

TRANSLATION

REPUBLIC OF PANAMA MINISTRY OF THE PRESIDENCY

EXECUTIVE DECREE No. 246 (dated 15 December 2004)

“Whereby the Uniform Code of Ethics for
Public Servants working in Central Government Institutions is established”

THE PRESIDENT OF THE REPUBLIC
In use of his constitutional powers,

CONSIDERING:

That by means of article 27 of Law 6 dated 22 January 2002, “Whereby the rules for transparency in public management, Habeas Data and other provisions are established,” all Government agencies, including those under the Executive, Legislative, and Judicial Branches, municipal and local governments, and community boards were given six months to develop a Code of Ethics for the proper execution of public functions.

That under the provisions of that regulation, the different agencies of the Public Sector have created a series of codes loosely incorporating the ethical and moral principles required by the cited article.

That the Executive Branch considers it indispensable for the proper execution of public management in those entities which are part of the Central Government, to have a document containing uniform ethical and moral rules and standards which must, at all times, guide the behavior of the public servants working in such entities.

DECREES:

CHAPTER I SCOPE OF APPLICATION AND DEFINITIONS

ARTICLE 1: Compliance with the provisions of this decree is compulsory for all public servants, regardless of rank or standing, providing services in the different institutions of the central government and its autonomous and semi-autonomous entities, as well as in companies and corporations in which the government is the major stock holder.

ARTICLE 2: For the purposes of this decree, Public Function is understood as all permanent or temporary activity, paid or ad-honorem, performed on behalf of the State by a natural person in any of the institutions referred to in the previous article, regardless of his/her rank or standing.

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CHAPTER II GENERAL PRINCIPLES

ARTICLE 3: MORAL INTEGRITY. Public servants must act honestly and honorably, ensuring they satisfy the general interest and eschewing all personal gain or advantage obtained directly or by proxy. Nor will they accept any payment or compensation from third parties that could lead them to fail to fulfill their duties and obligations.

ARTICLE 4: PRUDENCE. Public servants must act with full knowledge of the matter under consideration and with the same diligence a good manager would use for his/her own property, since the exercise of the public function must inspire trust in the community. Furthermore, they should avoid actions that might jeopardize the purpose of the public function, State Property or the image Society should have of its public servants.

ARTICLE 5: JUSTICE. Public servants must always be willing to faithfully execute their duties and to contribute to the full realization of the rights enjoyed by citizens in their relations with the State.

ARTICLE 6: SOBRIETY. Public servants must carry out their duties with respect and sobriety, using the inherent prerogatives of their position and the means available to them only for the fulfillment of their tasks and duties. They must also avoid any ostentation that might call into question their honesty or willingness to fulfill the responsibilities inherent in their position.

ARTICLE 7: SUITABILITY. Suitability, defined as technical, legal, and moral aptitude, is an essential condition for the acceptance and pursuit of public functions.

ARTICLE 8: RESPONSIBILITY. Public servants must make every effort to comply fully with their duties. The higher the position held as a public servant, the greater the responsibility to comply with the provisions of this Uniform Code of Ethics.

ARTICLE 9: TRANSPARENCY. Except for those limitations provided by Law, public servants will ensure access to government information without limitations other than those imposed by the public interest and individual privacy rights. They will also ensure that public resources are used and applied transparently and responsibly, refraining from exercising any personal discretion with respect to these.

ARTICLE 10: EQUALITY. Public servants will have as an unwavering rule in their actions and decisions, to ensure equal opportunity for all citizens and foreigners residents in the country, without distinction of race, nationality, disability, social class, sex, religion or political views.

ARTICLE 11: RESPECT. Without exception, public servants will respect the dignity of the individual and his/her inherent rights and liberties.

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ARTICLE 12: LEADERSHIP. Public servants will promote and support the principles provided in this Executive Decree by example.

CHAPTER III SPECIFIC PRINCIPLES

ARTICLE 13: COMPETENCE. The entity appointing a public servant must verify that the person chosen has met all requirements set by law and regulations to determine his/her suitability for the position. No one should accept appointment to a position for which he/she is not suitable.

ARTICLE 14: TRAINING. Public servants should ensure they are trained for the best performance of their duties, as determined by the rules governing the service or provided by relevant authority.

ARTICLE 15: LEGALITY. Public servants must comport themselves according to the National Constitution and the laws and regulations governing the activity, and if in doubt seek counsel. They should also observe behavior beyond reproach at all times.

ARTICLE 16: EVALUATION. Public servants should evaluate the background, reasons, and consequences of the acts generated or executed by their position.

ARTICLE 17: ACCURACY. Public servants are obligated to express themselves truthfully in the performance of their duties, both with individuals as well as superiors and subordinates, and must contribute to the clarification of the truth.

ARTICLE 18: CONFIDENTIALITY. Public servants must maintain the confidentiality of the facts and information acquired in the performance of their duties, without prejudice to their duties and responsibilities under the rules governing administrative secrecy or confidentiality.

ARTICLE 19: AFFIDAVIT ON ASSETS. Public servants are required by article 304 of the Constitution of the Republic and the laws implementing it to submit a sworn statement on their assets and financial condition.

ARTICLE 20: OBEDIENCE. Public servants must comply with the orders given to them by their superiors that meet the formalities of the case and are related to their assigned duties, except when the orders are manifestly arbitrary or illegal.

ARTICLE 21: INDEPENDENT OPINION. Public servants must not become involved in situations, activities or interests incompatible with their functions or that involve a conflict of interest. They should refrain from any behavior that would affect their independence of judgment in the performance of their functions.

ARTICLE 22: EQUITY. The use of fairness criteria to adapt the legal solution to a fairer result must not violate the law.

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ARTICLE 23: EQUAL TREATMENT. Public servants must not engage in discriminatory acts in relation to the public or other government agents. All people must be given equal treatment under equal conditions. Equal conditions are understood to exist when there are no differences that should be considered according to existing rules, which would establish a priority. This principle also applies to the public servant's relations with his/her subordinates.

ARTICLE 24: PROPER EXERCISE OF OFFICE. The proper exercise of office involves personal fulfillment of this Uniform Code of Ethics and the duty to ensure its observance by subordinates.

Public servants should not seek to obtain improper benefits or advantages for themselves or others through the use of their position, authority, influence or appearance of influence.

Nor should they use reprisals of any type or bring pressure in any way against any employee or other person, except within the strict performance of their duties.

ARTICLE 25: PROPER USE OF STATE PROPERTY. Public servants must protect and secure State property. They must use the ones assigned to them to carry out their duties in a rational manner, avoiding abuse, waste or misuse.

Nor can they employ them or allow others to do so for political or private use, or for purposes other than those for which they were intended. Protocol or special mission activities outside of the office or normal work hours in which the servant must participate are not considered private purposes.

ARTICLE 26: PROPER USE OF WORK TIME. Public servants should use the time in their work schedule responsibly, in order to properly perform their duties. They must perform their duties efficiently and effectively and ensure that their subordinates do the same. They should not encourage, require or ask their subordinates to use their work hours for activities other than those required to perform their duties.

ARTICLE 27: COOPERATION. Public servants should perform tasks that are necessary to mitigate, neutralize or overcome difficulties faced in extraordinary situations, even though these tasks are not strictly or inherently part of their job description.

ARTICLE 28: USE OF INFORMATION. Public servants must not use the information handled by them in the exercise of their functions and that is not intended for the general public, for their personal or a third party's benefit, or for purposes unrelated to their functions. Nor should they use information which provides an unfair advantage, leads to a violation of law or creates discrimination of any kind, for their own or a third party's benefit.

ARTICLE 29: DUTY TO REPORT. Public servants must report to their superior or to the appropriate authorities, those acts ascertained in connection with the performance

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of their duties that could cause damage to the State or constitute a crime or violations of any provision of this Code.

ARTICLE 30: DIGNITY AND DECORUM. Public servants should observe a dignified and decent behavior, acting with restraint and moderation. They must behave respectfully and correctly at all times when dealing with the public and other officials.

ARTICLE 31: HONOR. Public servants suspected of having committed a crime against the Public Administration should facilitate the investigation and assist with administrative and judicial measures ordered by competent authority to clarify the situation, in order to preserve their honor and the dignity of their position.

ARTICLE 32: TOLERANCE. Faced with public and media criticism, public servants must observe a degree of tolerance greater than what could reasonably be expected of an ordinary citizen.

ARTICLE 33: DEMEANOR. Public servants must act with common sense and good judgment in the performance of their duties.

CHAPTER IV PROHIBITIONS

ARTICLE 34: GENERAL PROHIBITIONS. Public servants may not directly or indirectly give, solicit or accept gifts, benefits, promises or other preferences from individuals or other officials.

ARTICLE 35: PROHIBITED BENEFITS. Public servants may not directly or indirectly solicit, agree to or accept money, gifts, benefits, presents, favors, promises or other preferences for themselves or for others in the following situations:

- a) To expedite, delay or fail to perform tasks related to their duties;
- b) To exercise their influence over another public servant to expedite, delay or fail to perform tasks related to their duties;
- c) When it is obvious that they would not have been offered or given if the recipient did not occupy the position or function.

ARTICLE 36: ASSUMPTIONS. It is assumed that the benefit is specifically prohibited if it comes from a person or entity that:

- a) Carries out activities regulated or supervised by the body or entity in which the public servant works;
- b) Manages or operates concessions, allowances, privileges or franchises granted by the body or entity in which the public servant works;

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- c) Is or aspires to be a contractor or supplier of goods or services to the institution in which the public servant works;
- d) Is seeking a decision or action from the entity in which the public servant works;
- e) Has interests that could be significantly affected by an action, decision or omission of the body or entity in which the public servant works.

ARTICLE 37: EXCEPTIONS. The following are exceptions to the prohibitions provided in letter c) of article 35:

- a) Recognition of a protocolar nature and generally accepted by law or custom, granted by governments, international organizations or nonprofit entities;
- b) Travel and accommodation expenses granted by governments, educational institutions or nonprofit agencies to speak at or participate in conferences, courses or academic or cultural activities, as long as they are not incompatible with their functions or are prohibited by special rules;
- c) Gifts or benefits of nominal value which, under the circumstances, could not reasonably be regarded as an attempt to influence the honest judgment of the public servant.

ARTICLE 38: EXCEPTION. Minor gifts made because of friendship or personal relationship on occasions in which these are normally given, are excluded from the prohibitions in the preceding articles.

CHAPTER V REASONS FOR RECUSAL

ARTICLE 39: CONFLICT OF INTEREST. To preserve independence of judgment and the principle of fairness, public servants cannot maintain relationships or accept situations in which their personal, labor, economic or financial interests might be in conflict with the fulfillment of their duties and tasks.

Nor can they manage, administer, advise, sponsor, represent or provide any services, paid or not, to people who manage or operate concessions or privileges or are suppliers of the State or maintain links involving benefits or obligations with entities controlled directly by the branch or entity in which they perform their functions.

ARTICLE 40: RECUSAL. Public servants must recuse themselves and refrain from participating in all cases where a conflict of interest might arise, and they must report this circumstance to their superior.

ARTICLE 41: NEPOTISM. Public servants must refrain from appointing their spouses, partners or other relatives within the third degree of consanguinity or second degree of affinity to public positions.

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Public servants must also refrain from holding public office in the same administrative unit or in administrative units having joint control or supervision in which relatives indicated above are working now or in the future, without reporting this situation promptly to their superior.

ARTICLE 42: ACCUMULATION OF POSITIONS. Except in the cases provided for in the Political Constitution of the Republic or Law, a public servant holding a position in public administration may not hold any other paid national or municipal position.

ARTICLE 43: PROHIBITION ON CARRYING OUT ACTIONS AND PROCEDURES. Public servants should not manage or sponsor actions or administrative procedures for third parties regardless of whether these are within their purview, nor should public servants execute contracts with the Administration when these have links to the entity or institution where the public servant works.

CHAPTER VI SANCTIONS

ARTICLE 44: SANCTIONS. Public servants violating any of the provisions of this decree will be punished administratively by verbal reprimand, written reprimand or dismissal, depending on the seriousness of the misconduct.

ARTICLE 45: PROCEDURE. In the case of violations of this Uniform Code of Ethics, the persons responsible in each entity, acting ex officio or at the request of an interested party, should initiate the administrative proceeding in accordance with the provisions contained in Title VII of Law 9 dated 20 June 1994, without prejudice to any civil or criminal liability arising from the infringement.

If a punishable act against the Public Administration is found, the person in the entity responsible for the investigation must report the fact to the competent authority.

CHAPTER VII FINAL PROVISIONS

ARTICLE 46: This Decree rescinds Executive Decree 13 dated 24 January 1991.

ARTICLE 47: This Decree shall take effect upon its publication in the Official Gazette.

LET IT BE KNOWN AND ENFORCED.

Given in the city of Panama on the fifteenth day of December, two thousand four (2004)

MARTÍN TORRIJOS ESPINO
President of the Republic

UBALDINO REAL S.
Minister of the Presidency