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# Outside Employment

## 1020.1 PURPOSE AND SCOPE

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

### 1020.1.1 DEFINITIONS

**Outside/Secondary 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/secondary employment includes those employees who are self-employed and not affiliated directly with this department for services, product(s) or benefits rendered.

**Outside/Secondary 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/secondary overtime shall be tracked by the Administration Division in order to prevent excessive hours being worked by uniformed personnel.

## 1020.2 OBTAINING APPROVAL

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

In order to obtain approval for outside/secondary employment, the employee must complete an Outside/Secondary Employment Memorandum which shall be submitted to the employee's immediate supervisor. The application will then be forwarded through channels to the Chief of Police for consideration.

If approved, the employee will be provided with a copy of the approved Memorandum. Unless otherwise indicated in writing on the approved Memorandum, an Memorandum will be valid through the end of the calendar year in which the Memorandum is approved. Any employee seeking to renew a Memorandum shall submit a new Outside/Secondary Employment Memorandum in a timely manner.

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

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### 1020.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an employee's Outside Employment Memorandum is denied or withdrawn by the Department, the employee may file a written notice of appeal to the Chief of Police 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).

### 1020.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT APPLICATIONS

Any outside/secondary employment Memorandum 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 Chief of Police may, at his or her discretion, revoke any previously approved outside/secondary employment Memorandum(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/secondary employment Memorandum
- (b) Suspension or revocation of a previously approved outside/secondary employment Memorandum may be included as a term or condition of sustained discipline
- (c) If, at any time during the term of a valid outside/secondary employment Memorandum, an employee's conduct or outside/secondary employment conflicts with the provisions of department policy, the Memorandum 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/secondary employment Memorandum 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

### 1020.3 PROHIBITED OUTSIDE EMPLOYMENT

Consistent with the provisions of Government Code § 1126, the Department expressly reserves the right to deny any Outside/Secondary Employment Memorandum 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.

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- (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.

### 1020.3.1 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.

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 Chief of Police 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 officer(s) shall wear the departmental uniform/identification.
  2. The officer(s) shall be subject to the rules and regulations of this department.
  3. No officer 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 officer may engage in outside employment as a peace officer for any other public agency without prior written authorization of the Chief of Police.

### 1020.3.2 OUTSIDE OVERTIME ARREST AND REPORTING PROCEDURE

Any employee making an arrest or taking other official police action while working in an approved outside/secondary overtime assignment shall be required to complete all related reports in a timely

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manner pursuant to department policy. Time spent on the completion of such reports shall be considered incidental to the outside/secondary overtime assignment.

### **1020.3.3 SPECIAL RESTRICTIONS**

Except for emergency situations or with prior authorization from the Division Commander, undercover officers or officers 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 officer's law enforcement status.

### **1020.4 DEPARTMENT RESOURCES**

Employees are prohibited from using any department equipment or resources in the course of or for the benefit of any outside/secondary 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.

#### **1020.4.1 REVIEW OF FINANCIAL RECORDS**

Employees approved for outside/secondary employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflict of interest (Government Code § 3308; Government Code § 1126). Prior to providing written approval for an outside/secondary employment position, the Department may request that an employee provide his/her personal financial records for review/audit in order to determine whether a conflict of interest exists. Failure of the employee to provide the requested personal financial records could result in denial of the off-duty work application. If, after approving a request for an outside/secondary 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/her personal financial records for review/audit. If the employee elects not to provide the requested records, his/her off-duty work application may be revoked pursuant to the Revocation/Suspension of Outside/Secondary Employment Application(s) section of this policy.

### **1020.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS**

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

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

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### **1020.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY**

Department members engaged in outside/secondary 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/secondary employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside/secondary employment along with any related doctor's orders, and make a recommendation to the Chief of Police whether such outside/secondary employment should continue.

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

Criteria for revoking the outside/secondary employment Memorandum 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 City's professional medical advisors.
- (b) The outside/secondary 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 East Palo Alto Police Department, a memo (in writing) may be made to the Chief of Police to restore the Memorandum.