

Are we allowed to prohibit moonlighting?

Q. Is there any law against having a policy that prohibits my employees from working a second job?

A. There is no law that prohibits a policy against moonlighting. Neither is there a law that guarantees an employee the right to work a second job. These issues are entirely up to the discretion of the employer.

You do not have to permit employees to hold other jobs. If you do, however, you should put a policy in place to set expectations and give you the protection you need should an employee's outside work interfere with your business.

Such a policy should address the following points:

- 1. Interference with primary job.** The main purpose of most moonlighting policies is to set out your expectation that each employee will treat his or her work at your business as the primary job and will not allow another job to interfere with the performance of the primary job. You should make it clear that you expect the employee to put your job first.
- 2. Conflict of interest.** Above all else, you need to protect your business. A conflict-of-interest policy can help ensure that your employees don't work for a competitor while working for you. You should also consider the potential impact—positive and negative—of an employee working for a customer or vendor. Your policy should also cover confidential and other proprietary information.
- 3. Leaves of absence.** An employee should not be able to work a second job while on a leave of absence (medical, for example) from his or her primary job.
- 4. Approval of employment.** Consider including a clause that requires approval of any outside employment. In implementing such a clause, however, be sure to do it fairly and equitably across the board, and avoid any appearance of preferential or discriminatory treatment.