

CITY OF SAN DIEGO
ADMINISTRATIVE REGULATION

SUBJECT	Number 95.60	Issue 3	Page 1 of 12
CONFLICT OF INTEREST AND EMPLOYEE CONDUCT	Effective Date December 1, 2017		

1. PURPOSE

1.1. The purpose of this regulation is to:

- 1.1.1. Summarize in a single document a code of ethics and acceptable employee conduct which will apply equally to all employees, regardless of individual job duties and responsibilities.
- 1.1.2. Emphasize that each employee in our city occupies a position of public trust which demands the highest moral and ethical standard of conduct.
- 1.1.3. Ensure that citizens are given efficient, productive, and high quality services in a courteous impartial manner. Such services should be equally available, with no special advantage given any citizen beyond that available to all citizens.

1.2. Policies and regulations governing the conduct of City employees appear in the California Government Code, City Charter, Municipal Code, Council Policy Manual, Administrative Regulations, Personnel Manual, and Departmental Instructions. Employees shall familiarize themselves with the pertinent sections of these documents and consult them as necessary for information and guidance. This regulation is not intended to supersede the City's Ethics Ordinance or state law. If there is a conflict between the provisions of this regulation and the City's Ethics Ordinance, controlling state law, or both, employees subject to the City's Ethics Ordinance, state law, or both must comply with those rules.

2. SCOPE

2.1. This regulation applies to all City of San Diego employees.

3. DEFINITIONS

3.1. Gift, Gratuity, Favor, or Entertainment - Any payment, loan, opportunity, service, accommodation, use of facility or any other benefit provided to an employee that confers a personal benefit for which the employee does not provide compensation or other consideration, of equal or greater value.

(Supersedes Administrative Regulation 95.60, Issue 2, effective May 23, 1990)

Authorized

Signature on File
CHIEF OPERATING OFFICER

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3.2. Immediate Family – A spouse or registered domestic partner, son, daughter (son and daughter include: step, foster or adopted), mother, father (mother and father include: step-father, step-mother, father-in-law, mother-in-law), brother, sister (brother and sister include: step, foster or adopted), aunt, uncle, niece, nephew, grandfather, grandmother, granddaughter and grandson.

3.3. Nominal Value - A monetary value of \$25 or less.

4. POLICY

4.1. Responsibility of Ethical Conduct

4.1.1. It is the responsibility of all City of San Diego employees to engage in ethical behavior and practices.

4.1.2. Every employee is responsible for both the actual and perceived conflict of interest that may arise as a result of the employee’s actions and it is the employee’s responsibility to reduce or eliminate to the extent possible such actual and perceived conflicts of interest.

4.2. Responsibility of Public Services

4.2.1. All City of San Diego employees are bound to uphold the Constitution of the United States and the Constitution of the State of California, and to abide by the laws of the nation, state, and the City.

4.2.2. They are bound to observe in their official acts, the highest standards of integrity and to discharge faithfully the duties of their position, recognizing that the lives, safety, health and welfare of the general public must be their primary concern. Their conduct in both their official and private affairs should be above reproach to assure that their public position is not used nor perceived as being used for personal gain.

4.2.3. The conduct of all employees shall be such as to provide the best public service to each citizen and the community as a whole. The conduct of all employees shall be consistent with the goals and values of this organization.

4.3. General Rule Regarding Conflict of Interest

4.3.1. Employees shall not engage in any business or transaction, and shall not have a financial or other personal interest, direct or indirect, which is incompatible with the proper discharge of their official duties or would tend to impair their independence,

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judgment, or action in the performance of such duties.

4.4. Acceptance of Favors, Gifts, and Gratuities

4.4.1. A City employee should be mindful as to not accept a *Gift, Gratuity, Favor, or Entertainment* from any person or business entity other than the City, which would create an appearance of influencing him or her in the discharge of his or her duties.

4.4.2. The following are not considered a *Gift, Gratuity, Favor, or Entertainment* solely for purposes of this regulation:

- a. Personalized plaques, trophies, souvenirs or mementos of *Nominal Value* associated with a given event or given to an employee from a professional organization where the person holds or held a position in the organization;
- b. Edible or perishable items provided to a City department/division/program;
- c. Discounts, rebates or concessions available to the public in general or to all City employees, or to represented, classified employees provided by their recognized employee organizations unless the discount or benefit is from an employee organization that is a reportable source for the employee under the departmental conflict of interest code applicable to that employee.
- d. Passes and tickets that provide admission to facilities, goods, services, or other benefits that are not used by the employee and are not given by the employee to another person;
- e. Passes and tickets to attend fundraisers for campaign committees or other candidates or organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code;
- f. Free admission and refreshments provided an employee at an event in which he/she gives a speech, participates in a panel or seminar or other similar service, as well as, travel payments (transportation, lodging (the day immediately preceding, day of, and day immediately following speech panel, seminar or similar service)) associated with such an event.

4.4.3. A *Gift, Gratuity, Favor, or Entertainment*, the receipt of which is prohibited by this section, shall be returned to the donor when feasible. If no return is feasible, the gift or gratuity shall be donated to a public charity (non-profit, tax exempt 501(c)(3) organization), the City of San Diego, or other governmental agency within 30 days of receipt.

4.4.4. If there is a conflict between the *Gift, Gratuity, Favor, or Entertainment* provisions (section 4.4.) of this Regulation and those in the City's Ethics Ordinance, controlling state law, or both, employees subject to the City's Ethics Ordinance, state law, or both must comply with those rules.

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4.4.5. Nothing in this regulation shall exempt any employee from complying with applicable provisions of other state and local laws including, but not limited to, all unclassified and specified classified employees' responsibility for completion of the Statement of Economic Interest (Form 700).

4.4.6. In questionable situations, employees should seek guidance from their supervisor or the Human Resources Department. In the instance, where an unclassified employee may have a question, the Ethics Commission may be contacted as well.

4.5. Collateral or Outside Employment

4.5.1. Notification and Departmental Approval

- a. City employees who are engaged in any collateral or outside business activity or employment shall notify their Department Director or other appropriate appointing authority via Form HR-9: Notification of Outside Employment or Enterprise. Persons contemplating such business activity or employment shall obtain departmental approval before accepting such employment via Form HR-9: Notification of Outside Employment or Enterprise.

4.5.2. General Prohibition

- a. Pursuant to Council Policy 000-4, employees shall not engage in any collateral employment or business activity which is incompatible or in conflict with the duties, functions, or responsibilities of the City, the appointing authority, the department, or the employee.
 - i. Activities which may constitute a conflict include: use of their City time, facilities, equipment and supplies, or the use of a badge, uniform, prestige or influence of their City or employment for private gain or advantage. An employee shall not engage in any collateral business activity or employment, which, by its nature, hours or physical demands, would impair the required quality or quantity of the employee's work with the City, impair the employee's independence of judgment or action in the performance of official duties, reduce the effectiveness or efficiency of the employee's department, reflect discredit on the City, or tend to increase the City's payments for Sick Leave, Worker's Compensation benefits, Long Term Disability or Industrial Leave benefits.

4.5.3. Specific Prohibitions

- a. City employees shall not use their position, title or status to influence, or attempt to influence, the City's review, approval, or issuance of a permit or

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other City-provided service for such an employee in his or her capacity as a citizen, self-employed consultant or to facilitate work for a collateral employer.

- b. City employees shall not review, approve, or issue a permit or any other City-provided services, for work done as a self-employed consultant or by their collateral employer, regardless of whether the work submitted was done by the City employee or other staff of their collateral employer.
- c. City employees in supervisory positions shall not assign to a subordinate any work a) resulting from the supervisor's collateral employment, and b) requiring the City's review, approval, or issuance of a permit or other City-provided services.

4.6. Use of City Employment and Facilities for Private Gain

- 4.6.1. City employees shall not use, for private gain or advantage, their City time or the City's facilities, equipment or supplies.
- 4.6.2. City employees shall not use or attempt to use their position to secure unwarranted privileges or exemptions for themselves or others.
- 4.6.3. Administration Regulation 45.50 - Private Use of City Labor, Equipment, Materials, and Supplies Prohibited, is incorporated by reference in this paragraph.

4.7. Use of Confidential Information

- 4.7.1. City employees shall not use confidential information acquired by, or available to, them in the course of their employment with the City for speculation or personal gain.
- 4.7.2. City employees shall not disclose confidential personnel or customer information acquired by or available to them in the course of their employment with the City except in the performance of their duties as required by law.

4.8. City Contracts

- 4.8.1. City employees shall not exercise any discretionary powers for, or make recommendations on behalf of the City or department or officer thereof with respect to any contract or sale to which the City or any department thereof is a party and in which such persons shall knowingly be directly or indirectly financially interested.

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4.9. Personal Investments

4.9.1. City employees shall not make personal investments in enterprises which they have reason to believe may be involved in decisions or recommendations to be made by them, or under their supervision, or which will otherwise create conflict between their private interests and the public interest. If, however, a City employee has a financial interest in matters or enterprises coming before them, or before the department in which they are employed, they shall disqualify themselves from any participation therein.

4.10. Discussion of Future Employment

4.10.1. City employees shall not negotiate for future employment outside the City service with any person, firm, or organization known by such persons to be dealing with the City concerning matters within such person's areas of responsibility or upon which they must act or make a recommendation, when the person's City employment status could create an advantage not available to other individuals, firms or organizations.

4.11. Communication Limitations with Former Employees

4.11.1. City employees shall not communicate with former City employees regarding any project, issue or matter in which that former employee rendered a decision or gave approval or disapproval, made recommendations, gave advice, or had any other substantial involvement or participation for a period of one year from the former employee's final date of active employment. Council Policy 300-11, "City Contract Provisions with Respect to Hiring City Employees" is incorporated by reference in this paragraph.

4.12. Equal Employment

4.12.1. City employees shall not, in the performance of their service responsibilities, discriminate against any person on the basis of race, religion, color, creed, age, marital status, national origin or ancestry, pregnancy, sex, sexual orientation, gender identity, gender expression, physical or mental disability, veteran status, genetic information, medical condition, and any other category protected by federal, state, or local laws, and they shall cooperate in achieving the equal employment opportunity and affirmative action goals and objectives of the City.

4.13. Reporting of Fraud, Waste or Abuse

4.13.1. City employees are strongly encouraged to disclose, to the extent not expressly

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prohibited by law, improper governmental activities within their knowledge. Employees are encouraged to contact a departmental manager and/or the City's Fraud Hotline at (866-809-3500) to report this information.

4.13.2. No City employee shall directly or indirectly use or attempt to use their authority or influence for the purpose of intimidating, threatening, coercing, commanding, or influencing any other City employee with the intent of interfering with that employee's duty to disclose such improper activity.

4.14. Favoritism

4.14.1. Supervisory or management employees shall not participate in the appointment or recommend the appointment of any member of their *Immediate Family*, or any other person with whom the employee has a close personal or private business relationship, to a classified position of any department, office, bureau or division over which they have administrative control.

4.14.2. Supervisory or management employees shall not participate in the appointment or recommend the appointment of a member of their *Immediate Family*, or any other person with whom the employee has a close personal or business relationship, to another supervisory or management position of the City.

4.14.3. This regulation permits *Immediate Family* members and close personal friends of supervisory or management employees to be appointed as employees in any department provided such supervisory or management employees make no recommendation nor otherwise attempt to influence such appointments.

4.14.4. No supervisory or management employee shall:

- a. directly supervise any *Immediate Family* member or person with whom the supervisor has a close personal relationship;
- b. influence the approval of any employee rewards for any *Immediate Family* member or person with whom the supervisor has a close personal or business relationship;
- c. interfere with any performance evaluation or disciplinary proceeding for any *Immediate Family* member or person with whom the supervisor has a close personal or business relationship; or
- d. recommend or attempt to influence any contractor or business which has a business relationship with the City to employ a member of his or her *Immediate Family* or any other person with whom the employee has a close personal or business relationship.

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4.15. Product Endorsement

- 4.15.1. City employees, in their capacity as a City employee, shall not endorse a product or service or comment on that product or service if it is the intent of the solicitor of the endorsement, or of the vendor or manufacturer of that product or service, to use such comments for purposes of advertisement.
- 4.15.2. City employees are not prohibited from responding to inquiries regarding the effectiveness of products or services used by the City unless the employee is aware that it is the inquirer’s intention to use those comments for purpose of advertisement. Council Policy 000-23 “Product Endorsement” and Administrative Regulation 95.65 - Product Endorsement, are incorporated by reference in this paragraph.

4.16. Duty to Disclose

- 4.16.1. City employees shall immediately disclose the nature and extent of any interest, direct or indirect, which may conflict with their responsibility or duty, or which, because of their position, may influence a decision to the benefit of the organization in which they have an interest. Such disclosure shall be in the form of a memorandum to the Chief Operating Officer, transmitted via the employee’s department head or Deputy Chief Operating Officer.

4.17. Duty to Cooperate

- 4.17.1. City employees shall cooperate fully with judicial bodies and courts, and with lawfully constituted investigative commissions, committees, bodies and juries; appear before them upon request; and answer all questions concerning their conduct in office or their performance of official duties or matters within their knowledge pertaining to the property, government or affairs of the City of San Diego. Failure to do so shall be cause for appropriate disciplinary action, including possible dismissal from City service.

5. RESPONSIBILITY

5.1. All City Employees

- 5.1.1. Responsible for understanding and complying with this regulation at all times.
- 5.1.2. Employees engaging in outside employment or enterprise will complete Form HR-9 – Notification of Outside Employment or Enterprise and keep it up-to-date at all times. To the extent there is a change in the employee’s outside employment or

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enterprise, the employee will immediately update the information and resubmit it to their Department.

5.2. Supervisor or Management Employees

5.2.1. Monitor to ensure employee's compliance with this regulation.

5.2.2. Take immediate administrative action when made aware of a potential violation of this regulation.

5.4. Human Resources Department

5.4.1. Assist with addressing questions raised by Departments and working closely with the City Attorney's Office to provide guidance in accordance with this regulation.

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APPENDIX

Legal References

California Government Code section 87100 et seq.
California Government Code section 1090 et seq.
City Charter
Municipal Code
Council Policy 000-4 – Code of Ethics
Council Policy 000-23 - Product Endorsement
Administrative Regulation 45.50 – Private Use of City Equipment and Materials Prohibited
Administrative Regulation 95.65 - Product Endorsement
Personnel Manual Section A-2 – Commission Policy Statement: Motor Vehicle Violations
Personnel Manual Section G-1 – Code of Ethics and Conduct
Personnel Manual Section G-6 – Regulation of Outside Employment or Enterprise
Personnel Manual Section L-2 – Separation and Disciplinary Actions: Discipline

Forms

Attachment 1 - Form HR-9: Notification of Outside Employment or Enterprise
Statement of Economic Interest (Form 700)

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EMPLOYEE’S CERTIFICATION – ALL EMPLOYEES MUST READ AND SIGN

I have read and understand the City’s policies regarding outside employment/enterprise (Personnel Regulation Index Code G-6 and Administrative Regulation 95.60 – Conflicts of Interest and Employee Conduct) and certify that to the best of my knowledge and belief that the above information is true and complete with regard to any and all employment/enterprise and that I am in compliance with the City’s policies.

I further understand and agree to keep this information up-to-date at all times. To the extent there is a change in my outside employment/enterprise, I will immediately update and resubmit this Form to my Department.

I understand that while engaged in employment/enterprise, outside of the course and scope of my City employment that I will not use Department resources or equipment in relation to my outside employment or enterprise and will comply with A.R. 45.50 – Private Use of City Labor, Equipment, Materials and Supplies. I further understand that I am not permitted to perform any work outside the course and scope of my City employment while I am working on-the-clock for the City.

I also understand that I am not entitled to Workers Compensation or legal representation from the City of San Diego related to my outside employment/enterprise.

EMPLOYEE’S SIGNATURE	DATE

FOR DEPARTMENT USE ONLY

Approved _____ Denied _____	If denied, reason(s):
Appointing Authority Name:	
Appointing Authority Signature:	Date

Distribution:

1. Employee
2. Departmental File
3. Personnel File