

STATE OF NORTH CAROLINA
JUDICIAL BRANCH OF GOVERNMENT
NORTH CAROLINA ADMINISTRATIVE OFFICE OF THE COURTS
Human Resources Division
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DISCLOSURE AND APPROVAL
OF SECONDARY EMPLOYMENT

Policy: Any additional employment other than employment with the Judicial Department, in which a Judicial Branch employee chooses to engage is secondary employment, including self employment and ownership of a company. Employees must read the policy: Secondary Employment, in the Human Resources Management Manual, Section 3J. The purpose of the secondary employment policy is to ensure that any supplemental employment outside of the Judicial Department does not have an adverse affect on the employee's Judicial Department employment. If secondary employment is with another State agency then the policy for "Dual Employment" also applies.

New employees must declare and receive approval for secondary employment at the time of hire. Current employees must obtain approval of their supervisor or hiring authority (if different) **before** beginning any secondary employment.

Secondary employment must not:

- create a conflict of interest with the employee's employment with the Judicial Department, or the appearance of such conflict;
- impair in any way the employee's ability to perform the duties of their Judicial Department employment; or
- infringe upon the responsibility of the Judicial Department to maintain impartiality and the appearance of impartiality with respect to the people's legal affairs.

Further explanation and examples of conflicts of interest are on side two.

SECTION I - EMPLOYEE OR ELECTED OFFICIAL INFORMATION

<i>Name Of Employee Or Elected Official</i>	<i>Social Security Number (last 4 digits only)</i>	<i>Work Telephone Number</i>
<i>Job Title</i>	<i>Department/Division/Office</i>	

SECTION II - DISCLOSURE OF SECONDARY EMPLOYMENT

Check the applicable boxes:

<input type="checkbox"/> New Employee	<input type="checkbox"/> I am not engaged in any secondary employment
<input type="checkbox"/> Current Employee	<input type="checkbox"/> I am engaged in the employment described below
	<input type="checkbox"/> I am requesting approval to engage in the secondary employment described below

<i>Secondary Employer Name</i>	<i>Secondary Employer's Business</i>													
<i>Secondary Employer Address</i>	Employee's Work Schedule At Secondary Position													
	<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th style="width:12.5%;">Sun</th> <th style="width:12.5%;">Mon</th> <th style="width:12.5%;">Tues</th> <th style="width:12.5%;">Wed</th> <th style="width:12.5%;">Thurs</th> <th style="width:12.5%;">Fri</th> <th style="width:12.5%;">Sat</th> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table>	Sun	Mon	Tues	Wed	Thurs	Fri	Sat						
Sun	Mon	Tues	Wed	Thurs	Fri	Sat								
<i>Secondary Employer Phone Number</i>	<i>Job Title At Secondary Employment</i>													

Description Of Duties To Be Performed

SECTION III - CERTIFICATION

For employees:

- I certify that the information I have provided in Section II fully and accurately describes the secondary employment in which I am engaged, or intend to be engaged.
- I am confident that my secondary employment will not impair my ability to perform the duties of my Judicial Department employment, does not create a conflict of interest and will not impair the impartiality and appearance of impartiality of the Judicial Department.
- I understand that, if my secondary employment is deemed to be contrary to the Secondary Employment policy, my employment with the Judicial Department may be terminated.
- I understand that this form and any required supporting information are considered public information and may be released upon request.

<i>Signature Of Employee or Elected Official</i>	<i>Date</i>
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Recommend Approval: <input type="checkbox"/> Yes <input type="checkbox"/> No	<i>Signature Of Immediate Supervisor (N/A To Elected Officials)</i>	<i>Date</i>
Approved: <input type="checkbox"/> Yes <input type="checkbox"/> No	<i>Signature Of Hiring Authority (N/A To Elected Officials) Or Designee</i>	<i>Date</i>
Human Resources Division Review:	<i>Signature Of Human Resources Officer Or Designee</i>	<i>Date</i>

Judicial Branch Employees Must Avoid Conflicts of Interest

Citizens who come before the courts must have confidence and trust that all Judicial Branch employees will carry out their duties in a fair, objective manner, without bias or favoritism. Among other things, this means that no court employee should have another job that could conflict with his or her duties as a court employee.

For example, a second job with a law firm, bondsman, law enforcement agency, or other entity that is regularly involved in court proceedings would ordinarily present a conflict. That is because the secondary employer's interests are regularly affected by court actions. For an employee whose duties for the court could overlap with the secondary employer's activities in court, the conflict could directly affect the employee's independent and impartial judgment. Even for an employee whose court duties would not directly interact with the secondary employer in court, there could be the appearance of a conflict. The court system must avoid even the appearance that someone might be receiving an advantage, "inside" information, or preferential treatment.

Another example of a potential conflict would be a job with a company that does business with the court. That could create an appearance that the secondary employer has an inside track to a contract for the provision of goods or services, or access to confidential court information that the employer could use in its business.

Another consideration is that outside employment should not reflect adversely on the dignity and integrity of the Judicial Branch.

The determination of whether a specific second job presents a conflict of interest is ultimately a judgment call to be made by the employee's supervisor and hiring authority. Some conflicts of interest are prohibited by statutes or the codes cited below. For the most part, these apply only to selected Judicial Branch officials and employees, but the underlying principles offer guidance for a determination of whether a second job would be a conflict for any employee.

Private practice of law is prohibited for justices, judges, magistrates, prosecutors, defenders, and clerks: G.S. 84-2: "No justice, judge, magistrate, full-time district attorney, full-time assistant district attorney, public defender, assistant public defender, clerk, deputy or assistant clerk of the General Court of Justice ... shall engage in the private practice of law." Violation is a Class 3 misdemeanor. **NOTE:** G.S. 84-2 does not apply to attorneys working under contract for Indigent Defense Services to provide indigent defense.

Assistant district attorney -- full time, no private practice: G.S. 7A-63: "An assistant district attorney shall ... devote his full time to the duties of his office and shall not engage in the private practice of law during his term."

Public Defender -- full time: G.S. 7A-498.7(c): "A public defender shall ... devote full time to the duties of the office."

Clerk, full time -- business activities should not conflict: G.S. 7A-101(a): "The clerk of superior court is a full-time employee of the State ..."
Although there is no formal code of ethics applicable to clerks, a code of ethics for clerks in the Clerks' Manual (Section IV, at 11.7) states the principle that the clerk's business activities should not conflict with the duties as clerk.

Code of Judicial Conduct: (applicable to justices and judges) and State Bar Rules of Professional Conduct (applicable to all lawyers): Although most Judicial Branch employees are not subject to these Codes, they address conflicts of interest. While not every income-producing activity violates these codes, they clearly proscribe activities that would impair the ability to exercise fair and impartial judgment. Canons 1 and 3 of the Code of Judicial Conduct speak to upholding the independence and impartiality of the judiciary, and Canon 5.C(1) states that a "judge should refrain from ..." Canon financial and business dealings that reflect adversely on the judge's impartiality, [or] interfere with the proper performance of the judge's judicial duties 6 addresses compensation for quasi-judicial and extra-judicial activities. The State Bar Rules of Professional Conduct, Rule 1.11(d), addresses conflict situations for a lawyer currently serving as a public officer or employee. If a Judicial Branch lawyer were to represent a person or give legal advice, the conflict would relate to the lawyer's ability to exercise independent judgment for both the agency and the person, and it could create an appearance that the person is getting some inside, legal advantage from the court.

Personal gains from public contracts are unlawful: G.S. 14-234 is concerned with situations where an employee of an agency would gain a benefit from an agency contract, such as where the employee has an interest in the company with which an agency has contracted. This statute also forbids an employee of an agency from soliciting or receiving a gift or reward in exchange for trying to influence the award of a contract by the agency. This statute does not address secondary employment *per se*, but it reflects the concern that a conflict may be presented if a court employee works for a business that contracts with the court.

State Government Ethics Act: (G.S. Chapter 138A): For the courts, this Act applies only to elected officials and a few others. However, the Act defines standards of ethical conduct and conflicts of interest. Among other things, persons subject to the Act must not participate in official matters when they have a conflict of interest, such as a financial interest. The purpose of the Act (stated in G.S. 138A-2) is to ensure that "officials exercise their authority honestly and fairly, free from impropriety, threats, favoritism, and undue influence."