

**FAIR EMPLOYMENT & HOUSING COMMISSION
INCOMPATIBLE ACTIVITIES STATEMENT**

Introduction

This document sets out the Fair Employment and Housing Commission's policy and rules on incompatible activities under Government Code section 19990. The policy and rules apply to all Commissioners, state officers and employees serving the Commission. It revises, updates and clarifies the Commission's existing incompatible activities statement on file with the Commission dated June 1985.

Policy

It is the policy of the Commission to comply fully with all the provisions of Government Code section 19990 governing incompatible activities. This policy relates specifically to incompatible activities and does not include all legal provisions with which officers and employees must comply.

**Proscribed
Conduct under
Government
Code §19990**

Government Code section 19990 prohibits state officers and employees from engaging "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." These include, as set out in Government Code section 19990:

- (a) Using the prestige or influence of the state for private gain or for advantage or the private gain of another.
- (b) Using state resources, such as time, facilities, equipment, or supplies for personal gain or advantage.
- (c) Using confidential information acquired through one's position with the state for personal gain or giving the confidential information to unauthorized persons.
- (d) Receiving payment from anyone other than the state for the performance of one's duties as a state officer or employee.

**Proscribed Conduct
(continued)**

(e) Engaging in an act outside state service that may later be reviewed or subject to control, audit, or enforcement by the state officer or employee as part of his or her official duties.

(f) Receiving a gift, service, gratuity, favor, hospitality, loan, or any other thing of value from anyone who is doing business or seeking to do business with the officer's or employee's agency where the purpose was intended to influence or reward the state officer or employee in his or her official duties.

(g) Failing 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 officer or employee.

**Commissioners'
Employment**

As the Commissioners appointed to the Commission serve without compensation, but for their statutory per diem for time actually spent in the performance of Commission duties plus expenses (Gov. Code § 12905), it is recognized that Commissioners may continue their own employment, or undertake private employment, so long as that employment does not conflict with their duties as Commissioners or with the mandates of Government Code section 19990.

**Commission's
Adoption of
Incompatibility
Rules**

The Commission, in amending and updating its incompatibility statement, adopts the foregoing rules governing incompatible activities, pursuant to Government Code section 19990. The Commission re-affirms its intention to comply fully with Government Code section 19990 and all related provisions, and prohibits activities which are clearly inconsistent, incompatible, in conflict with, or inimical to its officers' or employees' service or employment. (See *Keely v. State Personnel Board* (1975) 53 Cal.App.3d 88.)

**Notice to Officers
and Employees**

A copy of this statement shall be given to each currently serving Commissioner, officer and employee of the Fair Employment and Housing Commission, and to future Commissioners, officers and employees upon their appointment.

**Procedures for
Determining
Incompatible
Activities:
Commissioners
& ELAS**

Where an actual or potential conflict arises, or where a Commissioner or the Executive Legal Affairs Secretary (ELAS) is faced with an activity that may be deemed inconsistent, incompatible, or in conflict with his or her Commission duties, he or she shall notify the Chair of the Commission. On receipt of any notification of a potential or actual conflict, the Chair or his or her designee will investigate and determine whether the activity is in fact proscribed.

**Procedures for
Determining
Incompatible
Activities:
Exempt &
Represented
Employees**

Commission employees engaged in, or who are considering engaging in outside employment, appointment or any activity that may be deemed inconsistent, incompatible, or in conflict with his or her duties as a Commission employee shall notify the ELAS, who shall make a determination whether the activity is in fact proscribed.

**Represented
Employees**

Commission employees in Bargaining Units #2 and #4 are entitled to review procedures as set forth in their applicable contracts and MOUs. (Gov. Code § 19990.) Such employees may request an exception to any prohibition of outside employment which, if denied, shall be reviewed, on the request of the employee, by a committee made up of two Commission representatives and two representatives from the employee's union. The committee shall issue a recommendation to the ELAS within the timelines set out in the applicable contract.

If any provision of this statement conflicts with the provisions of a memorandum of understanding reached pursuant to Government Code section 3517.5, the memorandum of understanding shall control.