

AUDITOR-CONTROLLER/TREASURER-TAX COLLECTOR DEPARTMENT INCOMPATIBLE ACTIVITIES POLICY

This policy is enacted pursuant to Government Code section 1126, a copy of which is attached hereto and incorporated by reference. It is not the intention of this policy to infringe unnecessarily upon an employee's plans to advance his or her career goals, or to improve his or her financial situation. This policy is adopted in order to comply with applicable statutes, and to assure the public of the commitment and service it deserves from its officers and employees.

Government Code § 1126 authorizes local agencies to adopt rules prohibiting employees from engaging in any employment, activity, or enterprise for compensation (collectively referred to as "outside employment") that is inconsistent with, incompatible, in conflict with, or inimical to his or her duties as a local agency officer or employee or with the duties, function or responsibilities of his or her appointing power or the agency by which he or she is employed.

Government Code § 1126 further prohibits an employee from performing any employment, activity or enterprise for compensation outside his or her employment for the County of Sonoma ("County") where his or her efforts will be subject to approval by any employee, board or agency of the County unless approved by the employee's appointing authority using the process set out below.

PROCESS:

- a. Any employee who intends to engage in any outside employment for compensation is encouraged to notify his or her appointing authority (usually, the Department Head) if there is a possibility that such outside employment might be incompatible with the employee's County employment, and request a determination on incompatibility. The request should include sufficient description of the proposed duties and work schedule at the desired outside employment to permit the appointing authority to reach an informed decision.
- b. Outside employment may be prohibited and may be considered incompatible if it:
 1. Involves the use of County resources, including but not limited to: facilities, equipment, and supplies; or the badge, uniform, prestige, or influence of the County or the employee's County position.
 2. Involves the receipt or acceptance, by the employee or any entity owned in whole or in part by the employee, of any consideration or money, to perform any act that the employee is required to perform as party of his or her County employment.
 3. May be subject to the control, inspection, review, audit or enforcement of any other officer or employee or the agency by which her or she is employed and the employee's appointing authority determines that there is a likelihood of actual incompatibility, such as potential favoritism, selective enforcement, or misuse of county information.

4. Is performed during the employee's regular County work schedule unless the employee is on authorized leave.
5. Involves work on a project under contract with the County of Sonoma.
6. Involves time demands that would render the employee's performance of his or duties as a County employee less efficient.
7. The outside employment must not involve the distribution of County financial, payroll, or tax information in exchange for any form of compensation to the individual employee.

- c. Within 15 days of receiving a notice and determination request from an employee, the appointing authority shall determine whether or not the proposed activity is incompatible, and notify the employee in writing of his or her determination.
- d. An employee may appeal from a determination that the proposed employment is incompatible by initiating the following process:
 1. File a written appeal with Director of Human Resources within fifteen (15) calendar days of issuance of the written determination of incompatible activities. The employee's written appeal should include a copy of the initial request for determination, the appointing authority's response, and any other information the employee believes is relevant.
 2. The Director of Human Resources shall issue a written determination within fifteen (15) calendar days of receiving the appeal. The Director's decision shall be mailed to the employee via first class mail and shall be conclusive, final and binding on both the employee and the appointing authority.

VIOLATIONS:

Employees are encouraged to seek a determination from their appointing authority before accepting outside employment in order to avoid inadvertent violation of this policy. Violations of this policy may result in discipline up to and including termination.

RECEIPT:

A copy of this policy will be distributed to all current employees and all newly hired employees. Employees shall sign a receipt (page 3) to show that they have been provided a copy of the policy, and return the receipt to the department. The department shall keep this receipt in the employee's personnel file.

APPROVAL:

This policy was approved by Resolution No. 07-0781 adopted on September 18th, 2007.

**AUDITOR-CONTROLLER/TREASURER-TAX COLLECTOR DEPARTMENT
INCOMPATIBLE ACTIVITIES POLICY RECEIPT**

(to be placed in Employee's Personnel File)

I received a copy of Auditor-Controller/Treasurer-Tax Collector Department's Incompatible Activities Policy. I certify that I have read and understand the Policy. I acknowledge that if I fail to follow the terms of this policy I may result in discipline up to and including termination.

DATE: _____

PRINTED NAME: _____

SIGNATURE: _____

WEST'S ANNOTATED CALIFORNIA CODES
GOVERNMENT CODE
TITLE 1. GENERAL
DIVISION 4. PUBLIC OFFICERS AND EMPLOYEES
CHAPTER 1. GENERAL
ARTICLE 4.7. INCOMPATIBLE ACTIVITIES

Current through Ch. 1of 2003-04 Reg.Sess. urgency legislation, Ch. 4of 1st Ex.Sess. urgency legislation, & Ch. 1of 2nd Ex.Sess.

§ 1126. Inconsistent, incompatible, or conflicting employment, activity, or enterprise by local agency officer or employee; rules; rights; collective bargaining

- (a) Except as provided in Sections 1128 and 1129, a local agency officer or employee shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as a local agency officer or employee or with the duties, functions, or responsibilities of his or her appointing power or the agency by which he or she is employed. The officer or employee shall not perform any work, service, or counsel for compensation outside of his or her local agency employment where any part of his or her efforts will be subject to approval by any other officer, employee, board, or commission of his or her employing body, unless otherwise approved in the manner prescribed by subdivision (b).
- (b) Each appointing power may determine, subject to approval of the local agency, and consistent with the provisions of Section 1128 where applicable, those outside activities which, for employees under its jurisdiction, are inconsistent with, incompatible to, or in conflict with their duties as local agency officers or employees. An employee's outside employment, activity, or enterprise may be prohibited if it: (1) involves the use for private gain or advantage of his or her local agency time, facilities, equipment and supplies; or the badge, uniform, prestige, or influence of his or her local agency office or employment or, (2) involves receipt or acceptance by the officer or employee of any money or other consideration from anyone other than his or her local agency for the performance of an act which the officer or employee, if not performing such act, would be required or expected to render in the regular course or hours of his or her local agency employment or as a part of his or her duties as a local agency officer or employee or, (3) involves the performance of an act in other than his or her capacity as a local agency officer or employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other officer or employee or the agency by which he or she is employed, or (4) involves the time demands as would render performance of his or her duties as a local agency officer or employee less efficient.
- (c) The local agency shall adopt rules governing the application of this section. The

rules shall include provision for notice to employees of the determination of prohibited activities, of disciplinary action to be taken against employees for engaging in prohibited activities, and for appeal by employees from such a determination and from its application to an employee. Nothing in this section is intended to abridge or otherwise restrict the rights of public employees under Chapter 9.5 (commencing with Section 3201) of Title 1.

- (d) The application of this section to determine what outside activities of employees are inconsistent with, incompatible with, or in conflict with their duties as local agency officers or employees may not be used as part of the determination of compensation in a collective bargaining agreement with public employees.