 - was not appointed to public office by the filer

- ◎ Must disclose following information about a blind trust:
 - fair market value of the trust;
 - date trust was created; and
 - trustee's name and address

Tex. Gov't Code § 572.023(b)(14)

Part 10B: Trustee Statement

- ◎ Must state that the trustee:
 - Has not revealed any information to the filer except information that may be disclosed on Part 8
 - To the best of the trustee's knowledge, the trust complies with this section

Tex. Gov't Code § 572.023(b)(14)(D)

Part 11A: Ownership of Business Associations

- ⦿ Must disclose any ownership interests in business association if filer or family member held, acquired, or sold 5% or more of ownership
- ⦿ Business association includes a corporation, firm, partnership, LP, LLP, PC, PA, JV or other business association

Tex. Gov't Code § 572.023(b)(9)(B)

Parts 11B and 11C: Assets and Liabilities of Business Associations

- ◎ Must disclose assets & liabilities of a business association if filer or family member held, acquired, or sold 50% or more of ownership
- ◎ Asset and liability is not defined

Tex. Gov't Code § 572.023(b)(9)(B)

Part 12: Boards and Executive Positions

- ⦿ Must disclose membership by filer or family member on a board of a corporation, firm, partnership, LP, LLP, PC, PA, JV, or other business association or proprietorship
- ⦿ Includes nonprofits
- ⦿ If you were paid for this service, include that information in Part 1A also.

Tex. Gov't Code § 572.023(b)(10)

Part 13: Honoraria

- ⦿ Must disclose anyone who provided transportation, lodging or meals for a conference where the filer provides services that are more than merely perfunctory

- ⦿ Do not include this information if someone else discloses it:
 - Political contributions or expenditures (reported by candidate or officeholder); or
 - Expenditures reported by lobbyist

Tex. Gov't Code § 572.023(b)(11); Tex. Ethics Comm'n Op. No. 401 (1999)

Part 14: Business with Lobbyist

- ⦿ Must disclose any interests in business entities where the filer or family member and a lobbyist both have an interest
- ⦿ See previous slides for list of what is a business entity

Tex. Gov't Code § 572.023(b)(12)

Part 15: Lobbyist Fees

If you are a state officer and you receive a fee for services rendered by you to or on behalf of a lobbyist (or to or on behalf of a person or entity that you know directly compensates or reimburses a lobbyist), you must disclose the name of each person or entity for which the services were rendered and the amount of each fee, by category.

Tex. Gov't Code § 572.024

Part 16: Legislator Representation Before State Agency

If a legislator represents another person for compensation before an executive state agency, they must report:

- ⦿ the agency name;
- ⦿ the person they represent; and
- ⦿ the amount of compensation received, by category

Tex. Gov't Code § 572.025

Part 17: Benefits Derived from Function Honoring Public Servant

Must report any benefit that is derived from a function in honor or appreciation of the filer or family member if:

- ⦿ it is in excess of \$50; and
- ⦿ the benefit is used solely to defray expenses that accrue in the performance of duties or activities in connection with the office which are nonreimbursable by the state or political subdivision.

Tex. Penal Code § 36.10(a)(3)

Part 18: Legislative Continuances

- ⦿ Only for legislators or legislators-elect
- ⦿ If filer obtains a legislative continuance, they must report:
 - party represented;
 - date retained;
 - case style and cause number, including court and jurisdiction;
 - date you applied for the continuance; and
 - whether it was granted
- ⦿ Must also send information directly to TEC via treasappoint@ethics.state.tx.us

Tex. Gov't Code § 572.0251

Part 19: Contracts with Governmental Entity

Required if:

- ⦿ Filer or family member, or any business entity of which the filer or family member had at least 50 percent ownership interest, was a party to one or more written contracts, AND

- ⦿ All of the following apply to the contracts:
 - the contracts were for the sale of goods or services in the amount of \$2,500 or more;
 - the aggregate cost of the goods or services under the contracts exceeds \$10,000 in the calendar year; and
 - the contracts were with either:
 - a governmental entity, or
 - a person who contracts with a governmental entity, if the individual or entity performed work arising out of the contract, subcontract, or agreement for a fee

Tex. Gov't Code § 572.023(b)(15)

Part 20: Bond Counsel Services by Legislator

- ⦿ Only for legislators who provided bond counsel services to an issuer as defined by Section 1201.002(1) of the Texas Government Code.

- ⦿ For each issuance, filer must provide:
 - issuer name;
 - issuance date;
 - issuance amount;
 - fees paid to filer; and
 - fees, if any, paid to filer's firm

Tex. Gov't Code §§ 572.023(b)(16), 1201.002(1)

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Thanks for watching!

QUESTIONS?



Call 512-463-5800 or send an email to
reception@ethics.state.tx.us