

INCOMPATIBLE ACTIVITIES STATEMENT

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INCOMPATIBLE ACTIVITIES STATEMENT

POLICY

It is the policy of the California Department of Child Support Services (DCSS) to comply with all provisions of Government Code § 19990, which states, "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."

APPLICABILITY

This policy applies to all state civil service and exempt employees of DCSS. The policy reflects the core values of DCSS in carrying out our work in an environment of integrity and ethical conduct while fulfilling the responsibilities of DCSS to other public agencies and the public.

AUTHORITY

Government Code § 19990
Public Contract Code 10410 and 10411

PENALTY FOR VIOLATION OF INCOMPATIBLE ACTIVITIES POLICY

An employee may be subject to disciplinary action for a violation of Government Code Section 19990.

DEFINITIONS

Term	Definition
Department	means DCSS
Employee	Includes all civil service employees and exempt officers in DCSS. The term encompasses any attempt by an employee to circumvent this policy by the use of a friend, relative, or dependent to accomplish indirectly what this policy prohibits. This definition of "employee" applies throughout this statement.
Grievance	A grievance is a dispute of one or more excluded employees involving the application or interpretation of a statute, regulation, policy or practice which falls under the jurisdiction of the Director, Department of Personnel Administration.

Term	Definition
Non-Merit Statutory Appeal	A non-merit, statutory appeal is: an appeal of transfer in accordance with sections 19994.2-19994.4 of the Government Code; a petition to set aside resignation in accordance with section 19996.1; an appeal for reinstatement after automatic resignation (AWOL) in accordance with section 19996.2; or an appeal of layoff in accordance with section 19997.14.
Outside activity	Any pursuit, interest, hobby, occupation, past-time, or service performed by a DCSS employee for his or her private gain or advantage and/or for that of another person, not DCSS, for which he or she may or may not receive any form of compensation. This definition of "outside activity" applies throughout this statement.
Outside employment	Any partnership, ownership or services performed by a DCSS employee for his or her private gain or advantage and/or for that of another person, not DCSS, for which he or she receives any form of compensation. This definition of "outside employment" applies throughout this statement.
Outside enterprise	An economic venture, project, or undertaking (i.e. business organization) taken by a DCSS employee for his or her private gain or advantage and/or for that of another person, not DCSS, for which s/he receives any form of compensation. This definition of "outside enterprise" applies throughout this statement.
Person	Includes individuals, firms, corporations, partnerships, associations, other governmental bodies, or agents and representatives of these entities. This definition of "person" applies throughout this statement.

The following statements, examples and guidelines do not attempt to specify every situation that may be incompatible. The items included below are illustrations of principles and are not all inclusive. Interpretation of policy will be made on a case-by-case basis.

INCOMPATIBLE ACTIVITIES PURSUANT TO GOVERNMENT CODE SEC. 19990

No employee shall:

- A. Use the prestige or influence of the state or DCSS for the employee's private gain or advantage, or the private gain of another.
- B. Use state time, facilities, equipment, or supplies for private gain or advantage.

- C. Use or access confidential information available by virtue of state employment for private gain or advantage, or provide confidential information to persons to whom issuance of this information has not been authorized.
- D. Perform an act in other than his or her capacity as an employee knowing that the act may later be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement by the employee.
- E. Receive or accept money or any other consideration from anyone other than the state for the performance of his/her duties as an employee.
- F. Receive or accept, 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 DCSS or whose activities are regulated or controlled by DCSS 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 devote his/her full time, attention, and efforts to his or her state office or employment during his/her hours of duty as a state officer or employee.

MISUSE OF POSITION AND/OR RESOURCES

Misuse of position and/or resources includes using state time, facilities, and equipment or supplies for private gain and/or for the advantage of the employee or another person. Each DCSS employee is expected to devote 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 employee.

Examples of prohibited employment, activities, and/or enterprises that constitute misuse of position and/or resources include, but are not limited to:

- An employee shall not counsel, advise, or assist for private gain or advantage, any person in the preparation, presentation, or defense of any appeal, application, claim, notice, petition, record, report, statements or other writing, or in matters that are before, or may be presented to, DCSS or local child support agency (LCSA), or in any administrative hearing or court proceeding or action arising under the laws administered by DCSS.
- An employee shall not serve, either directly or indirectly, as the representative for any person who is either an applicant for, or a recipient of, any type of public service or assistance from a program that is under the supervision of

DCSS. An employee shall not serve, either directly or indirectly, as the representative for any person that is subject to audit by DCSS.

- An employee shall not serve, either directly or indirectly, as the representative for any person that is the subject of collection processes by DCSS.
- An employee shall not serve, either directly or indirectly, as the representative of any person in any state hearing, administrative hearing or trial in which DCSS and/or LCSA is a party or adjudicator, unless required as part of his/her duties as an employee of DCSS.
- An employee shall not contract on his or her own behalf as an independent contractor with any state agency to provide services or goods.
- An employee may not make a contract in which he or she is financially interested. Any participation by the officer or employee in the process by which a contract is developed, negotiated, and executed is a violation.
- Employees shall not engage in any employment, activity, or enterprise from which the employee receives compensation, or in which s/he has a financial interest and which is sponsored or funded, in whole or in part, by DCSS through contract.
- No employee shall use, either during or outside of work hours, any DCSS symbol, badge, uniform, identification card, record, information, facility, staff time, equipment, supplies, training material, vehicle, telephone, address, postage, or mailing list, for personal gain and/or advantage, or lend or give such items to customers, vendors, providers, or other persons, unless otherwise authorized by law or by Memorandum of Understanding (MOU).
- No employee shall use, either during or outside of office hours, the influence of his or her state position for personal gain and/or advantage.
- No employee shall use state owned equipment (e.g., copy machines, computer equipment, software, fax machines, vehicles) for personal use except as provided by law or MOU.
- No employee shall accept, take or convert to one's own use, products of any kind in the course of, or as a result of, inspections of products or facilities.
- No employee shall engage in employment unrelated to his/her office or employment during his/her hours of work as a state employee.

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- No employee shall use the status of DCSS to solicit directly or indirectly business of any kind or to purchase goods or services for private use or accept discounts from a person who does business with the state.
 - No employee shall use confidential or non-confidential information available to the employee by virtue solely of the employee's state employment for personal gain and/or advantage or for the personal gain and/or advantage of another person.
 - No employee shall provide confidential information to persons who have not been authorized to receive such information.
 - No employee shall provide services or information to prospective bidders on any contract except as required as part of his or her regular performance of DCSS duties and/or as may be required during the procurement/contracting process.
 - No employee shall provide or use the names of persons or records of DCSS for a mailing list, which has not been authorized.
 - No employee shall prepare, present, or publish any speech, article, or other writing related to the operation of DCSS without providing an appropriate disclaimer explicitly indicating that the views expressed are solely of the employee, and do not necessarily reflect the views of DCSS, unless the speech, article, or other writing is part of the employee's official DCSS duties and has the written approval of the Director or his or her designee.
 - No employee shall use the authority of his or her position with DCSS to violate or circumvent or assist another to violate or circumvent any state or federal laws, regulations, and policies relating to programs administered by DCSS.

Note: Supervisors should make reasonable efforts to ensure employees are aware of what information is confidential.

OUTSIDE EMPLOYMENT, ACTIVITY AND/OR ENTERPRISE

An employee MAY engage in an outside employment, activity, and/or enterprise that is NOT directly or indirectly related to the employee's departmental functions, responsibilities, or duties.

The employee must bear in mind the following prohibition: employees are prohibited from any and all outside employment, activities, and/or enterprise that creates a situation in which the employee fails to devote full time attention and efforts to his or her DCSS functions, responsibilities, and duties during regular hours of employment.

Employees are responsible for submitting in writing, a description of any and all outside employment, activities, and/or enterprises that may be related to DCSS.

Please see the Certification section on the next page. In some instances, an individual incompatible activity determination will need to be made by the Personnel Services Section. Frequently, restrictions in workload assignments are developed to prevent potentially incompatible situations from arising.

USE OF STATE TIME TO MARKET PRODUCTS

State and DCSS policy prohibit the use of state time and resources (e.g., state computer e-mail, telephones) by employees to market products. In addition, the Incompatible Activities Statement requires that during hours of work, employees are to devote their full time attention and efforts to their state office and/or assigned duties.

The term "product" includes, but is not limited to, cosmetics, food products, house wares, mail orders, jewelry and other sundry products. Employees involved in the marketing of products must confine such activities to non-work time and location during the workday.

CERTIFICATION (HSS 601)

All employees shall complete the Certification, HSS 601, to comply with the Incompatible Activities Statement after reading this material in its entirety. The Personnel Services Section issues and maintains the Certification on file. The Certification is to be completed and submitted to the Personnel Services Branch within 30 calendar days of appointment to DCSS. All employees shall complete and submit a new Certification to the Personnel Services Section if there are any changes in circumstances, including a change in category and/or a change within Category C.

INSTRUCTIONS TO COMPLETE CERTIFICATION

There are three categories on the Certification. If you check Category A or B, complete the upper portion and sign, fold, staple and return the Certification to the Personnel Services Section.

If you check Category C, you must complete the entire form, including the name of the employer, activity, and/or enterprise and the capacity in which you work or act. Sign, fold and staple the Certification, and submit it along with the required written description of the specifics (as described below) to the Personnel Officer in the Personnel Services Section. Retain a photocopy for your records.

New employees who are engaged in any employment, activity, and/or enterprise at the time of appointment to DCSS, or current employees who wish to engage in any employment, activity, and/or enterprise that falls into Category C shall, in addition to completing the Certification, submit a written description of the specifics addressed to the Personnel Officer through his or her Branch Chief.

This written description should include:

- The name of the employer, activity, and/or enterprise.
- The function to be performed.
- The number of hours and days of the week that the employment, activity, and/or enterprise will involve.
- If this employment, activity, and/or enterprise is paid or voluntary.
- The basis on which the employee believes that the employment, activity, and/or enterprise is not incompatible.

This notification shall be made prior to if possible, but no later than 30 days of engaging in the outside employment, activity, and/or enterprise so that the Personnel Officer can make a determination with review by legal staff as to the permissibility of the employment and/or activity. The Personnel Services Section will promptly convey a response.

APPEAL PROCEDURES

An employee has the right to appeal the denial of his or her request for an exception to this Statement. Represented employees should follow the appeal process stated in their applicable Bargaining Unit agreement.

Excluded employees may file a written appeal in accordance with Department of Personnel Administration Rule 599.859.

EFFECTIVE DATE

This policy is to remain in effect until rescinded by an executive level office, i.e. Department Director or designee. For questions regarding updates and/or revisions to this policy, please contact the Administrative Policy Unit at 464-5792.