

San Francisco Juvenile Probation Commission and Department Letterhead

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SAN FRANCISCO JUVENILE PROBATION COMMISSION AND DEPARTMENT
STATEMENT OF INCOMPATIBLE ACTIVITIES

I. INTRODUCTION

This Statement of Incompatible Activities is intended to guide officers and employees of the San Francisco Juvenile Probation Department ("Department") and Juvenile Probation Commission ("Commission") about the kinds of activities that are incompatible with their public duties and therefore prohibited. For the purposes of this Statement, and except where otherwise provided, "officer" shall mean a member of the Commission and the Chief Probation Officer and "employee" shall mean all employees of the Department.

This Statement is adopted under the provisions of San Francisco Campaign & Governmental Conduct Code section 3.218. Engaging in the activities that are prohibited by this Statement may subject an employee or officer to discipline, including possible termination of employment or removal from office, as well as to monetary fines and penalties. (C&GC Code § 3.242; Charter § 15.105.) Before an employee or officer is subjected to discipline or penalties for violation of this Statement, the employee or officer will have an opportunity to explain why the activity should not be deemed to be incompatible with his or her City duties. (C&GC Code § 3.218.)

In addition to this Statement, employees and officers are subject to Department policies and State and local laws and rules governing the conduct of public employees and officers, including but not limited to:

- The Political Reform Act, Cal. Gov't Code § 87100 *et seq.*;
- California Government Code § 1090;
- The San Francisco Charter;
- San Francisco Campaign and Governmental Conduct Code ("C&GC Code");
- San Francisco Sunshine Ordinance;
- Applicable Civil Service Rules; and
- ***Juvenile Probation Department Rules and Regulations.***

Nothing in this Statement shall exempt any employee or officer from applicable provisions of law, or limit his or her liability for violations of law. Examples provided in this Statement are for illustration purposes only, and are not intended to limit application of this Statement. Nothing in this Statement shall interfere with the rights of employees under a collective bargaining agreement or Memorandum of Understanding in effect on the effective date of this Statement.

Nothing in this Statement shall be construed to prohibit or discourage any City officer or employee from bringing to the City's and/or public's attention matters of actual or perceived malfeasance or misappropriation in the conduct of City business, or from filing a complaint alleging that a City officer or employee has engaged in improper governmental activity by violating local campaign finance, lobbying, conflicts of interest or governmental ethics laws, regulations or rules; violating the California Penal Code by misusing City resources; creating a specified and substantial danger to public health or safety by failing to perform duties required by the officer or employee's City position; or abusing his or her City position to advance a private interest.

If an employee has questions about this Statement, the questions should be directed to the employee's supervisor or to the Chief Probation Officer. Similarly, questions about other applicable laws governing the conduct of public employees should be directed to the employee's supervisor or the Chief Probation Officer, although the supervisor or Chief

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Probation Officer may determine that the question must be addressed to the Ethics Commission or City Attorney.

If an officer has questions about this Statement, the questions should be directed to the officer's appointing authority, the Ethics Commission or the City Attorney.

II. MISSION OF THE SAN FRANCISCO JUVENILE PROBATION DEPARTMENT AND JUVENILE PROBATION COMMISSION

It is the mission of the San Francisco Juvenile Probation Department to serve the needs of youth and families who are brought to our attention with care and compassion; to identify and respond to the individual risks and needs presented by each youth, to engage fiscally sound and culturally competent strategies that promote the best interests of the youth; to provide victims with opportunities for restoration; to identify and utilize the least restrictive interventions and placements that do not compromise public safety; to hold youth accountable for their actions while providing them with opportunities and assisting them to develop new skills and competencies; and contribute to the overall quality of life for the citizens of San Francisco within the sound framework of public safety as outlined in the Welfare & Institutions Code. The policies and processes of the Juvenile Probation Department are overseen and guided by the Juvenile Probation Commission. Charter § 7.102; Administrative Code § 20.8.

III. RESTRICTIONS ON INCOMPATIBLE ACTIVITIES

This section prohibits outside activities, including self-employment, that are incompatible with the mission of the Department. Under subsection C, an employee or officer may seek an advance written determination whether a proposed outside activity that is not expressly prohibited by subsections A or B of this section is incompatible and therefore prohibited by this Statement. Outside activities other than those expressly identified here may be determined to be incompatible and therefore prohibited.

A. RESTRICTIONS THAT APPLY TO ALL EMPLOYEES AND OFFICERS

The following activities are incompatible with the mission of the Department and are therefore prohibited for officers and employees.

1. ACTIVITIES THAT CONFLICT WITH OFFICIAL DUTIES.

No employee or officer may engage in an outside activity (regardless of whether the activity is compensated) that conflicts with his or her City duties. An outside activity conflicts with City duties when the ability of the employee or officer to perform the duties of his or her City position is materially impaired. Outside activities that materially impair the ability of an employee or officer to perform his or her City duties include, but are not limited to, activities that disqualify the employee or officer from City assignments or responsibilities on more than an occasional basis. Unless an advance written determination under subsection C concludes that such activities are not expressly, the following activities are expressly prohibited by this section:

a. No employee or officer may develop physical or romantic relationships with any juvenile who is under the correctional supervision of the Juvenile Court, or is a ward of the court, or the immediate family of such an individual. If an employee is a family member of any such individual, or has a prior social relationship with any such individual, the employee shall refrain from using his or her official position to

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influence the Juvenile Probation Department concerning that individual. An employee may not remain in contact with a juvenile or the juvenile's family after the conclusion of supervision or wardship without advance written approval from the Chief Probation Officer.

b. No employee or officer may be employed by, or receive compensation from, an individual or entity that applies for or receives loans or grants administered or approved by the Department. This prohibition does not apply to employment or compensation received by an employee or officer's spouse or registered domestic partner.

c. No employee or officer may serve as a member of the Board of Directors or as an employee of a non-profit entity that has a contract or grant agreement with the Department.

d. No employee or officer may receive or accept anything of value from anyone other than the City for services as an expert witness in the City and County of San Francisco regarding the activity or processes of the Department.

e. No employee or officer may knowingly enter into any financial transactions with any person who is under the care, custody, control or supervision of the Probation Department.

f. No employee or officer may knowingly enter into financial transactions with probationers or their attorneys or other representatives. This includes holding money, giving or accepting loans, accepting employment, or purchasing or selling goods or services.

g. No employee or officer may refer a probationer or his or her representative to a specific individual attorney related to charges pending in Juvenile Court, or to a specific physician or therapist. This rule does not apply to referrals to specific drug or alcohol treatment centers or psychiatric hospitals or clinics, or to non-profit organizations. An employee or officer may use his or her knowledge of these organizations in recommending one that will best suit the needs of a particular probationer.

2. ACTIVITIES WITH EXCESSIVE TIME DEMANDS.

Neither the Chief Probation Officer nor any employee may engage in outside activity (regardless of whether the activity is compensated) that would cause the Chief Probation Officer or employee to be absent from the office during the standard workday on a regular basis, or otherwise require a time commitment that would interfere with the Chief Probation Officer or employee's performance of his or her City duties. The following is an example of an outside activity that a supervisor could determine, in accordance with subsection C, may involve excess time demands.

Example. An employee who works at the Department's front desk answering questions from the public wants to take time off every Tuesday and Thursday from 2:00 to 5:00 to coach soccer. Because the employee's duties require the employee to be at the Department's front desk during regular business hours, and because this outside activity would require the employee to be absent from the office during regular business hours on a regular basis, a supervisor may determine that the employee may not engage in this activity.

*San Francisco Juvenile Probation Commission and Department Letterhead***DRAFT****DRAFT****3. ACTIVITIES THAT ARE SUBJECT TO REVIEW BY THE DEPARTMENT**

No employee or officer may engage in an outside activity (regardless of whether the activity is compensated) that is subject to the control, inspection, review, audit or enforcement of the Department. The following activities are expressly prohibited by this section:

- a. Assistance with RFQs and RFPs. No employee or officer may assist private individuals or entities in drafting responses to any Department Request for Qualifications ("RFQ") or Request for Proposals ("RFP"). Nothing in this Statement prohibits an employee or officer from providing general information about an RFQ or RFP or corresponding application process that is available to any member of the public. Nothing in this Statement prohibits an employee or officer from speaking to or meeting with individual applicants regarding the individual's application, provided that such assistance is provided on an impartial basis to all applicants who request it.
- b. *No employee or officer may provide services or information to any individual or entity if the services or information are not available to other members of the public on the same terms.*

B. RESTRICTIONS THAT APPLY TO EMPLOYEES IN SPECIFIED POSITIONS

In addition to the restrictions that apply to all employees and officers of the Department, and except as provided in subsection C of this section, the following activities are incompatible for individual employees and officers holding specific positions.

1. EMPLOYEES WHO ARE PEACE OFFICERS

Unless authorized under section C below, employees who are peace officers may not work for any other entity in any peace officer capacity.

C. ADVANCE WRITTEN DETERMINATION

As set forth below, an employee of the Department, the Chief Probation Officer, or a member of the Juvenile Probation Commission may seek an advance written determination whether a proposed outside activity that is not expressly prohibited by subsections A or B of this section, if any, conflicts with the mission of the Department, imposes excessive time demands, is subject to review by the Department, or is otherwise incompatible and therefore prohibited by section III of this Statement. For the purposes of this section, an employee or other person seeking an advance written determination shall be called "the requestor"; the individual or entity that provides an advance written determination shall be called "the decision-maker."

1. THE DECISION-MAKER

An employee of the Department may seek an advance written determination from the Chief Probation Officer or his or her designee, who will be deemed the decision-maker for the employee's request. The Chief Probation Officer may seek an advance written determination from his or her appointing authority, who will be deemed the decision-maker for the Chief Probation Officer's request. A member of the Commission may seek an advance written determination from his or her appointing authority or from his or her commission, which will be deemed the decision-maker for the member's request.

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The requestor must provide, in writing, a description of the proposed activity and an explanation of why the activity is not incompatible under this Statement. The written material must describe the proposed activity in sufficient detail for the decision-maker to make a fully informed determination whether it is incompatible under this Statement.

When making a determination under this subsection, the decision-maker may consider any relevant factors including, but not limited to, the impact on the requestor's ability to perform his or her job, the impact upon the Department as a whole, compliance with applicable laws and rules and the spirit and intent of this Statement. The decision-maker may also consider whether the written material provided by the requestor is sufficiently specific and detailed to enable the decision-maker to make a fully informed determination.

A written determination by the decision-maker that an activity is *not* incompatible provides the requestor immunity from any subsequent enforcement action for a violation of this Statement if the material facts are as presented in the requestor's written submission. A written determination cannot exempt the requestor from any applicable law or authorize the requestor to engage in activity expressly prohibited by this Statement.

The decision-maker may revoke the written determination at any time by written notice, based on changed facts or circumstances or other good cause.

3. DETERMINATIONS ARE PUBLIC RECORDS

To assure that these rules are enforced equally, requests for advance written determinations and written determinations, including approvals and denials, are public records to the extent permitted by law.

IV. RESTRICTIONS ON USE OF CITY RESOURCES, CITY WORK-PRODUCT AND PRESTIGE**A. USE OF CITY RESOURCES**

No employee or officer may use City resources, including, without limitation, facilities, telephone, computer, copier, fax machine, e-mail, internet access, stationery and supplies, for any non-City purpose, including any political activity or personal purpose. No employee or officer may allow any other person to use City resources, including, without limitation, facilities, telephone, computer, copier, fax machine, e-mail, internet access, stationery and supplies, for any non-City purpose, including any political activity or personal purpose. Notwithstanding these general prohibitions, any incidental and minimal use of City resources does not constitute a violation of this section.

Example. An employee or officer may use the telephone to make occasional calls to arrange medical appointments or speak with a child care provider, because this is an incidental and minimal use of City resources for a personal purpose.

Nothing in this Statement shall exempt any employee or officer from complying with more restrictive policies of the Department regarding use of City resources, including, without limitation, the Department's e-mail policy.

B. USE OF CITY WORK-PRODUCT

No employee or officer may, in exchange for anything of value and without appropriate authorization, sell, publish or otherwise use any materials that were prepared on City time or

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while using City facilities, property (including without limitation, intellectual property), equipment and/or materials. For the purpose of this prohibition, appropriate authorization includes authorization granted by law, including the Sunshine Ordinance, California Public Records Act, the Ralph M. Brown Act as well as whistleblower and improper government activities provisions, or by a supervisor of the officer or employee, including but not limited to the officer or employee's appointing authority.

C. USE OF PRESTIGE OF THE OFFICE

No employee or officer may use his or her City title or designation in any communication for any private gain or advantage. The following activities are expressly prohibited by this section.

1. USING CITY BUSINESS CARDS

No employee or officer may use his or her City business cards for any purpose that may lead the recipient of the card to think that the employee or officer is acting in an official capacity when the employee or officer is not.

Example. An employee's friend is having a dispute with his new neighbor who is constructing a fence that the friend believes encroaches on his property. The friend invites the employee over to view the disputed fence. When the neighbor introduces herself, the employee should not hand the neighbor her business card while suggesting that she could help resolve the dispute. Use of a City business card under these circumstances might lead a member of the public to believe that the employee was acting in an official capacity.

Example. An employee is at a party and runs into an old friend who has just moved to town. The friend suggests meeting for dinner and asks how to get in touch with the employee to set up a meeting time. The employee hands the friend the employee's business card and says that he can be reached at the number on the card. Use of a City business card under these circumstances would not lead a member of the public to believe that the employee was acting in an official capacity. Nor would use of the telephone to set up a meeting time constitute a misuse of resources under subsection A, above.

2. USING CITY LETTERHEAD, CITY TITLE, OR E-MAIL

No employee or officer may use City letterhead, City title, City e-mail, or any other City resource, for any communication that may lead the recipient of the communication to think that the employee or officer is acting in an official capacity when the employee or officer is not. (Use of e-mail or letterhead in violation of this section could also violate subsection A of this section, which prohibits use of these resources for any non-City purpose.)

Example. An employee or officer is contesting a parking ticket. The employee or officer should not send a letter on City letterhead to the office that issued the ticket contesting the legal basis for the ticket.

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No employee or officer may hold himself or herself out as a representative of the Department, or as an agent acting on behalf of the Department, unless authorized to do so.

Example. An employee who lives in San Francisco wants to attend a public meeting of a Commission that is considering a land use matter that will affect the employee's neighborhood. The employee may attend the meeting and speak during public comment, but should make clear that he is speaking in his private capacity and not as a representative of the Department.

V. PROHIBITION ON GIFTS FOR ASSISTANCE WITH CITY SERVICES

State and local law place monetary limits on the value of gifts an officer or employee may accept in a calendar year. (Political Reform Act, Gov't Code § 89503, C&GC Code §§ 3.1-101 and 3.216). This section imposes additional limits by prohibiting an officer or employee from accepting any gift that is given in exchange for doing the officer or employee's City job.

A. PROHIBITION

No employee or officer may receive or accept gifts from anyone other than the City for the performance of a specific service or act the employee or officer would be expected to render or perform in the regular course of his or her City duties; or for advice about the processes of the City directly related to the employee's or officer's duties and responsibilities, or the processes of the entity they serve.

Example. A member of the public who regularly works with and receives assistance from the Department owns season tickets to the Giants and sends a pair of tickets to an employee of the Department in appreciation for the employee's work. Because the gift is given for the performance of a service the employee is expected to perform in the regular course of City duties, the employee is not permitted to accept the tickets.

Example. A member of the public requests assistance in resolving an issue or complaint that is related to the City and County of San Francisco, but that does not directly involve the Department. The employee directs the member of the public to the appropriate department and officer to resolve the matter. The member of the public offers the employee a gift in appreciation for this assistance. The employee may not accept the gift, or anything of value from anyone other than the City, for providing this kind of assistance with City services.

Example. An employee may not receive a thank you gift from a juvenile who was arrested or is a ward of the court, or from the juvenile's family, guardian or agent. An employee may not receive a gift from an attorney for providing assistance.

B. DEFINITIONS

As used in this Statement, the term gift has the same meaning as under the Political Reform Act, including the Act's exceptions to the gift limit. (See Gov't Code §§ 82028, 89503; 2 Cal. Code Regs. §§ 18940-18950.4.) For example, under the Act, a gift that, within 30 days of receipt, is returned, or donated by the employee or officer to a 501(c)(3) organization or federal, state or local government without the employee or officer taking a tax deduction for the donation, will not be deemed to have been accepted. In addition to the exceptions contained in the Act, nothing in this Statement shall preclude an employee's receipt of a bona

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fide award, or free admission to a testimonial dinner or similar event, to recognize exceptional service by that employee, and which is not provided in return for the rendering of service in a particular matter. Such awards are subject to the limitation on gifts imposed by the Political Reform Act and local law.

C. DE MINIMIS EXCEPTIONS

In addition, the following gifts are de minimis and therefore exempt from the restrictions on gifts imposed by section V of this Statement:

- i. Gifts, other than cash, with an aggregate value of \$25 or less per occasion;
- ii. gifts such as food and drink, without regard to value, to be shared in the office among employees or officers;
- iii. personal hospitality provided at a residence that is of a type and value customarily provided to personal friends; and
- iv. items given in connection with the receipt of personal hospitality if of a type and value customarily provided on such occasions.

Example. A member of the public who regularly works with and receives assistance from the Department sends a \$15 basket of fruit to an employee as a holiday gift. Although the fruit may in fact be offered in exchange for performing services that the employee is expected to perform in the regular course of City duties, the employee may accept the fruit because the value is de minimis. (Because the reporting requirement is cumulative, an employee may be required to report even de minimis gifts on his or her Statement of Economic Interests if, over the course of a year, the gifts equal or exceed \$50.)

Example. A member of the public who regularly works with and receives assistance from the Department sends a \$150 basket of fruit to the Department as a holiday gift. Although the fruit may in fact be offered in exchange for performing services that the Department is expected to perform in the regular course of City duties, the Department may accept the fruit basket because it is a gift to the office to be shared among employees and officers.

VI. AMENDMENT OF STATEMENT

Once a Statement of Incompatible Activities is approved by the Ethics Commission, the Department may, subject to the approval of the Ethics Commission, amend the Statement. C&GC Code § 3.218(b). In addition, the Ethics Commission may at any time amend the Statement on its own initiative.

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