

**COUNTY COUNSEL'S OFFICE
RULES GOVERNING INCOMPATIBLE ACTIVITIES
& OUTSIDE EMPLOYMENT/MEMBERSHIP**

Overview

Chapter 2.75 of the San Mateo County Ordinance Code requires that each Department Head formulate rules relating to incompatible activities and outside employment. The purpose of the rules is to prohibit county employees from engaging in any employment, activity, or enterprise which is inconsistent, incompatible, in conflict with, or inimical to the duties imposed on such employees by virtue of their employment with the County of San Mateo. These rules are promulgated in addition to the Conflict of Interest Code that applies to designated employees. Such employees must submit annual statements of economic interests as required.

As required by the County Ordinance Code, the following Incompatible Activities Rules have been developed by the Department Head, and reviewed and approved by the Committee on Incompatible Activities. Violation of these rules may be cause for disciplinary actions up to and including dismissal as set forth in the County Ordinance Code section 2.75.050. All employees of the County Counsel's Office are instructed to control their activities to comply with the intent of these regulations.

- I. **General Restrictions** The following restrictions are applicable to all employees of the County Counsel's Office:
- a) Employees who intend to engage in outside employment for pay shall, before beginning each such employment, report in writing to the County Counsel the name of the outside employer, the type of outside employment, and the number of hours per week which such outside employment will require.
 - b) No employee may work for any individual, firm, corporation or association engaged in the practice of law other than for the County Counsel of the County of San Mateo.
 - c) No employee shall engage in any outside employment, activity, or enterprise which involves the use of county time, facilities, equipment, or supplies.
 - d) No employee shall engage in any outside employment, activity, or enterprise if it involves the use of the employee's title, official identification, prestige, influence, office, or county or office letterhead.

- e) No employee shall engage in any outside employment, activity, or enterprise 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 perform in the regular course of his county employment or as a part of his duties as a county employee.
- f) No employee shall engage in any outside employment, activity, or enterprise if it involves such time demands as would render less efficient the performance of the employee's duties as an employee in this department. In addition, section 2.75.070 of the San Mateo County Ordinance Code limits the outside employment of any employee holding a full-time position with the county, except as provided therein.
- g) No employee shall engage in any outside employment, activity or enterprise with any person, agency or organization that is under contract to provide services to the County of San Mateo, if the employee has a direct or indirect role in awarding a contract. Exceptions to this rule may be granted with the written approval of the County Counsel.
- h) No employee shall hold ownership interest in any enterprise which is under contract to provide services to the County of San Mateo if the employee has a direct or indirect role in awarding the contract. Any employee holding such ownership interests at the time of the adoption of these rules shall report such ownership to the County Counsel within ten calendar days of the adoption and shall take immediate action to divest himself/herself of such ownership. Exceptions to this rule may be granted with the written approval of the County Counsel.
- i) Employees shall not serve on any board, committee, or similar body of any agency or organization which contracts with the county, receives funding from the county, or receives referrals or any other benefit from the county. Exceptions to this rule may be granted with the written approval of the County Counsel. Persons serving in such capacity when these rules are adopted shall report that fact and request an exception, in writing, to the County Counsel within ten calendar days of the adoption of these rules.

Exceptions may be granted with the written approval of the County Counsel.

- j) Employees shall not engage in any outside employment which involves the use of any information which could be obtained from the department or which is confidential or client specific.
- k) No employee may have a proprietary interest in any outside business activity subject to licensing or control by the County without prior approval of the County Counsel.
- l) No employee may engage in any outside business activity of any kind during the hours he or she is assigned to work as part of his or her duties as an employee of the County Counsel's Office.
- m) All employees who are aware of incompatible activities or potential incompatible activities, whether or not specifically mentioned herein shall discuss them with one of the Chief Deputies.

II. **Restrictions On Legal Work**

- a) No attorney in the Office of the County Counsel may engage in the practice of law, whether or not for compensation, other than as assigned in connection with his or her official duties in the County Counsel's office. Legal advice or services furnished without compensation or on his or her own behalf will not be deemed to violate this restriction provided it is reported to and approved by the County Counsel and meets the General Restrictions of Section I.
- b) Attorneys are encouraged to serve the local legal community as judges pro-tem, arbitrators, mediators, or settlement referees. Any such service, however, will be subject to all of the restrictions stated in Sections I and II. Further, any attorney who intends to serve in any of these capacities must advise and obtain the approval of the County Counsel prior to undertaking such service. The notification should include the type of case, the names of the parties and their attorneys, the subject matter of the case and whether such work is for compensation. Any work done for compensation must be done on the employee's leave time.

- III. **Professional Organization Membership.** Individual membership in professional organizations is not to be considered as constituting a representation of the Office of the County Counsel. Directory listings may indicate County of San Mateo, but for purposes of indicating any listing for representation of the office, authorization must be authorized from the County Counsel.
- IV. **Sanctions.** Violation of these rules may subject the violator to disciplinary action up to and including demotion, suspension, or dismissal.
- V. **Notices and Appeals.** 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 they are 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.

A memo acknowledging receipt of these policies, signed by each employee, will be kept in the employee's personnel file.

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Welcome to the San Mateo County Counsel's Office. I hope you will enjoy your assignment and find your work both challenging and satisfying.



JOHN C. BEIERS, COUNTY COUNSEL