

Outside Employment

1021.1 PURPOSE AND SCOPE

In order to avoid actual or perceived conflicts of interest for Department employees engaging in outside employment, all employees shall obtain written approval from the Chief of Police prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Chief of Police in accordance with the provisions of this policy and Provo City Personnel Policy # 023 Paragraph 3.

1021.1.1 DEFINITIONS

Outside Employer - Any entity or individual providing outside employment to Provo City Police Department employees is an "outside employer."

Outside Employment - Any employee of the Department who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this department for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with this department for services, product(s) or benefits rendered.

Overtime Reimbursement - Any entity or individual who reimburses the Department for augmented police services pursuant to a special request to the Department is paying "overtime reimbursement." Types of services that may be considered for overtime reimbursement by special request include: enhanced traffic control and pedestrian safety; crowd control; security and protection of life and property; and law enforcement services for public authorities. These augmented services shall be requested and scheduled directly through the Department so that the Department may be reimbursed for the cost of wages and benefits for officers performing such services.

1021.2 OBTAINING APPROVAL

No employee of the Department may engage in any outside employment without first obtaining prior written approval of the Chief of Police. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy may lead to disciplinary action.

In order to obtain approval for outside employment, the employee must complete an Outside Employment Application, which shall be submitted to the employee's immediate supervisor. The application will then be forwarded through channels to the Chief of Police for consideration.

If approved, the employee will be provided with a copy of the approved application.

Any employee seeking approval of outside employment, whose request has been denied, shall be provided with a written reason(s) for the denial of the application at the time of the denial.

Also see Provo City Personnel Policy #23

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1021.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT

If an employee's Outside Employment Application is denied or withdrawn by the Department, the employee may file a written notice of appeal to the Chief of Police within 10 days of the date of denial.

1021.2.2 REVOCATION/SUSPENSION OF OUTSIDE EMPLOYMENT PERMITS

Any outside employment permit may be revoked or suspended under the following circumstances, and as otherwise provided in this Directive:

- (a) When an employee's performance at this department declines to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of competency, the Chief of Police may, at his/her discretion, revoke any previously approved outside employment authorization. That revocation will stand until the employee's performance has been reestablished at a satisfactory level and his/her supervisor recommends reinstatement of the outside employment authorization.
- (b) When suspension or revocation of a previously approved outside employment authorization is included as a term or condition of sustained discipline.
- (c) If, at any time during the term of any authorized outside employment, an employee's conduct or outside employment conflicts with the provisions of Department policy, the authorization may be suspended or revoked.
- (d) When an employee is unable to perform at a full-duty capacity due to an injury or other condition, any previously approved outside employment permit may be subjected to similar restrictions as those applicable to the employee's full time duties until the employee has returned to a full duty status.

1021.3 PROHIBITED OUTSIDE EMPLOYMENT

Consistent with the provisions of Utah Administrative Code R477-9-2, and the interests of Provo City, the Department expressly reserves the right to deny any Outside Employment Application submitted by an employee seeking to engage in:

- (a) Any activity which interferes with an employee's job performance.
- (b) Any activity which conflicts with the interests of the Department the City of Provo or the State of Utah.
- (c) Any activity which gives reason for criticism or suspicion of conflicting interests or duties.
- (d) Employment as a process server, re-possessor, or bill collector, towing of vehicles, or in any other employment in which police authority might tend to be used to collect money or merchandise for private purposes. No police officer may have any interest in any collection agency nor act as a compensated collection agent for any creditor or collection agency.

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- (e) Investigations for the private sector or any employment in which confidential information acquired as a police officer might be used in ways that compromise open investigations by the department or violate individuals' privacy rights, or which require the police officer to have access to police information, files, records or services as a condition of employment.
- (f) Assists, in any manner, the case preparation for a defense counsel in any criminal or civil action or proceeding, which involves Provo City.
- (g) Activities for a business or labor group on strike.
- (h) Any employment at any gambling or sexually oriented business or at an establishment or for a company whose principal business is the sale, or manufacture of alcoholic beverages.

1021.3.1 OUTSIDE SECURITY AND PEACE OFFICER EMPLOYMENT

1. Safety and Firearms.

To protect the health and safety of employees engaging in outside employment:

- (a) The outside employer must expressly agree in writing to provide Workers Compensation Insurance for the employee, and to indemnify Provo City from any liability for the employee's actions taken while in the outside employment.
- (b) The outside employer must enter into an indemnification agreement with the Department and Provo City prior to approval for the outside employment.
- (c) The employee must execute a letter of understanding with the prospective outside employer, using a format as provided in this policy, with a copy of such letter being submitted to the Chief of Police after its execution.
- (d) If the outside employment requires being armed, the officer or his/her employer will furnish the firearm and it will be carried, displayed or used in a manner consistent with prevailing law. The officer is forbidden from being armed in an off-duty employment capacity relying on the statute that allows him/her to be armed by virtue of his/her status as a Provo Police Officer. The authority for being armed in an off-duty supplemental employment capacity must arise from authority acquired from a source other than that provided by virtue of being a Provo Police officer.
- (e) Violations of these restrictions on law enforcement action while off duty may result in a revocation of the employee's permit for outside employment, and may subject the employee to disciplinary action up to and including termination.

2. Requests for Police or Security Related Outside Employment.

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Requests for approval for outside employment in police or security related employment may be approved if, in addition to the City policy requirements, the following criteria are met:

- (a) The employee agrees to refrain from carrying a department-owned weapon while engaged in outside employment activities.
- (b) The employee agrees to not display any form of Provo Police identification while working in an outside employment capacity.
- (c) The employee shall execute a letter of understanding with the prospective employer, using a format as provided in this policy, with a copy of such letter being submitted to the Chief of Police after its execution.
- (d) The employee agrees when working in outside employment to refrain from verbally or otherwise identifying him or herself as a Provo Police officer when taking any action in connection with the off-duty employment.

3. Requests for Augmented Services.

Any private organization, entity or individual seeking augmented services from the Department must submit a request in advance for the desired service. Such services shall be assigned, monitored and paid through the Department.

- (a) The applicant shall provide for the reimbursement of the Department for the compensation and full benefits of all employees requested for such services.
- (b) Should such a request be approved, any employee performing the augmented services shall be subject to the following conditions:
 - The officer(s) shall wear the Department uniform/identification.
 - The officer(s) shall be subject to the supervision and rules and regulations of the Department.
 - No officer may engage in such outside employment during or at the site of a strike, lockout, picket or other physical demonstration of a labor dispute.
 - Compensation for such approved augmented services shall be pursuant to normal overtime procedures. The applicant will be required to enter into an indemnification agreement prior to approval.

1021.3.2 OUTSIDE OVERTIME ARREST AND REPORTING PROCEDURE

Any employee making an arrest or taking other official police action while working in an approved outside overtime assignment shall be required to complete all related reports in a timely manner

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pursuant to Department policy. Time spent on the completion of such reports shall be considered incidental to the assignment, and reimbursed accordingly..

1021.3.3 SPECIAL RESTRICTIONS

Except for emergency situations or with prior authorization from the Division Commander, officers assigned to undercover or covert operations shall not be eligible to work overtime or other assignments in a uniformed or other capacity which might reasonably disclose the officer's law enforcement status.

1021.3.4 HOURS WORKED RESTRICTIONS

An employee may work a maximum of twenty-four hours of off-duty, overtime/gap, or extra-duty employment, or a total of sixty-four hours in combination with regular duty in each calendar week unless approved by the Chief of Police in writing in the form of a memorandum.

Off-duty work hours for all employees must be scheduled in a manner that does not conflict or interfere with the employees law enforcement duties for Provo City.

1021.4 DEPARTMENT RESOURCES

Employees are prohibited from using any Department equipment or resources in the course of or for the benefit of any outside employment. This shall include the prohibition of access to official records or databases of the Department or other agencies through the use of the employee's position with this department.

1021.4.1 REVIEW OF FINANCIAL RECORDS

Employees approved for outside employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflict of interest. Prior to providing written approval for an outside employment position, the Department may request that an officer provide his/her personal financial records for review/audit in order to determine whether a conflict of interest exists. Failure of the employee to provide the requested personal financial records could result in denial of the off-duty work permit. If, after approving a request for an outside employment position, the Department becomes concerned that a conflict of interest exists based on a financial reason, the Department may request that the employee provide his/her personal financial records for review/audit. If the employee elects not to provide the requested records, his/her off-duty work permit may be revoked pursuant to § 1040.2.2(c).

1021.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS

If an employee terminates his/her outside employment during the period of a valid authorization, the employee shall promptly submit written notification of such termination to the Chief of Police through channels. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

Employees shall also promptly submit in writing to the Chief of Police any material changes in outside employment including any change in the number of hours, type of duties or demands of

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any approved outside employment. Employees who are uncertain whether a change in outside employment is material are advised to report the change.

1021.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY

Department members engaged in outside employment who are placed on medical leave or modified/light-duty shall inform their immediate supervisor in writing within five days regarding whether they intend to continue to engage in such outside employment while on such leave or light-duty status. The immediate supervisor shall review the duties of the outside employment along with any related doctor's orders, and make a recommendation to the Chief of Police whether such outside employment should continue.

In the event the Chief of Police determines that the outside employment should be discontinued or if the employee fails to promptly notify his/her supervisor of his/her intentions regarding the work authorization, a notice of revocation of the employee's work authorization will be forwarded to the involved employee, and a copy attached to the original work authorization.

Criteria for revoking the outside employment authorization include, but are not limited to, the following:

- (a) The outside employment is medically detrimental to the total recovery of the disabled employee, as indicated by the City's professional medical advisors.
- (b) The outside employment performed requires the same or similar physical ability as would be required of an on-duty employee.
- (c) The employee's failure to make timely notice of their intentions to their supervisor.

When the employee returns to full duty with the Provo City Police Department, a written request may be made to the Chief of Police to restore the outside employment authorization.

See Provo City Personnel Policy #019-A FAMILY AND MEDICAL LEAVE (FMLA) for outside employment while on FMLA.