

1 [Campaign and Governmental Conduct Code - Incompatible Activities]

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3 **Ordinance amending the Campaign and Governmental Conduct Code to provide that it**
4 **is an incompatible activity for City officers and employees to be employed by or**
5 **receive compensation from a department contractor.**

6 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
7 **Additions to Codes** are in *single-underline italics Times New Roman font*.
8 **Deletions to Codes** are in ~~*italics Times New Roman font*~~.
9 **Board amendment additions** are in Arial font.
10 **Board amendment deletions** are in ~~Arial font~~.
11 **Asterisks (* * * *)** indicate the omission of unchanged Code
12 subsections or parts of tables.

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11 Be it ordained by the People of the City and County of San Francisco:

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13 Section 1. Findings.

14 (a) City employment comes with the responsibility to avoid real and perceived conflicts
15 of interest. Engaging in secondary employment in addition to an employee’s City service may
16 raise real or perceived conflicts of interest when the outside job intersects with the employee’s
17 City duties. Requirements contained in the City’s Civil Service Rules and local ethics laws are
18 intended to prevent City employees and officials from engaging in outside employment that is
19 inconsistent with City service.

20 (b) The City’s Civil Service Rules require an employee to seek approval from their
21 appointing authority and the Human Resources Director prior to engaging in secondary
22 employment. The Human Resources Director may deny a request for secondary employment
23 that interferes with, is in conflict with, or is contrary to the interests of the employee’s City
24 service, among other bases for denial. Despite the requirement to seek advance approval,

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1 the City recently discovered that a significant number of employees engaged in unauthorized
2 secondary employment.

3 (c) City law requires each City department to adopt a statement of incompatible
4 activities identifying the outside activities that are inconsistent with or conflict with the duties of
5 employees of the department. An employee may not engage in an outside activity prohibited
6 by the department's statement of incompatible activities unless the employee's appointing
7 authority determines in advance that the outside activity is not incompatible with the
8 employee's job.

9 (d) The statements of incompatible activities for some departments include a provision
10 prohibiting employees from engaging in paid work for contractors of the department. The
11 practice of employees separately working for contractors of their departments poses ethical
12 concerns, even when the paid work does not create an actual financial conflict of interest for
13 the employee. The practice raises questions of loyalty, impartiality, and whether the
14 employee is using their City position to gain private advantage.

15 (e) Establishing a Citywide policy prohibiting City officers and employees from working
16 for contractors of their department will increase trust in City government and reduce the
17 potential for corruption and conflicts of interest.

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19 Section 2. The Campaign and Governmental Conduct Code is hereby amended by
20 revising Article III, Chapter 2, Section 3.218, to read as follows:

21 **SEC. 3.218. INCOMPATIBLE ACTIVITIES.**

22 (a) Prohibition. No officer or employee of the City and County may engage in any
23 employment, activity, or enterprise that the department, board, commission, or agency of
24 which he or she is a member or employee has identified as incompatible in a statement of
25 incompatible activities adopted under this Section. No officer or employee may be subject to

1 discipline or penalties under this Section unless he or she has been provided an opportunity
2 to demonstrate that his or her activity is not in fact inconsistent, incompatible or in conflict with
3 the duties of the officer or employee.

4 (b) Statement of Incompatible Activities. Every department, board, commission, and
5 agency of the City and County shall, by August 1 of the year after which this Section becomes
6 effective, submit to the Ethics Commission a statement of incompatible activities. No
7 statement of incompatible activities shall become effective until approved by the Ethics
8 Commission after a finding that the activities are incompatible under the criteria set forth in
9 Subsection (c). After initial approval by the Ethics Commission, a department, board,
10 commission or agency of the City and County may, subject to the approval of the Ethics
11 Commission, amend its statement of incompatible activities. The Ethics Commission may, at
12 any time, amend the statement of incompatible activities of any department, board,
13 commission or agency of the City and County.

14 (c) Required Language. Each statement of incompatible activities shall list those
15 outside activities that are inconsistent, incompatible, or in conflict with the duties of the officers
16 and employees of the department, board, commission, or agency of the City and County. This
17 list shall include, but need not be limited to, activities that involve: (1) the use of the time,
18 facilities, equipment and supplies of the City and County; or the badge, uniform, prestige, or
19 influence of the City and County officer or employee's position for private gain or advantage;
20 (2) the receipt or acceptance by an officer or employee of the City and County of any money
21 or other thing of value from anyone other than the City and County for the performance of an
22 act that the officer or employee would be required or expected to render in the regular course
23 of his or her service or employment with the City and County; (3) the performance of an act in
24 a capacity other than as an officer or employee of the City and County that may later be
25 subject directly or indirectly to the control, inspection, review, audit or enforcement of the City

1 and County officer or employee's department, board, commission or agency; and (4) time
2 demands that would render performance of the City and County officer or employee's duties
3 less efficient. The Ethics Commission may permit City boards and commissions to exclude
4 any required language from their statement of incompatible activities if their members, by law,
5 must be appointed in whole or in part to represent any profession, trade, business, union or
6 association.

7 (d) Meet and Confer. No statement of incompatible activities or any amendment
8 thereto shall become operative until the City and County has satisfied the meet and confer
9 requirements of State law.

10 (e) Notice. Every department, board, commission and agency of the City and County
11 shall annually provide to its officers and employees a copy of its statement of incompatible
12 activities.

13 ~~(f) Existing Civil Service Rules. Rules and Regulations relating to outside activities previously~~
14 ~~adopted or approved by the Civil Service Commission shall remain in effect until statements of~~
15 ~~incompatible activities are adopted pursuant to this Section.~~

16 (f) Compensation from Department Contractors. Notwithstanding any provision of a
17 department's statement of incompatible activities, it shall be an incompatible activity prohibited by
18 subsection (a) of this Section 3.218 for a City officer or employee to be employed by or otherwise
19 receive compensation for work from an individual or entity that has a contract, as that term is defined
20 in Section 1.126, with the department of the City officer or employee. This subsection (f) shall not
21 apply where the contract is with a federal, state, or local government entity. This subsection (f) shall
22 not apply to compensation received by the spouse or registered domestic partner of a City officer or
23 employee.

1 Section 3. Requirements for Amendment by the Board of Supervisors.

2 (a) As set forth in Section 3.204 of the Campaign and Governmental Conduct Code,
3 approved by the voters as Proposition E at the November 4, 2003 election, an amendment to
4 Article III, Chapter 2 of the Campaign and Governmental Conduct Code, which includes
5 Section 3.218, may be made if:

6 (1) the amendment furthers the purposes of Article III, Chapter 2 of the
7 Campaign and Governmental Conduct Code;

8 (2) the Ethics Commission approves the amendment in advance of Board of
9 Supervisors approval by at least a four-fifths vote of all its members;

10 (3) the amendment is available for public review at least 30 days before the
11 amendment is considered by the Board of Supervisors or any committee of the Board of
12 Supervisors; and

13 (4) the Board of Supervisors approves the amendment by at least a two-thirds
14 vote of all its members.

15 (b) At its meeting of _____, the Ethics Commission approved this
16 ordinance by a vote of _____.

17 (c) This ordinance has been available for public review for at least 30 days before
18 consideration by a committee of the Board of Supervisors.

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20 Section 4. Effective Date. This ordinance shall become effective 30 days after
21 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
22 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
23 of Supervisors overrides the Mayor’s veto of the ordinance.

