

# GALVESTON COUNTY



## Office of County Auditor

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Office of the Attorney General  
Attention Opinion Committee  
P.O. Box 12548  
Austin, TX 78711-2548

**RECEIVED**  
JUL 27 2016  
**OPINION COMMITTEE**

FILE # ML-48052-16  
ID. # 48052  
RQ-0121-KP

Re: Whether a temporary employee contracted to temporarily replace a court coordinator (due to illness, vacation, or other consideration) would be considered a judiciary employee, and, further, if funds are provided for a temporary court coordinator, should the Courts be allowed to have access to and administer these funds as they are necessary court expenses

Dear Attorney General Opinion Committee:

The following facts, law and questions are submitted for consideration and a request that an opinion be rendered:

### ***Authority for the Request***

The Judges for the ten courts of Galveston County (county courts at law, probate court, and district courts) have requested the County Auditor seek an attorney general opinion regarding if a temporary employee hired to replace an appointed court coordinator would be considered a judiciary employee, and if funds are provided for a temporary, should the Courts have access to and administer the funds as necessary court expenses? Sections 402.042 and 402.043 of the Texas Government Code specify who is authorized to request an attorney general opinion. A County Auditor is among those authorized to request an attorney general opinion.

### ***Facts***

The Galveston County Commissioners Court has changed its hiring of all temporary employees to be budgeted within the Human Resources Department. There is no question the Commissioners Court has the authority to budget for and control the hiring of temporary employees assigned to non-judiciary departments; however, the question has arisen as to the hiring of temporary employees to serve as court coordinators, and should the funds for that hiring and payment of a temporary judiciary employee be a cost of the courts, thereby requiring access to, and administering of, those budgeted funds set aside for temporary employees for the judiciary.

The appointment, duties and needs are determined by the judiciary, as provided in Government Code Chapter 74, entitled Court Administration Act, under Subchapter E §74.101 Court Coordinators.

Sec. 74.101. COURT COORDINATORS. (a) The local administrative judge and each district or statutory county court judge may establish a court coordinator system and appoint a court coordinator for his court to improve justice and expedite the processing of cases through the courts.

(b) Each court coordinator serves at the pleasure of the judge who appointed him.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987.

Sec. 74.102. DUTIES. (a) The courts by local administrative rule shall designate the duties of the court coordinators.

(b) To promote uniform and efficient administration of justice in this state, the court coordinators shall cooperate with regional presiding and local administrative judges and state agencies having duties in the area of the operation of the courts.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987.

Sec. 74.103. STAFF. The courts may appoint appropriate staff and support personnel according to the needs in each county.

Added by Acts 1987, 70th Leg., ch. 148, Sec. 2.93(a), eff. Sept. 1, 1987.

Currently, all ten courts (county courts at law, probate court, and district courts) share only one substitute coordinator. That substitute coordinator is constantly busy, with many occasions where one or more courts are forced to operate with no coordinator for several days at a time because coordinators are out sick, on vacation, have an emergency, etc. This creates chaos and inefficiency and interferes with the ability of the courts to maintain an orderly administration of justice and carry out the duties and responsibilities of the court.

Commissioners Court has set aside funds to pay a temporary employment agency for substitute coordinators, but the Commissioners Court has sole control over the budgeted funds. The temporary employees hired by the Human Resources Department are not trained court coordinators and cannot participate in daily judicial activities other than answer the phone.

Further, the temporary employees do not know the Code of Judicial Conduct, which has specific requirements regarding duties, notices, court administration, and other judicial duties. Judicial employees must not only know the Code of Judicial Conduct but also must abide by the Code. In addition, court coordinators have access to highly confidential information; such information should not be entrusted to an untrained temporary employee.

Finally, Commissioners Court requires the Courts to provide advanced notice for the use of the funds. Although some scheduling might be possible, allowing for advance notice for vacation plans or major medical issues, it is not possible to predict in advance when a court coordinator will be out sick or have an emergency. This situation is unworkable for the Courts and hinders the administration of justice.

### **Questions**

1. Is a temporary employee hired to replace a court coordinator considered a judicial employee?
2. When funds are approved for hiring temporary employees for court staff, should the funding be part of the budget for the judiciary?
3. If the funds should be part of the budget for the judiciary, does this arrangement necessitate the Courts having access to the funds and to administer the funds as necessary court expenses?
4. Should the Courts be able to control these approved and budgeted funds within the judiciary budgets and without unnecessary control and influence by the Commissioners Court?

Respectfully submitted,



Randall Rice CPA  
County Auditor  
Galveston County