



FLORIDA DEPARTMENT OF JUVENILE JUSTICE PROCEDURE

Title: Dual Employment Procedures

Related Policy: FDJJ – 1002.07

I. DEFINITIONS

Dual Employment or Dual Compensation – Employment in a total of more than one full-time equivalent established position; compensation of an employee simultaneously from any appropriation other than appropriations for salaries; or compensation of an employee simultaneously by more than one “state agency.” This includes self-employment.

Employer – The following are considered to be separate employers for purposes of determining whether employment is outside of or within state government:

- a. State Personnel System
- b. State University System
- c. Florida Lottery
- d. Legislature
- e. Justice Administrative Commission
- f. State Courts System
- g. Private or public companies outside state government entities as described above or self-employment are also considered to be separate employers.

Employment – A relationship between two parties, usually based on a contract or contracted hours where work is paid for, and one party is the employer and the other is the employee.

Excluded Work – Duties and responsibilities that are exempt from the payment of overtime for hours worked in excess of 40 hours in a workweek. The United States Department of Labor (USDOL) provides information on exemptions in the Fair Labor Standard Act (FLSA) Overtime Security Advisor <http://www.dol.gov/elaws/esa/flsa/overtime/memu/htm>.

Fair Labor Standards Act (FLSA) – Federal Wage and Hour Law that regulates compensation practices including minimum wage standards, overtime pay standards, and child labor restrictions.

Final Authority – Selected Exempt Service or Senior Management Service employee as delegated by the program area.

Included Work – Duties and responsibilities that, in accordance with the FLSA, require the payment of overtime for hours worked in excess of 40 hours in a workweek or excess of the established hours in an extended work period.

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Occasional and Sporadic Work – Infrequent, irregular work occurring in scattered instances and not within the same general occupational category (different capacity) as the employee’s regular work.

Position – An established Career Service, Selected Exempt Service, Senior Management Service, or Other Personnel Services (OPS) position.

Primary Employment – For employment outside of state government, the Department of Juvenile Justice is the employee’s place of primary employment. For employment within state government purposes, an employee’s primary employment is determined by the earliest date of hire; however, OPS employment is always considered secondary unless both positions are OPS.

Regular Rate of Pay – An employee’s base rate of pay plus any salary additives approved by the department.

Secondary Employment – Simultaneous employment in a position subsequent to the employee’s primary employment.

Secondary Employment Authorization Request (Outside of State Government) – An internal form used by DJJ employees to request permission and approval through the chain of command for employment outside of state government (Attachment 1).

Self-Employment – The state of working for oneself as the owner of a business rather than for an employer.

State of Florida Dual Employment and Compensation Request (Within State Government) – A Department of Management Services (DMS) form required to be completed by both the primary and secondary employer for dual employment of a state employee in two or more state agencies, or within a state agency in more than one full-time equivalent (FTE) position, or simultaneously in an OPS and a FTE position. Both employers must approve and determine the method of computing and compensating overtime (Attachment 2).

State Personnel System (SPS) – For the purposes of this policy, as determined by the DMS, the State Personnel System is the system of personnel administration for authorized positions of the Career Service, Selected Exempt Service, Senior Management Service, and OPS employment within the following state entities and any organizational units thereof as specified under Chapter 20, F.S., or other statutory provision. The following agencies comprise SPS:

- Agency for Health Care Administration
- Agency for Persons with Disabilities
- Agency for State Technology
- Department of Agriculture & Consumer Services
- Department of Business & Professional Regulation
- Department of Children & Families
- Department of Citrus
- Department of Corrections

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- Department of Economic Opportunity
- Department of Education
- Department of Elder Affairs
- Department of Environmental Protection
- Department of Financial Services
- Department of Health
- Department of Highway Safety & Motor Vehicles
- Department of Juvenile Justice
- Department of Law Enforcement
- Department of Legal Affairs
- Department of Management Services
- Department of Military Affairs
- Department of Revenue
- Department of State
- Department of Transportation
- Department of Veterans' Affairs
- Division of Administrative Hearings
- Division of Emergency Management
- Executive Office of the Governor
- Fish & Wildlife Conservation Commission
- Public Service Commission
- Florida Commission on Human Relations
- Florida Commission on Offender Review
- Florida School for the Deaf and the Blind

Voluntary Work – Work that is offered freely and without pressure or coercion, direct or implied from an employer. The voluntary work cannot be the same type of work as the individual's primary employment.

Weighted Average – Average of the primary and secondary salaries calculated on a weekly basis divided by the total number of combined hours worked. The formula for computing the weighted average is indicated below.

- Hours worked in the primary employment = HWP
- Hours worked in the secondary employment = HWS
- Regular hourly rate = RHR (employee's base rate of pay plus any approved salary additives, incentive payments, and non-discretionary bonuses)
- Total number of combined hours worked = TCH
- Calculations:
$$\frac{(HWP \times RHR) + (HWS \times RHR)}{TCH}$$

Workweek – Forty hours in a period of seven consecutive days beginning Friday at 12:00 A.M. and ending on Thursday at 11:59 P.M.

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II. STANDARDS/PROCEDURES

It is **not** the intent of this policy to:

- Prevent an employee from accepting other employment or following any pursuit that does not interfere with the full and faithful discharge of his or her public duties;
- Discourage participation in the National Guard or other organized military reserves (see DJJ Attendance & Leave Policy 1002.03 for information regarding National Guard/military reserves administrative requirements);
- Excuse an employee from the requirements of Chapter 112, Part III, Florida Statutes, regarding disclosure of interests;
- Discourage an employee from providing training and education when such actions are consistent with the standards provided herein; or
- Comprehensively list every type of dual employment that may constitute a conflict of interest.

A. General Requirements and Restrictions:

Decisions concerning dual employment shall be made on a case-by-case basis.

1. Each fiscal year, employees shall request approval for:
 - a. Employment or simultaneous compensation by more than one state agency;
 - b. Filling of more than the equivalent of one full-time position in a state agency; or
 - c. Receipt of simultaneous compensation from any appropriation other than appropriations for salaries (i.e., OPS or contract work); or
 - d. Employment outside of state government.
2. Unless approved in advance by the Secretary, or their designee, no Department of Juvenile Justice (DJJ) employee shall engage in another business or profession, within or outside DJJ, during his or her normal state working hours.
 - a. If such permission is granted, the use of state resources (i.e., office equipment, space, employees, time or supplies) is strictly prohibited.
 - b. Such permission shall have no impact on statutory limitations on dual employment.
3. With prior approval of the dual employment authorization, DJJ employees may generally be employed in other businesses or professions outside of their normal state working hours.
4. Employees, who are employed in outside employment, including self-employment, acknowledge DJJ as their primary employer. DJJ will not be obligated to change an employee's shift, overtime requirements or days off to accommodate secondary employment.
5. Managers and supervisors shall be aware of the number of hours employees work in their secondary employment and are responsible for ensuring that the secondary job does not interfere with the employee's work schedule, including any scheduled double shifts, and that the employee is complying with this procedure and all other applicable rules and laws.
6. The final approver of the dual employment may rescind the authorization or limit an employee's hours of secondary employment upon recommendation of the supervisor due to disciplinary action, when the employee's work performance needs improvement and/or the secondary employment is affecting his or her primary employment.

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7. Human Resources shall update the People First Other Employment screen for all forms submitted for placement in the employee's official personnel file.
8. Dual employment authorizations may be suspended while an employee is receiving workers' compensation benefits from the department if, after receiving a description of the duties of the secondary employment and consulting with the Office of General Counsel, it is determined that the employee's restrictions would prevent him/her from being able to work at his/her secondary employment. If suspended, a request to resume dual employment work or a new dual employment authorization request must be submitted and approved prior to an employee resuming their secondary employment.
9. Unless the secondary employer agency assumes responsibly for any overtime payments, DJJ will deny dual employment with another State Personnel System agency if either of the positions is an included position, because of the joint liability of the agencies for hours worked over 40 hours within a work week, regardless of the agency at which the overtime was worked.
10. It is improper for employees to use the resources of their State position (i.e., office supplies) for any purpose other than to support their primary employment.
11. No employee shall have or hold any employment or contractual relationship/grant with any business entity, which is itself in a contractual relationship/grant with, or is otherwise subject to, the regulations of DJJ.
12. Employees shall not have or hold any employment or contractual relationship that will create continuing or frequently recurring conflicts between their private interest and the performance of their public duties or that would impede the full and faithful discharge of their public duties.
13. The primary and secondary agencies may approve dual employment requests if the dual employment is a State Personnel System agency and another State of Florida employer.
14. If either the primary or secondary employment changes (i.e., hours of work, type of work, employer name, etc.), the request for dual employment must be resubmitted in accordance with this policy.
15. All dual employment requests must be renewed annually and approved by June 30, each fiscal year.
16. If dual employment ceases, the employee shall immediately notify their immediate supervisor, in writing, with a copy to the Bureau of Human Resources, for their official personnel file.

B. Secondary Employment Outside State Government:

1. An employee shall complete the [Secondary Employment Authorization Request \(Outside of State Government\)](#) form (Attachment 1) and submit it to their supervisor at least four (4) weeks prior to their start date with outside employment or sufficiently in advance of the start date to ensure the authorization is approved prior to starting outside employment.
2. The secondary employment shall not begin until Final Agency Action has been approved.
3. The supervisor shall provide their recommendation and route the form to the Office of General Counsel for legal review and determination of whether there is a conflict of interest.
4. The Office of General Counsel shall provide a determination and return the form to the supervisor.
5. If the Office of General Counsel determines:

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- a. No Conflict – The supervisor shall forward to the final authority to approve or deny the request.
 - b. Conflict – The supervisor shall forward to the final authority to deny the request.
 - c. Potential Conflict – The supervisor shall forward to the appropriate Executive Leadership Team (ELT) member for review and determination.
 - i. The ELT member shall deny the request if it is determined that the secondary employment would create a continuing or frequently reoccurring conflict between the employee’s DJJ position and secondary employment position or would otherwise impede the employee from fully and faithfully discharging the duties of the DJJ position. If there are no impediments or frequently reoccurring conflicts, the ELT shall approve the request unless there are additional concerns.
 - ii. Once the request is approved or denied, the ELT member shall document the reasons for approving or denying the request and return the form to the supervisor.
6. The supervisor shall provide a copy to the employee and email the completed form and any accompanying documentation via email to [HR Recruitment](#).
 7. If any information on the form changes (i.e., work hours, nature of work, etc.), which affects the employee’s primary employment, the employee must resubmit the form pursuant to these procedures.
 8. Should the secondary employment be expected to span two or more fiscal years (July 1 – June 30), the employee **must complete a separate form** for each fiscal year Only one form per fiscal year shall be completed and submitted at a time.
 9. It is the employee’s responsibility to keep his/her approval of secondary employment current.

C. Secondary Employment (Within State Government):

1. The employee and the secondary agency shall initiate a [State of Florida Dual Employment and Compensation Request](#) (Attachment 2) form in accordance with instructions on the form, for other employment with a State Personnel System agency or another State of Florida employer.
2. The employee shall submit the form to their supervisor for approval at least four (4) weeks prior to their start date or sufficiently in advance of the start date to ensure the authorization is approved prior to starting other employment within state government.
3. This approval shall be documented by the supervisor signing and dating section 14 of the form.
4. The form shall be submitted to the Chief of Human Resources via email to the [HR Help Center](#) to ensure completeness and address any questions with the employee submitting the request, including coordinating any concerns with the employee, his/her supervisor or the secondary employer.
5. The Chief of Human Resources shall obtain the ELT members signature and shall provide the employee or HR Liaison a signed copy of the approved or disapproved form. The original shall be placed in the employee’s personnel file.
6. In completing the [State of Florida Dual Employment and Compensation Request](#) form (Attachment 2):
 - a. The primary employing agency is considered the agency the employee is employed with first; however, OPS employment is always considered secondary unless both positions are OPS.

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- b. The employing agency's authorized signature is the Secretary or designee.
7. The employee is responsible for obtaining appropriate signatures/comments from the other state agency.
8. Should the secondary employment be expected to span two or more fiscal years (July 1 – June 30), the employee **must complete a separate form** for each fiscal year. Only one form per fiscal year shall be completed and submitted at a time.
9. Dual employment approval must be received for each fiscal year the dual employment will continue.
10. It is the employee's responsibility to keep their approval of dual employment current.
11. The employee is encouraged to contact the Bureau of Human Resources for assistance via email to [HR Help Center](#).
12. The secondary agency's HR office shall obtain information from the primary agency's HR office and complete all the employment information for the secondary employment.
13. The secondary agency shall review the included or excluded status of the primary employment if both the primary and secondary employment is with the State Personnel System.
14. If the primary employment is OPS (hourly), the work is considered to be included with the exception of the following occupations which are excluded from the payment of overtime regardless of the method of payment:
 - a. Physicians.
 - b. Attorneys.
 - c. Teachers.
 - d. Certain computer related occupations as outlined in 29 C.F.R., Section 541.400, are compensated at a rate of not less than \$27.63 per hour.
15. The secondary agency shall determine the included or excluded status of the secondary employment.
16. Taking into consideration the included or excluded status of the primary employment, the secondary agency shall determine the overtime liability based on the following:
 - a. Voluntary and Occasional and Sporadic – If the secondary employment is in a different capacity from the primary employment and is voluntary, occasional and sporadic, there is no overtime liability.
 - b. OPS Primary and OPS Secondary Employment – Hours worked in both the primary and secondary employment are considered included and the combined hours in excess of 40 in a workweek are subject to overtime compensation with the exception of the occupations listed above.
 - c. Excluded Work and Excluded Work – When the work requirements of both the primary and secondary employment are excluded, then the combined employment is considered excluded and not subject to overtime liability.

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- d. Included Work and Excluded Work – The FLSA designation and overtime liability will be determined by the nature of the combined work performed in both the primary and secondary employments.
 - i. When the majority (more than 50%) of the combined duties are included, then both employments shall be designated included.
 - ii. When the majority (more than 50%) of the combined duties are excluded, then both employments shall be designated excluded.
 - iii. When the combined duties are 50% included and 50% excluded or the ratio is indeterminate, then both employments shall be designated included.
- e. Included Work and Included Work – The combined hours in excess of 40 in a workweek are subject to overtime requirements.

17. Normally, dual employment that will result in overtime will not be approved; however, in the event that it is approved, both the primary and secondary agencies shall determine and agree on the method of overtime payment by using one of the following methods of calculation after the 40th hour of combined work in the workweek is reached:

- a. Time-and-one-half of the weighted average (calculated on a weekly basis) of the different rates of pay.
- b. Time-and-one-half of the highest rate of pay (calculated at the end of the week).
- c. The payment for time-and-one half of the respective rate of pay at each agency for all hours worked shall be the joint responsibility of both agencies.

18. The secondary agency shall provide a description of assigned duties and responsibilities, and ensure all documentation related to the request accompanies the form for the primary agency to review.

19. The primary agency (Bureau of Human Resources) shall review the documentation provided by the secondary agency (Bureau of Human Resources) and if recommended for approval of such dual employment shall submit the form to appropriate approval within the agency.

20. If not recommended, the primary agency shall notify the secondary agency of their decision and the employee may not be dually employed.

D. Dual Employment Continuation:

- 1. In May of each year, the Bureau of Human Resources shall notify employees, who are dually and/or additionally employed of the necessity for the employee, if not already filed for the next fiscal year, to file a new dual or additional employment form(s) in the manner listed in these procedures if the employee wishes to continue their dual or additional employment in the upcoming fiscal year.

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2. It is the employee's responsibility to file for dual or other employment approval and to ensure the continuation of approval.

III. RESPONSIBILITY AND DUTIES

A. All Employees within the Department of Juvenile Justice (DJJ):

1. Employees who are unsure whether their activity is considered dual employment shall complete the appropriate request form pursuant to these procedures.
2. An employee, who has doubts about whether his or her intended conduct or activity violates the statutory Code of Ethics, is entitled to seek a formal opinion of the Florida Commission on Ethics. The contact information for the Florida Commission on Ethics may be found on the following website: www.ethics.state.fl.us. However, the department reserves the right to deny dual employment/compensation or the secondary outside employment, even if the formal opinion of the State Ethics Commission is favorable to the employee.
3. Employees shall not be required to obtain prior approval for affiliation with the National Guard or other organized military reserves, but the employee shall keep the supervisor advised of such commitments.
4. Employees seeking approval of dual or secondary employment shall follow this policy. Employees must complete all required information on the application forms. Failure to do so may cause a delay in processing.
5. Violation of the provisions of this policy will result in disciplinary action, up to and including dismissal, and may result in civil and/or criminal penalties and prosecution.

IV. ATTACHMENTS

[Secondary Employment Authorization Request Form \(Outside State Government\)](#) (Attachment 1)

[State of Florida Dual Employment and Compensation Request \(Within State Government\)](#) (Attachment 2)