

INCOMPATIBLE ACTIVITIES STATEMENTDR 641 (New 02/98) (Formerly RPERS-1 and DR93) Computer Generated

Government Code Section 19990

A state officer or employee shall not engage in any employment, activity, or enterprise which is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as a state officer or employee.

Each appointing power shall determine, subject to approval of the department, those activities which, for employees under its jurisdiction, are inconsistent, incompatible or in conflict with their duties as state officers or employees. Activities and enterprises deemed to fall in these categories shall include, but not be limited to, all of the following:

- (a) Using the prestige or influence of the state or the appointing authority for the officer's or employee's private gain or advantage or the private gain of another.
- (b) Using state time, facilities, equipment, or supplies for private gain or advantage.
- (c) Using, or having access to, confidential information available by virtue of state employment for private gain or advantage or providing confidential information to persons to whom issuance of this information has not been authorized.
- (d) Receiving or accepting money or any other consideration from anyone other than the state for the performance of his or her duties as a state officer or employee.
- (e) Performance of an act in other than his or her capacity as a state officer or employee knowing that the act may later be subject, directly or indirectly to the control, inspection, review, audit, or enforcement by the officer or employee.
- (f) Receiving or accepting, directly or indirectly, any gift, including money or any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is doing or is seeking to do business of any kind with the officer's or employee's appointing authority or whose activities are regulated or controlled by the

appointing authority under circumstances from which it reasonably could be substantiated that the gift was intended to influence the officer or employee in his or her official duties or was intended as a reward for any official actions performed by the officer or employee.

- (g) Subject to any other laws, rules, or regulations as pertain thereto, not devoting his or her full time, attention, and efforts to his or her state office or employment during his or her hours of duty as a state officer or employee.

The department shall adopt rules governing the application of this section. The rules shall include provision for notice to employees prior to the determination of proscribed activities and for appeal for employees from such a determination and from its application to an employee. Until the department adopts rules governing the application of this section, as amended in the 1985-86 Regular Session of the Legislature, existing procedures shall remain in full force and effect.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

Title 9, California Code of Regulations

Article 2. Incompatible Activities

7411 Definitions and Terms

- (a) "Case Responsible" means being the provider or procurer of services in which job placement is the outcome.
- (b) "Employee" means any person employed by the Department.
- (c) "Job Placement" means being responsible for the act of securing employment or on-the-job training.
- (d) "Private Business" means any activity for which money or other consideration is received from a source other than the State.

7412 Incompatible Activities

- (a) No employee of the Department shall:
- (1) Conduct private business on State time, or by utilizing State facilities, resources, materials, equipment or supplies.
 - (2) Serve as a member of the Board of Directors, as an employee, as a consultant, as an official or in any policy making capacity in any organization which receives Departmental funds without the prior written approval of the Director. Criteria used to evaluate requests for written approval include but are not limited to determinations of whether the employee is case responsible, controls expenditures, has purchasing authority, or represents the Department to the community within the geographic service area of the organization in question.
 - (3) Engage in private business which:
 - (A) Causes either physical or mental fatigue that results in less efficient performance of the employee's State duties.
 - (B) Requires performance of an act in other than his or her capacity as a State employee when that act may later be subject, directly or indirectly, to the control, inspection, review, audit or enforcement by that employee.
 - (C) Requires the employee to be case responsible or provide job placement or both when the employee is case responsible, or provides job placement or both to an individual who is an applicant or client as defined in Title 9, California Code of Regulations, Section 7001 or 7005.
 - (4) Solicit or accept gifts, money, or other consideration from a person or source other than the State for performing a duty which the employee or the Department would be expected to perform in the course of State business.
 - (5) Engage in a sexual relationship with an applicant or client as defined in Title 9, California Code of Regulations, Sections 7001 or 7005 for whom the employee is case responsible or provides job placement or both, or for whom the employee is responsible for the supervision of subordinate employees who are case responsible, or provide job placement or both.
 - (6) Solicit or accept gifts, money, or other consideration from any person or organization receiving funds from the Department.
 - (7) Use the prestige or influence of the employee's position for the employee's private gain or advantage or the private gain or advantage of another.

7413 Required Activities

- (a) An employee who receives an offer of gifts, money, or other consideration for the purpose of influencing an action by the State shall notify his or her immediate supervisor orally or in writing of that offer within five working days regardless of whether the offer has been refused.
- (b) Within five working days of being assigned responsibility for purchasing, the assigned employee shall provide his or her supervisor with a written statement indicating the assigned employee's name, job title, effective date of assignment and that the assigned employee shall not use his or her position for his or her private gain or advantage or the private gain or advantage of another.

Public Contract Code Section 10410

Prohibitions as to state officers and employees

No officer or employee in the state civil service or other appointed state official shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or in which the officer or employee has a financial interest and which is sponsored or funded, or sponsored and funded, by any state agency or department through or by a state contract unless the employment, activity, or enterprise is required as a condition of the officer's or employee's regular state employment. No officer or employee in the state civil service shall contract on his or her own individual behalf as an independent contractor with any state agency to provide services or goods.

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