



POLICIES AND PROCEDURES

SUBJECT: OUTSIDE EMPLOYMENT/INCOMPATIBLE ACTIVITY, CONFLICT OF INTEREST, STATE OF CALIFORNIA CONFLICT OF INTEREST AND DISCLOSURE CODE, AND DUAL COMPENSATION

POLICY NO: 740

PURPOSE: To govern outside employment/incompatible activities, conflict of interest, California Conflict of Interest and Disclosure Code and dual compensation of Department of Health Services (DHS) employees.

SCOPE: Provisions of this policy apply to all DHS employees, therefore, all employees must review this policy when newly hired and at least annually.

I. OUTSIDE EMPLOYMENT/INCOMPATIBLE ACTIVITY:

POLICY: In compliance with State law and County ordinance, the Department has adopted the following policy:

1. Full-time DHS employees, exclusive of postgraduate physician classifications, may work in non-conflicting outside employment to a limit of 24 hours in any week ***with supervisor's approval***, provided that the effectiveness of his/her County assignment is not impaired. Persons employed in postgraduate physician classifications are limited to a maximum of 96 hours of non-conflicting outside employment in any one calendar month.
2. No employee, may make, participate in the making, or in any way attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know that he/she has a financial interest. An employee is prohibited from participating in the making of a contract in which he/she has a financial interest.
3. While on County time, no DHS employee may engage in any outside employment or activity for compensation or on a volunteer basis, unless it is a circumstance in which the employee receives supplementary compensation as provided for in Title 5, Chapter 5.44 of the Los Angeles County Code. Many activities with non-County agencies are considered to be a regular part of the employee's County employment. If there is any doubt as to the

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nature of the activity, approval of the local facility or program administrator should be obtained.

4. Employees, including part-time DHS employees, shall not use County facilities, tools, equipment or supplies for other than County purposes.
5. Unauthorized use of confidential and other non-public information gathered in contact with patients, clients, other employees or from departmental records, is prohibited. Such information may be used only for official departmental business.
6. The provision of expert witness service that takes a position against the County in any legal action where the County is a party to the action shall be deemed to be inconsistent with or incompatible to the employee's duties with the County.

GUIDELINES:

OUTSIDE EMPLOYMENT/INCOMPATIBLE ACTIVITIES

All employees intending to engage in outside employment or activities shall notify the Department in writing and obtain **prior** approval for such employment or activity.

All employees who intend to engage in outside employment, including to provide expert witness testimony shall obtain **prior** approval to engage in such activity. Human Resources Managers shall provide the "Outside Employment/Incompatible Activity, Conflict of Interest, State of California Conflict of Interest Disclosure Code, and Dual Compensation," hereafter referred to as The "Outside Employment" form (Attachment 1) to employees for use in notifying the Department of their intent to engage in outside activities.

Any employee who is or is intending to engage in outside employment is required to disclose the circumstances and consult with his/her supervisor or the local facility Human Resources Manager for a determination of its compatibility with County employment. The "Outside Employment" form

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shall be reviewed by management to ensure the employment/activity is compatible with the employee's County employment (see approval process below).

DHS Human Resources shall establish procedures to assure that employees are aware of this policy. Such procedures shall include, but are not limited to, the following:

1. Require each incoming employee to review and sign acknowledgment of this policy and retain the signed original in his/her personnel file.
2. Documentation of additional review of this policy between the supervisor/manager and the employee at least annually and/or in association with the Performance Evaluation process.

APPROVAL PROCESS:

Every employee shall, prior to engaging in outside employment, submit a completed and signed "Outside Employment" form and attach relevant in depth written documentation verifying the terms, conditions and duties of the outside employment to his/her immediate supervisor. The employee shall complete the appropriate areas of the "Authorization to Release Outside Employment/Activity Information" form (Attachment 2), submit it to his/her outside employment supervisor for completion, and return the completed form to his/her County supervisor for review and approval.

1. Such requests will be reviewed by the employee's immediate supervisor or physician designee (physicians only) and the division head or next highest level of management and the Facility/Program Medical Director (physicians only). The review may also include verification, with the outside employer, of the information provided by the employee regarding the terms, conditions and duties of the proposed outside employment.
2. Approval must be obtained from both the immediate supervisor and the division head or next highest level of management.

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3. Incomplete requests will be returned to the employee for corrective action.
4. The employee will be notified within ten (10) business days of the disposition of his/her request.
5. Outside Employment request forms shall be distributed as follows:
 - a. Original to be filed in employee's personnel folder.
 - b. A copy to be returned to the employee.
 - c. A copy to be returned to the immediate supervisor.
 - d. A copy to the employee's area personnel file.

CONDITIONS FOR DENIAL:

The following conditions are grounds for denial of outside employment or activity. The following list is intended to be representative and not exhaustive. Therefore, employees should use it as a guide and consult with their immediate supervisor and/or Human Resources Manager if in doubt. Under all circumstances, requests to serve as an expert witness against the County, in a case where the County is a party to the action, shall be denied.

Grounds for denial of Outside Employment/Incompatible Activities include, but are not limited to:

1. The employee has a less than competent performance evaluation.
 2. The outside employment or activity, by its nature, schedule or extent, might impair the employee's efficiency in the County service (e.g. cause tardiness or tiredness).
 3. The non-conflicting outside employment/activity requires and/or involves more than 24 hours per week for a person employed in a County classification other than a postgraduate physician classification for full-time employees.
 4. The non-conflicting outside employment/activity requires and/or involves more than 96 hours in any one calendar month for a
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person employed in a County postgraduate physician classification for full-time employees.

5. County property, tools, records, confidential and/or other non-public information are used in conjunction with the employment.
6. The outside employment/activity position requires the employee to engage in non-County business and/or activities while on County time. This would include, for example, requiring an employee to be available to answer non-County related telephone calls while on County time.
7. The outside employment/activity position is incompatible or inconsistent with or would result in a conflict of interest with the employee's regular duties and/or responsibilities of his or her County employment.
8. The non-County employer is known to serve as an "agent" to recruit other County employees, i.e., the outside employment would constitute recruitment of County employees away from the County.
9. In the case of full-time County physicians, the non-County position would cause additional hours of County employment to occur immediately following 24 hours of continuous County and/or non-County employment (see SPECIAL CONDITIONS FOR PHYSICIANS).
10. Failure to provide requested verification of outside employment.
11. The employee's refusal to sign a release authorizing the outside employer to provide the proposed working hours to the County.
12. The employee intends to provide expert witness testimony in legal cases where the County is a party to the action.

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SPECIAL CONDITIONS FOR PHYSICIANS:

Physicians employed by the Department may wish to supplement their base salaries with non-County employment. Potential sources of non-County income may include, but are not limited to, affiliated medical school income that is not provided pursuant to the terms of an Affiliation Agreement with the subject medical school, research, private practice, outside contracts and lectures. These non-County sources of income must receive **prior** approval from appropriate physician designee at the facility in accordance with this policy. Non-County employment may not be claimed on the County timecard.

A physician may receive compensation for outside employment upon approval of his/her supervisor provided that his/her County employment is not impaired and the work is not concurrent. Compensation to a physician under an Affiliation Agreement is not subject to this approval process. This approval process applies only to work that a physician intends to perform separate and apart from the Affiliation Agreement.

Physician residents and their supervisors must take care to ensure outside employment does not exceed the allowable number of hours of work based on the physician's work schedule and County, State and regulatory provisions.

- APPEAL PROCESS:** Whenever a request for approval of outside employment is denied, the employee may appeal the decision within ten (10) business days of the notice of denial. If the appeal is not filed within ten (10) business days, it shall be denied as untimely.
1. A request for appeal must be in writing, state the specific reason(s) for the request and be submitted to the division head or next highest level of management that reviewed the original request for approval.
 2. The employee must include any specific evidence, information, documentation to support his/her position at the time the request for appeal is filed.

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3. The division head or second level signatory shall review the request for appeal and all accompanying evidence, information and/or documentation and make a written finding and decision within ten (10) business days of the filing date of the request for appeal. A copy of the findings shall be given to the employee.
4. A employee who disagrees with the finding of the division head or second level signatory may file a written appeal with the Director, DHS Human Resources or his/her designee setting forth the specific reasons for his/her disagreement.

Such appeal must be filed within ten (10) business days of receipt of the written findings of the first level appeal. The Director, DHS Human Resources or his/her designee will convene a Review Board which will include a member of the Executive Management of the local facility. The Review Board's decision on such an appeal shall be provided to the employee in writing within twenty (20) business days of the filing date and shall be conclusive and final.

II. CONFLICT OF INTEREST:

POLICY: Under State law, no County employee, including part-time employees, may make, participate in the making or in any way attempt to use his official position to influence any governmental decision in which he has a financial interest. An employee has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the employee or a member of his/her immediate family or on:

- (a) Any business entity in which the employee has a direct or indirect interest worth \$2,000 or more;
- (b) Any real property in which the employee has a direct or indirect interest worth \$2,000 or more;
- (c) Any source of income to the employee aggregating \$500 or more in value provided to, received by or promised to the

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- employee within 12 months prior to the time when the decision is made;
- (d) Any business entity in which the employee is a director, officer, partner, trustee, employee or holds any position of management; or,
 - (e) Any donor of, or any intermediary or agent for a donor of, a gift(s) aggregating \$360 (to be increased biennially based on the Consumer Price Index, per State law) or more in value provided to, received by or promised to the employee within 12 months prior to the time when the decision is made.

Further, State law precludes a County employee from participating in the making of a contract in which he/she has a financial interest. For purposes of this prohibition, the concept of "participating in the making of a contract" has been very broadly defined to include involvement in any aspect of the contract process, including, but not limited to, the recommendation of whether to contract out specific work, the drafting of contract specification, the evaluation of proposals/bids, the recommendation to award the contract to a proposer/bidder, the monitoring of a contractor, or the recommendation to extend or terminate a contract.

In addition to the statutory definition of financial interest, there are numerous State statutes and regulations which further define what constitutes financial interest. Any employee who believes that he/she may have a financial interest in a decision or contract which is either his/her departmental responsibility should immediately discuss the issue with his/her supervisor before he/she, in any way, participates in the decision or in the making of the contract.

No County employee shall be involved in the decision to transfer or refer a paying patient to a private facility in which the employee has a financial interest (i.e., a facility in which the employee has an investment, receives income from, or serves as a partner, officer or director) unless specifically authorized to do so by the Director of his/her designee, after disclosing the nature of the affiliation.

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Honoraria (money given to an employee for guest speaking engagements), is generally not allowed. In some situations it may be accepted if it has been approved by the Department Head or designee, in writing, prior to the engagement and the honoraria is donated to a 501(c)(3) nonprofit agency or to the department to enhance the provision of services. Since the rules are very fact specific, an employee must check with his supervisor before accepting any honoraria.

GUIDELINES: The burden of responsibility is upon the employee to disclose and report all potential conflict of interest situations, document the circumstances, and secure from the appropriate head of the division consultation and approval for the procedure to be followed which will be designed to protect the Department, the employee and the public. The "Outside Employment" form shall be used for this purpose.

Each Human Resources Manager shall establish procedures to assure that employees are aware of this policy. Such procedures shall include, but are not limited to, the following:

1. Review and signature acknowledgment of the policy by each incoming, new transfer, reinstated or restored employee maintained in the personnel file.
2. Documentation of additional review of this policy between the supervisor/manager and the employee, at least annually, in association with the Performance Evaluation process.

CONFLICT OF INTEREST AND DISCLOSURE CODE:

PURPOSE: To ensure compliance by the Department and its employees with the State of California Political Reform Act of 1974 and Fair Political Practices Commission Regulations.

POLICY: In compliance with the Political Reform Act of 1974 and the regulations generated by the Fair Political Practices Commission, the Department has enacted a Conflict of Interest and Disclosure Code. This Code lists all job positions that involve the making or participation in the making of

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decisions that may foreseeably have a material effect on the employee's private financial interests. The Code also enumerates, for each designated position, the specific type of financial interests that are reportable. On an annual basis, employees designated on the Code must complete a Statement of Economic Interests, disclosing those financial interests specified by the Code.

All employees regardless of whether they are required to file an annual financial disclosure statement, are required to disqualify themselves from participating in or attempting to influence any County decision in which they have a financial interest.

GUIDELINES: Principal guidelines required by the State of California provide that:

1. All foreseeable potential conflict of interest situations shall be disclosed by employees.
2. Each affected person shall be provided a clear and specific statement of his/her duties under the code.
3. The Code shall adequately differentiate between designated employees with different powers and responsibilities.

III. DUAL COMPENSATION:

PURPOSE: To ensure County employees do not collect compensation from other sources while performing their County duties.

POLICY: Departmental policy regarding dual compensation is as follows: An employee shall not receive compensation from other sources for the performance of his/her County duties.

An employee may receive compensation for work performed for a medical school or School of Public Health upon approval of his/her supervisor provided that his/her County employment is not impaired and the work is not concurrent. Payment for work performed by a physician pursuant to

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the terms of an Affiliation Agreement shall not constitute "dual compensation."

Should management become concerned regarding the compatibility of research activities with County employment, those concerns should be referred to DHS Human Resources for consultation.

EMPLOYEE RESPONSIBILITY/ACCOUNTABILITY:

Employees are responsible for obtaining prior written approval from their immediate supervisor for outside employment. The employee is responsible for providing accurate and complete information stating the terms, conditions and duties of the outside employment to the satisfaction of his/her immediate supervisor. This includes obtaining and providing verification from a non-County employer of the duties and working hours for the non-County position. At any time the terms, conditions and working hours of the non-County position change, the employee is responsible for immediately notifying his/her supervisor. The employee's signature on the "Outside Employment" form shall attest to the accuracy and completeness of the information contained therein.

Employees are responsible for disclosing any potential or actual conflict of interest or possible incompatibility situations to their immediate supervisor as soon as they are identified by the employee.

Failure to comply with Outside Employment, Conflict of Interest, Conflict of Interest and Disclosure Code and/or Dual Compensation policies may result in disciplinary action, including written warnings, reprimands, suspension, discharge, or termination of service.

SUPERVISOR/MANAGER RESPONSIBILITY/ACCOUNTABILITY:

Supervisors/managers will be held accountable for ensuring that employees are informed of these policies and for the review and approval of Outside Employment to ensure no Conflict of Interest exists. Supervisors/managers are responsible for initiating corrective or disciplinary action for non-compliance with the above stated policies.

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Failure of supervisors/managers to comply and/or enforce the Outside Employment, Conflict of Interest, Conflict of Interest and Disclosure Code and/or Dual Compensation policies may result in disciplinary action, including written warnings, reprimands, suspension, or discharge.

PHYSICIAN DESIGNEE:

The Physician Designee is the physician designated by the local facility Medical Director to develop and implement a plan for monitoring Outside Employment and Dual Compensation for Department physicians. The Physician Designee is responsible for overseeing the physician outside employment approval/denial process and shall develop procedures to ensure that the local facility Medical Director is kept apprised of compliance in this area.

HUMAN RESOURCES MANAGERS:

Human Resources Managers shall establish procedures to include notification and written acknowledgment of these policies to incoming employees and to all employees on an annual basis. Human Resources Managers are responsible for evaluating requests for disciplinary actions, conducting investigations, providing consultation and initiating appropriate disciplinary actions when requested by management.

AUTHORITY: County Code, Title 5, Chapter 5.44
Cal. Gov. Code 1126, 87100-87350, 81002(c), 84308, 89503

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