

ETHICAL STANDARD ACT

B.E. 2562 (2019)

: Unofficial Translation



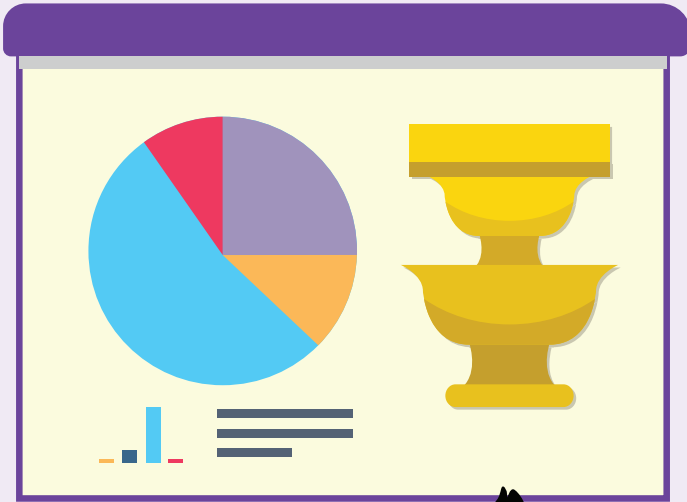




Table of Contents

 Ethical Standard Act, B.E. 2562 (2019)	06
Chapter 1 Ethical Standard and Code of Ethics.....	07
Chapter 2 Ethical Standard Committee	08
Chapter 3 Maintaining ethics of state officials.....	13
Transitory Provisions	14
 Summary of the Ethical Standard Act B.E. 2562 (2019)	18



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HIS MAJESTY KING MAHA VAJIRALONGKORN
BODINDRADEBAYAVARANGKUN;

Given on the 15th Day of April B.E. 2562;

Being the 4th Year of the Present Reign

His Majesty King Maha Vajiralongkorn Bodindradebayavarangkun is graciously pleased to proclaim that:

Whereas it is expedient to have the law on ethical standard;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly serving as the National Assembly, as follows:

Section 1. This Act is called the “Ethical Standard Act B.E. 2562 (2019)”.

Section 2. This Act shall come into force as from the day following the date of its publication in the Government Gazette.

Section 3. In this Act:

“State agency” means a ministry, a sub-ministry, a department or a government agency called by any other name and having the status as a department, a local government agency, a state enterprise, a public organisation or any other state agency under the executive branch but it shall not include a general administration unit of the National Assembly, an independent organ, courts and a State Attorney Organ;

“State official” means a government official, an employee, a temporary officer, or any other officer of a state agency;

“Central personnel administration agency” means the Civil Service Commission, the Committee for Civil Service in Higher Education Institutions, Teacher Civil Service and Educational Personnel Commission and Police Commission under the law on that particular type of government officials including the Central Committee of state officials in the executive branch and the Commission on Local Government Personnel Standards under the law on local personnel administration;

“Committee” means the Ethical Standard Committee.

Section 4. The Prime Minister shall have charge and control of the execution of this Act.

CHAPTER I

ETHICAL STANDARD AND CODE OF ETHICS

Section 5. Ethical Standard means the criteria for moral behaviour of state officials, which shall consist of the followings:

- (1) to adhere to the principal institutions of the country, namely, the nation, the religion, the King and the democratic form of government with the King as Head of State;
- (2) to have honesty, integrity, good conscience and responsibility;
- (3) to be courageous in making decisions and acting morally;
- (4) to think more of the common good than of one’s own individual gain and have public mind;
- (5) to have result-based determination;
- (6) to perform duties on fairly and without unfair discrimination;
- (7) to be a good role model and maintain the good image of public service;

The ethical standard under paragraph one shall be used as the main principles in enacting the Code of Ethics of state agencies prescribing the criteria in performing duties of state officials which relates to morality, to be moral maintained by state officials in performing duties, a judgment of right and wrong, a decent or indecent act including the maintenance of virtue and avoidance of vice.

Section 6. The central personnel administration agency shall have the duties to enact the Code of Ethics for state officials under its responsibility.

In the case of state officials without the central personnel administration agency, the followings shall enact the Code of Ethics:

- (1) the Council of Ministers for political officials;
- (2) Defence Council for military officials and defence civil servants;
- (3) State Enterprise Policy Office for executives and employees of state enterprises;
- (4) Committee on Development and Promotion of Public Organisation for executives, officials and staff of the state enterprises.

In the case where there is an issue on what organisation shall enact the Code of Ethics for such type of state officials, the ETC shall have the decisive power.

In this regard, a state agency may produce the ethical requirement to apply to state officials in that agency in addition to the Code of Ethics as deemed appropriate to the specific tasks of the state agency.

The enactment of Code of Ethics and ethical requirement of a state agency shall also be in accordance with the criteria as prescribed by the ETC under section 14.

Section 7. To ensure that the Code of Ethics for a state agency contains the same level of Ethical Standard, in enacting the Code of Ethics of the central personnel administration agency of courts or a State Attorney Organ organisation or of the central personnel administration agency of the general administration unit of the National Assembly and independent organ, the ethical standard under section 5 shall be considered for the Code of Ethics of state officials under its responsibility.

CHAPTER II

ETHICAL STANDARD COMMITTEE

Section 8. There shall be an Ethical Standard Committee, abbreviated as “ETC”, consisting of:

- (1) the Prime Minister or Deputy Prime Minister designated by the Prime Minister as chairperson;
- (2) a representative from the Civil Service Commission designated as the deputy chairperson;

(3) five ex officio members, namely, a representative assigned by the Committee for Civil Service in Higher Education Institutions, the Teacher Civil Service and Educational Personnel Commission, Police Commission, the Commission on Local Government Personnel Standards and Defence Council;

(4) not more than five qualified persons appointed by the Prime Minister as members.

The Secretary-General of the Civil Service Commission shall be a member and secretary and the Secretary-General of the Civil Service Commission shall appoint a civil servant of the Office of the Civil Service Commission as an assistant to the secretary as deemed appropriate.

For the purpose of performing duties and powers of the ETC, the ETC may have a resolution to invite, a representative assigned by the Committee administering a state enterprise or a public organisation or a head of state agency that has direct duties and powers to consider this matter or a person with knowledge, expertise and experience on ethics to attend a meeting from time to time as a member. In such case, the invited person who attends the meeting shall be in the position of a member for the invited meeting.

Office of the Civil Service Commission shall have the duties to perform administrative functions, meeting tasks, academic works, information search and study, and other related works for the ETC, a sub-committee or a working group appointed by the ETC and shall have other duties and powers as prescribed in this Act.

Section 9. Qualified members shall have the knowledge, capacity or experience on ethics promotion, law, personnel administration, human resource development or any other issues which may benefit the performance of duties of the ETC with outstanding works and must have qualifications and not be under prohibitions, as follows:

- (1) being of Thai nationality;
- (2) having attained not less than forty-five years of age;
- (3) not being adjudged bankrupt or having been dishonestly bankrupt;
- (4) not being an incompetent or quasi-incompetent person;
- (5) not having been imprisoned by a final sentence of imprisonment, except sentences for offences committed through negligence;

(6) not being a holder of a political position, a local government council member or a local government executive, a committee member or a holder of an executive position in a political party, an advisor of a political party or an officer of a political party;

(7) not having been punished for a breach of discipline, punished by discharge, dismissal or expulsion from government service, a state enterprise or a state agency;

(8) not having been ordered by a final court judgment or an order of the court that his or her assets shall devolve upon the State on the ground of unusual wealth;

(9) not having been sentenced by a final court judgment of committing an offence in public service, or an offence in judicial office, or an offence under the law on wrongdoings of officials in state organisation or agency;

(10) not being under the prohibition from holding a political position;

(11) not having been dismissed from the position by the judgment of the Supreme Court or the Supreme Court's Criminal Division for Persons Holding Political Positions for grossly violating or failing to comply with Code of Ethics.

Section 10. A qualified member shall hold office for a term of three years.

Upon the expiration of the term under paragraph one, if a new qualified member has not yet been appointed, the qualified member whose term of office has expired shall be in office to continue to perform his or her duties until a new member assumes his or her duties.

The qualified member whose term of office has expired may be reappointed but shall not hold office for more than two consecutive terms.

Section 11. In addition, to vacating the office upon the expiration of term, a qualified member shall vacate office upon:

(1) death;

(2) resignation;

(3) lacking of the qualifications or being under any of the prohibitions under section 9;

(4) the ETC passing a resolution to remove from office with a vote of not less than one-half of the total number of the existing members as a result of misfeasance, infamous conduct or lack of ability.

Section 12. In the case where a qualified member vacates office prior to the expiration of term or in the case where the Prime Minister appoints an additional qualified member while previously appointed members remain in office, the qualified member who is appointed to fill a vacancy or to be an additional qualified member shall be in office only for the remaining term of office of the replaced member, except where the term of remaining member is less than one hundred and eighty days, in which case the appointment of a replacing member is not required.

In the case where a qualified member vacates office prior to the expiration of term, the ETC shall consist of the existing members until new members are appointed as prescribed under paragraph one.

Section 13. The ETC shall have the following duties and powers:

(1) to provide advice and consultation relating to policy and strategy on ethical standard and promotion of ethics in the public sector to the Council of Ministers;

(2) to prescribe means or measures in advancing the implementation of procedure to maintain ethics including a mechanism and application of the Code of Ethics for state officials and for the central personnel administration agency, such organisation under section 6 paragraph two or the commander to concretely apply in the personnel administration;

(3) to prescribe means in promoting and developing capacity of state officials to have knowledge and understanding relating to ethical standard and to comply with the Code of Ethics including to propose, a measures to enhance the effectiveness and incentive in complying with the Code of Ethics in the state agencies to the Council of Ministers;

(4) to supervise, monitor and evaluate the implementation of ethical standard by which a state agency shall, at least, conduct an assessment of knowledge and understanding of ethical standard and a behaviour assessment of state officials in such agency;

(5) to examine the annual report of each state agency under section 19 (3) and report, at least once a year, the summary of such work to the Council of Ministers;

(6) to give interpretations and ruling on problem arising from the application of this Act;

(7) to perform other duties as prescribed in this Act or as assigned by the Council of Ministers.

The assessment under (4) shall be in accordance with the criteria and procedures as prescribed by the ETC. An external organisation may jointly involve in the assessment.

Section 14. To ensure that the Code of Ethics and ethical requirement under section 6 are efficiently established and are complied with the ethical standard and are aimed at performing duties and powers under section 13, the ETC shall have the powers to prescribe the criteria in the form of regulations, manuals or guidelines for the central personnel administration agency under section 6 paragraph two and the state agencies to use as the criteria in making the Code of Ethics and ethical requirement as well as in prescribing a procedure to maintain ethics of state officials. In this regard, the ETC shall have the duty to provide advice to the central personnel administration agency, an organisation under section 6 paragraph two and state agencies on the application of this Act.

In the case where it appears to the ETC that the Code of Ethics of a central personnel administration agency or an organisation under section 6 paragraph two or ethical requirement of any state agency is not in accordance with the ethical standard or its application is not in accordance with the criteria as prescribed by the ETC under section one, the ETC shall notify the central personnel administration agency, the organisation under 6 paragraph two or the state agency to correct it. It shall be the duties of such central personnel administration agency, organisation under section 6 paragraph two or state agency to proceed expeditiously.

Section 15. the ETC shall revise the ethical standard under section 5 every five years or in the case where it is necessary or the circumstance has changed. The ETC may consider a revision before such time period. For this proceeding, representatives from the central personnel administration agency and organisation under section 6 paragraph two shall be invited to attend the consultation.

Section 16. At the ETC meetings, the presence of not less than one-half of the total number of existing members is required to constitute a quorum.

At any ETC meeting, if the Chairperson is not present or is unable to perform the duties, the Deputy Chairperson shall perform the duties instead. In the case where there is no Deputy Chairperson or he or she is unable to perform the duties, the attended members shall elect one among themselves to preside over the meeting.

A decision of the meeting shall be made by a majority of votes. In casting a vote, each member has one vote. In the case of an equality of votes, the presiding member shall have an additional vote as the casting vote.

Section 17. In performing the duties under this Act, the ETC shall have the powers to appoint sub-committees or working groups to consider or undertake actions as assigned by the ETC.

The provision of section 16 shall apply to meetings of a sub-committee and a working group *mutatis mutandis*.

Section 18. The Chairperson, members, chairperson of a sub-committee and sub-committee members shall receive the remuneration and other benefits as prescribed by the Ministry of Finance, upon the approval of the Council of Ministers.

CHAPTER III

MAINTAINING ETHICS OF STATE OFFICIALS

Section 19. For the purpose to maintain ethics of state officials, a state agency shall undertake the followings:

(1) to appoint a person to be responsible for maintaining ethics of a state agency. In this regard, it may assign a section which has duties and tasks in ethics, good governance or matters relating to the personnel management or committee or the existing ethics section of such state agency;

(2) to undertake activities to promote, support, provide knowledge, conduct training and develop state officials in a state agency and to formulate effective measures and mechanisms to promote the compliance under the Code of Ethics including a mechanism to promote public engagement in examining behaviour of state officials, network building and collaboration between a state agency and private sector;

(3) to produce an annual report under the criteria as prescribed by the ETC at the end of every fiscal year to present to the ETC. A state agency shall submit the annual report through the central personnel administration agency or an organisation under section 6 paragraph two, as the case may be, to evaluate and submit the overall performance of such agency to the ETC.

Section 20. A central personnel administration agency of each category of state officials and an organisation under section 6 paragraph two shall have the duties to supervise the proceeding to maintain ethics and performance evaluation under the Code of Ethics. It shall also have the duties and powers to conduct a training course, knowledge dissemination as well as create incentive to develop and promote state officials in a state agency to have ethical behaviours and to be a good role model. This includes a compulsory measure for state officials in a state agency whose behaviours violate the ethical standard or who fails to comply with the Code of Ethics by prescribing a measure for personnel management under the law on such category of government officials.

TRANSITORY PROVISIONS

Section 21. Once the ETC prescribes a notification on criteria for enacting the Code of Ethics under section 14, a central personnel administration agency and an organisation under section 6 paragraph two shall complete the Code of Ethics within the duration as prescribed by the ETC.

Section 22. All Code of Ethics, rules, regulations or criteria relating to ethics of state officials which have been enforced prior to the date of entry into force of this Act shall continue to be in force insofar as they are not contrary to or inconsistent with the provisions of this Act until the Code of Ethics or criteria is prescribe under this Act.

Countersigned by :
General Prayut Chan-O-Cha
Prime Minister



Reasons: The reason for the enactment of this Act is that by virtue of section 76 paragraph three of the Constitution of the Kingdom of Thailand provides that the State should develop the ethical standard for state agencies to use as the principles for Code of Ethics of state officials which shall not be lower than such ethical standard. For the purpose of efficiently enacting the Code of Ethics with the same standard, it is, therefore, expedient to have the law on ethical standard to be used as a principle in enacting the Code of Ethics of state agencies which shall be a Code of Conduct of state officials. There shall also be the criteria for establishing the Code of Ethics, a procedure to maintain the ethics of state officials including measures and mechanisms to promote compliance of the Code of Ethics, thus it is necessary to issue this Act.





SUMMARY OF

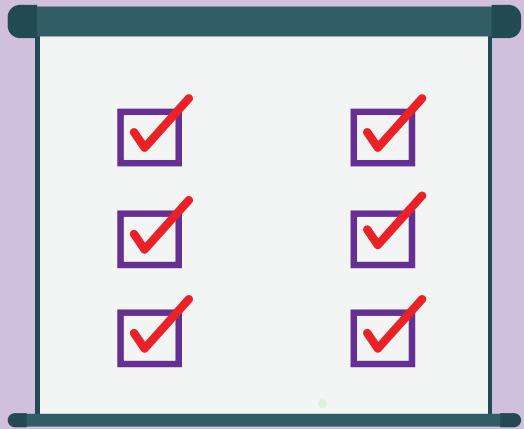
THE ETHICAL STANDARD ACT



B.E. 2562 (2019)

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SUMMARY OF THE ETHICAL STANDARD ACT B.E. 2562 (2019)

1. Important principle and rationale

The Ethical Standard Act B.E. 2562 (2019) was published in the government gazette and has come into force on 17 April B.E. 2562 (2019). The principal of this Act is that there shall be the law on ethical standard applying as the basis for prescribing a Code of Ethics for different categories of the central personnel administration agency and state agencies under the supervision of the executive branch. This is to ensure that all Code of Ethics have consistency and are under the same standard which is in accordance with section 76 paragraph 3 of the Constitution of the Kingdom of Thailand B.E. 2560 (2017). Section 76 paragraph 3 of the Constitution of the Kingdom of Thailand B.E. 2560 (2017) provides that “the State should formulate ethical standards for State agencies to use as the basis for prescribing a Code of Ethics for State officials in that particular agency, which must not be lower than such ethical standards” and also including to provide the mechanisms for maintaining ethics of state officials , effective measures and mechanisms to promote concrete compliance of Code of Ethics.

2. Substance

The main substance of the Ethical Standard Act B.E. 2562 (2019) is that state officials shall maintain the ethics for not be lower than the ethical standard as prescribed by law. It also prescribes the duties of the three mechanisms in propelling levels of ethics effectively. The substance can be summarized as follows:



Section 5. provides that “Ethical Standard” means the criteria for moral behavior of state officials which shall consist of the followings:

- (1) to adhere to the principal institutions of the country, namely, the nation, the religion, the King and the democratic form of government with the King as Head of State;
- (2) to have honesty, integrity, good conscience and responsibility;
- (3) to be courageous in making decisions and acting morally;
- (4) to think more of the common good than of one’s own individual gain and have public mind;
- (5) to have result-based determination;
- (6) to perform duties on fairly and without unfair discrimination;
- (7) to be a good role model and maintain the good image of public service;

The Central personnel administration agency shall undertake such ethical standard to enact the Code of Ethics of state agencies and shall be used as the criteria in performing duties of state officials regarding moral behavior of state officials in performing duties, decision criteria, What is considered a right or a wrongful conduct. This will make the Code of Ethics be in accordance with and not lower than the ethical standard as stipulated by law. Moreover, state agencies may undertake to enact “ethical requirement” appropriately and to be in accordance with their specific tasks of each agency by taking into account the current circumstances, international ethics applied to state officials in additional to the Code of Ethics. This is to reduce the ethical risk and act as deterrence to prevent any wrongdoings including to use the ethical behavior in the human resource management to instil a thoughtful conscience and righteousness in the performance of duties, to uphold honour and dignity of state officials deserving of trust and confidence from the public.

In case where problems occur to whom shall be the one undertaking to enact the Code of Ethics for state officials in such agency, ETC shall have the power to decide. For the purpose of ensuring that the Code of Ethics of state agencies are under the same standard, the law, thus, prescribes the undertaking of Code of Ethics of central personnel administration agency of courts or public prosecutors including the secretariat of the Parliament and independent organisation by applying the above ethical standard to support its consideration during the undertaking of Code of Ethics of state officials, under the supervision of such agency. This is to ensure the coherence and standard within the government sector.

Chapter
2.

Ethical Standard Committee



Section 8. provides that there shall be an Ethical Standard Committee or ETC as the national mechanism to propose policies to propel and promote ethics in the government sector, to maintain the ethics including the measure to apply in the case where state agencies acts inappropriately. This shall include supervision, monitoring, evaluation and reporting to the Council of Ministers. This is to ensure that the ethical standard is piloted successfully and effectively. ETC shall consist of:

- (1) the Prime Minister or Deputy Prime Minister designated by the Prime Minister as chairperson;
- (2) a representative from the Civil Service Commission designated as the deputy chairperson;
- (3) five ex officio members, namely, a representative designated by the Committee for Civil Service in Higher Education Institutions, the Teacher Civil Service and Educational Personnel Commission, Police Commission, the Commission on Local Government Personnel Standards and Defense Council; one member each an in total of five members;
- (4) not more than five qualified persons appointed by the Prime Minister as members;

The Secretary-General of the Civil Service Commission shall be a member and secretary and the Secretary-General of the Civil Service Commission shall also appoint a civil servant of the Office of the Civil Service Commission as an assistant to the secretary as deemed necessary for performing duties and powers of ETC.



Chapter 3.

Maintaining ethics of state officials



There shall be the responsible persons to maintain the ethics of state officials at the level of central personnel administration agency or agency that has the duties to undertake to conduct the Code of Ethics and at the level of agency as follows:

Section 19. prescribes the mechanism at the level of agency that has duties to undertake the activities to promote, support, provide knowledge and training and develop state officials in state agencies and shall arrange effective measures and mechanisms to promote the compliance under the Code of Ethics and at the end of every fiscal year, it shall conduct an annual report through the central personnel administration agency or agency that has duties to undertake the Code of Ethics, as the case may be. This is to evaluate the overall performance; present it to ETC and to disseminate to the public, which would support the performance connection, coherence and moving in the same direction.

Section 20. prescribes the mechanism for the central personnel administration agency that has the duties to supervise the maintaining of ethics and evaluation of the compliance under the Code of Ethics. It also provides the mechanism to conduct training and provide incentive to develop and promote state officials to have ethical behaviors and to be good role models. This includes the measures for state officials in state agencies whose behaviors violate ethical standards or fails to comply with the Code of Ethics by prescribing the measures for applying the Code of Ethics to personnel management and to conduct the summary of performance of the agency under the supervision and present it to the ETC.





Transitory Provision

The law provides the transitory provisions so that all Code of Ethics, rules, regulations or criteria relating to ethics of state officials enforced prior to the date this Act comes into force shall continue to be enforced insofar as they are not contrary to or inconsistent with the provisions of this Act until the Code of Ethics or criteria has been prescribed under this Act.

3. Benefits from the promulgation of this law

This Act prescribes that ethical behaviors shall applied to the personnel management and this make the behaviors and ethics of each state officials to be taken into consideration such as, performance evaluation and salary promotion, appointment, relocation, transfer or discharge. Thus, it is the duties of the executives of each state agency to prioritize the promotion of ethics by supervising civil servants and state officials in the agency to comply with the Code of Ethics and ethical requirement within the agency. It is also the duties of all state officials to study, understand and maintain their ethics by behaving what should be done or avoid what should not be done or have conflict of interest while performing duties as the state officials of such agencies.

Ethical standard of state officials will become an important tool to promote state officials to maintain their ethics and to have appropriate behavior, such as, being honest, responsible, determined, considering the public before his or her own interest and before their peers, and being fair. This will render the people to receive convenient, prompt, and indiscriminate public services resulting in better quality of people's lives. Moreover, the law provides the mechanism in promoting public engagement in examining the work of state officials which would result in the government work having transparency, fairness, and no conflict of interest.

