



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 295

December 15, 1995

Whether an agency employee who uses work time to work on a lawsuit filed against the agency would be violating section 39.02(a)(2) of the Penal Code. (AOR-330)

A state agency has asked whether an agency employee who uses work time to work on a lawsuit filed against the agency would be violating section 39.02(a)(2) of the Penal Code. Section 39.02(a)(2) provides that a public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly

misuses government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant's custody or possession by virtue of the public servant's office or employment.

The work time of a state employee is a thing of value belonging to the state. [Ethics Advisory Opinions Nos. 172, 134](#) (1993). An employee who used state agency work time to work on a lawsuit the employee had filed against the state would be misusing a thing of value belonging to the state. Therefore, if the other elements of the offense set out in section 39.02(a)(2) of the Penal Code were present, using state agency work time to work on such a lawsuit would be a violation of the Penal Code.

SUMMARY

An employee who used state agency work time to work on a lawsuit the employee had filed against the state would be misusing a thing of value belonging to the state.