

- SUBJECT:** Board of Ethics (Board) Policy on Secondary Employment
- PURPOSE:** To provide guidance and standards concerning secondary employment
- SCOPE:** This procedure applies to all instances when a Prince George's County employee or official is considering working for, or is working with, an entity outside of Prince George's County government (County).
- AUTHORITY:** This regulation is promulgated under the authority provided by Sections 2-292, 2-293 and 2-303 of the Prince George's County Code (Code), and Sections 1001 and 1002 of the Prince George's County Charter.
- RESPONSIBILITY:** All Prince George's County Government Departments, Agencies, Boards, Commissions and Similar Entities.

PROCEDURES

1. INTRODUCTION

The Ethics Code restricts secondary employment by employees and officials of the County. For purposes of the Ethics Code, the County position is viewed as primary employment and all other employment is considered secondary employment. Secondary employment does not include any military, National Guard, or volunteer (non-paid service) service. However, serving on a board or commission is considered secondary employment regardless of compensation.

2. TYPES OF EMPLOYMENT

Secondary employment includes paid employment with an entity and non-paid service involving a legal or ethical relationship with an entity such as service on a board of directors. Service under the Ethics Code includes the following situations:

- Paid employment with a for-profit or not-for-profit entity;
- Paid employment with a state or federal agency;
- Paid employment with an agency of another local government;
- Service as an elected official at the local or state level;
- Service on a state, federal, or local government board or commission with or without compensation; or

- Service on a for-profit or not-for-profit board or commission whether or not compensated.

3. DEFINITIONS

- (a) "Elected Official" means any individual who holds an elective office of the County. Elected official does not include the Sheriff, State's Attorney, Register of Wills or Clerk of the Court.¹
- (b) "Employee" means an individual who is employed by the County. Employee does not include an elected local official. Employee does not include an employee of:
- (i) The offices of the Sheriff, State's Attorney, Register of Wills, or Clerk of the Court;
 - (ii) The County Health Department; or
 - (iii) The County Department of Social Services.
- (c) "Official" means an elected official, an employee of the County, or a person appointed to or employed by the County or any County agency, board, commission, or similar entity whether paid in whole or in part with County funds and whether compensated.
- (d) "Ministerial employee" means an employee who has limited duties that are defined with such precision as to time, mode, and occasion as to leave no substantive exercise of discretion or judgment by the employee.
- (e) "Non-law enforcement secondary employment" means
- (1) Employment of a non-police nature in which vested police powers are not a condition of employment; the work provides no real or implied law enforcement service to the employer and is not performed during assigned duty hours
 - (2) Employment that presents no potential conflict of interest between duties as a police officer and duties to a secondary employer as described in the police general orders.
 - (3) Employment that does not constitute a threat to the status or dignity of the police as a professional occupation.

4. SECONDARY EMPLOYMENT PROHIBITIONS

The Ethics Code contains two provisions which restrict secondary employment, and except as permitted in accordance with guidelines set forth in Section 5 of this Administrative Procedure, an official or employee may not:

- (a) Be employed by, or have a financial interest in, any entity subject to his authority or that of the County agency, board, or commission with which he is affiliated or any entity

¹ Employees and officials of the Health Department, Department of Social Services, Office of the Sheriff, State's Attorney's Office, Register of Wills and Clerk of the Court fall under the State Ethics Commission.

which is negotiating or has entered a contract with that agency, board, or commission;
or

- (b) Hold any other employment relationship which would impair the impartiality or independence of judgment of the official or employee.

5. EXCEPTIONS

An official or employee may engage in secondary employment that would otherwise be prohibited by Section 4(a) if:

- (a) The outside employment duties of the official or employee are ministerial and do not significantly relate to his County agency's authority over his outside employer, and any financial interest of the official or employee does not create a conflict of interest or the appearance of a conflict of interest;
- (b) The official or employee is not directly managed by a person who has duties that significantly impact the outside employer or the contract or proposed agreement;
- (c) The official or employee does not manage a person who has duties that significantly impact the outside employer or the contract or proposed agreement;
- (d) The official or employee is not associated with the specific unit within the agency that exercises authority over the outside employer or is involved in contracts with the outside employer;
- (e) The County duties of the official or employee do not significantly impact the outside employer or a contract or proposed agreement between the outside employer and the agency;
- (f) The official or employee is in compliance with the other relevant sections of the Ethics Code relating to the matters involved;
- (g) The secondary employment of the official or employee does not involve negotiating or carrying out a contract involving the outside employer and the County agency, other than contracts involving general reimbursement payments, the availability, and terms of which are established based on commonly applicable standards which do not involve substantial agency negotiation or discretion;
- (h) The outside compensation of the official or employee is not directly funded by the County contract or contracts; and
- (i) The specific employment circumstances or financial interest of the official or employee does not otherwise raise a conflict of interest or the appearance of a

conflict of interest, or the financial interest is disclosed, as contemplated by the Ethics Code.

6. ADDITIONAL EXCEPTIONS

The Secondary Employment prohibition does not apply to:

- (a) An official or employee appointed to a regulatory or licensing authority pursuant to a statutory requirement that persons subject to the jurisdiction of the authority be represented in appointments to it; or
- (b) Subject to other provisions of law, an official or employee who is a member of a County board or commission and publicly discloses a financial interest or employment held at the time of appointment to the appointing authority and board.

7. USAGE OF EXCEPTIONS

- (a) In applying the criteria set forth in Section 5(c), (d), (e), and (f) of this Administrative Procedure, if any one of the stated relationships does not exist, then there will be no exception, unless the director of the agency involved specifies that he believes there would be no conflict of interest or no appearance of conflict that would impair the credibility of the agency, and this view is concurred by the Office of Ethics and Accountability (OEA).
- (b) In Section 5 (i) of this Administrative Procedure, when outside compensation is supported by contracts involving general reimbursement payments, the availability and terms of which are settled based on a commonly applicable standard which does not involve substantial agency negotiation or discretion, then an exception may be allowed when the director of the agency involved expressly communicates that he believes that there would be no conflict of interest or appearance of conflict that would impair the credibility of the agency, and this view is concurred by OEA.
- (c) In regard to Sections 5(c) and (i), where the person is a ministerial employee, an exception may be allowed when the director of the agency involved expressly indicates that he believes the service or product to be supplied by the employee would otherwise be unavailable to the County and that there would be no conflict of interest or appearance of a conflict of interest, that would impair the credibility of the agency, and this view is concurred by OEA.
- (d) Application of the criteria established in Section 5 to an elected official at the local or State level requires notification to OEA. In addition, an elected official at the State level must file a general disclaimer of conflict with the Joint Committee on Legislative Ethics (Joint Committee). Any written response from the Joint Committee must be forwarded to OEA.

8. REQUEST FOR REVIEW OF SECONDARY EMPLOYMENT AND CHECKLIST

(a) The Board of Ethics has adopted a modified form and checklist developed by the Maryland State Ethics Commission for use by County officials and employees in situations where approval of secondary employment is sought. A County official or employee must apply for secondary employment using OEA's Secondary employment Online Web Portal System, https://pgcgovtportal.force.com/oea/PGC_OEA_Login. Before engaging in secondary employment, the form must be reviewed by the employee's department head for approval. The head of any County agency or department or an official seeking to work secondary employment must obtain approval from the Chief Administrative Officer, Chief of Staff or their respective Deputy Chief Administrative Officer before commencing secondary employment. Legislative branch employees and officials who engage in secondary employment must obtain approval from the County Council Administrator. In the event there are no reviewing officials for an employee or official, the request will be reviewed by the Board of Ethics without agency review. Approval for secondary employment does not supersede any other need for a waiver from the Board of Ethics.

(b) Any request that does not fall under the exception in Section 5 above shall be submitted for approval to the Office of Ethics and Accountability.

(c) Employees of the Police Department who seek to participate in non-law enforcement secondary employment shall follow the same process referenced above for employees and officials of the County. However, any employee of the Police Department who seeks to engage in law enforcement secondary employment shall follow the applicable County regulations and shall consult the general orders of their Department regarding secondary employment.

(d) Employees of the State's Attorney, Register of Wills, Clerk of the Court, County Health Department, and the County Department of Social Services, should consult the State Ethics Commission concerning secondary employment. Employees of the Office of the Sheriff should consult their general orders for guidelines and standards under which employees may engage in secondary employment.

(e) A County employee who receives approval for secondary employment and later transfers to another agency (or accepts another position within the agency) must within thirty (30) days of the transfer notify OEA to ensure there is no conflict of interest.

(f) After giving a County employee notice and an opportunity to respond, upon a determination by the Board of Ethics that any approved secondary employment is inconsistent with the Public Ethics Law, the Board of Ethics may revoke a previously granted approval.

9. EXEMPTIONS AND WAIVERS

Any adverse decision by an employee's department head or OEA may be appealed to the Board. In accordance with Section 2-293 of the Code, the Board may grant additional waivers of the restrictions imposed herein. In accordance with State law and any other applicable law, the Board reserves the right to modify, rescind or amend at any time and from time to time, the regulations promulgated herein.

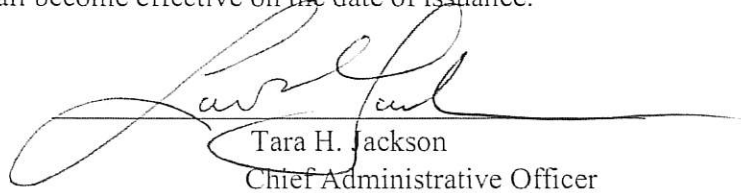
10. ENFORCEMENT

Secondary employment that falls under the prohibitions in Section 2-293 of the Ethics Code may result in enforcement action and other penalties as provided by law.

This procedure supersedes Administrative Procedure 152 issued April 29, 2016.

This Administrative Procedure shall become effective on the date of issuance.

10/18/22
Date


Tara H. Jackson
Chief Administrative Officer

FORMS, REPORT, SCHEDULES MENTIONED

Attachment A- Checklist

INDEXING

Types of Employment
Definitions
Prohibitions
Exceptions

ATTACHMENT A

SECTION 2-293(b) Employment Restrictions Checklist

This checklist is to be used where there is an employment or financial relationship to evaluate whether an exception to the prohibition in Section 2-293(b) may be granted. Any negative response shall be referred to the Office of Ethics and Accountability (OEA) for further consultation.

General: (applies to both financial interest and employment situations)

	YES	NO
*1. County duties do not significantly impact on outside entity or contract between entity and agency.		
**2. Not directly supervised by person whose duties significantly impact on outside entity or contract between outside entity and agency.		
**3. Employee does not supervise person whose duties significantly impact on outside entity or agency/entity contract.		
**4. Employee not affiliated with specific unit in agency that exercises authority over or contracts with outside entity.		
*5. Employee has complied with other relevant sections of the Ethics Code.		
**6. Employee's outside employment or financial interest does not involve nonministerial duties significantly related to agency's authority over employer. ¹		
*7. Employee's outside duties/or interest do not involve negotiating or carrying out contract between agency and outside entity (except for broad fixed reimbursement contracts involving no substantial negotiation or discretion). ²		
*8. Specific employment/or interest circumstances do not create a conflict or appearance of conflict.		