

**ETHICS REVIEW COMMISSION**  
**CHAPTER 2-7 CITY CODE**  
**COMPLAINT**

NAME OF PERSON(S) FILING COMPLAINT: Brian Molloy, Chief of Investigations at  
Office of the City Auditor

OCC RECEIVED AT  
DEC 11 '18 PM 2:30

MAILING ADDRESS: P.O.Box 1088, Austin TX, 78767-1088

PHONE NUMBER: (512)-974-2805

EMAIL ADDRESS: brian.molloy@austintexas.gov

PLEASE FILE A SEPARATE COMPLAINT FORM FOR EACH PERSON  
COMPLAINED AGAINST.

NAME OF PERSON COMPLAINED AGAINST: Joya Hayes, Director of Human  
Resources Department

CITY OFFICE, DEPARTMENT, COMMISSION: Human Resources Department

MAILING ADDRESS: unknown

PHONE NUMBER [IF KNOWN]: (512)-974-3246

EMAIL ADDRESS [IF KNOWN]: joya.hayes@austintexas.gov

The Ethics Review Commission has jurisdiction to hear complaints alleging violation(s) of  
the following provisions:

- City Code, Chapter 2-1, Section 2-1-24 (City Boards, Conflict of Interest and Recusal)
- City Code, Chapter 2-2 (Campaign Finance)
- City Code, Chapter 2-7 (Ethics and Financial Disclosure), except for Article 6 (Anti-lobbying and Procurement)
- City Code, Chapter 4-8 (Regulation of Lobbyists)
- City Charter, Article III, Section 8 (Limits on Campaign Contributions and Expenditures)

PLEASE LIST EACH ALLEGED VIOLATION OF THE ABOVE CITY CODE AND  
CHARTER PROVISIONS SEPARATELY ON THE FOLLOWING PAGES.

I.

SECTION OF CHARTER OR ORDINANCE VIOLATED: City Code 2-7-62(G)

DATE OF ALLEGED VIOLATION: Various dates include February 2018

ACTIONS ALLEGED TO BE A VIOLATION:

We found evidence indicating that Joya Hayes, Director of Human Resources Department, solicited and accepted favors that might reasonably tend to influence her in the discharge of her duties from employees in various City departments, including her own.

WITNESSES OR EVIDENCE THAT WOULD BE PRESENTED: \_\_\_\_\_

**(see table of contents attached)**

CONTACT INFORMATION OF ANY PERSON(S), OTHER THAN THE PERSON COMPLAINED AGAINST, WHO IS IDENTIFIED BY NAME ABOVE OR IN ANY ATTACHMENTS AS INVOLVED IN THE ALLEGED INAPPROPRIATE CONDUCT: (Leave blank if inapplicable.)

NAME n/a \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

EMAIL ADDRESS [IF KNOWN]: \_\_\_\_\_

NAME: n/a \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

EMAIL ADDRESS [IF KNOWN]: \_\_\_\_\_

NAME: n/a \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

EMAIL ADDRESS [IF KNOWN]: \_\_\_\_\_

II.

SECTION OF CHARTER OR ORDINANCE VIOLATED: City Code 2-7-62(O)

DATE OF ALLEGED VIOLATION: Various dates, including February 2018

ACTIONS ALLEGED TO BE A VIOLATION:

We found evidence indicating that Joya Hayes, Director of Human Resources Department, used her position to obtain favors from employees in various City departments, including her own.

WITNESSES OR EVIDENCE THAT WOULD BE PRESENTED: \_\_\_\_\_  
(see table of contents attached)

CONTACT INFORMATION OF ANY PERSON(S), OTHER THAN THE PERSON COMPLAINED AGAINST, WHO IS IDENTIFIED BY NAME ABOVE OR IN ANY ATTACHMENTS AS INVOLVED IN THE ALLEGED INAPPROPRIATE CONDUCT: (Leave blank if inapplicable.)

NAME: n/a

MAILING ADDRESS: \_\_\_\_\_

EMAIL ADDRESS [IF KNOWN]: \_\_\_\_\_

NAME: n/a

MAILING ADDRESS: \_\_\_\_\_

EMAIL ADDRESS [IF KNOWN]: \_\_\_\_\_

NAME: n/a

MAILING ADDRESS: \_\_\_\_\_

EMAIL ADDRESS [IF KNOWN]: \_\_\_\_\_

III.

SECTION OF CHARTER OR ORDINANCE VIOLATED: City Code 2-7-62(I)

DATE OF ALLEGED VIOLATION: Various dates, including February 2018

ACTIONS ALLEGED TO BE A VIOLATION:

We found evidence indicating that Joya Hayes, Director of Human Resources Department, used City employees in various City departments, including her own, for a private purpose.

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WITNESSES OR EVIDENCE THAT WOULD BE PRESENTED: \_\_\_\_\_

**(see table of contents attached)**

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CONTACT INFORMATION OF ANY PERSON(S), OTHER THAN THE PERSON COMPLAINED AGAINST, WHO IS IDENTIFIED BY NAME ABOVE OR IN ANY ATTACHMENTS AS INVOLVED IN THE ALLEGED INAPPROPRIATE CONDUCT: (Leave blank if inapplicable.)

NAME: n/a

MAILING ADDRESS: \_\_\_\_\_

EMAIL ADDRESS [IF KNOWN]: \_\_\_\_\_

NAME: n/a

MAILING ADDRESS: \_\_\_\_\_

EMAIL ADDRESS [IF KNOWN]: \_\_\_\_\_

NAME: n/a

MAILING ADDRESS: \_\_\_\_\_

EMAIL ADDRESS [IF KNOWN]: \_\_\_\_\_

IV.

SECTION OF CHARTER OR ORDINANCE VIOLATED: \_\_\_\_\_

DATE OF ALLEGED VIOLATION: \_\_\_\_\_

ACTIONS ALLEGED TO BE A VIOLATION:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

WITNESSES OR EVIDENCE THAT WOULD BE PRESENTED: \_\_\_\_\_

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CONTACT INFORMATION OF ANY PERSON(S), OTHER THAN THE PERSON COMPLAINED AGAINST, WHO IS IDENTIFIED BY NAME ABOVE OR IN ANY ATTACHMENTS AS INVOLVED IN THE ALLEGED INAPPROPRIATE CONDUCT: (Leave blank if inapplicable.)

NAME: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

EMAIL ADDRESS [IF KNOWN]: \_\_\_\_\_

NAME: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

EMAIL ADDRESS [IF KNOWN]: \_\_\_\_\_

NAME: \_\_\_\_\_

MAILING ADDRESS: \_\_\_\_\_

EMAIL ADDRESS [IF KNOWN]: \_\_\_\_\_

[IF MORE ROOM IS NECESSARY, PLEASE CONTINUE ON A BLANK PAGE USING THE SAME FORMAT]

ALL THE STATEMENTS AND INFORMATION IN THIS COMPLAINT ARE TRUE AND FACTUAL TO THE BEST OF MY KNOWLEDGE.

DATE: 12/11/2018

Brian Molloy  
COMPLAINANT'S SIGNATURE

Brian Molloy  
PRINT NAME

STATE OF TEXAS

COUNTY OF TRAVIS

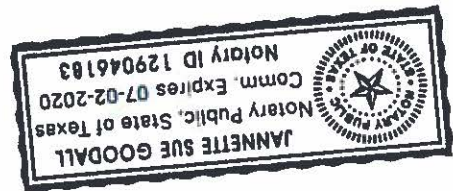
This instrument was acknowledged, sworn to and subscribed before me by

Brian Molloy

On the 11 day of December, 2018, to certify which witness my hand and official seal.

Jannette S. Goodall  
Notary Public in and for the State of Texas

Jannette S. Goodall  
Typed or Printed Name of Notary



THIS FORM MUST BE SUBMITTED TO THE OFFICE OF THE CITY CLERK.

# Table of Contents

Exhibit A .....	2
Office of the City Auditor, Investigative Complaint	

# **Exhibit A**

**Office of the City Auditor, Investigative Complaint**

**December 2018**

**Office of the City Auditor's complaint against Joya Hayes**



## Allegation

The Office of City Auditor received multiple allegations of abuse and waste by Joya Hayes, Director of Human Resources. It was alleged that Hayes abused her authority by asking a Human Resources Department employee to take ██████ to daycare because she did not want to miss a flight. The informant also alleged that this Human Resources employee was seen looking after Joya Hayes's ██████ while Hayes was in a meeting at the City of Austin's Learning and Research Center.

## Background

The Human Resources Department (HRD) is responsible for attracting, engaging, developing, supporting, and retaining the City of Austin's workforce. Joya Hayes is the Director of HRD. Hayes became the Interim Director of Human Resources in May 2015 and was appointed to the Director position in August 2016. Hayes has seven direct reports.

The City Auditor's Office, per City Code, is responsible for investigating allegations of fraud, waste, and abuse committed by City employees and contractors. The City Code defines abuse as the use of a City office to obtain personal gain or favor. The City Code also prohibits City employees from using City personnel for private purposes or from accepting any favors that could influence them in the discharge of their official duties.

As the HRD Director, Hayes is uniquely positioned to consider issues affecting individuals and work groups in and outside of her department. She is also charged with leading the City in adhering to Human Resources policies.

## Investigation Results

We determined that Hayes solicited and accepted favors from employees in various City departments, including her own. Specifically, we determined that two HRD employees transported ██████ to or from daycare and looked after ██████ while Hayes worked. This occurred on multiple occasions and one of these employees reports directly to Hayes. The reporting relationship is significant because Hayes is responsible for their performance appraisal and compensation. Additionally, we determined that at least two employees from the City Manager's Office watched Hayes's ██████ while she attended meetings at City Hall. Hayes admitted to some of these actions in an interview with our office.

During the course of this investigation, we encountered multiple employees who expressed a fear of retaliation. We also encountered employees who appeared reluctant to provide details about these situations. Both of these conditions may have limited our ability to fully identify all potential violations.

### **Finding 1: Hayes Solicited and Accepted Favors from HRD Employees**

#### *Favors from an HR Assistant*

We confirmed the original allegation that in late February 2018, a Human Resources (HR) Assistant at the Learning and Research Center (LRC) took Joya Hayes's ██████ to daycare. We also determined that the HR Assistant looked after Hayes's ██████ at the LRC; however, Hayes and the HR Assistant deny this. Three City employees, two current and one former, either observed or were aware of this happening. One of the City employees said they observed the HR Assistant watching the ██████ in a separate room for a few hours during the work day while Hayes was in a meeting at the LRC. The employee could not say whether the HR Assistant offered or was asked to do so. Two employees also commented that the HR Assistant has toys in the office for Hayes's ██████ to play with while at the LRC.

# Exhibit A

## HR Assistant Takes ██████ to Daycare

The HR Assistant admitted to helping Hayes take ██████ to daycare in February 2018. The HR Assistant told us that she offered to help Hayes and said she was not asked to do so. When interviewed, Hayes denied asking the HR Assistant to take the ██████ to daycare. Hayes added that outside of their normal interactions at work, she does not have a personal relationship or friendship with the HR Assistant.

Hayes told our office that she was on vacation that day and had a flight to catch at the airport. Hayes said that she left home with enough time to check in her luggage at the airport's curbside drop off before taking ██████ to daycare and returning to the airport for her flight. According to Hayes, while she was dropping off her luggage, she missed a phone call related to work. Hayes was going to return the call while dropping ██████ off at daycare, but the length of the call required her to pull over. Hayes pulled into the LRC's parking lot due to construction in one of the airport lots. Hayes said that after her phone call, she saw the HR Assistant exiting the LRC on her way to lunch, and that the HR Assistant noticed Hayes in the parking lot. According to Hayes, she and the HR Assistant had a brief conversation in which Hayes said that she was going to have to take a later flight so that she could take ██████ to daycare. Hayes stated that the HR Assistant offered to take ██████ to daycare, so that Hayes would not miss her flight.

As part of our investigation, Hayes provided a copy of her phone records and calendar for the day in question. We confirmed that she received a call relating to work before her flight. We also found that a call to the HR Assistant's personal cell phone took place shortly after the work-related call ended. Hayes told us that this call occurred after the HR Assistant offered to take ██████ to daycare and was already on her way there. Hayes said the purpose of the call was to provide additional information to the HR Assistant about dropping off ██████ at the daycare facility.

Hayes accepting the favor from the HR Assistant (her subordinate) to take ██████ to daycare and watch ██████ during a meeting appears to constitute a violation of the following criteria, as detailed in Appendix A:

- 2-7-62(G) – Solicit or Accept a Gift or Favor
- 2-7-62(O) – Prohibition on Fraud and Abuse
- 2-3-5(A)(1) – Abuse of City Office
- 2-7-62(J) – Misuse of City Resources

### *Favors from a Direct Report*

We also found that one of Hayes's direct reports has watched Hayes's ██████ while at work, and transported the ██████ between daycare and City facilities. Both Hayes and the direct report admitted that this has happened. Hayes added that on at least four occasions, the direct report has transported ██████ to daycare, her direct report's home, or to the home of Hayes's relatives.

The direct report described one occasion where she was asked to drop off Hayes's ██████ at daycare and another when she volunteered to pick up the ██████ from daycare. In the first incident, Hayes was called in early for a meeting at City Hall during a work day. Hayes was planning to drop ██████ off on the way to work, but was running late and did not have time to go to the daycare. Hayes said that she had asked the direct report to bring some paperwork to City Hall. According to the direct report, Hayes had asked her to take ██████ to daycare because she would not be able to, as a result of the meeting. The direct report said, "the ask was there, but I probably volunteered to help." In the second situation, a City Council meeting was running late and Hayes

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#### Investigation Criteria:

City Code states that "no City official or employee shall accept or solicit any gift or favor, that might reasonably tend to influence that individual in the discharge of official duties..."

City Code: Standards of Conduct §2-7-62(G)

See Investigation Criteria Section for More Details

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## Exhibit A

needed to stay to speak to an agenda item. According to the direct report, Hayes's [REDACTED] daycare was closing at 6 p.m. The direct report said that she volunteered to pick up and drop off the [REDACTED] at Hayes's relative's home, because she had car seats.

Hayes confirmed that her direct report did leave a Council meeting to help her pick up [REDACTED] from daycare before it closed, due to the meeting running late. Hayes also admitted to another situation where a Council meeting was running late into the night and she had [REDACTED] with her. Hayes stated that her direct report was at the meeting and offered to take Hayes's [REDACTED] to their home. Hayes accepted the offer and picked up [REDACTED] from the direct report's home after the meeting was over. Another City employee told us that they had observed Hayes's direct report at City Hall late in the evening during a Council meeting and that the direct report was watching Hayes's [REDACTED]. When asked if the direct report was supposed to be at that meeting, the City employee responded, "I don't think so. I think she was just looking after the [REDACTED]."

Hayes argued that this situation was different from the HR Assistant's case, where she had no personal relationship with the employee who took [REDACTED] to daycare. In this situation, according to Hayes, she and the direct report had known each other for years and that she considered the direct report to be her friend.

Hayes's use of her direct report to pick up or drop off [REDACTED] at daycare appears to constitute a violation of the following criteria, as detailed in Appendix A:

- 2-7-62(G) – Solicit or Accept a Gift or Favor
- 2-7-62(O) – Prohibition on Fraud and Abuse
- 2-3-5(A)(1) – Abuse of City Office
- 2-7-62(J) – Misuse of City Resources

### Finding 2: Hayes Misused City Personnel

During the investigation into the incident that happened in February 2018, we received testimony from City employees both inside and outside of HRD that employees from the City Manager's Office were seen watching Hayes's [REDACTED] at work or during late night Council meetings over the last few years. Specifically, we found evidence that two City employees from the City Manager's Office (one of whom no longer works in that office) watched Hayes's [REDACTED] while she was in a meeting at City Hall.

One of the two City employees admitted that they watched Hayes's [REDACTED] during a late Council meeting. The employee stated that they did not remember how it came about, but that Hayes left the [REDACTED] with them and went down to the Council chambers to speak on an issue. The employee stated that Hayes had been called in at the last minute to do this. The employee said there was another employee there at the time who was also keeping an eye on Hayes's [REDACTED]. According to the employee, the [REDACTED] was there for more than an hour. When interviewed, Hayes denied asking for or accepting an offer from the employees in the City Manager's Office to watch [REDACTED]. She admitted that she was called back to City Hall last minute on one occasion, but said that she left [REDACTED] in one of the offices with an Assistant City Manager's older [REDACTED] and a City employee was present in the area.

Another situation was brought to our attention when we interviewed employees in the City Manager's Office. A witness stated that they saw an employee in the City Manager's Office looking after Hayes's [REDACTED] while she was meeting with an Assistant City Manager. The witness did not know if Hayes had asked the employee to do this. When interviewed, the employee denied being asked and said that Hayes could not get a babysitter with such short notice, and that she was only in the meeting for a short time.

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#### Investigation Criteria:

City Code defines abuse as "the use of a City office, employment, contract, or other position with the City to obtain personal gain or favor from a citizen or other City employee or vendor"

City Code: Powers and Duties  
§2-3-5(A)(1)

See Investigation Criteria Section for  
More Details

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# Exhibit A

Hayes's use of City employees to watch [REDACTED] during meetings appears to constitute a violation of the following criteria, as detailed in Appendix A:

- 2-7-62(O) – Prohibition on Fraud and Abuse
- 2-3-5(A)(1) – Abuse of City Office
- 2-7-62(J) – Misuse of City Resources

## Investigation Criteria

### Misuse of City Resources

#### City Code §2-7-62 - STANDARDS OF CONDUCT

(G) No City official or employee shall accept or solicit any gift or favor, that might reasonably tend to influence that individual in the discharge of official duties or that the official or employee knows or should know has been offered with the intent to influence or reward official conduct.

#### City Code §2-7-62 - STANDARDS OF CONDUCT

(O) A City official or employee may not engage in fraud or abuse, as defined in City Code Chapter 2-3 (City Auditor) [as the use of a City office, employment, contract, or other position with the City to obtain personal gain or favor from a citizen or other City employee or vendor].

#### City Code §2-3-5 - POWERS AND DUTIES

(A)(1) ABUSE means the use of a City office, employment, contract, or other position with the City to obtain personal gain or favor from a citizen or other City employee or vendor.

#### City Code §2-7-62 - STANDARDS OF CONDUCT

(J) No City official or employee shall use City facilities, personnel, equipment or supplies for private purposes, except to the extent such are lawfully available to the public.

## Methodology

To accomplish our objective, we performed the following steps:

- reviewed applicable City Code and policy;
- conducted background research;
- conducted interviews with 12 City of Austin employees;
- conducted forensic analysis of Joya Hayes's City email, computer files, and calendar;
- reviewed phone records and travel-related information provided by Joya Hayes; and
- interviewed Joya Hayes.

## Investigative Standards

Investigations by the Office of the City Auditor are considered non-audit projects under the Government Auditing Standards and are conducted in accordance with the ethics and general standards (Chapters 1-3), procedures recommended by the Association of Certified Fraud Examiners (ACFE), and the ACFE Fraud Examiner's Manual. Investigations conducted also adhere to quality standards established by the Council of the Inspectors General on Integrity and Efficiency (CIGIE), Quality Standards for Investigations, and City Code.

The Office of the City Auditor, per City Code, may conduct investigations into fraud, abuse, or illegality that may be occurring. If the City Auditor, through the Integrity Unit, finds that there is sufficient evidence to indicate that a material violation of a matter within the office's jurisdiction may have occurred, the City Auditor will issue an investigative report and provide a copy to the appropriate authority.

