

- SUBJECT:** Board of Ethics (Board) Policy on Secondary Employment
- PURPOSE:** To provide guidance and standards concerning outside 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.

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 or not paid in whole or in part with County funds and whether or not 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.

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 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 outside 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;

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.

- (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 outside 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(j) 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), (i), and (j), 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. 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 seeking to work secondary employment must obtain approval from their respective Deputy Chief Administrative Officer before commencing outside employment. 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, at 9201 Basil Court, Suite 155, Largo, MD 20744 or the website at, www.princegeorgescountymd.gov (keywords: Ethics and Accountability).
- (b) Employees of the Prince George's County Police Department shall consult the general orders and regulations of their Department regarding secondary employment.
- (c) 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.

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,

April 29, 2016

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 Administrative Procedure shall become effective on the date of issuance.

04/29/16
DATE

Nicholas A. Majett
Nicholas A. Majett
Chief Administrative Officer

ATTACHMENTS

- Attachment A- Checklist
- Attachment B - Request Form

INDEXING

- Definitions
- Exceptions, additional
- Exceptions, usage
- Exemptions and waivers
- Prohibitions
- Request for review
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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 non-ministerial 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 no create a conflict or appearance of conflict.		

Additional Employment Criterion

	YES	NO
***1. Compensation not directly funded by County contract.		

Additional Financial Interest Criterion

¹ Ministerial employees may receive additional exemption consideration under these criteria where the agency advises there is no conflict and that the services are otherwise unavailable.

² See footnote 1.

* Indicates that an interest or employment not meeting this criterion may not be allowed by Board exception.

** Indicates that if the interest or employment does not conform to the particular criterion, an exception may be allowed only where the employee's agency finds no credibility-impairing conflict, and the Board concurs in the view.

*** Same as ** where compensation is from broad fixed reimbursement payments; same as * where this is not true.

ATTACHMENT A

- *1. Interest has been disclosed on annual financial disclosure statement or on exception form.

YES	NO

Attachment B

**PRINCE GEORGE’S COUNTY
BOARD OF ETHICS**

**REQUEST FOR APPROVAL OF EMPLOYMENT OUTSIDE
OF COUNTY SERVICE**

Please submit an original and one copy of this request. Use additional paper if necessary. **USE BLACK INK – PRINT OR TYPE.**

Date: _____

TO: Office of Ethics and Accountability
9201 Basil Court, Suite 155, Largo, MD 20774

VIA: _____ (Department Head)

VIA: _____ (Supervisor)

FROM: _____

SUBJECT: Request for Permission to engage in Outside Employment Pursuant to Section 2-293(b) of the Prince George’s County Code of Ethics. I am submitting my request to engage in employment outside the Prince George’s County Government.

1. Identifying Information:

Name: _____ County Position Title: _____

Department: _____ Office Phone Number: _____

Division: _____ Office Location: _____

Work Schedule (e.g. 8:30 – 5: 00): _____

2. Brief description of duties and responsibilities of County position:

(attach a copy of current County position description)

3. Brief description of function of County Department/Division in which employed:

Attachment B

4. The length of time you have been employed in your County position:

5. Proposed Outside Employer:

Name of Entity: _____ Phone No.: _____

Supervisor's Name and Title: _____

Address: _____

Nature of Business:

6. Position title, duties and responsibilities of outside employment:

7. Hours per week to be spent with outside employment and work schedule with outside Employer (specific hours when work will be performed):

8. Anticipated length of employment with outside employer (month/years/indefinite):

9. Special license or equipment required for outside employment:

Attachment B

10. Does the entity do any business with, or is it regulated by, your Department/Agency?
_____ No _____ Yes (explain):

11. If you are a filed candidate for election to the General Assembly, a member-elect of the General Assembly, or a member of the General Assembly, the date you filed for election to the office:

12. If you are a filed candidate for election to the General Assembly, a member-elect of the General Assembly, or a member of the General Assembly, have you notified the Maryland Joint Committee on Legislative Ethics (Joint Committee) of your employment with the County:
_____ No _____ Yes

Please attach written response from the Joint Committee. If response is not attached, the Board of Ethics will not consider your request for secondary employment.

Employee Signature

DEPARTMENT HEAD RECOMMENDATION:

_____ Approve

_____ Deny (state specific reasons for denial)

1. Does the entity do any business with or is it regulated by your Department or Agency? Please check with the Office of Central Services for entities doing business with the County Government. Please explain the nature of any business or regulatory relationship between the outside employer and your agency. The County's Ethics Code prohibits a County employee from holding outside employment with an entity that does business with or is regulated by the employee's agency unless the Board of Ethics grants a waiver pursuant to Section 2-293(h) of the Ethics Code. If the agency does not provide information about the relationship, the Board of Ethics cannot grant an exception and the secondary employment is prohibited.

Attachment B

2. Comments:

Signature of Department Head and Date

Print Name and Title

Telephone Number