

# Dual Employment Under The FLSA

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## 1.0 POLICY

Dual employment with the Town of Carolina Beach is not normally allowed.

## 2.0 PURPOSE

Under the Fair Labor Standards Act, dual employment creates a significant financial liability. For this reason the Town places very strict limitations on dual employment. This policy outlines Town policy regarding employees accepting two separate jobs with the same or different Town departments.

## 3.0 SCOPE

This policy applies to all employees of the Town.

## 4.0 DEFINITIONS

- 4.1 **FLSA** - The Fair Labor Standards Act (FLSA) is a Federal law establishing the minimum wage rate, overtime pay, recordkeeping requirements, prohibiting gender-based wage discrimination between men and women performing the same work, and child labor standards affecting full time and part-time workers in the private sector and in Federal, State, and local governments.
- 4.2 **Dual Employment** - Employment that would occur if an employee (full time, part-time, budgeted or temporary) is additionally employed full or part-time by the same or another department or division, often in a different capacity within the Town.

## 5.0 ORGANIZATIONAL RULES

- 5.1 Normally dual employment will not be allowed. Exceptions are noted below and must be approved in advance by the Human Resources Department.
  - A. In some situations Police, Fire and other specified personnel are required (as a matter of law or prudence) for Town sponsored functions or activities requiring their distinctive skills, legal authority or abilities. In such instances, the secondary employment is permitted under the condition that all hours worked for these special functions are paid as overtime at one and one-half (1½) times the employee's regular rate of pay.
  - B. Dual employment (even for those employees outlined in Section 5.1.a) is not allowed in jobs not requiring special skills, legal authority or abilities. For example, a Police Officer could work at a town sponsored special event to provide law enforcement services at an event but could not be employed as a ticket taker.
- 5.2 Employees who are Exempt from the provisions of the FLSA in their primary positions will not be allowed to accept secondary employment with the Town as this could cause this status to change as a result of the type of work and number of hours worked. If the secondary job is primarily non-exempt work and the non-exempt work in both jobs exceeds 50% of the employee's total hours worked within a work week, the Exempt status could change to non-exempt. Such secondary jobs

could potentially create an overtime payment liability for the primary employer and will not be allowed.

## **6.0 PROCEDURES**

- 6.1 Managers considering employing any Town employee in a circumstance as covered in Section 5.1 above that would create a dual employment situation must contact the Human Resources Department for advance approval.
- 6.2 The Human Resources Department will review the request in light of business necessity versus the cost of the dual employment and will make a recommendation to the Town Manager for a final decision based on the business interests of the Town.
- 6.3 The Human Resources Department will notify the department of the decision and consult with the department on alternative solutions if the request cannot be approved.

## **7.0 APPENDIX, APPENDICES**

None