

SAN BERNARDINO MUNICIPAL WATER DEPARTMENT

POLICIES AND PROCEDURES MANUAL

POLICY 31.120 - OUTSIDE EMPLOYMENT

Date: August 24, 2021
Revision No.: 2
Supersedes: March 26, 2019
First Approved: May 12, 1993

POLICY :

In an attempt to avoid conflicts of interest between official Water Department job duties and outside employment, it is appropriate to monitor, and to regulate, if necessary, the outside employment of Water Department employees. The purpose of this policy is to provide guidelines and to set forth standards for employment outside the Department.

PROCEDURE :

It will be the responsibility of each Division Director to:

- Counsel employees as necessary about incompatible and inconsistent employment activities in concurrence with Human Resources and the General Manager or designee;
- Have the employee complete the attached Notification of Outside Employment; obtain review and approval of the General Manager or designee; keep a copy of the form, as approved or denied and transmit a copy to Human Resources;
- Maintain a current roster of those individuals who work outside the employ of the Water Department.

Definitions: Outside employment is defined as any work, service or other act performed for financial gain by an employee other than his/her Water Department duties. Outside employment includes, but is not limited to:

1. Writing and editing
2. Teaching
3. Lecturing
4. Consulting Services
5. Self-employment
6. Sale of commercial or homemade products
7. Real estate sales or brokerage where the employee is not the buyer or seller
8. Security or patrol services
9. Contracting

Non-paid employment is excluded from this definition.

Inconsistent and incompatible employment is defined in Personnel Rule No. 1-3.

Absence Due to On-The-Job Injury: An employee who is absent because of on-the-job injury or illness must obtain written permission from the General Manager or designee to engage or to continue in outside employment during such absence. The employee must request specific permission, in writing, by submitting a memorandum to the General Manager describing the nature and physical requirements of the outside employment and the nature and physical limitations of the injury.

Prior to giving permission to continue in outside employment, the General Manager or designee must consult with the Workers' Compensation Administrator as to whether the outside employment will affect the employee's recovery of Workers' Compensation benefits.

A disabled employee who receives permission to continue outside employment must report to the Water Department all compensation received from such outside employment during any period of disability for which the employee receives benefits pursuant to any applicable local, state or federal workers' compensation laws or Memorandum of Understanding provisions. Further, the employee is required to provide such proof of compensation as the Water Department may request. The Water Department is entitled to, and may seek, a credit of outside employment earnings against benefits paid to the employee pursuant to any applicable local, state or federal workers' compensation laws or Memorandum of Understanding provisions.

Consequences of Engaging in Prohibited Activities:

Classified Employees: Disciplinary action taken must be consistent with the applicable Memorandum of Understanding provisions, and the Personnel Rules. Causes for disciplinary action are defined in Personnel Rule 7-2. Charges to be filed are described in Personnel Rule 7-3 (a)-(c).

Personnel Rules 7-3 (d) and 7-4 define an employee's right to reply and to request a hearing.

Unclassified Employees: For unclassified employees, as for classified employees, the consequences of engaging in prohibited activities may include:

1. Suspension,
2. Demotion,
3. Salary reduction or substantial loss of salary or earned time applied on an individual for misconduct, and/or
4. Dismissal.

AUTHORIZATION:

Government Code Section 1126 sets forth the necessary criteria for limiting employees' outside employment.

Section 1126 provides as follows:

"(a) Local agency officer or 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 appointing power or the agency by which he or she is employed."

"(b) Each appointing power may determine subject to the approval of the local agency, and consistent with the provisions of Section 1128 where applicable, those outside activities which for employees under its jurisdiction, are inconsistent with, incompatible to or in conflict with their duties as local agency officers or employees..."

In addition, Personnel Rule 1-3 - Conflict of Interest, provides that ..., "No such department head, officer or employee shall engage in any employment, activity, enterprise or conduct of any nature which is inconsistent, incompatible or in conflict with the duties as a Department head, officer or employee, or with functions or responsibilities of the department or office in which employed."

The determination of incompatibility will be made by the General Manager upon recommendation of Human Resources and the Division Director. Each case will be considered on an individual basis.

Policy Review

No changes:	<u>7/2018</u>
Substantive changes Board Approved:	<u>3/26/2019</u>
No changes	<u>7/2020</u>
Substantive changes Board Approved:	<u>8/24/2021</u>

City of San Bernardino Municipal Water Department
Notification of Outside Employment

(This Section to be completed by employee and submitted for review and approval prior to engaging employment outside of the Water Department.)

Employee Name: _____

Classification: _____

Section: _____

OUTSIDE EMPLOYER:

Name: _____

Address _____

Telephone: (Where you can be reached) _____

Name & Title of Supervisor: _____

Title of position: _____

Type of work performed (Explain in detail):

Special requirements for this position: _____

Does this employer do business with the City/Water Department? _____

Is any work performed for this employer subject to inspection by the City/Water Department (other than issuance of business licenses)? _____

OUTSIDE WORK SCHEDULE: Day of Week, work schedule and hours per day:

Duration of Outside Employment: _____

The City of San Bernardino Municipal Water Department will not be responsible for any injuries which occur during the course of outside employment.

I hereby certify that employment at the above job would not be inconsistent or incompatible with my Water Department employment. My prospective/current other employer and I understand that I may, at any time, be called to work for the City of San Bernardino Municipal Water Department. I understand that I must report any changes in status to my Supervisor and Division Director immediately. The above information is true and correct to the best of my knowledge.

Employee Signature

Supervisor Signature

Date: _____

Date: _____

Division Director: _____ Approved Denied: Date: _____

General Manager: _____ App roved Denied: Date: _____