

## **ORDINANCE NO. 4443**

### **ORDINANCE AMENDING CHAPTER 3.04 OF TITLE 3 OF THE MENDOCINO COUNTY CODE – PERSONNEL AND SALARY**

The Board of Supervisors of the County of Mendocino Ordains as follows:

CHAPTER 3.04 Title 3 of the Mendocino County Code is amended to read as follows:

#### **Chapter 3.04**

#### **PERSONNEL AND SALARY**

#### **Section 3.04.062 – OUTSIDE EMPLOYMENT – COUNTY ATTORNEYS**

This section applies to County Attorneys. For purposes of this section, a County Attorney is a County employee in any of the following positions: District Attorney, Assistant District Attorney, Deputy District Attorney, Public Defender, Assistant Public Defender, Chief Public Defender, Alternate Defender, Deputy Public Defender, County Counsel, Assistant County Counsel, Chief Deputy County Counsel, Deputy County Counsel, Chief Child Support Attorney, and Child Support Attorney.

The purpose of this section is to implement the provisions of Government Code section 1126 relating to inconsistent, incompatible, and conflicting employment by County Attorneys. It is not the intent or purpose of this section to unnecessarily restrict, limit, or interfere with employees' outside employment. This section is adopted in order to comply with applicable statutes, and to assure the public of the commitment and service it deserves from its officers and employees by preventing outside employment that is inconsistent and incompatible with County employment.

##### **(A) General.**

Prior written notice by the County attorney to their immediate supervisor and the Director of Human Resources is required for any County Attorney to engage in outside employment. For the purpose of this section, employment is defined as legal services performed for compensation, legal services performed on a pro-bono basis, and other work or consulting that is not in the nature of legal services but may be in conflict with the activities and work performed in a County department. Outside employment must not be inconsistent, incompatible, in conflict with, or harmful or unfavorable to his or her duties as a County employee, or reduce the efficiency of the employee in County employment. In the event that the County determines that proposed outside employment violates this policy the County shall notify the County attorney of that determination within 10 working dates of receipt of the written notice from the County attorney.

##### **(B) Process.**

(1) Any County Attorney who intends to engage in any outside employment must notify the Human Resources Director or designee and request a determination on incompatibility. The request should include sufficient description of the proposed duties and work schedule at the desired outside employment to permit the Human Resources Director or designee to reach an informed decision.

(2) Outside employment, activity, or enterprise may be considered incompatible and be prohibited for the following non-exclusive list of reasons:

- (i) If it involves the use, for private gain or advantage, of County time, facilities, equipment or supplies, or the County badge, uniform, prestige or influence of his or her County office or position;
  - (ii) If it involves receipt or acceptance by the employee of any money or other consideration from anyone other than the County for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course of his or her employment with the County or as a part of his or her duties as an employee of the County;
  - (iii) If it involves the performance of an act in other than his or her capacity as an employee of this County, which act may later be subject, directly or indirectly, to the control, inspection, review, audit or enforcement of any officer or other employee of the County;
  - (iv) If it involves the performance of work during the employee's regular County work schedule.
  - (v) If it involves work on a project under contract with the County; or
  - (vi) If it involves time demands as would render performance of his or her duties as an employee of the County less efficient.
- (3) The Human Resources Director or designee shall determine the consistency or inconsistency of outside employment, activities, or enterprises with County employment, and notify the County Attorney in writing of his or her determination.

(C) Appeal.

- (1) A County Attorney may appeal from a determination that the proposed employment, activity, or enterprise is incompatible by filing a written appeal with the Chief Executive Officer within fifteen (15) calendar days of issuance of the written determination. The employee's written appeal should include a copy of the initial request for determination, the Human Resources Director's or designee's response, and any other information the employee believes is relevant.
- (2) The Chief Executive Officer shall issue a written determination and shall be conclusive, final and binding on both the employee and the Human Resources Director.

(D) Revocation.

Approval may be rescinded at any time if, in the judgment of the Human Resources Director or Chief Executive Officer, the outside employment is inconsistent with, incompatible with, in conflict with, or harmful or unfavorable to the County Attorney's duties as a County employee.

(E) No Outside Employment When on Sick Leave or Workers' Compensation.

A County Attorney will not engage in outside employment while on sick leave or workers' compensation leave status with County.

(F) Use of County Equipment Prohibited.

No County-owned equipment, computer, automobile, truck, instrument, tools, supply, machine, or any other item which is the property of County will be used by the County Attorney while said employee is engaged in any outside employment. No employee will allow any unauthorized person to rent, borrow, or use any of the items

mentioned above.

- (G) Violation of this policy may result in disciplinary action up to and including termination of employment.

**PASSED and ADOPTED** by the Board of Supervisors of the County of Mendocino, State of California, on this 10<sup>th</sup> day of December, 2019, by the following roll call vote:

AYES: Supervisors Brown, McCowen, Haschak, Gjerde and Williams  
NOES: None  
ABSENT: None

WHEREUPON, the Chair declared said Ordinance passed and adopted and SO ORDERED.

ATTEST: CARMEL J. ANGELO  
Clerk of the Board

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Carre Brown, Chair  
Mendocino County Board of Supervisors

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

*APPROVED AS TO FORM:*  
CHRISTIAN M. CURTIS, Acting County  
Counsel

BY: CARMEL J. ANGELO  
Clerk of the Board

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Deputy