



<b>WRITTEN DIRECTIVE</b>	No.	PD17-0205	Page:	1 of 10
	Subject:	Effective Date:	3-14-17	
	<b>OFF-DUTY EMPLOYMENT</b>	Supersedes/ Amends:	PD14-0205	
		Reference:	22.3.4, 22.3.5	



**I. Purpose**

The purpose of this directive is to provide guidelines to govern off-duty employment by employees of this department.

**II. Policy**

22.3.4/ 22.3.5

It shall be the policy of the Lynchburg Police Department to regulate off-duty employment to ensure that employees will not participate in any off-duty employment that subsequently renders them unfit for duty, negatively impacts their job performance or brings negative attention to this department.

**III. Procedure**

**A. GENERAL**

1. For the purpose of this directive, the following definitions will apply.
  - a. *Employment* -- any work performed or service provided for compensation, including self-employment.
  - b. *Special Off-Duty Employment* -- any employment that may entail the use of law-enforcement powers granted by the Commonwealth of Virginia or the City of Lynchburg. (Virginia Code 15.2-1712 allows local units of government to adopt regulations or ordinances governing off-duty employment.)
    - 1) *City event off-duty employment* – any special off-duty employment that is scheduled by the City of Lynchburg, a City Department or the Lynchburg City Schools, typically occurring on city property.
    - 2) *Private event off-duty employment* – any special off-duty employment that is scheduled by a private citizen, business or other private entity and typically does not occur on city property.
  - c. *City Special Event* – any city sponsored or city sanctioned event (as defined by City of Lynchburg Special Events Policy) that has been approved by the City Special Events committee.
  - d. *Mandatory Event* – any city special event, Lynchburg City Schools activity, contracted City event, or other event held at the Lynchburg City Stadium that, based on the location, nature and/or size of the event requires a police presence to ensure public safety.

## 22.3.5 D

- e. *Non-Mandatory Event* – any city special event or Lynchburg City Schools activity that, based on the location, nature and/or size of the event does not require a police presence or any private special off-duty employment.
  - f. *Regular Off-Duty Employment* -- any employment:
    - 1) that will not require the use or potential use of law enforcement powers by the off-duty employee, and
    - 2) that provides the employee with taxable income.
  - g. *Off-Duty Coordinator* – Designated agency employee responsible for overseeing, coordinating, and administering the off-duty program including the review and approval process.
  - h. *Secondary Employment System* – Computer software designed to maintain systematic control of records related to regular *and* special off-duty employment activities.
  - i. *Close Assignment* – Administrative procedure within the secondary employment system that allows an employee to document information related to off-duty employment.
2. The Lynchburg Police Department will at no time be required or responsible to provide employees to engage in off-duty work for any other employer. An employee's availability for and participation in non-mandatory off-duty employment will be strictly voluntary.
  3. Events involving special off-duty employment of 4 or more officers will require that at least one of those officers be designated as the event supervisor. The number of supervisors needed will be determined by the event's police incident commander based on the nature of the event, the assignments required and the number of officers involved in order to maintain an appropriate level of span of control.
  4. Pay rates for special off-duty employment:
    - a. The minimum officer pay rate for special off-duty employment will be determined by the Chief of Police.
    - b. Special off-duty pay rates will be detailed within the secondary employment system and will be posted on the LPD website.
    - c. The off-duty pay rate for special off-duty event supervisors will be at least \$2 per hour above the approved special off-duty pay rate.
    - d. Information pertinent to employing LPD sworn personnel in off-duty functions will be maintained on the LPD website.
  5. Pay rates for regular off-duty employment will be determined by the employee performing the off-duty work.

## 22.3.5 E

6. Documentation:
  - a. Employees engaging in special off-duty employment are required to document significant aspects of work activities within the secondary employment system.
    - 1) Employees working special off-duty will be required to “close” the assignment within 72-hours of the end of the assignment or by the end of the pay period in which the work was performed, whichever is sooner.
    - 2) Special off-duty compensation will be paid through the City’s payroll system based on data collected by the secondary employment system
  - b. Employees engaging in regular off-duty employment will not be required to document off-duty work activities within the secondary employment system.
  - c. Employees will be responsible for ensuring that income derived from all off-duty employment is reported to the Internal Revenue Service in accordance with all applicable laws. Failure to accurately report income as required by law can result in imposition of civil and criminal penalties in addition to departmental disciplinary sanctions.

## 22.3.5 B

B. CONDUCT

1. While engaging in any off-duty employment, officers will remain subject to the provisions of PD-0401: *Employee Rules of Conduct* and all other LPD directives and policies.
2. An employee involved in any special off-duty employment will be expected to meet the same standards of punctuality, dress, and accountability as required for on-duty employment.
3. An employee involved in any regular off-duty employment will be expected to meet standards of punctuality, dress, and accountability as required by the regular off-duty employer.
4. While engaging in any special off-duty employment, officers will not be off-site from the employment location during the scheduled employment time unless conducting law enforcement activities related to said employment or if the need arises to assist on-duty law enforcement operations.
5. If approved by the special off-duty employer, officers will be allowed to temporarily leave the property for purposes of acquiring a meal when the employment period is greater than four hours. Officers will select a location in close proximity to the off-duty employment property. Officers are not permitted to consume the meal away from the employment location.

6. Employees engaging in regular or special off-duty employment:
  - a. will not use their official status with the department to acquire information intended solely for use by the litigants in a civil action;
  - b. will be subject to call-back in case of emergency and will be expected to leave such off-duty employment in emergency situations:
    - 1) when requested to do so by an on-duty LPD supervisor, or
    - 2) whenever they can respond in a timely manner to render assistance.
7. Soliciting off-duty employment:
  - a. No employee will solicit any individual or business for the purpose of gaining special off-duty employment.
  - b. While on-duty, no employee will solicit any individual or business for the purpose of gaining regular off-duty employment.
  - c. Persons inquiring about employing off-duty sworn personnel will be referred to the LPD website or the Off-Duty Coordinator for additional information.
8. When engaged in any off-duty employment, the VRS disability retirement benefits, Worker's Compensation benefits, and liability insurance benefits will be decided on a case-by-case basis.
  - a. The circumstances surrounding each case will be reviewed by the appropriate City Officials.
  - b. If it is determined that the action resulting in the injury/liability was a consequence of action taken by virtue of the special powers of a police officer, then the injury/liability generally will be covered by the City.
  - c. If it is determined that the action resulting in the injury was not a consequence of action taken by virtue of the special powers of a police officer, then the private employer or the officer will be expected to cover the injury/liability.
  - d. If an injury is deemed a Worker's Compensation case but the employee does not or has not used a physician from the City's panel, the employee will be financially responsible for any incurred medical expenses (see PD-0207: *Employee-Related Injuries and Motor Vehicle Crashes* for more information).
9. Employees who take on roles coordinating off-duty employee assignments for non-LPD employers will notify the LPD Off-Duty Coordinator, who will maintain a current listing of:
  - a. all officers coordinating off-duty work assignments, and
  - b. all off-duty employers.

22.3.4 /22.3.5C

C. PROHIBITED TYPES OF OFF-DUTY EMPLOYMENT

1. Employees will be prohibited from accepting or engaging in any off-duty employment:
  - a. that constitutes a threat to the status or dignity of the police as a professional occupation, which includes:
    - 1) establishments which sell or rent pornographic books, magazines, sexual devices, or videos
    - 2) establishments which possess a Virginia Alcoholic Beverage Commission license to sell alcoholic beverages for consumption on premises, within the following guidelines:
      - a) Sworn or civilian employees may be employed by sponsors of events that have a contract with the City through which off-duty officers are required to be employed
      - b) Civilian employees may be employed off-duty by restaurants licensed to sell alcoholic beverages on premises, within the limitations set forth in III.C.1.a-4 and f below.
    - 3) any gambling establishments not exempted by law
    - 4) any employment where the nature of the work, rules of the business or instructions from the employer require the employee to:
      - a) compromise their position as a law enforcement officer, *or*
      - b) do anything contrary to department employment policies, procedures, or ethical law enforcement practices.
  - b. as a bail bond agent or for a bail bond agency.
  - c. involving investigative work for the following:
    - 1) insurance agencies
    - 2) private security services
    - 3) collection agencies
    - 4) attorneys.
  - d. to act as private investigators or in any off-duty capacity in which:
    - 1) the primary purpose of such employment is to gather information for a civil action

- 2) such employment is for the purpose of appearing as a witness in a civil action.
- e. by a business intending to use the employees as temporary replacements for regular employees on strike
  - 1) An employee may be employed if the purpose of such employment is the protection of the business property in a law enforcement capacity.
  - 2) This provision is not intended to restrict those employees already employed in a business from working if that business becomes involved in a labor dispute.
- f. that presents a potential conflict of interest between their duties as LPD employees and their duties for the secondary employer.

#### D. ELIGIBILITY AND RESTRICTIONS

1. Initial Employment Period:
  - a. Sworn officers --
    - 1) May not engage in any form of off-duty employment until after completion of the police basic training academy.
    - 2) May not engage in special off-duty employment until after successful completion of the Police Officer Training Program, unless authorized by their Bureau Captain to provide support staffing for special events.
  - b. Civilian employees may engage in approved regular off-duty work during their initial employment period.
2. Employees on suspension or on administrative leave:
  - a. will be prohibited from working any special off-duty employment
  - b. may be permitted to work regular off-duty employment on the approval of their Bureau Captain.
3. Employees reporting sick or injured for regular duty will not be permitted to work any off-duty employment until after returning to regular duty or receiving supervisory permission to do so.
  - a. Supervisors will evaluate employee requests to work off-duty after the use of sick leave but prior to returning to regular duty on a case-by-case basis.
  - b. Employees utilizing sick dependent leave will be permitted to work off-duty employment prior to returning to regular duty.
4. Officers assigned to light duty:
  - a. will be prohibited from working any special off-duty employment

- b. may be permitted to work regular off-duty employment:
  - 1) provided the affected officer obtains written approval from the attending physician stating that such specific off-duty employment will not hamper or delay the officer's full recovery, *and*
  - 2) on the approval of their Bureau Captain.
5. Employees shall not work more than 16 hours within a 24 hour period -- "work" defined as including employees':
  - a. regular tour of duty
  - b. court appearance overtime
  - c. department overtime
  - d. off-duty employment.
6. Employees shall not work in excess of 98 hours per seven-day calendar week; "work" defined as including employees':
  - a. regular tour of duty
  - b. court appearance overtime
  - c. department overtime
  - d. off-duty employment.

**22.3.5 A,C&E****D. APPROVAL, REVIEW, AND REVOCATION OF OFF-DUTY EMPLOYMENT**

1. Before being approved to engage in off duty employment, employees:
  - a. must meet applicable eligibility requirements as outlined in III.D, and
  - b. must have successfully completed required Secondary Employment System training.
2. Special off-duty employment -- With the exception of City Special Events, sworn employees must seek approval to engage in special off-duty employment by submitting an annual authorization request through the chain of command to their Bureau Captain.
  - a. Such annual "blanket" authorization requests will be submitted by January 1 of each year.
  - b. Annual authorization requests will be submitted electronically by means of an *Off-Duty Employment Authorization* form (form LPD-0205).
    - 1) The request form will specify that the request involves special off-duty employment.

- c. Approved blanket requests will authorize sworn employees to engage in special off-duty work.
3. Regular off-duty employment -- Sworn or civilian employees must seek approval to engage in either one-time or repetitive regular off-duty employment through submitting an authorization request through the chain of command to their Bureau Captain.
  - a. Regular off-duty authorization requests will be submitted:
    - 1) prior to working one-time off-duty jobs
    - 2) by January 1 of each year for annual "blanket" authorization requests .
  - b. Authorization requests will be submitted electronically by means of an *Off-Duty Employment Authorization* form (form LPD-0205).
    - 1) The request form will specify that the request involves one-time or recurring regular off-duty employment
  - c. Approved blanket requests will authorize employees:
    - 1) to engage in one-time regular off-duty jobs
    - 2) to engage in recurring regular off-duty work for the same employer during that calendar year without submitting any additional request.
4. In situations where time does not permit the prior approval of the off-duty authorization request by the Bureau Captain, the employee's immediate supervisor may grant temporary approval.
  - a. Such temporary approval will not be valid for more than three calendar days..
  - b. The employee being granted temporary approval will file an electronic off-duty authorization request form through the chain-of-command to the Bureau Captain within three calendar days.
5. All sworn employees are authorized to work special off-duty assignments at City Special Events as part of their sworn employment status so long as they meet the requirements outlined in III.D.
6. Approval for any off-duty employment will be denied at any time the employee's Bureau Captain determines that such employment may:
  - a. render the employee unavailable during an emergency situation
  - b. physically or mentally exhaust the employee to the point that job performance may be adversely affected
  - c. require that special consideration be given to scheduling of the employee's regular duty hours

- d. bring the department into disrepute
  - e. impair the operational efficiency of the department or the employee.
7. Off-duty work assignment coordinators will bring any employee performance concern related to any completed or pending off-duty assignment to the attention of the affected employee's Bureau Captain as soon as possible.
8. An employee's supervisor may temporarily suspend approval for that employee to engage in an off-duty work assignment in the event that such employment is deemed detrimental to the interests of the department.
- a. The supervisor will forward a memorandum to the Bureau Captain outlining the reasons for such action.
  - b. The Bureau Captain will:
    - 1) review the facts of the situation
    - 2) determine the future status of the off-duty employment authorization request
    - 3) advise the employee, the employee's immediate supervisor, and the Off-Duty Coordinator in writing of the decision.

**22.3.5 D****E. SUPERVISION**

- 1. Supervisors will be responsible for ensuring that any off-duty employment activities of employees under their control do not interfere with employee fitness for duty and/or on-duty performance.
- 2. Supervisors will regularly monitor subordinate employee off-duty employment activities.
- 3. Employees engaged in special off-duty employment will be subject to the direction and supervision of the Patrol Bureau Watch Commander on duty at that time.

**F. EQUIPMENT**

- 1. Uniform:
  - a. Special off-duty employment will generally be performed in the appropriate Class "B" uniform.
    - 1) The Class "C" uniform is not an approved uniform for any off-duty employment except in the case of canine handlers or in extenuating circumstances (evaluated by the employee's supervisor on a case-by-case basis).
    - 2) The wearing of civilian clothing while engaged in special off-duty employment must be approved in advance by the employee's Bureau Captain.

- b. In special off-duty assignments requiring more than one officer, the assignment coordinator will be responsible for ensuring that each involved officer is notified in advance of the exact uniform to be worn (i.e., summer or winter, with or without hat, etc.).
- 2. Miscellaneous equipment:
  - a. Officers engaged in special off-duty employment:
    - 1) will carry and monitor their department issued portable radio
    - 2) will mark in and out of off-duty service with LynComm.
  - b. In multiple-officer events where a supervisor is assigned, the event supervisor:
    - 1) will notify LynComm of all officers working the event
    - 2) will mark all involved officers in and out of event service with LynComm.
  - c. The use of any unassigned police vehicle while engaged in special off-duty employment must be approved in advance by the Bureau Captain, after consulting with the Bureau Major.

Original Signed

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Raul M. Diaz  
Chief of Police

March 14, 2017

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Date