

**CITY OF TALLAHASSEE  
INDEPENDENT ETHICS BOARD**

AO 2025-01 – August 19, 2025

**MISUSE OF PUBLIC POSITION  
ORD. NO.: 2-8**

*To: Name withheld at person's request.*

**SUMMARY:**

A full-time city firefighter wishes to start a private business providing basketball programs in the community. The employee intends to receive compensation from the business and desires to wear his or her official City of Tallahassee Fire Department uniform or similar apparel during practices, games, and other events related to the business.

Based on the facts presented, the employee's intended use of the city-issued uniform or similar apparel during activities related to his or her private business would likely constitute misuse of public position under Section 2-8 of the Tallahassee Ethics Code.

Additionally, the employee's outside employment does not automatically violate the Tallahassee Ethics Code as long as the inquirer does not use his or her position with the city to provide a special benefit to the organization. The inquirer, however, must comply with city policy and should consult directly with the Office of the City Attorney on these issues.

**FACTS:**

The inquirer is a city employee who is not a "covered individual," as defined by Section 2-4 of the Tallahassee Ethics Code. This inquiry addresses Section 2-8, Misuse of Public Position.

In his or her role with the city, the inquirer works for the City of Tallahassee Fire Department as a full-time employee. The inquirer wishes to start a private basketball program in the community, for which he or she will be compensated. The employee would like to wear an official firefighter uniform or similar apparel during practices, games, and other events sponsored, operated, directed, managed, or supervised by the business.

The inquirer did not indicate whether the organization would be a for-profit or non-profit organization or if it would be a corporation or limited liability company. He or she also did not indicate whether the outside business would be affiliated with or sponsored by the City of Tallahassee.

**QUESTION #1:**

Does a city employee employed by the City of Tallahassee Fire Department violate Section 2-8 of the Tallahassee Ethics Code by wearing his or her firefighter uniform or similar

apparel during activities sponsored or conducted by a private business in which the city employee has an ownership stake that exceeds 2 percent and will receive compensation?

### **ANALYSIS #1:**

The City of Tallahassee Ethics Code prohibits any covered individual or city employee from improperly using his or her public position for the benefit of him or herself or for another.

The applicable ordinance reads as follows:

No public official or employee of the city shall use or attempt to use their official position or any city property or resource which may be within their trust, or perform or fail to perform, their official duties, in a manner inconsistent with the proper performance of the official's or employee's office and which the official or employee knows or should know with the exercise of reasonable care will result in a special privilege, benefit, or exemption for the employee, official, or others.

§ 2-8, *Tallahassee Code of Ordinances* (2025).

In this case, the act of wearing an official city uniform or similar apparel during practices, games, and other events of the business in question would constitute the use of a city resource for the special benefit of that organization. The advertisements would be for the specific purpose of endorsing or promoting a private activity of the inquirer's organization.

The firefighter uniform and similar apparel carry the authority and prestige of the Tallahassee Fire Department, and its use in this context would likely give the appearance that the business is endorsed or affiliated with the City of Tallahassee. While the City of Tallahassee may or may not support the organization is immaterial as the perception by the general public would provide a material benefit to the business.

The Tallahassee Ethics Code's prohibition on the misuse of public position is more stringent than the state law equivalent. Under the state ethics code, a violation requires proof that the individual acted "corruptly." In contrast, the local ethics code does not verbatim include this "corruptly" condition, but rather that the conduct is inconsistent with an individual's official duties.

Based on the facts presented by the inquirer, it appears that his or her involvement with the organization and its basketball program would be completely divorced from the inquirer's role with the city. If the program were in some way affiliated with the City of Tallahassee or the Tallahassee Fire Department, it could be argued that the activity was consistent with the proper performance of the inquirer's employment; therefore, the inquirer may be permitted to wear his or her official uniform or similar apparel and not violate the misuse of public position ordinance.<sup>1</sup>

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<sup>1</sup> Even if the conduct does not violate the city's misuse of public position ordinance due to a business relationship between the organization and the city, it may implicate the state ethics code, including prohibitions on doing business with the city or holding conflicting employment. *See* §§ 112.313(3) and (7), FLA. STAT. (2024).

The inquirer, however, did not make any indication that the city would be involved, so it is assumed that this is outside employment unaffiliated with the city and the uniform cannot be worn.

It is important to note that this analysis would remain unchanged even if the inquirer did not have an ownership stake in or received compensation from the organization in question. The applicable ordinance prohibits a misuse of a city resource that results in a “special privilege, benefit, or exemption for the employee, official, or others.” § 2-8, *Tallahassee Code of Ordinances* (2025) (*emphasis added*).

Additionally, the inquirer’s use of an official city uniform or similar apparel during activities related to his or her private business likely subjects him or her to restrictions and prohibitions under city policy. See *City of Tallahassee Administrative Policies & Procedures Manual*, ch. 706, § 706.06(H) (“Use of City Property”) (*rev. Apr. 2004*).

#### **CONCLUSION #1:**

Accordingly, based on the facts presented by the inquirer and this Board’s reliance on those facts, the Tallahassee Independent Ethics Board finds that the inquirer would violate the Tallahassee Ethics Code’s prohibition on misuse of public position by wearing a city-issued firefighter uniform or similar apparel during practices, games, or other events sponsored, operated, directed, managed, or supervised by his or her private business as it would constitute an improper use of public position and city resources for personal benefit.

#### **QUESTION #2:**

Does a city employee employed by the Tallahassee Fire Department violate the Tallahassee Ethics Code by holding an ownership stake in excess of 2 percent in a private business and receiving compensation or by wearing his or her firefighter uniform in advertisements for activities sponsored by this business?

#### **ANALYSIS #2:**

Based on the facts presented, the inquirer intends to hold outside employment with an organization that will provide basketball programs in the community. The inquirer does not indicate that the organization will have any working relationship with the city.

The Tallahassee Ethics Code does not automatically prohibit covered individuals or city employees from holding outside employment. As long as the city employee does not use his or her official position or city resources to assist an outside employer, the conduct would be permitted under the local ethics code. The inquirer’s ownership stake in the organization and receipt of compensation do not change this analysis, although the potential state violations previously discussed could apply.

The inquirer may engage in outside employment but must abide by those requirements as established in city policies and timely submit the paperwork required by the City. See *City of Tallahassee Administrative Policies & Procedures Manual*, ch. 706, § 706.06(I) (“Outside Employment”) (rev. Sept. 2021).

The Tallahassee Independent Ethics Board lacks subject matter jurisdiction over matters pertaining to city policy; therefore, it is highly recommended that the inquirer consult with the Office of the City Attorney to obtain an authoritative and binding opinion on this issue.

## CONCLUSION #2:

Accordingly, based on the facts presented by the inquirer and this Board’s reliance on those facts, the Tallahassee Independent Ethics Board finds that the inquirer would not violate the Tallahassee Ethics Code’s prohibition on misuse of public position by engaging in compensated outside employment, even with an ownership interest in the business that exceeds 2 percent and where he or she will receive compensation from said business.

While the inquirer is not prohibited under the local ethics code from holding outside employment, he or she must comply with all applicable city policies. The inquirer should consult with the Office of the City Attorney to determine the appropriateness of the outside employment and the necessary disclosure requirements.

**ORDERED** by the City of Tallahassee Independent Ethics Board meeting in public session on June 17, 2025, and **RENDERED** this 19<sup>th</sup> day of August 2025.

APPROVED:

*Kristen S. Costa*

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Kristen S. Costa, Chair  
Tallahassee Independent Ethics Board

ATTEST:

*Dwight A. Floyd*

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DWIGHT A. FLOYD  
Independent Ethics Officer

APPROVED AS TO FORM:

*John Laurance Reid*

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JOHN LAURANCE REID  
Board Counsel