

Secondary Employment

1004.1 PURPOSE AND SCOPE

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

1004.1.1 DEFINITIONS

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 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.

1004.2 OBTAINING APPROVAL

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

In order to obtain approval for secondary employment, the employee must complete an Secondary Employment Application 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 permit. Unless otherwise indicated in writing on the approved permit, a permit will be valid for one year. Any employee seeking to renew a permit shall submit a new Secondary Employment Application in a timely manner.

Any employee seeking approval of secondary 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)).

1004.2.1 APPEAL OF DENIAL OF SECONDARY EMPLOYMENT

If an employee's Secondary Employment Application is denied or withdrawn by the Department, the employee may file a written notice of appeal to the Chief of Police within ten days of the date of denial.

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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).

1004.2.2 REVOCATION/SUSPENSION OF SECONDARY EMPLOYMENT PERMITS

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

1004.3 PROHIBITED SECONDARY EMPLOYMENT

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

- (a) Involves the employee's use of department 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.

1004.3.1 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

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employment as a private security guard, private investigator or other similar private security position.

Notwithstanding the foregoing, in his or her discretion, the Chief of Police may permit a member to conduct pre-employment background investigations and/or administrative disciplinary investigations on behalf of employers other than the City of Irvine provided that such investigations will not be subject to review by the City of Irvine, conflict with Government Code section §1126, or violate the City of Irvine Conflict of Interest policy.

1004.4 DEPARTMENT RESOURCES

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

1004.4.1 REVIEW OF FINANCIAL RECORDS

Employees approved for 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 a 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 secondary work permit. If, after approving a request for an 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 secondary work permit may be revoked pursuant to the Revocation/Suspension of Secondary Employment Permits section of this policy.

1004.5 CHANGES IN SECONDARY EMPLOYMENT STATUS

If an employee terminates his or her secondary employment during the period of a valid permit, the employee shall promptly submit written notification of such termination to the Chief of Police through channels. Any subsequent request for renewal or continued 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 secondary employment including any change in the number of hours, type of duties, or demands of any approved secondary employment. Employees who are uncertain whether a change in secondary employment is material are advised to report the change.

1004.6 SECONDARY EMPLOYMENT WHILE ON DISABILITY

Department members engaged in 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 secondary employment while on such leave or light-

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duty status. The immediate supervisor shall review the duties of the secondary employment along with any related doctor's orders, and make a recommendation to the Chief of Police whether such secondary employment should continue.

In the event the Chief of Police determines that the secondary 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 secondary employment permit include, but are not limited to, the following:

- (a) The secondary employment is medically detrimental to the total recovery of the disabled member, as indicated by the City's professional medical advisors.
- (b) The 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 Irvine Police Department, a request (in writing) may be made to the Chief of Police to restore the permit.