

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 elected officials and City employees to be employed**  
 5 **by or receive compensation from a department contractor, and authorizing the Ethics**  
 6 **Commission to waive the restriction for City elected officials and authorizing the**  
 7 **employee's appointing authority to waive the restriction for employees.**

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

12

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

14

15 Section 1. Findings.

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

22 (b) The City's Civil Service Rules require an employee to seek approval from their  
 23 appointing authority and the Human Resources Director prior to engaging in secondary  
 24 employment. The Human Resources Director may deny a request for secondary employment  
 25 that interferes with, is in conflict with, or is contrary to the interests of the employee's City

1 service, among other bases for denial. Despite the requirement to seek advance approval,  
2 the City recently discovered that a significant number of employees engaged in unauthorized  
3 secondary employment.

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

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

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

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

22 **SEC. 3.218. INCOMPATIBLE ACTIVITIES.**

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

1 incompatible activities adopted under this Section. No officer or employee may be subject to  
2 discipline or penalties under this Section unless he or she has been provided an opportunity  
3 to demonstrate that his or her activity is not in fact inconsistent, incompatible or in conflict with  
4 the duties of the officer or employee.

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

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

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

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

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

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

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

1                    (I) Waiver.

2                    (A) At the request of an employee, the employee's appointing authority may  
3 waive the restriction in this subsection (f) upon a written determination that the proposed outside  
4 activity is not inconsistent, incompatible, or in conflict with the requester's City duties, or that  
5 imposing the restriction would cause extreme hardship for the requester.

6                    (B) At the request of a City elective officer, the Ethics Commission may waive  
7 the restriction in subsection (f) if it finds that the proposed outside activity is not inconsistent,  
8 incompatible, or in conflict with the requester's City duties, or that imposing the restriction would  
9 cause extreme hardship for the requester.

10                   (C) The Ethics Commission may adopt regulations implementing these waiver  
11 provisions.

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

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

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

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

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

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

3 (b) At its meeting of \_\_\_\_\_, the Ethics Commission approved this  
4 ordinance by a vote of \_\_\_\_\_.

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

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

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13 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
14 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
15 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
16 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
17 additions, and Board amendment deletions in accordance with the “Note” that appears under  
18 the official title of the ordinance.

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20 APPROVED AS TO FORM:  
21 DAVID CHIU, City Attorney

22 By: /s/ Bradley A. Russi  
23 BRADLEY A. RUSSI  
24 Deputy City Attorney

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