

ETHICS RULES – OUTSIDE ACTIVITIES

This information paper covers the ethics rules affecting outside activities, such as working (or moonlighting), teaching, writing, and speaking by civilian Army personnel.

Outside Employment: Army personnel may engage in outside employment or be self-employed outside the workplace as long as there is:

- a) **No interference with official duties.** An employee may not engage in outside activities that interfere with the performance of their official duties, is prohibited by statute or regulation, or would require the employee's disqualification from matters critical to their official duties.
- b) **Conflict of Interest, 18 United States Code (USC) §208¹.** If an employee's official duties may have the potential to benefit the employee personally, affect the financial interests of the employee's family, or involve individuals or organizations with which the employee has some past, present, or future connection away from the employee's Government job, then the employee may be disqualified from working on a particular Government matter.

Under 5 Code of Federal Regulations (CFR) §2635.502, an employee will have a "covered relationship" with their former employer for one year after separation. This covered relationship requires the employee be disqualified from working on any Government matter involving their former employer until the covered relationship has terminated (*i.e.*, the year has passed).

- c) **No representation to the Federal Government, §18 USC 205.** Federal employees cannot represent individuals, companies, and non-Federal entities (NFEs) before any Federal agency. Examples of prohibited "representational-type activities" include: (i) signing agreements with any other federal agency; (ii) signing reports, memoranda, grant or other applications, letters, or other materials intended for submission to any federal agency; (iii) signing tax returns for submission to the Internal Revenue Service; and (iv) attending meetings before a Federal agency or speaking, in the sense of *urging, advocating, or intending to influence* before any federal agency in connection with any matter involving the NFE and the Federal Government. "Representational" contacts with any Government entity in the course of outside employment must be avoided. "Contacts include telephone, voice mail, electronic mail, correspondence, and personal presence at meetings.
- d) **Compensation for Representation, 18 USC §203.** Federal employees cannot be paid, directly or indirectly, for any representation before the federal government. If the off-duty employment involves receipt of compensation that is

¹ Title 18 United States Code (USC) are criminal statutes.

earned directly by the employee or indirectly by another person (such as a partner or associate) through representation before a federal agency, receipt of this compensation may violate 18 USC §203.

- e) **Salary Supplementation, 18 USC §209.** Federal employees cannot receive salary or supplementation of their salary from any source other than the United States as compensation for their services as an employee of the United States. Section 209 is often implicated when the payment for outside employment is for services that are the same or similar to those the employee provides to the Government.
- f) **Financial Disclosure Filers.** Within Department of Defense (DoD), financial disclosure filers must obtain prior written approval from their supervisor before working for a prohibited source. Permission is based on the facts of the outside activity. For ARL, employees who are not financial disclosure filers are to notify their supervisor of their outside activity and ARL Counsel may be consulted as to the specific facts.
- g) **Teaching, speaking, or writing.** Army employees may engage in teaching speaking or writing related to their official duties only under limited circumstances and there can be no additional compensation from an NFE when these activities are related to official duties. An employee may accept compensation for teaching a course in a regularly established curriculum of an elementary school, high school, or institution of higher education.

In addition to the criminal statutes identified above, the following also apply to all Federal employees at all times.

- a) **Use of Government Information.** The use of "nonpublic information" to further your own private interest or that of another is prohibited. Nonpublic information is information that is gained by reason of federal employment and that employees know or reasonably should know has not been made available to the general public. It includes (i) information routinely exempt from disclosure under the Freedom of Information Act or otherwise protected from disclosure by statute, executive order, or regulation; (ii) information designated as confidential by an agency; or (iii) information not actually disseminated to the general public and not authorized to be made available to the public upon request.
- b) **Unauthorized Release of Procurement Information.** Present and former federal employees are prohibited from releasing to an individual, a business concern, or representatives thereof, any information concerning future government requirements or proposed acquisitions by any government contracting activity. These releases can only be made by the appropriate agencies or by duly authorized individuals in connection with the proper discharge of official duties.

- c) **Use of Government Facilities/Resources.** Federal employees are generally prohibited from using Government typewriters, word processing equipment, copiers, paper and clerical personnel for other than official Government business. While there are limited exceptions for the use of the phone and computer use for personal use, there are no exceptions for business use (e.g., for a consulting business or outside employment).

- d) **Use of Official Positions.** Federal employees are prohibited from using their official position or title or authority associated with their public office to induce, coerce, or in any way influence any person, including subordinates, to provide any unauthorized benefits, financial or otherwise, to themselves or to friends, relatives, or persons with whom the employee is affiliated in a non-government capacity. Federal employees may not use their titles or positions for private gain, or in a way that might imply the endorsement of any product, service or enterprise, or for the private gain of friends, relatives, or persons with whom the individual is affiliated in a non-governmental capacity.

- e) **Appearance of Impropriety.** Federal employees are prohibited from taking outside positions when to do so would create an appearance of a conflict of interest with their federal employment.