



OUTSIDE EMPLOYMENT

POLICY AND PROCEDURE #3-03

POLICY

Approval for any outside employment is within the sole discretion of the District Attorney. No employee may engage in any employment or activity which is inconsistent, incompatible, or in conflict to the duties imposed on such employees by the County of San Mateo and the District Attorney's Office. Pursuant to this policy and the County Ordinance Code, no employee employed in a full time position in the county service shall work more than twenty hours per week of outside employment. Outside employment shall not commence until written approval of the District Attorney is obtained.

PROCEDURE

A. ALL EMPLOYEES

The following restrictions are applicable to all employees of the District Attorney's Office:

1. Employees who intend to engage in outside employment shall, before beginning such employment, report in writing to the District Attorney the name of the outside employer and the number of hours per week which such outside employment will require and the nature of employment.
2. No employee shall engage in any outside employment or activity which involves the use of county time, facilities, equipment or supplies.
3. No employee shall engage in any outside employment or activity if it involves the use for private gain or advantage of the employee's badge, official identification, prestige, influence or office.

4. No employee shall engage in any outside employment or activity if it involves receipt or acceptance by the employee of any money or other consideration from any person or agency, other than the County of San Mateo for the performance of an act which the employee would be required or expected to render in the regular course of his/her county employment or as part of his/her duties as a county employee.
5. No employee shall engage in any outside employment or activity if it involves the performance of an act which is subject directly or indirectly to the control, inspection, review, audit, or enforcement by any law enforcement agency in the County of San Mateo. Teaching assignments approved by the District Attorney shall not be deemed in violation of this provision.
6. No employee shall engage in any outside employment or activity if it involves such time demands as would render less efficient the performance of the employee's duties as an employee in the office.
7. No full time employee shall engage in any outside employment activity if it involves time demands in excess of twenty hours per week.
8. No employee may work for any individual, firm, corporation, or association engaged in the practice of law other than the District Attorney of the County of San Mateo.
9. No employee shall work in any establishment engaged in the sale and serving of alcoholic beverages unless ordered to do so as an employee of the office, or with the permission of the District Attorney.
10. No employee may have a proprietary interest in any outside business activity subject to licensing or control by any local, state, or federal agency without the prior approval of the District Attorney.
11. Employees engaged in preapproved outside employment must be alert to and report circumstances that may give rise to a conflict of interest or the risk of disclosure of confidential information related to the business of this office.

B. DEPUTY DISTRICT ATTORNEYS

The following restrictions are applicable only to the prosecutors in the office.

1. No prosecutor may engage in the practice of law, whether or not for

compensation, other than as assigned in connection with his official duties as a deputy district attorney, provided that personal legal advice or services furnished to relatives without compensation will not be deemed to violate this restriction except in the area of criminal law. No employee may accept a referral fee.

2. No prosecutor may be employed by, or contribute his services to, any individual, firm, corporation, or association engaged in the practice of law, other than as assigned in connection with his official duties as a deputy district attorney for the County of San Mateo.
3. A prosecutor may not practice as a criminal defense attorney in any county whether the prosecutor is working full time or on leave of absence. Government Code section 26540. Aside from representing oneself, a prosecutor is not permitted to defend or assist in the defense of anyone accused of a felony, misdemeanor, or traffic infraction. See Business and Professions Code section 6131. Furthermore, a prosecutor must avoid becoming involved in a friend's or a family member's criminal matter at any stage of a criminal investigation or proceeding (including juvenile matters).

C. INSPECTORS

The following restrictions are applicable only to employees employed as investigators or inspectors in the office:

1. No investigators or inspectors may be employed by, or act as, a private patrol operator or private investigator.
2. No investigators or inspectors may conduct an investigation, civil or criminal, when the subject of that investigation is a relative of the employee by blood, adoption, or marriage, unless the District Attorney grants specific permission for the employee to do so.

D. NOTICE AND APPEAL

Pursuant to sections 2.75.040 and 2.75.050 of the County's Ordinance Code, employees shall be notified of these Departmental Rules Governing Incompatible Activities, shall be notified if he or she is alleged to have violated such rules, and shall have a right to appeal any such discipline as follows:

Classified employees - The provisions of Civil Service Rule XIV as to notice and hearing shall be applicable to discipline imposed after a determination that a classified officer or employee has engaged in an incompatible activity or prohibited outside employment to the extent such classified officer or employee would otherwise be entitled to an appeal of

such discipline under the provisions of the Charter or the rules of the Civil Service Commission.

Unclassified officers/employees - Any unclassified officer or employee may, upon being notified by the Department Head or his/her designee that said officer or employee has engaged in an incompatible activity or prohibited outside employment, may request a hearing before the Department Head, and such hearing shall be given to said officer or employee within a reasonable time. The purpose of such hearing is to permit the officer or employee to present evidence or argument in opposition to, or in mitigation of, the determination that he/she has engaged in an incompatible activity or prohibited outside employment. Such hearing is not a formal hearing and no witnesses will be allowed to testify, nor will any questioning or examination of individuals be allowed. Participation in any incompatible activity or prohibited outside employment by an unclassified employee or officer may be cause for discipline including, but not limited to, suspension, demotion, reprimand, transfer, or dismissal; provided that if disciplinary action is taken against an unclassified officer or employee on the ground that said officer or employee has engaged in an incompatible activity or prohibited outside employment, said officer or employee may appeal the determination of the Department Head to the Committee on Incompatible Activities, which Committee shall inquire into the facts surrounding said disciplinary action, and shall thereafter make a recommendation to the Department Head on the question of whether the proposed disciplinary action should be taken. Said Committee recommendation shall not be binding on the Department Head and nothing this policy is intended to interfere with a Department Head's authority to impose discipline on officers or employees including, but not limited to, suspension, demotion, reprimand, transfer, or dismissal. Should a Department Head reject the Committee's recommendation and impose discipline on an officer or employee, such discipline shall not constitute a violation of the policies set forth herein.