



Approved by
The Commission

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without modification

NON-COMMISSION EMPLOYMENT AND NON-COMMISSION BUSINESS

AUTHORITY

This Practice was initially approved by the Executive Committee on July 2, 1976. It was later revised on March 18, 1987, by the Commission.

This Practice was again revised on October 15, 2003, by the Commission. Covered persons involved in Non-Commission employment prior to the last revised date of this Practice shall have forty-five (45) calendar days in which to obtain approval to continue Non-Commission employment. All other provisions of this Practice shall apply similarly to request for continued or new participation in Non-Commission employment.

Trudye Morgan Johnson, Executive Director

PURPOSE & BACKGROUND

This Practice was developed in 1976, to set forth policy on Non-Commission employment and to protect the Commission from conflicts of interest arising from participation in Non-Commission employment by employees and Department Heads. The Practice was revised in 1987, to define conflicts of interests, Non-Commission employment activities, Commission property, and to identify Non-Commission employment restrictions and penalties.

The Practice was further revised on October 15, 2003, to clarify restrictions on Non-Commission employment/business and include requirements for employees to receive prior approval for participation in Non-Commission employment activities as defined in this Practice. The revised Practice also distinguishes Non-Commission employment from Non-Commission business activities, includes expanded explanations of Commission property and identifies Non-Commission employment restriction and penalties.

REFERENCES

- Title 15, Public Ethics, State Government, Annotated Code of Maryland
- Title 10, Public Information Act, State Government Article, Section 10-611
- Merit System Rules and Regulations, “Discipline” and “Work Weeks; Schedules; Attendance”
- Commission Practice, 2-15, “Employee Use of Commission Property”
- Commission Practice, 2-24, “Ethics”
- Commission Practice, 4-10, “Purchasing”
- Commission Practice, 5-71, “Financial Disclosure by Commission Officers, Department Heads, and Certain Other Employees”
- Commission Practice, 5-80, “ Public Information and Records Management”
- Commission Practice, 6-13, “Electronic Communications Policy”
- Administrative Procedures, 99-04, “Time and Attendance”
- Administrative Procedures, “Application and Review of Requests to Participate in Non-Commission Employment”
- Collective Bargaining Agreements for represented Commission employees

APPLICATION

This Practice applies to all employees including the Park Police, Department Heads, and appointed officers. In the event that any portion of this Practice conflicts with a Collective Bargaining Agreement, the Agreement shall prevail for members of the respective Collective Bargaining unit.

DEFINITIONS

Commission Property is any service or physical asset owned, purchased, leased, or under contract with the Commission. This means any (a) real property, (b) personal property whether tangible or intangible, or (c) rights of the Commission existing under contract. Such property includes, but is not limited to: facilities, general equipment and tools; vehicles and machinery, office equipment and supplies, computer hardware, software, and other electronic equipment; printers and copiers; telecommunication services such as telephones, paging devices, facsimile machines, internet/intranet, and electronic mail; data stored on, received by, or transmitted by the Commission’s operating systems; Commission issued uniforms; and staff services delivered by employees, contractors, or volunteers of the Commission (reference Commission Practices 2-15, “Employee Use of Commission Property” and 6-13, “Electronic Communications Policy”).

Conflict of Interest means any of the following:

1. Engaging in, having or acquiring a direct interest in, or having a business association with persons on any matter which may come before the Commission, Planning Boards, appointed officers, employees, Merit System Board, Retirement Board of Trustees, or other boards or appointed committee of the Commission for action, recommendation or decision.
2. Engaging in Non-Commission employment with any person, group, association or other legal entity that does business with the Commission; and/or
3. Engaging in Non-Commission employment while in an on-duty status with the Commission.

Fiduciary Duty means a legal obligation that results from a position of trust with respect to a third party's business and assets.

Non-Commission Business means Non-Commission activities performed while on duty related to:

1. Personal business
2. Non-Commission employment
3. Third party business; or
4. Work for an association as an employee, representative, or volunteer.

Non-Commission business does not include participation in activities, which relate to the business of the Commission, and which are approved in advance by an appropriate supervisor and Departmental Head.

Non-Commission Employment includes the following:

1. Employment or contractual arrangements structured on a salary, fee, or commission basis, or pro bono legal representation;
2. Participation in any business ventures as owner, proprietor, partner or investor;
3. Participation in any business or non-profit entity involving fiduciary responsibilities in a position such as an officer, manager, or director;
4. Participation in any business or non-profit entity in which the participant holds 5% or more of the outstanding voting interests.
5. Other similar activities resulting in or for the purpose of remuneration.

Non-Commission employment excludes service in the military and National Guard.

On-duty means the daily period during which an employee is expected to be available to perform duties assigned by the Commission.

POLICY

The Commission is committed to maintaining a workplace, which is safe, productive, and free of conflicts of interests and unethical practices.

Non-Commission Business: as defined, is not permitted.

Non-Commission Employment: is permitted only when participation is specifically approved in writing by the employee's Department Head and all of the following conditions are met:

1. Engaging in Non-Commission employment does not cause the existence of, potential for, or the appearance of a conflict of interest with respect to Commission duties assigned to the employee, or with any Commission policy, procedures, activities, and actions.
2. Engaging in Non-Commission employment does not interfere with the performance of Commission duties. The employee's performance prior to engagement in Non-Commission employment must be at a fully satisfactory level.
3. Non-Commission employment does not increase the risk of liability to the Commission during, or from the employee's performance of Commission assigned duties including, but not limited to, increased health and safety concerns.
4. The performance of Non-Commission employment does not diminish, interfere, or detract from, duties due the Commission as the primary employer.
5. Non-Commission employment does not result in the employee, appointed officer, or Departmental Head using the prestige of his/her Commission offices, official title or position for private gain or gain of another.
6. Engaging in Non-Commission employment does not occur while on duty with the Commission (Reference Merit System Rules and Regulations, "Work Week Schedules and Attendance"; and Administrative Procedures 99-04 "Time and Attendance").
7. Non-Commission employment does not result in coercing other Commission employees, to buy or use products or services sold or offered as part of their Non-Commission employment.
8. Non-Commission employment does not result in working for a person(s) or entities owned by a person(s) they supervise or who supervise them at the Commission or being employed by any business subject to the authority of the Commission or doing business with the Commission (Reference Commission Practice, 4-10, "Purchasing").
9. Confidential information gained through Commission employment is not used for financial gain or for any use other than Commission employment (Reference Commission Practice, 5-80, "Public Information and Record Management").
10. Non-Commission employment does not result in the acceptance or solicitation of referrals for any Non-Commission employment while on duty.

11. Non-Commission employment does not result in the unauthorized use of Commission property (Reference Commission Practice 2-15, “Employee Use of Commission Property”, and 6-13, “Electronic Communications Policy”).
12. Notwithstanding any other provision of this Practice, no person employed by the Commission as an attorney may be permitted to provide any legal services to a person or entity other than the Commission with the exception that an attorney may be permitted to perform (a) de minimus legal services for family members, (b) pro bono legal services or (c) de minimus services engaged prior to the attorney’s employment by the Commission, subject to the prior written approval granted at the discretion of the General Counsel. For purposes of this provision, “family members” are defined as spouses, children, parents, grandparents, or grandchildren.

Approval for participation by Department Heads and appointed officers must be obtained from the Commission’s Chair and Vice Chair.

The Commission retains the right to deny, rescind, revoke or modify approval of participation in Non-Commission employment if the employment violates any of the above conditions.

RESPONSIBILITIES

This section establishes requirements related to the review of requests and approval of participation in Non-Commission employment. (Also see, accompanying Administrative Procedures).

All Persons Covered by this Practice are responsible for submitting requests for consideration and approval at least fourteen (14) calendar days before engaging in Non-Commission employment. Changes to previously approved Non-Commission employment activities must also be submitted for approval.

- Employee requests must be reviewed by the supervisor and the Department Head. Decision for approval or disapproval of employee requests must be issued by the Department Head.
- Requests by Department Heads and appointed officers must be reviewed and approved by the Commission Chair and Vice-Chair.

If individuals engage in previously approved Non-Commission employment that impairs their ability to perform Commission duties, they may be directed to modify or cease participation in such activities while employed at the Commission.

Supervisors are responsible for providing procedural assistance to employees who are requesting approval for participation in Non-Commission employment. Supervisors must review all employee requests and forward recommendations to the Department Head within seven (7) calendar days of receiving the request.

Department Heads are responsible for reviewing employee requests for participation in Non-Commission employment. Related responsibilities include:

1. Communicating this Practice and directing employees to submit written requests to participate in Non-Commission employment.
2. Determining, once they have sufficient information, whether an employee may participate in Non-Commission employment. Department Heads must review the employee's request along with recommendations made by the employee's supervisor. Department must issue a written decision within seven (7) calendar days of receipt of the employee's request in the Department Head's office. If a Department Head does not deny the employee's request within seven (7) calendar days of being received in his/her office, then the request shall be considered approved. Review of requests shall be handled in accordance with Administrative Procedures, Application and Review of Requests to Participate in Non-Commission Employment.

**VIOLATIONS
OF POLICY**

Violations of any provision of this Practice including but not limited to, failure to request and receive prior approval for involvement in Non-Commission employment or to take directed action in activities which are prohibited or regarded as-conflicts of interest, are subject to disciplinary action, up to and including, termination of employment. Disciplinary actions shall be handled in accordance with the Merit System Rules and Regulations, applicable Collective Bargaining Agreements, and Commission Practice 2-16, "Seasonal/Intermittent, Temporary, and Term Employment" shall be followed for actions affecting contract employees.

PROCEDURES

The Executive Director shall issue Administrative Procedures for implementation of this Practice.