

Outside Employment

1040.1 PURPOSE AND SCOPE

In order to avoid actual or perceived conflicts of interest for departmental employees engaging in outside employment, all employees shall obtain written approval from the Sheriff prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Sheriff in accordance with the provisions of this policy.

1040.1.1 DEFINITIONS

Outside Employment - Any member of this department who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this department for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with this department for services, product(s) or benefits rendered.

Outside Overtime - Any member of this department who performs duties or services on behalf of an outside organization, company, or individual within this jurisdiction. Such outside overtime shall be requested and scheduled directly through this department so that the Department may be reimbursed for the cost of wages and benefits.

1040.2 OBTAINING APPROVAL

No member of this department may engage in any outside employment without first obtaining prior written approval of the Sheriff. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action.

In order to obtain approval for outside employment, the employee must complete an Outside Employment Application which shall be submitted to the employee's immediate supervisor. The application will then be forwarded through channels to the Sheriff for consideration. If approved, the employee will be provided with a copy of the approved permit. Unless otherwise indicated in writing on the approved permit, a permit will be valid through the end of the calendar year in which the permit is approved. Any employee seeking to renew a permit shall submit a new Outside Employment Application in a timely manner.

Any employee seeking approval of outside employment, whose request has been denied, shall be provided with a written reason for the denial of the application at the time of the denial (Penal Code § 70(e)(3)).

1040.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an employee's Outside Employment Application is denied or withdrawn by the Department, the employee may file a written notice of appeal to the Sheriff within ten days of the date of denial.

If the employee's appeal is denied, the employee may file a grievance pursuant to the procedure set forth in the current Memorandum of Understanding (MOU).

San Mateo County Sheriff's Office

Policy Manual

Outside Employment

1040.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS

Any outside employment permit may be revoked or suspended under the following circumstances:

- (a) Should an employee's performance at this department decline to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of competency, the Sheriff may, at his or her discretion, revoke any previously approved outside employment permit(s). That revocation will stand until the employee's performance has been reestablished at a satisfactory level and his/her supervisor recommends reinstatement of the outside employment permit
- (b) Suspension or revocation of a previously approved outside employment permit may be included as a term or condition of sustained discipline
- (c) If, at any time during the term of a valid outside employment permit, an employee's conduct or outside employment conflicts with the provisions of department policy, the permit may be suspended or revoked
- (d) When an employee is unable to perform at a full duty capacity due to an injury or other condition, any previously approved outside employment permit may be subject to similar restrictions as those applicable to the employee's full time duties until the employee has returned to a full duty status

1040.3 PROHIBITED OUTSIDE EMPLOYMENT

Consistent with the provisions of Government Code § 1126, the Department expressly reserves the right to deny any Outside Employment Application submitted by an employee seeking to engage in any activity which:

- (a) Involves the employee's use of departmental time, facilities, equipment or supplies, the use of the Department badge, uniform, prestige or influence for private gain or advantage
- (b) Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this department for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee's duties as a member of this department
- (c) Involves the performance of an act in other than the employee's capacity as a member of this department that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this department
- (d) Involves time demands that would render performance of the employee's duties for this department less efficient

1040.3.1 OUTSIDE SECURITY AND PEACE OFFICER EMPLOYMENT

Consistent with the provisions of Penal Code § 70, and because it would further create a potential conflict of interest, no member of this department may engage in any outside or secondary employment as a private security guard, private investigator or other similar private security position.

San Mateo County Sheriff's Office

Policy Manual

Outside Employment

Any private organization, entity or individual seeking special services for security or traffic control from members of this department must submit a written request to the Sheriff in advance of the desired service. Such outside extra duty overtime assignments will be assigned, monitored and paid through the Department.

- (a) The applicant will be required to enter into an indemnification agreement prior to approval.
- (b) The applicant will further be required to provide for the compensation and full benefits of all employees requested for such outside security services.
- (c) Should such a request be approved, any employee working outside overtime shall be subject to the following conditions:
 1. The deputy(s) shall wear the departmental uniform/identification.
 2. The deputy(s) shall be subject to the rules and regulations of this department.
 3. No deputy may engage in such outside employment during or at the site of a strike, lockout, picket, or other physical demonstration of a labor dispute.
 4. Compensation for such approved outside security services shall be pursuant to normal overtime procedures.
 5. Outside security services shall not be subject to the collective bargaining process.
 6. No deputy may engage in outside employment as a peace officer for any other public agency without prior written authorization of the Sheriff.

1040.3.2 OUTSIDE OVERTIME ARREST AND REPORTING PROCEDURE

Any employee making an arrest or taking other official police action while working in an approved outside overtime assignment shall be required to complete all related reports in a timely manner pursuant to department policy. Time spent on the completion of such reports shall be considered incidental to the outside overtime assignment.

1040.3.3 SPECIAL RESTRICTIONS

Except for emergency situations or with prior authorization from the Division Commander, undercover deputies or deputies assigned to covert operations shall not be eligible to work overtime or other assignments in a uniformed or other capacity which might reasonably disclose the deputy's law enforcement status.

1040.4 DEPARTMENT RESOURCES

Employees are prohibited from using any department equipment or resources in the course of or for the benefit of any outside employment. This shall include the prohibition of access to official records or databases of this department or other agencies through the use of the employee's position with this department.

1040.4.1 REVIEW OF FINANCIAL RECORDS

Employees approved for outside employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflict of interest pursuant to Government Code § 3308. Prior to providing written approval for an outside employment position, the Department may request that an officer provide his or her personal financial records for review/audit in order to determine whether a conflict of interest exists. Failure of the

Outside Employment - 473

San Mateo County Sheriff's Office

Policy Manual

Outside Employment

employee to provide the requested personal financial records could result in denial of the off duty work permit. If, after approving a request for an outside employment position, the Department becomes concerned that a conflict of interest exists based on a financial reason, the Department may request that the employee provide his or her personal financial records for review/audit. If the employee elects not to provide the requested records, his or her off-duty work permit may be revoked pursuant to Policy Manual § 1040.2.2(c).

1040.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS

If an employee terminates his or her outside employment during the period of a valid permit, the employee shall promptly submit written notification of such termination to the Sheriff through channels. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Sheriff any material changes in outside employment including any change in the number of hours, type of duties, or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material are advised to report the change.

1040.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY

Department members engaged in outside employment who are placed on disability leave or modified/light-duty shall inform their immediate supervisor in writing within five days whether or not they intend to continue to engage in such outside employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside employment along with any related doctor's orders, and make a recommendation to the Sheriff whether such outside employment should continue.

In the event the Sheriff determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions regarding their work permit, a notice of revocation of the member's permit will be forwarded to the involved employee, and a copy attached to the original work permit.

Criteria for revoking the outside employment permit include, but are not limited to, the following:

- (a) The outside employment is medically detrimental to the total recovery of the disabled member, as indicated by the County's professional medical advisors.
- (b) The outside employment performed requires the same or similar physical ability, as would be required of an on-duty member.
- (c) The employee's failure to make timely notice of their intentions to their supervisor.

When the disabled member returns to full duty with the San Mateo County Sheriff's Office, a request (in writing) may be made to the Sheriff to restore the permit.

1040.7 NOTICES AND APPEALS

Violation of any of the above may be grounds for suspension, demotion, reprimand, transfer, or dismissal. Pursuant to sections 2.75.040 and 2.75.050 of the County's Ordinance Code, employees shall be notified of these Departmental Rules Governing Incompatible Activities,

shall be notified if they are alleged to have violated such rules, and shall have a right to appeal any such discipline as follows:

Classified employees - The provisions of Civil Service Rule XIV as to notice and hearing shall be applicable to discipline imposed after a determination that a classified officer or employee has engaged in an incompatible activity or prohibited outside employment to the extent such classified officer or employee would otherwise be entitled to an appeal of such discipline under the provisions of the Charter or the rules of the Civil Service Commission.

Unclassified officers/employees - Any unclassified officer or employee may, upon being notified by the Department Head or his/her designee that said officer or employee has engaged in an incompatible activity or prohibited outside employment, may request a hearing before the Department Head, and such hearing shall be given to said officer or employee within a reasonable time. The purpose of such hearing is to permit the officer or employee to present evidence or argument in opposition to, or in mitigation of, the determination that he/she has engaged in an incompatible activity or prohibited outside employment. Such hearing is not a formal hearing and no witnesses will be allowed to testify, nor will any questioning or examination of individuals be allowed. Participation in any incompatible activity or prohibited outside employment by an unclassified employee or officer may be cause for discipline including, but not limited to, suspension, demotion, reprimand, transfer, or dismissal; provided that if disciplinary action is taken against an unclassified officer or employee on the ground that said officer or employee has engaged in an incompatible activity or prohibited outside employment, said officer or employee may appeal the determination of the Department Head to the Committee on Incompatible Activities, which Committee shall inquire into the facts surrounding said disciplinary action, and shall thereafter make a recommendation to the Department Head on the question of whether the proposed disciplinary action should be taken. Said Committee recommendation shall not be binding on the Department Head and nothing this policy is intended to interfere with a Department Head's authority to impose discipline on officers or employees including, but not limited to, suspension, demotion, reprimand, transfer, or dismissal. Should a Department Head reject the Committee's recommendation and impose discipline on an officer or employee, such discipline shall not constitute a violation of the policies set forth herein.