

MARIN COUNTY SHERIFF'S DEPARTMENT
GENERAL ORDER

CHAPTER 2 - PERSONNEL
GO -02-16
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DATE
03/05/03

OUTSIDE EMPLOYMENT

POLICY

No appointed full time officer or employee may, for profit or reward, engage in any outside corporation, profession or activity without first receiving specific authorization from his department head, and approval thereof by the County Administrator within policy limits set by the Board of Supervisors. In each case the department head shall determine whether or not the proposed activity is compatible with county employment or tends to reduce the efficiency of the employee in county employment" (Marin County Code 2.52.090)

Permission to engage in secondary or outside employment is a privilege and not a right, and shall be contingent at all times upon employee carrying out their duties to the County and Sheriff's Office to the satisfaction of the Sheriff. Any employee engaging in secondary employment without receiving prior permission as outlined in this order shall be subject to disciplinary action.

DEFINITIONS

EMPLOYMENT BY OTHERS – means the creation of an employer-employee relationship between the employee and the employer other than the County of Marin. An employer-employee relationship is considered to be established when the employee does not have individual control over when, where or how he/she works.

SELF-EMPLOYED includes the offering for sale of goods or services on a regular or periodic basis or by contract as an independent contractor. Self-employment does not include the management of one's own investments.

OUTSIDE EMPLOYMENT/OCCUPATION – defined as both outside and secondary employment.

EXCLUSION FROM OUTSIDE/SECONDARY EMPLOYMENT – Outside / Secondary employment does not exclude those periodic services such as making speeches which an employee may be called upon to performed by various outside groups for which an honorarium or expense is paid. Under normal circumstances, non-paid, voluntary involvement would not constitute employment under this policy.

PROCEDURE

An employee who has completed their probationary period and wishes to engage in outside employment that does not violate the conditions set forth in Government Code Section 1126, Marin County Code 2.52.090. and this General Order may apply for authorization to engage in outside employment.

No employee shall engage in outside employment without receiving written authorization and approval from the Sheriff. Permission to engage in outside employment shall be solely for the specific employment for which the application was submitted and approved. If there is a change in the employer or the duties of the employment, the employee shall immediately submit a new request.

Employees who engage in outside employment must recognize that their primary obligation is to Marin County Sheriff's Office and the County of Marin. Employees are subject to call at any time for emergencies, special assignments or overtime duty, secondary employment may not infringe on this obligation.

The authorization for the outside employment shall be valid until expiration of the authorization, said employment is terminated prior to the expiration or the Sheriff revokes permission.

Employees shall not engage in outside employment while off duty on sick leave or disability leave with pay. The authorization to engage in outside employment is rescinded during those periods.

An employee shall not display the Sheriff's Office identification card and or/badge while engaging in secondary employment except when to perform an arrest or other Sheriff's duty. Members who are involved in an incident requiring them to perform Sheriff's services during employment are not entitled to overtime, paid or compensatory, from the department if their secondary employer pays them during the time involved in handling such incidents. When an employee performs a Sheriff's service while engaged in outside employment, they shall, as soon as possible, notify the Watch Commander.

Termination of secondary employment shall be promptly reported in writing by the employee through channels to the Commanding Officer, Professional Standards Section.

The commanding Officer of the Professional Standards Section shall make an annual report to the Sheriff and Undersheriff on outside employment. The report shall include the names and position of all Sheriff's Office employees in outside (secondary) employment.

RESCRICTIONS ON OUTSIDE EMPLOYMENT

Under Government Code Section 1126 an employee shall not engage in any employment, activity or enterprise for compensation which is inconsistent, incompatible, in conflict with or inimical to his or her duties as a local agency officer or employee or with the duties, functions or responsibilities of his or her appointing power or the agency by which he or she is employed.

Outside employment so prohibited shall outside:

- Employment or activity that is in and of itself unlawful
- Employment of a kind or at a location that would tend to bring the Sheriff's Office into disrepute
- Employment, which requires any affiliation, membership or alliance that may tend to influence an employee's conduct in a manner that would be inconsistent with proper discharge of his/her duties as an employee or with his/her loyalty to the Sheriff's Office or the public interest
- Investigative or other employment in which, by virtue of employee's position in the Sheriff's Office, he/she may avail himself/herself of access to police information records, files or correspondence.

Section 1126 also states that an employee's outside employment, activity or enterprise may be prohibited

if it:

- Involves the use for private gain or advantage of his or her local agency time, facilities, equipment and supplies; or the badge, uniform, prestige or influence of his or her local agency office or employment or
- Involves receipt or acceptance by the officer or employee of any money or other consideration from anyone other than his or her local agency for the performance of an act, which the officer or employee, if not performing such act, would be required or expected to render or expected to render in the regular course off hours of his or her local agency employment or as a part of his or her duties as a local agency officer or employee or
- Involves the performance of an act in other than his or her capacity as a local agency officer or employee, which act may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other officer or employee or the agency by which he or she is employed or
- Involves the time demands as would render performances of his or her duties as a local agency officer or employee less efficient.

Hazardous employment that jeopardizes the employee's availability for departmental duty may also be prohibited.

Employment in Marin County is prohibited during any period when the outside employer is experiencing strike-related activity, including strikes, lockouts, picketing or other physical demonstrations of a labor dispute. If the Sheriff's office loans an employee to another jurisdiction, the employee is prohibited from working for any outside employer in that jurisdiction who is experiencing labor disputes.

For outside employment of a permanent or indefinite duration, hours worked will not exceed four on any County/Sheriff's Office workday, eight within a County five-day work week, or 16 within any seven day period, provided one full day of rest is set aside in said seven day week [BOS 1/1/65.]

For temporary or seasonal outside employment extending over not more than 31 calendar days, hours not to exceed 20 per week [BOS 1/1/65.]

APPLICATION

Requests for authorization to engage in outside employment shall be submitted on the County's Request to Engage in Supplemental Employment form. The completed form will be submitted through the employee's chain of command to the Commanding Officer, Professional Standards Section. The Commanding Officer of the employee's division shall recommend approval or disapproval by an attached memo taking into consideration the requirements set forth in this policy and the employee's work assignment.

If the outside employment is such that the question of possible liability due to the nature of the employment arises, a letter from the outside employer acknowledging that they understand the County of Marin and Marin County Sheriff's Office does not provide liability protection and that the outside employer is responsible for worker's compensation benefits or similar insurance benefits is required prior to approval of the request.

The Commanding Officer, Professional Standards Section, shall review the request and the type of outside employment being requested and recommend approval or disapproval of such requests to the Sheriff through the Undersheriff.

The approved authorization shall be valid for 12 months and shall constitute authorization for the individual to engage in the specific employment or enterprise. A new authorization must be submitted to cover any change in the nature of work, hours, location or employer.

Whether the request is approved or disapproved, the original copy of the application shall be forwarded to the County Human Resources Department; the duplicate shall be filed in the employee's personnel file in the Administration Division; the triplicate returned through the employee's commanding officer to the employee for their information.

Renewal – a permit may be renewed by completing the form and submitting it with a copy of the current authorization form prior to expiration date of the current authorization.

APPEAL PROCEDURE

Any employee who has been denied authorization to engage in outside employment based on the determination that his/her outside employment falls within the prohibitions set forth in this General Order may, within five days from the date of notification of denial, file a written appeal to the Sheriff.

If the employee is dissatisfied with the findings of the Sheriff, he/she may then follow the procedures set forth in the Sheriff's Office Policies and Procedures and Marin County Policies and Procedures.

LIABILITY

The County does not provide civil liability protection for acts or omissions of off-duty employees during their hours of employment with an outside employer. The County is not liable for any legal actions, property damage, bodily harm, costs or other matters that arise from an employee's outside employment.

Outside employment prevents a member from exercising peace officer status during their hours of employment with an outside employer.

During the hours of employment with an outside employer, members shall not invoke peace officer status and shall act solely in a civilian, private citizen capacity.

The outside employer is solely responsible for providing worker's compensation benefits or similar insurance benefits in the event the employee is injured, disabled or killed during the hours of outside employment. County workers compensation will be denied pursuant to Government Code Section 50922 and Labor Code Section 3600.2.

RELATED STANDARDS

Business & Professions Code Sections 7522, 7582.2

Government Code Sections 1126-1128, 50922

Labor Code Sections 3600.2, 4850

Marin County Code 2.52.090

Board of Supervisors Policy dated 11/10/64 effective 1/1/65

APPENDIX:

N/A

DATE OF REVISIONS

09/29/92

3/24/97

2/27/03

By order of:

ROBERT T. DOLE
SHERIFF