

THE ATTORNEY GENERAL OF TEXAS  
KEN PAXTON

# Law Clerk Program

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P.O. Box 12548 Austin, TX 78701





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# OFFICE OF THE ATTORNEY GENERAL LAW CLERK PROGRAM

## **Mission**

The Law Clerk Program strives to introduce qualified law students from around the country to the rewarding and diverse legal work of the Office of the Attorney General of Texas.

## **The Agency**

The Attorney General is the lawyer for the state of Texas and is charged by the Texas Constitution to defend the laws and the Constitution of the state of Texas; represent the state in litigation; and approve public bond issues. To fulfill these responsibilities, the Office of the Attorney General (OAG) serves as legal counsel to all boards and agencies of the state government; issues legal opinions when requested by the governor, heads of state agencies, and other officials and agencies as provided by Texas statutes; sits as an ex-officio member of state committees and commissions; and defends challenges to state laws and suits against both state agencies and individual employees of the state.

The OAG has taken on numerous other roles throughout the years. In addition to its constitutionally prescribed duties, the OAG files civil suits upon referral by other state agencies. In some circumstances, the Attorney General has original jurisdiction to prosecute violations of the law, but in most cases, criminal prosecutions by the attorney general are initiated only upon the request of a local prosecutor. Although the attorney general is prohibited from offering legal advice or representing private individuals, the attorney general serves and protects the rights

of all citizens of Texas through the activities of the various divisions of the agencies. Actions that benefit all citizens of Texas include enforcement of health, safety, and consumer regulations; educational outreach programs; and protection of the rights of the elderly and disabled. The attorney general is also charged with the collection of court-ordered child support and the administration of the Crime Victims' Compensation Fund.

## **Law Clerk Program**

The OAG welcomes applications from qualified students from any accredited law school in the country. OAG law clerks work with agency attorneys; conduct legal research; and draft pleadings, memoranda, and/or briefs. OAG law clerks may also assist in developing discovery, interviewing witnesses, conferencing with other state agency representatives, and attending hearings or trials.

Law students selected for the OAG Law Clerk Program should expect a competitive application and interview process, including a review of law school performance, and evaluation of research and writing skills. Applicants must also pass a criminal background check. All OAG employees and law clerks must comply with agency policies and procedures during their work hours.

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## THE OAG OFFERS SEVERAL TYPES OF POSITIONS

**Law Clerk** First year and second year law students are eligible to apply for fall, spring, and summer unpaid law clerk positions. Second year law students may apply during fall on-campus interviews at Texas law schools or via the online application available on the OAG website. First year law students are eligible to apply after they have completed one semester of law school. Summer law clerks can complete 6 - 12 week terms between May and September. Fall and spring law clerks' internships with the OAG tend to follow their law school's terms. Depending on their law school requirements, law clerks may receive credit or extern requirement fulfillment for their work as a law clerk. The positions may be located in Austin or any of the regional offices of the agency. Accepted second year law students receive offers during the fall semester interviews and accepted first year law students receive offers during the spring semester.

**Intern** Students enrolled in paralegal studies and undergraduate pre-law programs are eligible for unpaid intern positions. Many interns receive course credit or are just seeking more exposure to working in a legal environment. Most of these positions are available during the fall and spring semesters, but summer positions may be available. These positions are available in Austin or any of the regional offices of the agency.

**Volunteer Lawyer** The OAG welcomes post-law school graduates to the agency as volunteer lawyers who are completing paid fellowships sponsored by their law schools. While they may be paid by their law school, they are not paid by the OAG. Their work is comparable to that of a law clerk. These positions are located in Austin or

any of the regional offices of the agency but only during the fall and spring semesters.

**OAG Law Fellowship** The OAG offers stipends to exceptional law students (currently enrolled) from around the country for their work with the agency as OAG Law Fellows. These positions are available during the summer in Austin, but may also be made available during the fall or summer and also possibly in regional offices outside Austin.

**Briefing Attorney** Several paid positions are available to newly licensed attorneys who may have received and accepted offers from law firms, but opt to defer their start date to receive valuable hands-on training at the OAG. These briefing attorneys would work for the OAG for one year, beginning and ending in August of each year. These positions would be similar to judicial briefing attorney positions, but would emphasize a litigation or appellate experience.

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## THE OAG DIVISIONS

### Administrative Law Division

The Administrative Law Division represents the state of Texas and its agencies in matters pertaining to administrative law in state and federal courts and in administrative proceedings. The division prosecutes and defends cases involving a wide variety of matters, including occupational licensing, child care, health care, education, workers' compensation, and public employee retirement matters.

The division's legal work can be broadly categorized into four areas: enforcement litigation, agency defense litigation, legal counsel, and other legal proceedings. The division provides general counsel

support to state agencies, many of which do not have in-house counsel. Attorneys routinely provide advice to these agencies and their governing boards on a broad range of topics, including the Administrative Procedure Act, the Open Meetings Act, the Public Information Act, rulemaking, contracting, employment, pre-litigation, and statutory construction and interpretation. The division also includes a section devoted solely to litigation support for the Open Records Division of the Office of the Attorney General and a section that represents state agencies as consumers in utility rate proceedings.

The division presents conferences on government law and liability for board members and agency administrators. The division also assists in publishing the Administrative Law Handbook.

### **Antitrust Section**

The Antitrust Section is a part of the Consumer Protection Division and not a stand-alone division. The Attorney General is charged with investigating and prosecuting violations of the Texas Free Enterprise and Antitrust Act and of the federal antitrust statutes which prohibit anticompetitive conduct. If antitrust violations are detected, the Antitrust Section can file suit in federal or state court. The Antitrust Section represents the state as well as state agencies and other political subdivisions in these legal actions, and although the attorney general cannot represent individual consumers directly, many settlements provide restitution for individual consumers.

Conduct that may be investigated by the Antitrust Section includes behavior by a monopolist and antitrust conspiracies, such as price fixing, bid-rigging and territorial or customer allocation all intended to reduce competitiveness in a free and open market. In addition, the section conducts merger reviews to determine if a proposed

combination will substantially lessen competition. Investigations can be local, regional, or national in scope and often may be joint investigations with either the Federal Trade Commission, the U.S. Department of Justice, and/or one or more other state attorneys general.

### **Bankruptcy and Collections Division**

The Bankruptcy and Collections Division is the centralized collection unit for the state, charged with the responsibility to recover all debts, judgments, taxes, fees, fines, penalties, loans and other obligations. The Collection Section uses investigators to locate and identify parties responsible for the debt, and its attorneys pursue collection in state court. The Bankruptcy Section represents state agencies in federal court around the country, as well as in Texas, to protect the state's monetary and regulatory concerns in bankruptcy cases. The major state client agencies it represents include: the Comptroller of Public Accounts, the Texas Workforce Commission, the Texas Higher Education Coordinating Board, the Texas Commission on Environmental Quality, the General Land Office, the Texas Railroad Commission, the Texas Parks & Wildlife Department, the Texas Health and Human Services Commission, the Texas Department of Licensing and Regulation, and the Texas Ethics Commission. The Student Loan Section is responsible for pursuing collection of student loans originated by the Texas Higher Education Coordinating Board when the borrower or co-signor are in default.

### **Charitable Trusts Section**

The Charitable Trusts Section is part of the Financial Litigation Division. The Office of the Attorney General is charged with protecting the public interest in charity and acts to protect that interest in a number of ways. Texas

has approximately 85,000 active charitable organizations with federal tax-exempt status and countless trust entities over which the attorney general has oversight authority. The attorney general exercises this authority by investigating and initiating legal action against charitable organizations and their managerial officials to ensure that charitable donations are lawfully solicited and that assets held by the charitable organization are properly managed, invested and expended; and by reviewing transactions and legal proceedings involving charitable trusts, including nonprofit corporations.

### **Child Support Division**

The Child Support Division is the largest division within the Office of the Attorney General and has over 70 field and regional offices around the state to serve the public. In accordance with state and federal law, the OAG is responsible for the establishment and enforcement of child support. The OAG represents the state and cannot represent individuals involved in child support claims. The agency's Child Support Division has a responsibility to assist parents in obtaining the financial support necessary for children to grow up and succeed in life. To encourage parental responsibility, the attorney general establishes paternity of children, establishes court orders for financial and medical support, and vigorously enforces support orders. The attorney general promotes the emotional involvement of both parents in the life of the child by working with community groups, schools, and hospitals. Because of its size the Child Support Division operates its own law clerk, intern, and volunteer attorney program. Interested law students may contact the Child Support Division at CSD Law Clerk Program, Office of the Attorney General, Child Support Division, P.O. Box 12017 Austin, TX 78711-2017.

### **Civil Medicaid Fraud Division**

On behalf of the State of Texas, the Civil Medicaid Fraud Division investigates allegations of unlawful acts against the Medicaid program in order to prosecute meritorious claims and recover taxpayer dollars. The division enforces the Texas Medicaid Fraud Prevention Act, which provides the state with civil remedies for specific unlawful acts, such as misrepresentations made to the Texas Medicaid program. Many of the allegations investigated by the division are brought to light by private persons, whistleblowers or "relators," who file *qui tam* actions under seal and provide the state an opportunity to intervene. Because the *qui tam* lawsuits often include similar claims under the Federal False Claims Act, the division works with federal authorities and other states. The attorney general has statutory authority to self-initiate civil actions under the Texas Medicaid Fraud Prevention Act and may receive referrals from its criminal counterpart in the agency, the Medicaid Fraud Control Unit. In addition, the division may receive referrals from the Texas Health and Human Services Commission.

### **Consumer Protection Division**

The Consumer Protection Division works to encourage a favorable, level and fair marketplace for the legitimate business community in Texas and to protect consumers from unfair, illegitimate business practices by filing civil lawsuits under the Consumer Protection - Deceptive Trade Practices Act and other consumer protection statutes. Although it is widely known for its work in traditional areas of consumer protection litigation — enforcing the laws against false, misleading or deceptive advertising and marketing practices — the division also takes legal action against nursing homes, assisted living facilities, home health care agencies, and psychiatric facilities that abuse and neglect residents and patients.

The division also handles litigation impacting consumers as referred from other state agencies, such as the Texas Secretary of State, Texas Department of State Health Services, Texas Department of Savings and Mortgage Lending, Texas Department of Licensing and Regulation, Texas Department of Agriculture, and Texas Higher Education Coordinating Board. The division maintains regional offices in Austin, Dallas, El Paso, Houston, Pharr, and San Antonio. In addition, three specialized sections protect the public in ways that go beyond the usual consumer issues: Internet and Privacy, Public Health and Antitrust.

### **Crime Victim Services Division**

The Crime Victim Services Division provides services and resources to crime victims throughout Texas. The Crime Victims' Compensation Program provides reimbursement for out-of-pocket expenses to eligible victims of violent crime and their families. The Sexual Assault Prevention and Crisis Services Program provides technical assistance to sexual assault programs and certifies sexual assault nurse examiners (SANE). The division also administers the Texas VINE (Victim Information and Notification Everyday) system.

### **Criminal Appeals Division**

The Criminal Appeals Division defends state felony convictions and sentences against constitutional challenge in federal court. The division's attorneys, representing the director of the Correctional Institutions Division of the Texas Department of Criminal Justice (the inmates' custodian), provide briefing and argument to the federal courts that hear these challenges. The division's attorneys and staff also investigate cases, including thorough review of the record from state court proceedings, and conduct evidentiary hearings when warranted in a case. The division's

attorneys appear regularly in federal district courts throughout Texas, in the United States Court of Appeals for the Fifth Circuit, and the Supreme Court of the United States. Capital litigation attorneys handle petitions for certiorari review on direct appeal from the Texas Court of Criminal Appeals and federal habeas corpus challenges from the federal district court through the Supreme Court.

### **Criminal Prosecutions Division**

The Criminal Prosecutions Division is staffed by prosecutors who practice in both state and federal courts in Texas. These prosecutors handle cases pursuant to the attorney general's original criminal jurisdiction, when original jurisdiction is provided by Texas law; pursuant to concurrent criminal jurisdiction with district and county attorneys, when concurrent criminal jurisdiction is provided by Texas law; and pursuant to requests for assistance from local prosecutors and offers of assistance to local prosecutors. The division also works cooperatively with United States Attorneys in the four federal districts in Texas, and prosecutors in the division appear in federal court as Special Assistant U.S. Attorneys. The division consists of four teams of lawyers and subject matter experts in the areas of Violent Crime and Major Offenders, Human Trafficking, White Collar Crime and Public Integrity, and Juvenile Crime Intervention.

### **Environmental Protection Division**

The Environmental Protection Division (EPD) represents the state in matters pertaining to environmental protection, natural resources, and public utilities. EPD's clients include the Commission on Environmental Quality, Public Utility Commission, General Land Office,

Railroad Commission, Water Development Board, Department of Agriculture, Department of State Health Services, Parks and Wildlife Department, and state river compact commissions. EPD prosecutes and defends cases in state and federal courts and in administrative proceedings.

The work of the division is organized into five sections. The Enforcement Section prosecutes cases against those who violate laws protecting the health and safety of the people of Texas and the environment in which they live. The Defense Section represents the state and its environmental agencies when their decisions or actions are challenged in court or when federal regulators impose policy choices that are inconsistent with the state's interests in protecting the environment. The Natural Resources Section represents the state in a variety of matters relating to the state's natural resources, including public land litigation involving title and boundary disputes, public beach access, coastal dune protection, and mineral valuation on state lands. The Utilities Section represents the Public Utility Commission in matters relating to regulation of electric and telecommunications utilities in Texas. The Colonias Section investigates and prosecutes enforcement litigation against developers of substandard subdivisions along and near the Texas-Mexico border.

### **Financial Litigation and Charitable Trusts Division**

The Financial Litigation and Charitable Trusts Division defends and prosecutes lawsuits involving regulatory and financial matters for state agencies. The division regularly represents over thirty client agencies in litigation, in state and federal court, and trial and appellate courts. Representation of these agencies is primarily based on referrals from the agencies requesting legal assistance on a case-by-case basis, and the

division's work is comprised of two key areas, overseen by the respective senior attorney. Financial litigation matters include enforcement actions to enjoin fraud or statutory violations; receiverships; the defense of rules, final agency actions, and statutes; breach of contract suits; and client counseling on related issues. In its Charitable Trusts Section, the division performs many duties stemming from the attorney general's constitutional duty to safeguard the public interest in charity in Texas, such as initiating action against errant charities and representing the public interest in proceedings that involve charitable trusts.

### **General Counsel Division**

The General Counsel Division provides legal research and advice to the attorney general, his staff and other divisions of the office regarding a wide variety of constitutional and statutory issues. The division drafts and reviews agency administrative rules, procedures and policies. The division also drafts, reviews and negotiates contracts and agreements on behalf of the agency; coordinates the approval process for outside counsel contracts and invoices for all state agencies; and as attorneys for the state and legal advisors to the state's contract management team, consults with and advises state agencies on contract matters.

### **General Litigation Division**

The General Litigation Division defends state agencies, elected and appointed state officials, and state employees in employment litigation, education and health care litigation, civil rights litigation, election law cases, as well as other miscellaneous litigation. Such suits include claims under the Texas Whistleblower Act, tenure denials, claims of discrimination, student dismissals, and First and Fourteenth Amendment constitutional claims. The division represents

state employees and officials in libel, slander, and other tort actions. Additionally, the division also defends against challenges to the constitutionality of state statutes, election law claims and the state's administration of programs, such as public education, Medicaid, and the state hospital system. The division handles state and federal suits through all litigation stages, including the appellate process.

### **Law Enforcement Defense Division**

The Law Enforcement Defense Division defends all state law enforcement agencies and employees in civil lawsuits filed in state and federal courts. The primary agencies represented include the Texas Department of Criminal Justice (TDCJ), component divisions of TDCJ (including the Parole Division), Parole Board, Texas Department of Public Safety (DPS), state university police departments, Texas Alcoholic Beverage Commission (TABC), adult and juvenile probation departments, Texas Civil Commitment Office, state judges, and some doctors and medical staff of state medical hospitals. These lawsuits include civil rights actions, employment actions under federal and state law, and claims under the Texas Tort Claims Act.

### **Medicaid Fraud Control Unit**

The Medicaid Fraud Control Unit conducts criminal investigations and prosecutions of Medicaid providers who are suspected of committing fraud against the Medicaid program. The unit also investigates allegations of physical abuse and neglect in nursing homes that receive Medicaid funding. The unit employs investigators and auditors who conduct investigations and assist in the prosecution of Medicaid providers who defraud the system or abuse the elderly.

### **Open Records Division**

The Open Records Division issues written decisions related to access to public information under Chapter 552 of the Texas Government Code. The division also provides legal advice and research to the legislative and executive branches of state government and coordinates and participates in regional and statewide conferences on access to public information.

### **Opinion Committee**

The Opinion Committee researches and drafts legal opinions in response to questions of law posed by persons authorized by statute to request formal attorney general opinions. Officials authorized to seek attorney general opinions are: the governor; the head of a department of state government; the head or board of a penal institution; the head or board of an eleemosynary institution; the head of a state board; a regent or trustee of a state educational institution; a committee of a house of the Texas Legislature; a county auditor authorized by law, and the chairman of the governing board of a river authority.

### **Public Finance Division**

The Public Finance Division reviews and approves all bonds and similar obligations issued by state agencies, cities, counties, school districts, municipal utility districts, hospital districts, institutions of higher education and all other governmental entities or instrumentalities of the state, plus certain nonprofit corporations created to act on behalf of political subdivisions.

### **Office of Solicitor General**

As the chief appellate lawyer for the state of Texas, the solicitor general supervises all appellate litigation on behalf of the Office of the Attorney

General. The Office of Solicitor General (OSG) approves all civil and criminal appeals in state and federal courts involving the state, its agencies, and its officials. OSG also directly handles those appeals determined to be most significant to Texas and to the development of federal and state jurisprudence and appears on occasion in federal and state trial courts on matters implicating the state's most critical interests. In addition, the OSG regularly authors amicus curiae briefs for submission to the U.S. Supreme Court and other courts across the nation.

The solicitor general is the state's chief litigator in the Supreme Court of the United States and the Supreme Court of Texas. In addition, as a member of the attorney general's executive leadership team, the solicitor general serves as a top legal advisor to the attorney general and advises other agency lawyers and state officials on complex constitutional and other legal matters.

The Texas OSG appears regularly before the Supreme Court of the U.S., the Supreme Court of Texas, the U.S. Court of Appeals for the Fifth Circuit, and the intermediate state courts of appeals. Since 1999, OSG attorneys have presented hundreds of oral arguments in the U.S. Supreme Court, the Texas Supreme Court, the en banc Fifth Circuit, and other federal and state courts — including arguments before every intermediate court of appeals in Texas. OSG has won numerous Best Brief Awards from the National Association of Attorneys General (NAAG) for briefs filed in the U.S. Supreme Court.

### **Tax Division**

The Tax Division defends and prosecutes lawsuits involving the Comptroller of Public Accounts in suits disputing audit liabilities or seeking a refund of taxes, including sales, franchise, insurance, and motor vehicle taxes. The division

represents its client agency in litigation, in state and federal court, and trial and appellate courts. The division provides advice to the Comptroller, works to ensure that state taxpayer dollars are not expended unnecessarily and that money owed to the state is collected to the fullest extent possible. In its Texas Workforce Commission work, the division represents TWC in suits regarding the payment of wages, unemployment benefits, and the assessment of unemployment taxes.

### **Tort Litigation Division**

The Tort Litigation Division represents state agencies and state employees in matters involving personal injury, medical malpractice, property damage, workers' compensation retaliation, workers' compensation claims, subrogation, and various other tort-related claims brought under the Texas Tort Claims Act, the Texas Medical Liability Act, the Texas Labor Code, and the Texas Health & Safety Code. The division also evaluates pre-litigation claims for potential settlement or defense of such claims and provides advice to numerous state entities on tort-related civil matters. In its representation of state agencies, the Tort Litigation Division ensures that state taxpayer dollars are not expended unnecessarily and that money owed to the state is collected to the fullest extent possible.

### **Transportation Division**

The Transportation Division represents the Texas Department of Transportation in all litigation matters. This includes eminent domain (land acquisition), prosecution of violations of highway beautification laws, enforcement of contracts, recoupment of monies expended by the state for job-related injuries and externally caused damages to state property, defense of employment discrimination claims, defense of tort claims, and prosecution and collection of certain administrative

penalties. The Transportation Division also handles condemnation cases for all state agencies having the power of eminent domain.

Eminent domain is the legal authority that certain entities are granted that allows those entities to take private property for a public use. Private property can include land and certain improvements that are on that property. Private property may only be taken by a governmental entity or private entity that is authorized by law to do so and may be taken only for a public purpose. That means it can only be taken for a purpose or use that serves the general public. Texas law prohibits condemnation authorities from taking property to enhance tax revenues or foster economic development. Property cannot be taken without adequate compensation. Adequate compensation includes the market value of the property being taken. It may also include certain damages if the remaining property's market value is diminished by the acquisition itself or by the way the condemning entity will use the property.

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## **SPECIAL CONSTITUTIONAL LAW EVENT FOR OAG LAW CLERKS**

The Texas Office of the Attorney General offers year-round Continuing Legal Education training for agency employees and law clerks. As part of its legal training program, the OAG will offer a Constitutional Law Seminar which will be held in Austin and will include several notable speakers. Constitutional Law deals with fundamental individual human rights and principles by which government exercises its authority. It is the source of both government power and restraint. In recognition of that foundational significance and of the roles played by state attorney's general offices in ensuring that constitutional principles are upheld for all citizens, the Texas Attorney General's "Con Law 209" seminar will offer symposia, panel discussions and key note speakers addressing principles and issues of constitutional law and its interpretation. OAG staff attorneys and all OAG law clerks will be invited to attend this unique program. In addition to CLE credit, academic credit may also be arranged for this seminar.

Further information concerning the Office of the Attorney General of Texas may be obtained by reference to the website noted below. Additional information may also be accessed through the Constituent Affairs and the Communications Divisions. All applications for employment, including those for volunteer or non-paid positions, should be made through the Human Resources Division utilizing the application form available online.

OFFICE OF THE ATTORNEY GENERAL

P O BOX 12548

AUSTIN TX 78701

<https://www.texasattorneygeneral.gov/agency/law-clerk-program>

