ETHICS MANUAL

District of Columbia

January 27, 2012

Mayor's Statement on Government Integrity

From: Vincent C. Gray, Mayor

To: District of Columbia government employees

Date: December 30, 2011

Public office is a public trust.

District employees are given access to governmental power and resources for one purpose: so that we may use them to serve the government and the people of the District of Columbia.

Maintaining high ethical standards of conduct is not just a good idea; it is essential if we are going to accomplish our mission as a government and achieve full autonomy in the District of Columbia. We cannot afford to be sidetracked-even for a moment by allegations of unethical conduct, whether based in fact or on appearance. We need to increase the public's confidence in the integrity and effectiveness of our government by ensuring that we are familiar with the ethics standards that apply to us and abide by both the letter and the spirit of those standards.

To make sure we maintain high ethical standards, I ask these five things from each employee:

(1) Read and understand the **Ten Principles of Ethical Conduct** (pp. 4-5).
(2) Become familiar with ethics statutes and regulations that apply to you as a District employee.
(3) Lead by example, making sure that your conduct meets both the letter and the spirit of ethics standards.
(4) Seek advice from your supervisor, your Agency Ethics Counselor or the District Ethics Counselor (the Attorney General) whenever you have a question about how the ethics standards apply to your conduct.
(5) Report any concerns you have about possible wrongdoing to your agency head and the D.C. Inspector General.

I want to ensure that District employees maintain the highest level of ethical conduct. This Ethics Manual, which summarizes the ethics standards for District employees, can help us achieve this goal.

All District employees need to be thoroughly familiar with and faithfully observe all applicable ethics laws, including federal and District statutes and regulations. A list of these statutes, regulations, Mayor's Orders and Memoranda can be found in this Manual and online at http://oag.dc.gov/DC/OAG/Information+to+Help+You/Ethical+Standards+for+DC+Gove

rnment+Workers/Ethics+Laws. While these laws and regulations are detailed and fairly technical, employees can always focus on the Principles of Ethical Conduct found in this Manual.

Together, we can ensure that the District of Columbia has a government that its residents trust and respect. Abiding by government ethics standards is essential, and this Ethics Manual will help District employees understand those standards.

Ten Principles of Ethical Conduct

District of Columbia government employees are subject to many specific ethics standards from multiple sources.[1] This brief document provides a useful summary of those restrictions, identifying ten principles that can explain nearly all of those ethics standards.

1. **Public office is a public trust.**[2]
   A government employee is given access to governmental power and resources for one purpose: so that she may use them to serve the government and the broader public interest. If she uses the government's power and resources for a private (rather than public) purpose, she violates the public's trust and undermines the public's confidence in its government.
2. **Avoid financial conflicts of interest.**
   A government employee shall not participate in government action that could affect her own financial interests or that of another person or organization with which she is affiliated.[3]
3. **Avoid representational conflicts of interest**.
   A government employee shall not represent a non-government party in a matter before the District government or that involves the District government.[4]
4. **Avoid gifts and payments from interested parties**.
   A government employee shall not solicit or accept anything of value from those who are regulated by or are doing business with the government.[5]
5. **Avoid outside payment for government work**.
   A government employee shall not solicit or accept anything of value for doing her government work.[6]
6. **Act impartially**.
   A government employee must act impartially and avoid giving preferential treatment to anyone.[7]
7. **Safeguard government resources**.
   A government employee shall not use government letterhead, personnel, equipment, supplies, or other resources for a non-government purpose, nor engage in personal or private activities during times when he or she is required to perform work for the government.[8]

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[1] http://oag.dc.gov/DC/OAG/Information+to+Help+You/Ethical+Standards+for+DC+Government+Workers/Ethics+Laws.
[2] See, e.g., D.C. Code § 1-1106.01(a).
[3] See, e.g., 18 U.S.C. § 208, D.C. Code § 1-1106.01, DPM 1805.
[4] See, e.g., 18 U.S.C. §§ 203, 205.
[5] See, e.g., DPM 1803.2.
[6] See, e.g., 18 U.S.C. §§ 201, 209.
[7] See, e.g., DPM 1803.1(a)(2).
[8] See, e.g., DPM 1803.1(a)(1), 1804.1(b), 1806.1.

8. **Safeguard confidential non-public information**.
   A current or former government employee shall not reveal or use for a non-government purpose confidential nonpublic information.[9]
9. **Disclose waste or illegal conduct by government officials to the appropriate authorities**.
   Government employees are often in the best position to detect waste or illegal conduct by other government officials. In order to ensure that such malfeasance is properly addressed, employees must notify the appropriate authorities.[10]
10. **Abide by revolving door restrictions**.
    The government has put in place certain rules restricting former government officials' ability to represent non-government parties. These restrictions are aimed in part at preventing former officials from exploiting their knowledge of particular matters or of their former agency.[11]

[9] See, e.g., DPM 1803.8
[10] See, e.g., DPM 1803.8, 1803.9.
[11] See, e.g., 18 U.S.C. § 207(a), DPM 1805.

Scope of Ethics Manual

This Manual is a "plain English" guide to the ethics standards that apply to District of Columbia (DC) government employees. These standards apply to anyone who works the DC government (either as a paid employee or as a volunteer), including members of Boards and Commissions.

The Ethics Manual describes in a general way these ethics standards and highlights issues that often arise. It does not describe all of the ethics statutes and regulations that apply, and it does not cover every situation that can arise. This Manual is not intended to replace the advice of Agency Ethics Counselors. It is intended to give a basic framework and help in your everyday ethics questions.

Ethics standards change over time. In December of 2011, the DC Council enacted ethics reform legislation that will take effect in 2012. The information in this Manual reflects the ethics standards that are in effect on January 1, 2012, prior to the effective date of that legislation. (Some parts of this Manual will need to be revised after the new ethics law goes into effect.)

If you have an ethics question, you should contact your Agency Ethics Counselor or the DC Ethics Counselor, the Attorney General, before taking action.

General Ethics Standards

There are dozens of *specific* ethics standards that apply to District employees, such as restrictions on gifts and outside activities. In addition to the specific standards, the District also imposes some *general* standards on its employees.

To figure out whether particular conduct is permissible (such as whether you can accept a particular gift), you need to consider both the *specific* ethics standards that apply and the *general* standards.

The general standards include the following:

> Public office is a public trust. Any effort to obtain personal gain through official conduct violates that trust.[12]
>
> A District employee must maintain a high level of ethical conduct. She must not take, order, or participate in any official action that would adversely affect the public's confidence in the integrity of government.[13]
>
> A District employee must not:
> (1) use public office for private gain;
> (2) give preferential treatment;
> (3) impede government efficiency or economy;
> (4) lose complete independence or impartiality;
> (5) make a government decision outside official channels; or
> (6) affect adversely the public's confidence in the integrity of government.[14]

[12] D.C. Code § 1-1106.01(a).
[13] D.C. Code § 1-618.01(a); D.C. MUN. REGS. tit. 6, § 1800.1 (hereinafter the District Personnel Manual or DPM).
[14] DPM § 1803.1(a).

Gifts to Employees

As a general rule, a District employee may not solicit or accept a *gift* from:

- a "*prohibited source*" or
- another District employee with a lower salary.

Also, a District employee may not solicit or accept a gift given to influence or reward government action.

What counts as a *gift*?

A gift is a tip, favor, loan (except a bank loan given at the bank's usual rate), entertainment, present, or anything else of value received from someone else.

Who is a *prohibited source*?

A "prohibited source" is anyone who lives, works, or enters the District of Columbia, or anyone who does business with the District government through a contract, grant or other financial arrangement.

Exceptions to the prohibited source rule

Does the gift restriction mean a District employee can't accept a present from his grandmother who lives in the District? **No**. As long as the gift fits one of the exceptions, you can accept it. There are exceptions for gifts:

1. from people with whom the employee has a "bona fide personal relationship" (like a grandmother);
2. worth less than $10 for special occasions that do not happen every year (such as marriage or retirement but not a birthday);
3. promotional materials (such as pens, note pads, or calendars) worth less than $10;
4. food and drinks of nominal value at a lunch or dinner meeting, or at an event sponsored by a non-District organization *if* the employee's supervisor gives permission.

What an employee should do if she receives a prohibited gift

If a prohibited source gives an employee a gift that does not fit into an exception, the employee has three options. First, she can return it. Second, she can pay the donor the value of the gift. Finally, if the gift is perishable and the employee cannot return it, she can share it with the office staff, donate it to charity, or destroy it.

Restriction on gifts between employees

In general, an employee cannot accept a gift from another District employee who has a lower salary; make a donation to a superior; or ask another employee to donate cash for a superior. But an exception does allow an employee to give and accept gifts worth less than $10 for special occasions that don't happen every year.

Restriction on gifts given to influence or reward government action

An employee must not solicit or accept a gift in return for being influenced in her government work (also known as a bribe), or to reward the employee for government action. An employee also cannot accept any gifts or payments from a non-District government source for work as a District employee (also known as "salary supplementation").

Q & A: Gifts

Q: My boss is having a baby. Am I allowed to get her a gift to congratulate her?

A: Yes, you can give a gift to a superior if it is for a special, infrequent occasion, like a baby shower. So long as the gift you give, or the amount of money from any person you collect in order to buy the gift, is not more than $10, you can give your boss a baby shower present.

Q: Can I collect money for a large present for my boss's baby shower, like a crib?

A: Yes. In order to buy a present for a superior to celebrate a special, infrequent occasion, you may invite donations of up to $10 from another employee. It must be clear, though, that these donations are voluntary. Through such voluntary donations you can collect money to buy a larger present.

Q: It is my boss's birthday. Am I allowed to get her a gift?

A: No. While you can give a superior a gift for a special, infrequent occasion, a birthday is not one of these occasions because it happens every year.

Q: As part of my District job, I collaborated with a non-profit organization on a new initiative for safety in public schools. The District has adopted those new standards, and the leaders of the non-profit wants to treat me to a nice (and expensive) lunch to express their gratitude for my hard work. My collaboration with them has ended. May they treat me to lunch?

A: No. A federal criminal statute prohibits you from accepting anything of value "because of" an official act you took as a District employee. In addition, the non-profit organization is a "prohibited source" under the District's gift regulation, so you may not accept anything of value from it. You may join them for lunch, but you will have to pay for your lunch yourself.

Donations to and Volunteers for the District Government

A previous page described the restrictions on gifts *to District employees*. This page addresses two related topics: donations *to the District government* and volunteers for a District agency.

There are specific procedural requirements that must be followed for donations of goods and services to the District and for volunteering with a District agency.

Donations of Goods and Services

Individuals and organizations may donate goods and services to the District if that donation will assist the District in performing a government function. For example, a business with excess office furniture could donate that furniture to a District agency that needed furniture for its own offices.

The Office of Partnerships and Grant Services has created a special process for accepting donations. Agencies must fill out an on-line application process before soliciting or accepting a donation. There are specific ethics-related restrictions on donations. For example, the District may not accept a donation that would create a conflict of interest, and donations must not imply the endorsement of products.

Volunteering for the District

Individuals who volunteer their services for the District are subject to the same standards of conduct as regular employees, including restrictions on partisan political activities and conflicts of interest. The volunteer must sign a volunteer agreement, must be assigned an agency employee to supervise the volunteer, and must be informed of the scope of the services to be performed.

Q & A: Volunteering for the District

Q: A retired business consultant wants to volunteer to assist an agency become more efficient. If he volunteers for the District, will he be able to continue his other activities, including political fundraising?

A. As a volunteer for the District, he will be subject to the same ethics standards as District employees, including restrictions on outside activities. If he serves as a volunteer, he will not be able to engage in partisan political fundraising.

Financial Conflicts of Interest

District employees are subject to several different conflict of interest standards. The most important of these standards is a criminal statute that prohibits an employee from participating in a matter that could affect her own financial interests or those of her spouse, minor children, affiliated organizations or those with whom they may have future employment.

The Federal Criminal Conflict of Interest Statute:[15]

An employee must not "*participate personally and substantially*" in a "*particular matter*" that could affect her own financial interests, or the financial interest of:

- her spouse,
- her minor children,
- any organization in which the employee serves as officer, director, trustee, general partner or employee, or
- anyone with whom the employee is negotiating or has any arrangement concerning prospective employment.

What is a "*particular matter*?"

A "*particular matter*" includes a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation or arrest. Legislation and policy-making that are general in nature are not "particular matters," but if it is narrowly focused upon the interests of a specific industry, profession or class, then it is a "particular matter." If you have a question about whether something is a "particular matter," ask your Agency Ethics Counselor for advice.

What counts as "*participation*?"

An employee *participates* in a matter when she takes action on it. Examples of participation include making a recommendation or decision, giving advice, or investigating, and the active supervision of a subordinate who is taking action. On the other hand, simply knowing about the government's action in a matter does not constitute "*participation*."

It's not just your own financial interests that matter.

It is important to remember that an employee may need to avoid participating in a matter even if her own financial interests would not be affected. The federal statute prohibits an employee from participating if the matter could affect the financial interests of her spouse, her minor children, any organization with which she is affiliated as employee, board member, etc. (whether or not she receives compensation from that organization), and anyone with whom she is negotiating for future employment or has an arrangement regarding future employment.

[15] 18 U.S.C. § 208(a).

District Conflict of Interest Regulations:

In addition to this federal standard, there are several District regulations that also impose conflict of interest restrictions. They are summarized below.

An employee must not work on matters that involve a nongovernmental organization in which the employee or a family member (including parents, siblings, adult children and their spouses or domestic partners) has a financial interest.[16]

If there is a reasonable likelihood that an outside entity would be involved in the employee's District's work, then she may not have a financial interest in it and may not serve as an officer or director of it. [17]

An employee must not perform an official duty if she or a member of her household (her minor children, spouse and blood relations who live with her) has real property, stocks, bonds, commodities or other property that could "unduly influence or give the appearance of unduly influencing" her in that duty.[18]

An employee and members of her household must not operate or acquire an interest in a business that is related to her duties or to any governmental matter that she could influence.[19]

Example: Financial Conflict of Interest

An employee of the Department of General Services has just been asked to serve on the technical evaluation panel to review proposals for a new maintenance contract. Clean Corporation, a closely held company in which his wife owns most of the stock, has submitted a proposal. Because the decision whether to award the contract to Clean Corporation will have a direct and predictable effect on his wife's financial interests, the employee cannot participate on the technical evaluation team.

[16] DPM 1805.3; D.C. Code § 1-1106.01(i)(5).
[17] DPM 1804.1(d).
[18] DPM 1899.
[19] DPM 1805.2.

Use of Public Office for Private Gain

A District employee must not use her official position or office to obtain financial gain for herself, a member of her *immediate family*, or any *business* with which she or a member of her immediate family is *associated*.[20]

Who counts as "*immediate family*?"

"*Immediate family*" means an employee's

- spouse / domestic partner
- parent
- sibling
- child
- the spouse / domestic partner of the employee's:
  - parent
  - sibling or
  - child.

What counts as an "*associated business*?"

An individual is "associated" with a business if

- she serves as a
  - director
  - officer
  - owner or
  - employee
- she holds at least $1,000 worth of its stock, or
- the business is her client.

Use of Nonpublic Information

In addition, a District employee must not use information that is not available to the public for her personal benefit or any other non-governmental purpose. She also must not permit others to use nonpublic information for such purposes.[21]

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[20] D.C. Code § 1-1106.01. While this provision in the D.C. Code applies to only to about one-tenth of the District workforce (those required to file public financial disclosures with the Office of Campaign Finance as well as Advisory Neighborhood Commissioners), it expresses a principle that is appropriate for all District employees.

[21] DPM 1804.1(f).

Use of Government Property

Government property should only be used for government rather than any private purpose.

In general, a District employee must not use – or allow others to use – District property for anything other than "officially approved purposes."[22] But the government has adopted four exceptions to this general rule.

(a) If the District is distributing a material or service freely to DC residents or visitors, then a District employee may accept that material or service.
(b) Recognized employee groups may use District facilities for authorized off-duty meetings or training.
(c) District property may be used for non-government purposes if that use will not increase the maintenance cost of that property. (For example, a District employee may use library materials and other government-purchased books.)
(d) A District employee may borrow office equipment if she:
    1) substantiates her need for it in writing;
    2) obtains prior approval from her supervisor;
    3) uses the property in her residence in a way that will benefit the dc government; and
    4) duly notes this loan on the agency's personal property records.

Gambling

In general, District employees must not gamble while they are on duty and while they are on government-owned or leased property.

The government has adopted two exceptions to this restriction on gambling. This restriction does not apply if an employee:

1. must engage in gambling as part of her agency-approved law-enforcement duties, or
2. is engaging in lawful activities sponsored by the DC Lottery and Charitable Games Control Board.[23]

[22] DPM 1806.1.
[23] DPM 1808.1.

Nepotism: Helping Relatives Obtain District Jobs

It is important that the government makes decisions about whom to hire and whom to promote on the merits rather than on the basis of family connections. Therefore, a District employee should not take any action to influence a hiring or promotion decision that could benefit a relative. A federal statute specifically prohibits a District employee from hiring, promoting or influencing a decision to hire or promote the hiring or promotion of a relative.[24]

A District employee must not appoint, employ, promote or advance any "***relative***" to a position in the District government. In addition, an employee may not advocate for a relative to be appointed, employed, promoted, advanced in the District government.

Who counts as a "*relative*?"

A "relative" is a:

parent	child	sibling	uncle
aunt	first cousin	nephew	niece
spouse	father-in-law	mother-in-law	brother-in-law
sister-in-law	stepparent	stepchild	stepsibling or
half-sibling.			

What happens if a District employee violates this statute?

If a District employee violates the federal anti-nepotism statute, then she may be disciplined. If her relative is hired or promoted in violation of this statute, then that relative is not entitled to be paid.

What about a "Significant Other" or Same-Gender Spouse?

This anti-nepotism statute reaches a spouse who is recognized by the federal government (i.e. a spouse who has a different gender than the employee), but it does not reach a same-gender spouse or a "significant other."

Does this mean that a District employee is free to appoint a "significant other" or a same-gender spouse? **No.** Another statute, the federal criminal conflict of interest statute, prohibits an employee from participating in any matter in which she has a financial interest. (See "Financial Conflicts of Interest.") If the employee has a financial interest in the employment of her "significant other" or spouse, then she must not participate in any decision to employ or promote that "significant other" or spouse.

[24] 5 U.S.C. § 3110.

Fundraising for Non-Governmental Organizations

In general, a District employee may raise funds for a private, non-partisan organization on her own time and while she is away from the office. But District employees must not use government time or property (including the District's email system) to raise money for a private cause, even for a worthy nonprofit organization. It is also essential that District employees not feel pressured or coerced into contributing to such a cause. These limits on fundraising reflect the more general principle that public office should not be used for private gain.

In addition, District employees are not permitted to solicit or accept donations for partisan political candidates, whether on-duty or off-duty. See "Restrictions on Partisan Political Activities."

The District does support an organized combined effort to raise money for non-profit organizations, DC One Fund, which permits employees to have donations to these organizations deducted directly from their paychecks.

Example

If you are raising money for your child's school by selling candy or seeking donations, you should not personally solicit other District employees at the office or use your District e-mail to ask them to purchase candy or donate money. On the other hand, if your agency has a break room with a place for community announcements (such as a bulletin board), you could post a fundraising notice or catalog there. That way, you can let your co-workers know about the cause, but they are unlikely to feel any pressure to assist in your fundraising.

Restrictions on Political Activities

There are two different standards that apply to political activities:

1. a federal statute (the Hatch Act) that restricts the partisan political activities of District employees and
2. a District statute that prohibits the use of government resources for political campaigns.

Employees who violate the Hatch Act can be removed from their jobs. The minimum penalty is a 30-day suspension without pay. Employees who violate the District statute can be prosecuted criminally.

1. The Federal Hatch Act - Restrictions on Partisan Political Activity

The federal Hatch Act applies to all District employees *except* the Mayor, the Council and the Recorder of Deeds. It applies to both full-time and part-time employees, both paid and unpaid. It applies to members of Boards and Commissions, and to individuals who have been elected to Advisory Neighborhood Commissions (ANCs) and the state Board of Education.

Political activities *prohibited* by the Hatch Act

The Hatch Act has two different types of prohibitions.

First, employees are prohibited from engaging in "*partisan political activities*" at certain times -- while:

- on duty or
- wearing an official uniform or insignia.

"*Partisan political activity*" is "activity directed toward the success or failure of a political party, candidate for partisan political office or partisan political group."

Second, additional restrictions apply *at all times*. Employees may not:

- use their official authority or influence to interfere with an election;
- knowingly solicit or discourage the political activity of any person who has business before her agency;
- solicit, accept or receive political contributions; or
- run as a candidates for public office in partisan elections.

Employees who live in designated Maryland and Virginia suburbs may run as independent candidates in local partisan elections and engage in some political fundraising. (See below.)

Political activities *permitted* under the Hatch Act

Employees may:

- express opinions about candidates and issues.
- become involved in partisan political activities on their own time (as long as they do not violate the specific prohibitions outlined above).
- run as candidates for public office in nonpartisan elections,

- register and vote as they choose,
- assist in voter registration drives,
- contribute money to political organizations,
- attend political fundraising functions,
- attend and be active at political rallies and meetings,
- join and be an active member of a political party or club, and
- sign nominating petitions.
- campaign for or against
    - referendum questions,
    - constitutional amendments,
    - municipal ordinances,
    - candidates in partisan elections,
- make campaign speeches for candidates in partisan elections,
- distribute campaign literature in partisan elections, and
- hold office in political clubs or parties
- serve as a delegate to a convention.

Special standards for residents of certain designated suburbs of Washington, DC

District of Columbia employees who live in the Virginia or Maryland suburbs listed below may engage in certain activities that are prohibited for employees who live in the District. These suburban residents may solicit political contributions for *independent* local candidates and may accept political contributions for any local candidates in those suburbs.

These suburban residents also may run as *independent* candidates in local partisan elections. An employee who runs as an independent should be careful not to inadvertently transform her campaign into a partisan one. She should not seek the endorsement of a partisan group, advertise the endorsement of a political party, or use a party's resources to further her campaign.

Maryland:

Annapolis	Chevy Chase sections 3 and 4	Glen Echo	North Chevy Chase
Anne Arundel County	Chevy Chase View	Greenbelt	Northwest Park
Berwyn Heights	College Park	Howard County	Prince Georges County
Bethesda	Cottage City	Hyattsville	Riverdale
Bladensburg	District Heights	Kensington	Rockville
Bowie	Edmonston	Landover Hills	Seat Pleasant
Brentwood	Fairmont Heights	Montgomery County	Somerset
Calvert County	Forest Heights	Morningside	Takoma Park
Capitol Heights	Frederick County	Mount Rainier	University Park
Cheverly	Garrett Park	New Carrollton	Washington Grove
Chevy Chase Village	Glenarden	North Beach	Saint Mary's County
Martin Additions		North Brentwood	

Virginia:

Alexandria	City of Fairfax	Manassas	Vienna
Arlington County	Falls Church	Manassas Park	Spotsylvania County
Clifton	Herndon	Portsmouth	Stafford County
Fairfax County	Loudon County	Prince William County	

Enforcement of the Hatch Act

The Hatch Act is enforced by a federal agency: the U.S. Office of Special Counsel (OSC).[25] OSC initiates investigations and, if the allegation has merit, can bring an enforcement action with the U. S. Merit Systems Protection Board (MSPB).

Advice about the Hatch Act

If you have questions about the Hatch Act, you can get answers from the Hatch Act Unit of the federal government's Office of Special Counsel (OSC). OSC also provides training for District of Columbia employees. Here is their contact information:

Hatch Act Unit	hatchact@osc.gov
U. S. Office of Special Counsel	800-85-HATCH (800-854-2824)
1730 M Street, NW Suite 218	202-254-3650
Washington, DC 20036	www.osc.gov/hatchact.htm

2. Prohibition on Using Government Resources for Political Campaigns

Government resources may not be used to support or oppose any:

- candidate (partisan or nonpartisan)
- initiative
- referendum or
- recall measure

What counts as a "*government resource*?"

- Funds
- Non-personal services
- Supplies
- Materials
- Equipment
- Office space
- Facilities
- Telephones
- Other utilities
- Personal services of District employees during work hours

[25] 5 C.F.R. 734.102; 5 C.F.R. 1800.1 (b)(1-2)

Outside Activities & Jobs

All District employees engage in outside activities of one sort or another, and some District employees also have outside paid employment. In general, a District employee is prohibited from any outside activity or job that would:

- conflict with the "fair, impartial, and objective" performance of her District job,
- interfere with her ability to do her District job,
- interfere with her regular working hours,
- interfere with the efficient operation of the District, or
- allow anyone to benefit from her official title or District job.

The information below summarizes the restrictions on outside activities and outside jobs. To help you figure out whether a particular outside activity or outside job is permitted, you should answer the questions in the Worksheet re: Outside Activities and Outside Employment found in the Appendix and consult your agency's Ethics Counselor.

Prohibited outside activities

Some outside activities are strictly prohibited, regardless of whether the employee is paid for them. An employee may not serve as a representative, agent or lawyer for a private party in any matter in front of the District government or a DC court. An employee is also prohibited from serving as an officer or director of an outside organization if there is a reasonable likelihood that the organization could be involved in action that the employee would take or recommend as a District employee.

Rules to follow when engaging in outside activities

There are certain rules that apply to outside activities. An employee may not use working hours, government resources or other government employees for outside activities. She must not reveal nonpublic government information, or allow others to use that information for any purpose. Finally, if an employee is an officer, director, trustee, partner or employee of outside organization, then she must not participate as a District employee in any particular matter (such as a judicial proceeding, investigation, contract or grant) that could have a financial effect on that organization.

Outside Employment

In general, a District employee is allowed to have an outside job. But an employee may not receive pay from two or more federal or District government positions for more than 40 hours in any work week. (If the District pays an employee for 40 hours in a week, then she may not also accept compensation from the federal government on an hourly basis for that week.) An employee may not receive a share of the money from a lawsuit against the District, and may not receive money for representing a person or entity if the District has a substantial interest in the matter or is a party to a lawsuit. Finally, a District employee must not be paid by a non-District source for her work as a District employee.

Outside Expressive Activities

In general, District employees are allowed to engage in outside activities that involve expression, such as writing, teaching, or speaking. But the employee must do this outside of regular working hours, or while on annual leave or on leave without pay. An employee may not use nonpublic government information unless the agency head gives permission. If an employee is paid for outside expressive activity, then the subject matter must not be substantially about the employee's official duties, the responsibilities and operations of her agency, or information received in her District job.

Q & A: Outside Jobs

Q: A Department of Consumer and Regulatory Affairs (DCRA) housing inspector wants to start up his own business to work on evenings and weekends advising landlords on how they can pass housing inspections. Can this employee accept payment from landlords for advice about DCRA housing inspections?

A: No. The DCRA inspector may not accept payment from landlords for advice about how to pass DCRA inspections. The advice would relate substantially to his official duties, so he may not accept compensation for providing such advice.

Serving on the Board of a Non-Governmental Organization

Non-governmental organizations play important roles in our community, and many District employees serve on the boards of these organizations. This kind of community service and leadership should be encouraged, but at times this service can conflict with an employee's obligations as a District employee. Therefore a District employee who is considering serving on the board needs to understand that there are specific government ethics standards that apply to an employee's service on an outside board.

An employee must not serving as an officer or director of an outside organization if there is a reasonable likelihood that the organization will be involved in action that the employee would take or recommend as a District employee.[26]

An employee must not participate personally and substantially on a matter that could affect the financial interests of an organization on which she serve as an officer, director, trustee, general partner or employee.[27]

Example

An employee of the Mayor's Office serves without compensation on the board of directors of Magic Theater, a nonprofit corporation that produces theatrical events for the community. Even though her personal financial interests will not be affected, the employee must disqualify herself from participating in the review of a grant application submitted by Magic Theater. Award or denial of the grant will affect the financial interests of Magic Theater and its financial interests are imputed to her as a member of its board of directors.

[26] DPM 1804.1(d).
[27] 18 U.S.C. § 208(a).

Seeking Outside or Future Employment

If an employee begins negotiating for prospective employment with a person or organization, then she must not "*participate personally and substantially*" in any "*particular matter*" that could affect the financial interests of that person or organization.[28] This is a criminal statute, and the federal government has prosecuted employees for negotiating for prospective employment with those with a financial interest in the employee's work.

What is a "*particular matter*?"

A "*particular matter*" includes a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest. Legislation and policy-making that are general in nature are not "particular matters," but if it is narrowly focused upon the interests of a specific industry, profession or class, then it is a "particular matter." If you have a question about whether something is a "*particular matter*," ask your Agency Ethics Counselor for advice.

What does it mean to "*participate*?"

An employee *participates* in a matter when she takes action on it. Examples of participation include making a recommendation or decision, giving advice, or investigating, and the active supervision of a subordinate who is taking action. On the other hand, simply knowing about the government's action in a matter does not constitute "participation."

[28] 18 U.S.C. § 208(a).

Post-Employment "Revolving Door" Restrictions

Even after an employee no longer works for the District, she is still subject to two restrictions on your conduct:

- A lifetime ban on taking certain actions in connection with a "*particular matter*" involving a specific party or parties you personally and substantially worked on while a District employee.
- A two year ban on taking certain actions in connection with a "*particular matter*" involving a specific party or parties that was "under your responsibility" during the last year you worked for the District.[29]

What Is A "*Particular Matter*?"

A "particular matter" includes a judicial proceeding, contract, or investigation. It involves establishing the interests of individuals or entities through a determination, decision, or action. It can even include legislation or policy-making if it is narrowly focused on a specific and identifiable group or entity.

What is the Former District Government Employee Prohibited From Doing?

If one of the two restrictions listed above are triggered, then the former employee is prohibited from communicating with or appearing before a District employee, agency, or court to influence that entity in connection with the matter.

What Triggers the Lifetime Ban?

After an employee leaves the District government, she is banned from communicating with or appearing before the District in connection with any "particular matter involving a specific party or parties" in which she participated "personally and substantially" while a District employee. Participating "personally and substantially" means that she took action in the matter, such as deciding, approving, recommending, giving advice, or investigating the matter; merely knowing about a matter does not constitute personal and substantial participation.

What Triggers the Two-Year Ban?

Even if an employee did not personally and substantially participate in a matter, she is still barred from communicating with or appearing before the District for two years in connection with a particular matter involving a specific party or parties that was under her responsibility in the last year she worked for the District. A matter was under her responsibility if she had authority to approve or disapprove it, or could otherwise direct the District to take action on the matter, either by herself or through those she supervised.

[29] 18 U.S.C. § 207.

Restriction on District Employees' Obtaining a Contract with the District

In general, a District employee is not allowed to be a party to a contract with the District government. An employee may not contract directly with the District, and may not do so indirectly through an organization that she controls or substantially owns.[30]

There are two exceptions to this general rule against contracts with District employees.

First, if there is a compelling reason for such a contract (e.g., if the government's needs cannot reasonably be met otherwise), then an agency head may make a written determination of that compelling reason and proceed with the contract.

Second, if the employee is a "*Special Government Employee*" (SGE), then the District may contract with the employee as long as:

- the contract did not arise directly out of the SGE's work;
- the SGE was not in a position to influence the award of the contract; and
- no other conflict of interest exists.

Who is a "*Special Government Employee?*"

A *Special Government Employee* is an employee who works on a temporary or intermittent basis -- with or without compensation -- for up to 130 days in a 365-day period.[31]

[30] DPM 1816.
[31] DPM 1814.1.

Financial Disclosure Requirements

The District has two distinct systems for annual financial disclosures (FDs). Thousands of officials are required to file a Public Disclosure of Financial Interest (PDFI or Form 62) with the Office of Campaign Finance (OCF), which is under the Board of Elections and Ethics. In addition, many of these same employees and others are required to file a more detailed Confidential Statement of Employment and Financial Interests (CSEFI or Form 35) within their own agency.

Public Financial Disclosures – Filed with the Office of Campaign Finance (OCF)

By February 1st of every year, each Agency Head must identify those agency employees who will be required to file a public financial disclosure form with OCF.

By May 15th, those employees must file a Public Disclosure of Financial Interest (PDFI or Form 62) with OCF, which then posts those forms on its website. The employee must provide the following information on Form 62:

- any business entity that transacts business with the District government with which the employee or her spouse is associated through ownership, income or other position,
- liabilities greater than $1,000,
- real estate (other than a personal residence) within the District in which the employee or her spouse has an interest, and
- professional or occupation licenses from the District government.

Confidential Financial Disclosures – Filed within each Agency

By April 15th of every year, each Agency Head must identify those employees who will be required to file a Confidential Statement of Employment and Financial Interests (CSEFI or Form 35) because they perform policy-making, contracting or purchasing functions or other functions affecting private organizations.

By May 15th, those employees must file Form 35 with their Agency Head. The Agency Head (or her designee) then must review the Form 35 to determine whether the employee has any conflicts of interest. The employee must provide the following information on Form 35:

- any organization with which the employee is associated through ownership, income or other position,
- creditors,
- real estate in which the employee has an interest, and
- whether any of the organizations listed do business with the District government.

Mandate to Report Misconduct

The D.C. Council has declared that District employees must be free to report waste, fraud, abuse of authority, violations of law, or threats to public health or safety without fear of retaliation or reprisal. In addition, employees are required to report certain types of misconduct.

What types of misconduct must employees report to a "*public body*?"

All employees must disclose to their supervisor or to a "*public body*:"

- violations of federal, state, or local law, rule, or regulation, or a contract term which is not of a merely technical or minimal nature
- misuse of government resources
- gross mismanagement;
- gross misuse or waste of public resources or funds;
- abuse of authority in connection with the administration of a public program or the execution of a public contract; and
- a substantial and specific danger to the public health and safety

What counts as a "*public body*?"

A "*public body*" is any member or employee of:

- the Office of the Inspector General;
- the Office of the District of Columbia Auditor;
- the Council;
- any federal, District of Columbia, state, or local regulatory, administrative, or public agency or authority or instrumentality
- any federal, District of Columbia, state, or local law enforcement agency, prosecutorial office, or police or peace officer;
- any federal, District of Columbia, state, or local department of an executive branch of government;
- Congress;
- any state legislature;
- any federal, District of Columbia, state, or local judiciary; or
- any grand or petit jury.

Misconduct that must be reported to an agency head and Inspector General

Information about certain types of misconduct must be reported to an agency head and to the Inspector General. If a District employee has information that she "knows or reasonably should know" involves:

- a conflict of interest,
- corruption or
- criminal activity

by a District employee or someone dealing with the District government (such as a contractor or grantee), then the employee must "directly and without undue delay" report that information to both the employee's agency head and the Inspector General (IG). The agency head must then "immediately report such information to" the IG. Failure to report may result in employment discipline.

Reporting obligations of *supervisors*

As soon as a *supervisor* becomes aware of a violation of federal, state or local law, rule or regulation or of a contract term (not of a merely technical or minimal nature), she must report the violation to a public body. Failure to make such a disclosure can result in employment discipline or dismissal.

Who counts as a "*supervisor*?"

A "*supervisor*" is

- an agency head,
- a department director,
- a manager, or
- any employee who has the:
  - responsibility to direct employees, evaluate their performance, or adjust their grievances;
  - authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees; or
  - authority to "effectively recommend remedial or corrective action" for the violation of misuse of government resources.

Prohibition on retaliation

District officials are prohibited from coercing, harassing or retaliating against an employee who acts "in good faith" in reporting misconduct to her agency head or the IG. In addition, they may not retaliate against an employee who reasonably believes there has been a violation or misuse of resources and discloses that to a *supervisor* or a *public body*.

Investigations and Enforcement

Responsibility for investigating alleged unethical conduct by District employees is distributed among many different government agencies. Two of these agencies are federal: the U.S. Attorney's Office and the Office of Special Counsel. The rest are part of the District government. Some of these agencies are directly tasked with investigating ethics allegations. Others are tasked with investigating other types of allegations that often have ethics implications.

The following offices have direct responsibility for investigating allegations that District employees engaged in unethical conduct:

Agencies with Direct Responsibility for Ethics Investigations

Agency	Investigates allegations of:
District:	
Office of Campaign Finance (OCF)	ethics violations by high level officials
Agency Heads	ethics violations by all other District employees
Ethics Counselor (Attorney General)	post-employment violations
Federal:	
US Office of Special Counsel	Hatch Act violations (partisan political activities)
US Attorney's Office & FBI	criminal violations

In addition, three other offices conduct investigations that sometimes implicate ethics allegations: the Inspector General (IG), the Office of the Attorney General (OAG) and the Auditor.

Office of Campaign Finance (OCF)

While the Office of Campaign Finance (OCF) is responsible for investigating allegations of unethical conduct against the highest-level District employees, it does not have any investigators on its staff. It can initiate ethics-related investigations on its own, but by statute, outsiders who want to prompt an OCF investigation must provide a written notarized complaint. (This approach contrasts with that of the Inspector General, which has an anonymous hotline.)

Agency Heads

Each Agency Head is responsible for investigating allegations of unethical conduct against her agency's employees (except those high-level officials who are subject to OCF jurisdiction). If the Agency Head finds that the allegation is true, this can result in employment discipline.

Ethics Counselor

By statute, the District's Ethics Counselor can investigate allegations that former employees have violated post-employment restrictions and undertake an administrative enforcement action.

U.S. Attorney's Office

The U.S. Attorney's Office investigates alleged violations of District and federal criminal law, including the federal criminal conflict of interest statutes that apply to D.C. employees. It can initiate investigations on its own, and it receives referrals for criminal investigation from District agencies, such as OCF (through BOEE), the Ethics Counselor, the Inspector General, and the Office of the Attorney General.

U.S. Office of Special Counsel

The U.S. Office of Special Counsel investigates alleged violations of the Hatch Act by District employees.

Inspector General (IG)

The IG conducts audits and investigations of government programs. Its primary focus is not ethics enforcement, but some of its investigations relate to ethics concerns. For example, OIG refers alleged criminal violations to the U.S. Attorney's Office for criminal prosecution; refers other alleged ethics violations to Agency Heads for employment discipline; and alleged Hatch Act violations to the Office of Special Counsel.

Office of the Attorney General (OAG)

Outside the post-employment sphere, OAG does not have direct responsibility for enforcing District ethics standards. But OAG can bring suit to recover funds taken by officials or employees in violation of DC laws, and can bring injunctive actions, in appropriate circumstances, to enjoin on-going conduct that may violate D.C. laws.

Auditor

The auditor is a legislative office that supports the Council by auditing and evaluating District programs. Its focus is not employee ethics, but its investigations occasionally implicate concerns about unethical conduct by District employees.

Sources of Ethics Advice

If you need advice about an ethics issue or are unsure whether particular conduct is permitted, you should seek advice from one or more of the following:

- your supervisor

- your agency's Ethics Counselor
  A list of Agency Ethics Counselors is on the following page.

- the District of Columbia's Ethics Counselor, the Attorney General
  Contact his executive assistant:
  Valerie Scott
  202-724-1301
  Valerie.scott@dc.gov

- the Office of Campaign Finance (OCF)
  Contact OCF's General Counsel
  William Sanford
  202-671-0549
  william.sanford@dc.gov
  ocf.dc.gov

- the U.S. Office of Special Counsel (OSC) (federal Hatch Act)
  1730 M Street, N.W., Suite 218
  Washington, D.C. 20036-4505
  800-854-2824 (800-85-Hatch)
  202-254-3650
  hatchact@osc.gov
  www.osc.gov/hatchact.htm

- the U.S. Office of Government Ethics (OGE) (federal statutes)
  1201 New York Avenue, NW Suite 500
  Washington, DC 20005
  202-482-9300
  www.usoge.gov

Agency Ethics Counselors

(as of 2012-01-12)

Subordinate Agencies:

Aging, Office of	Camile Williams, 727-8365
Alcohol Beverage Regulatory Agency	Martha Jenkins, 442-4423
Attorney General, Office of	Kathleen Clark, 724-1521
Cable Television, Office of	Niquelle Allen, 671-0075
Chief Financial Officer, Office of	Clarene Martin, 442-8073
Chief Medical Examiner, Office of	Sharlene Williams, 698-9000
Child and Family Services Agency	Rishaunda Ewings, 724-7314
Commission on the Arts & Humanities	Moshe Adams, 724-5613
Consumer and Regulatory Affairs, Dept. of (DCRA)	Hamilton Kuralt, 442-8903
Contracting and Procurement, Office of	Nancy Hapeman, 724-4391
Corrections, Dept. of	Maria Amato, 671-2042
Disability Services, Dept. of	Mark Back, 730-1592
Employment Services, Dept. of	Tonya Sapp, 671-1195
Environment, Dept. of	Polly Rich, 535-2610
Fire and Emergency Management Service	Marceline Alexander, 673-3398
General Services, Dept. of	Camille Sabbakhan, 724-4400
Health Care Finance, Dept. of	Sheryl Johnson, 442-5976
Health, Department of	Rudolf Schreiber, 442-5978
Homeland Security and Emergency Management Agency	Marcel Robinson, 673-2101
Housing and Community Development, Dept. of	Vonda Orders, 442-6991
Human Resources, DC	Dwayne Toliver, 727-1558
Human Rights, Office of	Alexis Taylor, 727-6673
Human Services, Dept. of	Monica Brown, 671-4346, & Hollaway Wooten, 673-6662
Insurance Securities and Banking, Dept. of	Charlotte Parker, 442-7751
Mayor, Executive Office of	Brian Flowers, 727-8555
Mental Health, Dept. of	Laurie Gilbert, 673-1936
Motion Picture and Television Development, Office of	Jennifer Jenkins, 724-8094
Motor Vehicles, Dept. of	David Glasser, 729-7013
Parks & Rec., Dept. of	Will Potterveld, 673-2088
Planning, Office of	Edward Giefer, 442-7629
Police Department, Metropolitan	Michael Anzallo, 727-0159
Public Libraries, Dept. of	Gail Avery , 727-1117
Public Schools, DC	Peter Weber, 535.1465
Public Works, Dept. of	Christine Davis, 671-2030
Risk Management, Office of	Amy Mauro, 727-9514
Small Local Business Development, Dept. of	Tabitha McQueen, 727-3900
State Superintendent of Education, Office of	Virginia Crisman, 727-2814 & Adrianne Day, 741-5525
Taxicab Commission	Dena Reed, 645-6019
Technology Officer, Office of Chief	Christina Fleps, 727-0619
Transportation, Dept. of	Glenn Dubin, 671-3492
Unified Communications, Office of	Susan Nelson, 715-7558, susanp.nelson@dc.gov
Youth Rehabilitation Services, Dept. of	Ta-Tanisha Wallace, 299-3164

Independent Agencies:

Agency	Counselor	Phone	Email
Auditor	Tia Clark	727-9707	Tial.clark@dc.gov
Public Service Commission	Ken Hughes	626.5157	KHughes@psc.dc.gov
Retirement Board	Erie Sampson	343-3230	Erie.sampson@dc.gov

List of Ethics Standards that Apply to District of Columbia Employees

District of Columbia employees are subject to ethics standards from multiple legal sources: federal statutes and regulations, the DC Code, District regulations, Mayor's Orders and Mayor's Memoranda. Below you'll find a list of these ethics standards. The ones marked in blue are included in an Appendix to this Manual. You can find many of these standards online at http://oag.dc.gov/DC/OAG/Information+to+Help+You/Ethical+Standards+for+DC+Government+Workers/Ethics+Laws.

Applicable Federal Statutes

5 U.S.C. § 3110 (nepotism)
5 U.S.C. § 4111 (acceptance of training, travel reimbursement from non-profits)
5 U.S.C. §§ 5531-38 (dual pay – federal & District governments)
5 U.S.C. §§ 7321-26 (Hatch Act – political activities)
5 U.S.C. § 7342 (Foreign Gifts)
18 U.S.C. § 2 (aiding and abetting)
18 U.S.C. 201 (bribes, illegal gratuities)
18 U.S.C. 202 (definitions)
18 U.S.C. 203 (compensation for representation in claims against the government)
18 U.S.C. 205 (serving as agent / attorney in claims against the government)
18 U.S.C. 207(a), (j)(6) (post employment)
18 U.S.C. 208 (financial conflicts of interest)
18 U.S.C. 209 (post-employment)
18 U.S.C. 216 (civil & criminal penalties)
18 U.S.C. § 219 (foreign agents)
18 U.S.C. § 601 (deprivation of employment)
18 U.S.C. § 602 (solicitation of political contributions)
18 U.S.C. § 610 (coerced political activity)
18 U.S.C. § 1913 (lobbying)

Applicable Federal Regulations

5 CFR Part 734 (general Hatch Act regulations)
5 CFR Part 733 (Hatch Act regulations for residents of specially designated communities)

D.C. Code Provisions

1-319.01-.05 (Governmental Volunteers)
1-329 (Acceptance of gifts & donations)
1-603.01 (Definitions)
1-608.01 (nepotism in Career Service)
1-618 (Employee Conduct)
1-1001 (BOEE)

1-1103 (OCF)
1-1105 (Lobbying)
1-1106.01 (Conflicts of Interest)
1-1106.02 (Financial Disclosure)
1-1106.51 (Use of Government Resources for Campaigns)
1-1107 (Penalties)
1-1108.01 (Gifts & Honoraria: Mayor & Council)
2-354.01 (Government Contracts - influencing source selection)
2-354.16 (Government Contracts –contingent fees)

D.C. Municipal Regulations

Title 3, Chapter 2 – Ethical Conduct of BOEE Members & Employees
Title 3, Chapter 32 – OCF Financial Disclosures
Title 3, Chapter 33 – Conflicts of Interest
Title 3, Chapter 99 – Definitions
Title 6B, Chapter 18 – Employee Conduct
Title 6B, Chapter 35, Part I – Voluntary Services

Orders & Memoranda

Mayor's Order 1982-136a (Ethics Counselor)
Mayor's Order 2010-167 (Oct. 15, 2010) (donations)

Mayor's Memorandum 2003-06 (Outside Employment)
Mayor's Memorandum 2010-2 (Oct. 15, 2010) (donations)

OAG Administrative Memorandum 2006-1 (Fundraising in Office)
OAG Office Order 2006-27 (Outside Employment)

_____
Employee's Printed Name

Worksheet re: Outside Activities and Outside Employment

Many District employees engage in outside activities, including outside jobs. There are numerous ethics restrictions on outside activities and employment, and a detailed memorandum describes those restrictions.[32] This worksheet outlines the questions that District employees should answer in order to determine whether ethics standards permit a proposed outside activity. It also reiterates the rules that District employees must follow regarding their outside activities.

A. Questions regarding whether an outside activity is permitted

1. Specific prohibitions on outside activities

	Yes	No
Will you:		
• serve in a representative capacity or as an agent or attorney for any outside entity involving any matter before the District?[33]		
• act as an agent or attorney for anyone before the District government or a DC court regarding a particular matter?[34]		
• serve as officer or director of an outside entity where there is any likelihood that such entity might be involved in an official government action or decision taken or recommended by the employee?[35]		

[32] See Memorandum from Kathleen Clark, Restrictions on Employees' Outside Activities and Outside Employment, October 23, 2011.
[33] D.C. MUN. REGS. tit. 6, § 1804.1(h). (Hereinafter Title 6 of the D.C. Municipal Regulations will be referred to as D.C. Personnel Manual or DPM.)
[34] 18 USC § 205(b)(2); *see also* DPM § 1804.1(h) (prohibiting employees from "[s]erving in a representative capacity . . . for any outside entity involving any matter before the District"). This prohibition does not apply to an employee who is representing (without compensation) another employee in personnel administrative proceedings, 18 USC § 205(d)(1), DPM § 1804.8. It has more limited application to temporary or intermittent employees who qualify as "Special Government Employees." 18 USC § 205(c).

The D.C. Code has a provision specifically prohibiting the Mayor and Council Members from representing anyone before a District regulatory agency or court, D.C. Code 1-1106.01(h). This prohibition applies to a broader set of activities than 18 USC § 205 in that it applies not just to "particular matters," but also to discussions of policy, regulation-writing or rule-making. The D.C. Code provision contains an exception permitting Council Members (but not the Chair) who are licensed to practice law in the District to appear before a D.C. court "in any matter which does not affect his or her official position." *Id.*
[35] 1804.1(d).

	Yes	No
Will the proposed outside activity:		
• conflict with or "appear to conflict with the fair, impartial, and objective performance of officially assigned duties and responsibilities?"[36]		
• permit anyone to capitalize on your official title or position?[37]		
• impair the efficient operation of the District?[38]		
• interfere with your ability to perform your job?[39]		
• interfere with your regular working hours?[40]		
• impair your mental or physical capacity to carry out you duties?[41]		
Will the outside activity result in or create the appearance of:		
• Using public office for private gain?		
• Giving preferential treatment to any person?		
• Impeding government efficiency or economy?		
• Losing complete independence or impartiality?		
• Making a government decision outside official channels?		
• Affecting adversely the confidence of the public in the integrity of government?[42]		

If you answered **yes** to any of the questions above, you may **not** engage in the outside activity.

2. Restrictions on outside compensated activities

Will you receive any compensation or payment for the outside activity? If so, you should answer the following questions:

	Yes	No
Will you receive pay from 2 or more federal or District government positions for more than 40 hours in any work week?[43]		
Will you receive any gratuity or any share of or interest in any claim against the District in consideration of assistance in prosecuting such a claim?[44]		
Will you receive "any compensation for any representational services" regarding any "particular matter in which the District of Columbia is a party or has a direct and substantial interest, before any department, agency, court, officer, or commission?"[45]		
Will you receive compensation from a non-District source for your work for the District?[46]		

If you answered **yes** to any of these questions, you may **not** accept the compensation or payment.

[36] D.C. Code § 1-618.02; DPM § 1800.3.
[37] DPM § 1804.1(e).
[38] DPM § 1804.1(a).
[39] DPM § 1804.1(a).
[40] Mayor's Memorandum 2003-6. The Mayor's Memorandum also states that outside employment must not "present a conflict with the interests of the District government." *Id*. While the Mayor's Memo does not explain what would constitute such a conflict, this is best understood in reference to the other applicable conflict of interest standards found in federal and District statutes and in District regulations.
[41] DPM § 1804.1(g).
[42] DCMR § 1803.1(a).
[43] Mayor's Memorandum 2003-6.
[44] 18 USC § 205(b)(1).
[45] 18 USC § 203(b)(1).
[46] 18 USC § 209 (salary supplementation).

3. Restrictions on outside expressive activities

Does your proposed outside activity involve teaching, writing for publication, speaking, or consultative activities? If so, you should answer the following questions:

	Yes	No
Will you use nonpublic "official data or ideas?"		

If you answered **yes**, then you may use this information *only if* your "agency head gives written authorization for [such] use on the basis that its use is in the public interest."[47]

	Yes	No
Is the subject matter devoted substantially to:		
• your official duties or responsibilities?		
• information obtained from your government employment?		
• the responsibilities, programs, or operations of your agency?[48]		

If you answered **yes** to any of these questions, then you must not be paid for this expressive activity.

	Yes	No
Will you engage in this outside expressive activity *only* "outside of regular working hours, or while . . . on annual leave or leave without pay."[49]		

If you answered **no** to this question, you may *not* engage in this activity. (You may engage in outside expressive activity only "outside of regular working hours, or while . . . on annual leave or leave without pay.")

4. Requirement for prior approval by agency head

	Yes	No
Are you required to file a confidential financial disclosure (Form 35)?		

If you answered **yes**, you must obtain the *prior approval* of your agency head (or her designee) for any outside employment or business activity.[50] If your agency does not have a specific form for you to fill out, you may use the attached form, "Request for Approval of Outside Employment or Business Activity."

	Yes	No
Are you an attorney working in the Office of the Attorney General (OAG)?		

If you answered **yes**, you must obtain the prior *written* approval of the Attorney General for any outside employment, business or activity involving the provision of personal services, whether paid or unpaid.[51] You can use the attached OAG form, "Request to Engage in Outside Employment."

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[47] DPM § 1804.4 (exceptions where "nonpublic information . . . has been made available on request for use in such capacity" or "agency head gives written authorization for use on the basis that its use is in the public interest").
[48] DPM § 1804.5.
[49] DPM § 1804.3.
[50] DPM § 1813.17.
[51] AG Office Order No. 2006-27 at § II.B. The Attorney General will consider whether the outside employment is "consistent with the attorney's faithful performance of official responsibilities and the needs of OAG." *Id.*

B. Rules that District employees must follow regarding their outside activities

Even if your proposed outside activity is permitted, you will still need to follow the District's rules for outside activities.

1. You must not use government time or resources for other than official business;[52]
2. You must not order subordinate employees to perform any personal services not related to official District government work;[53]
3. You must not divulge any official government information to any unauthorized person or in advance of the time prescribed for its authorized issuance, or otherwise making use of or permitting others to make use of information not available to the general public;[54] or
4. If the outside activity involves serving as an officer, director, trustee, general partner or employee of another organization, then you must not participate personally and substantially (as part of your District work) in any particular matter in which that outside organization has a financial interest.[55]

[52] DPM § 1804.1(b) - with exception for work for other governments.
[53] DPM § 1804.1(c).
[54] DPM § 1804.1(f).
[55] *Id*.

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Appendix: Selected Ethics Standards

Federal Statutes

5 U.S.C. § 3110 (nepotism)
5 U.S.C. §§ 7321-26 (Hatch Act – political activities)
18 U.S.C. 201 (bribes, illegal gratuities)
18 U.S.C. 202 (definitions)
18 U.S.C. 203 (compensation for representation in claims against the government)
18 U.S.C. 205 (serving as agent / attorney in claims against the government)
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Federal Regulations

5 CFR Part 734 (general Hatch Act regulations)

D.C. Code Provisions

1-618 (Employee Conduct)
1-1106.01 (Conflicts of Interest)
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2-354.01 (Government Contracts - influencing source selection)
2-354.16 (Government Contracts –contingent fees)

D.C. Municipal Regulations

Title 3, Chapter 32 – OCF Financial Disclosures
Title 6B, Chapter 18 – Employee Conduct
Title 6B, Chapter 35, Part I – Voluntary Services

Orders & Memoranda

Mayor's Order 1982-136 (Ethics Counselor)
Mayor's Order 2010-167 (Oct. 15, 2010) (donations)

Mayor's Memorandum 2003-06 (Outside Employment)
Mayor's Memorandum 2010-2 (Oct. 15, 2010) (donations)

OAG Administrative Memorandum 2006-1 (Fundraising in Office)
OAG Office Order 2006-27 (Outside Employment)

5 U.S.C. § 3110

§ 3110. Employment of relatives; restrictions

(a) For the purpose of this section--
(1) "agency" means--
(A) an Executive agency;
(B) an office, agency, or other establishment in the legislative branch;
(C) an office, agency, or other establishment in the judicial branch; and
(D) the government of the District of Columbia;
(2) "public official" means an officer (including the President and a Member of Congress), a member of the uniformed service, an employee and any other individual, in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals, or to recommend individuals for appointment, employment, promotion, or advancement, in connection with employment in an agency; and
(3) "relative" means, with respect to a public official, an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(b) A public official may not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position in the agency in which he is serving or over which he exercises jurisdiction or control any individual who is a relative of the public official. An individual may not be appointed, employed, promoted, or advanced in or to a civilian position in an agency if such appointment, employment, promotion, or advancement has been advocated by a public official, serving in or exercising jurisdiction or control over the agency, who is a relative of the individual.

(c) An individual appointed, employed, promoted, or advanced in violation of this section is not entitled to pay, and money may not be paid from the Treasury as pay to an individual so appointed, employed, promoted, or advanced.

(d) The Office of Personnel Management may prescribe regulations authorizing the temporary employment, in the event of emergencies resulting from natural disasters or similar unforeseen events or circumstances, of individuals whose employment would otherwise be prohibited by this section.

(e) This section shall not be construed to prohibit the appointment of an individual who is a preference eligible in any case in which the passing over of that individual on a certificate of eligibles furnished under section 3317(a) of this title [5 USC § 3317(a)] will result in the selection for appointment of an individual who is not a preference eligible.

5 U.S.C.A. § 7321

§ 7321. Political participation

It is the policy of the Congress that employees should be encouraged to exercise fully, freely, and without fear of penalty or reprisal, and to the extent not expressly prohibited by law, their right to participate or to refrain from participating in the political processes of the Nation.

5 U.S.C.A. § 7322

§ 7322. Definitions

For the purpose of this subchapter--

(1) "employee" means any individual, other than the President and the Vice President, employed or holding office in--

(A) an Executive agency other than the Government Accountability Office;

(B) a position within the competitive service which is not in an Executive agency; or

(C) the government of the District of Columbia, other than the Mayor or a member of the City Council or the Recorder of Deeds;

but does not include a member of the uniformed services;

2) "partisan political office" means any office for which any candidate is nominated or elected as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected, but shall exclude any office or position within a political party or affiliated organization; and

(3) "political contribution"--

(A) means any gift, subscription, loan, advance, or deposit of money or anything of value, made for any political purpose;

(B) includes any contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any political purpose;

(C) includes any payment by any person, other than a candidate or a political party or affiliated organization, of compensation for the personal services of another person which are rendered to any candidate or political party or affiliated organization without charge for any political purpose; and

3) "political contribution"--

(A) means any gift, subscription, loan, advance, or deposit of money or anything of value, made for any political purpose;

(B) includes any contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any political purpose;

(C) includes any payment by any person, other than a candidate or a political party or affiliated organization, of compensation for the personal services of another person which are rendered to any candidate or political party or affiliated organization without charge for any political purpose; and

(D) includes the provision of personal services for any political purpose.

5 U.S.C.A. § 7323

§ 7323. Political activity authorized; prohibitions

(a) Subject to the provisions of subsection (b), an employee may take an active part in political management or in political campaigns, except an employee may not--

(1) use his official authority or influence for the purpose of interfering with or affecting the result of an election;

(2) knowingly solicit, accept, or receive a political contribution from any person, unless such person is--

(A) a member of the same Federal labor organization as defined under section 7103(4) of this title or a Federal employee organization which as of the date of enactment of the Hatch Act Reform Amendments of 1993 had a multicandidate political committee (as defined under section 315(a)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(4)));

(B) not a subordinate employee; and

(C) the solicitation is for a contribution to the multicandidate political committee (as defined under section 315(a)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(4))) of such Federal labor organization as defined under section 7103(4) of this title or a Federal employee organization which as of the date of the enactment of the Hatch Act Reform Amendments of 1993 had a multicandidate political committee (as defined under section 315(a)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(4))); or

(3) run for the nomination or as a candidate for election to a partisan political office; or

(4) knowingly solicit or discourage the participation in any political activity of any person who--

(A) has an application for any compensation, grant, contract, ruling, license, permit, or certificate pending before the employing office of such employee; or

(B) is the subject of or a participant in an ongoing audit, investigation, or enforcement action being carried out by the employing office of such employee.

(b)(1) An employee of the Federal Election Commission (except one appointed by the President, by and with the advice and consent of the Senate), may not request or receive from, or give to, an employee, a Member of Congress, or an officer of a uniformed service a political contribution.

(2)(A) No employee described under subparagraph (B) (except one appointed by the President, by and with the advice and consent of the Senate), may take an active part in political management or political campaigns.

(B) The provisions of subparagraph (A) shall apply to--

(i) an employee of--

(I) the Federal Election Commission or the Election Assistance Commission;

(II) the Federal Bureau of Investigation;

(III) the Secret Service;

(IV) the Central Intelligence Agency;

(V) the National Security Council;

(VI) the National Security Agency;

(VII) the Defense Intelligence Agency;

(VIII) the Merit Systems Protection Board;

(IX) the Office of Special Counsel;

(X) the Office of Criminal Investigation of the Internal Revenue Service;

(XI) the Office of Investigative Programs of the United States Customs Service;

(XII) the Office of Law Enforcement of the Bureau of Alcohol, Tobacco, and Firearms;

(XIII) the National Geospatial-Intelligence Agency; or[1]

(XIV) the Office of the Director of National Intelligence; or

(ii) a person employed in a position described under section 3132(a)(4), 5372, 5372a, or 5372b of title 5, United States Code.

(3) No employee of the Criminal Division or National Security Division of the Department of Justice (except one appointed by the President, by and with the advice and consent of the Senate), may take an active part in political management or political campaigns.

(4) For purposes of this subsection, the term "active part in political management or in a political campaign" means those acts of political management or political campaigning which were prohibited for employees of the competitive service before July 19, 1940, by determinations of the Civil Service Commission under the rules prescribed by the President.

(c) An employee retains the right to vote as he chooses and to express his opinion on political subjects and candidates.

5 U.S.C.A. § 7324

§ 7324. Political activities on duty; prohibition

(a) An employee may not engage in political activity--

(1) while the employee is on duty;

(2) in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency or instrumentality thereof;

(3) while wearing a uniform or official insignia identifying the office or position of the employee; or

(4) using any vehicle owned or leased by the Government of the United States or any agency or instrumentality thereof.

(b)(1) An employee described in paragraph (2) of this subsection may engage in political activity otherwise prohibited by subsection (a) if the costs associated with that political activity are not paid for by money derived from the Treasury of the United States.

(2) Paragraph (1) applies to an employee--

(A) the duties and responsibilities of whose position continue outside normal duty hours and while away from the normal duty post; and

(B) who is--

(i) an employee paid from an appropriation for the Executive Office of the President; or

(ii) an employee appointed by the President, by and with the advice and consent of the Senate, whose position is located within the United States, who determines policies to be pursued by the United States in relations with foreign powers or in the nationwide administration of Federal laws.

5 U.S.C.A. § 7325

§ 7325. Political activity permitted; employees residing in certain municipalities

The Office of Personnel Management may prescribe regulations permitting employees, without regard to the prohibitions in paragraphs (2) and (3) of section 7323(a) and paragraph (2) of section 7323(b) of this title, to take an active part in political management and political campaigns involving the municipality or other political subdivision in which they reside, to the extent the Office considers it to be in their domestic interest, when--

(1) the municipality or political subdivision is in Maryland or Virginia and in the immediate vicinity of the District of Columbia, or is a municipality in which the majority of voters are employed by the Government of the United States; and

(2) the Office determines that because of special or unusual circumstances which exist in the municipality or political subdivision it is in the domestic interest of the employees and individuals to permit that political participation.

5 U.S.C.A. § 7326

§ 7326. Penalties

An employee or individual who violates section 7323 or 7324 of this title shall be removed from his position, and funds appropriated for the position from which removed thereafter may not be used to pay the employee or individual. However, if the Merit System Protection Board finds by unanimous vote that the violation does not warrant removal, a penalty of not less than 30 days' suspension without pay shall be imposed by direction of the Board.

18 U.S.C.A. § 201

§ 201. Bribery of public officials and witnesses

(a) For the purpose of this section--

(1) the term "public official" means Member of Congress, Delegate, or Resident Commissioner, either before or after such official has qualified, or an officer or employee or person acting for or on behalf of the United States, or any department, agency or branch of Government thereof, including the District of Columbia, in any official function, under or by authority of any such department, agency, or branch of Government, or a juror;

(2) the term "person who has been selected to be a public official" means any person who has been nominated or appointed to be a public official, or has been officially informed that such person will be so nominated or appointed; and

(3) the term "official act" means any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in such official's official capacity, or in such official's place of trust or profit.

(b) Whoever--

(1) directly or indirectly, corruptly gives, offers or promises anything of value to any public official or person who has been selected to be a public official, or offers or promises any public official or any person who has been selected to be a public official to give anything of value to any other person or entity, with intent--

(A) to influence any official act; or

(B) to influence such public official or person who has been selected to be a public official to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

(C) to induce such public official or such person who has been selected to be a public official to do or omit to do any act in violation of the lawful duty of such official or person;

(2) being a public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for:

(A) being influenced in the performance of any official act;

(B) being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

(C) being induced to do or omit to do any act in violation of the official duty of such official or person;

(3) directly or indirectly, corruptly gives, offers, or promises anything of value to any person, or offers or promises such person to give anything of value to any other person or entity, with intent to influence the testimony under oath or affirmation of such first-mentioned person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or with intent to influence such person to absent himself therefrom;

(4) directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for being influenced in testimony under oath or affirmation as a witness upon any such trial, hearing, or other proceeding, or in return for absenting himself therefrom;

shall be fined under this title or not more than three times the monetary equivalent of the thing of value, whichever is greater, or imprisoned for not more than fifteen years, or both, and may be disqualified from holding any office of honor, trust, or profit under the United States.

(c) Whoever--

(1) otherwise than as provided by law for the proper discharge of official duty--

(A) directly or indirectly gives, offers, or promises anything of value to any public official, former public official, or person selected to be a public official, for or because of any official act performed or to be performed by such public official, former public official, or person selected to be a public official; or

(B) being a public official, former public official, or person selected to be a public official, otherwise than as provided by law for the proper discharge of official duty, directly or indirectly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of any official act performed or to be performed by such official or person;

(2) directly or indirectly, gives, offers, or promises anything of value to any person, for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon a trial, hearing, or other proceeding, before any court, any committee of either House or both Houses of Congress, or any agency, commission, or officer authorized by the laws of the United States to hear evidence or take testimony, or for or because of such person's absence therefrom;

(3) directly or indirectly, demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of the testimony under oath or affirmation given or to be given by such person as a witness upon any such trial, hearing, or other proceeding, or for or because of such person's absence therefrom;

shall be fined under this title or imprisoned for not more than two years, or both.

(d) Paragraphs (3) and (4) of subsection (b) and paragraphs (2) and (3) of subsection (c) shall not be construed to prohibit the payment or receipt of witness fees provided by law, or the payment, by the party upon whose behalf a witness is called and receipt by a witness, of the reasonable cost of travel

and subsistence incurred and the reasonable value of time lost in attendance at any such trial, hearing, or proceeding, or in the case of expert witnesses, a reasonable fee for time spent in the preparation of such opinion, and in appearing and testifying.

(e) The offenses and penalties prescribed in this section are separate from and in addition to those prescribed in sections 1503, 1504, and 1505 of this title.

(a) For the purpose of sections 203, 205, 207, 208, and 209 of this title the term "special Government employee" shall mean an officer or employee of the executive or legislative branch of the United States Government, of any independent agency of the United States or of the District of Columbia, who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis, a part-time United States commissioner, a part-time United States magistrate judge, or, regardless of the number of days of appointment, an independent counsel appointed under chapter 40 of title 28 and any person appointed by that independent counsel under section 594(c) of title 28. Notwithstanding the next preceding sentence, every person serving as a part-time local representative of a Member of Congress in the Member's home district or State shall be classified as a special Government employee. Notwithstanding section 29(c) and (d) of the Act of August 10, 1956 (70A Stat. 632; 5 U.S.C. 30r(c) and (d)), a Reserve officer of the Armed Forces, or an officer of the National Guard of the United States, unless otherwise an officer or employee of the United States, shall be classified as a special Government employee while on active duty solely for training. A Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is voluntarily serving a period of extended active duty in excess of one hundred and thirty days shall be classified as an officer of the United States within the meaning of section 203 and sections 205 through 209 and 218. A Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is serving involuntarily shall be classified as a special Government employee. The terms "officer or employee" and "special Government employee" as used in sections 203, 205, 207 through 209, and 218, shall not include enlisted members of the Armed Forces.

(b) For the purposes of sections 205 and 207 of this title, the term "official responsibility" means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action.

(c) Except as otherwise provided in such sections, the terms "officer" and "employee" in sections 203, 205, 207 through 209, and 218 of this title shall not include the President, the Vice President, a Member of Congress, or a Federal judge.

(d) The term "Member of Congress" in sections 204 and 207 means--

(1) a United States Senator; and

(2) a Representative in, or a Delegate or Resident Commissioner to, the House of Representatives.

(e) As used in this chapter, the term--

(1) "executive branch" includes each executive agency as defined in title 5, and any other entity or administrative unit in the executive branch;

(2) "judicial branch" means the Supreme Court of the United States; the United States courts of appeals; the United States district courts; the Court of International Trade; the United States bankruptcy courts; any court created pursuant to article I of the United States Constitution, including the Court of Appeals for the Armed Forces, the United

States Court of Federal Claims, and the United States Tax Court, but not including a court of a territory or possession of the United States; the Federal Judicial Center; and any other agency, office, or entity in the judicial branch; and

(3) "legislative branch" means--

(A) the Congress; and

(B) the Office of the Architect of the Capitol, the United States Botanic Garden, the Government Accountability Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Congressional Budget Office, the United States Capitol Police, and any other agency, entity, office, or commission established in the legislative branch.

18 U.S.C.A. § 203

§ 203. Compensation to Members of Congress, officers, and others in matters affecting the Government

(a) Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly--

(1) demands, seeks, receives, accepts, or agrees to receive or accept any compensation for any representational services, as agent or attorney or otherwise, rendered or to be rendered either personally or by another--

(A) at a time when such person is a Member of Congress, Member of Congress Elect, Delegate, Delegate Elect, Resident Commissioner, or Resident Commissioner Elect; or

(B) at a time when such person is an officer or employee or Federal judge of the United States in the executive, legislative, or judicial branch of the Government, or in any agency of the United States,

in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest, before any department, agency, court, court-martial, officer, or any civil, military, or naval commission; or

(2) knowingly gives, promises, or offers any compensation for any such representational services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was such a Member, Member Elect, Delegate, Delegate Elect, Commissioner, Commissioner Elect, Federal judge, officer, or employee;

shall be subject to the penalties set forth in section 216 of this title.

(b) Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly--

(1) demands, seeks, receives, accepts, or agrees to receive or accept any compensation for any representational services, as agent or attorney or otherwise, rendered or to be rendered either personally or by another, at a time when such person is an officer or employee of the District of Columbia, in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the District of Columbia is a party or has a direct and substantial interest, before any department, agency, court, officer, or commission; or

(2) knowingly gives, promises, or offers any compensation for any such representational services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was an officer or employee of the District of Columbia;

shall be subject to the penalties set forth in section 216 of this title.

(c) A special Government employee shall be subject to subsections (a) and (b) only in relation to a particular matter involving a specific party or parties--

(1) in which such employee has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise; or

(2) which is pending in the department or agency of the Government in which such employee is serving except that paragraph (2) of this subsection shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

(d) Nothing in this section prevents an officer or employee, including a special Government employee, from acting, with or without compensation, as agent or attorney for or otherwise representing his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except--

(1) in those matters in which he has participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise; or

(2) in those matters that are the subject of his official responsibility,

subject to approval by the Government official responsible for appointment to his position.

(e) Nothing in this section prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States if the head of the department or agency concerned with the grant or contract certifies in writing that the national interest so requires and publishes such certification in the Federal Register.

(f) Nothing in this section prevents an individual from giving testimony under oath or from making statements required to be made under penalty of perjury.

18 U.S.C.A. § 205

§ 205. Activities of officers and employees in claims against and other matters affecting the Government

(a) Whoever, being an officer or employee of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, other than in the proper discharge of his official duties--

(1) acts as agent or attorney for prosecuting any claim against the United States, or receives any gratuity, or any share of or interest in any such claim, in consideration of assistance in the prosecution of such claim; or

(2) acts as agent or attorney for anyone before any department, agency, court, court-martial, officer, or civil, military, or naval commission in connection with any covered matter in which the United States is a party or has a direct and substantial interest;

shall be subject to the penalties set forth in section 216 of this title.

(b) Whoever, being an officer or employee of the District of Columbia or an officer or employee of the Office of the United States Attorney for the District of Columbia, otherwise than in the proper discharge of official duties--

(1) acts as agent or attorney for prosecuting any claim against the District of Columbia, or receives any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claim; or

(2) acts as agent or attorney for anyone before any department, agency, court, officer, or commission in connection with any covered matter in which the District of Columbia is a party or has a direct and substantial interest;

shall be subject to the penalties set forth in section 216 of this title.

(c) A special Government employee shall be subject to subsections (a) and (b) only in relation to a covered matter involving a specific party or parties--

(1) in which he has at any time participated personally and substantially as a Government employee or special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise; or

(2) which is pending in the department or agency of the Government in which he is serving.

Paragraph (2) shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

(d)(1) Nothing in subsection (a) or (b) prevents an officer or employee, if not inconsistent with the faithful performance of that officer's or employee's duties, from acting without compensation as agent or attorney for, or otherwise representing--

(A) any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings; or

(B) except as provided in paragraph (2), any cooperative, voluntary, professional, recreational, or similar organization or group not established or operated for profit, if a majority of the organization's or group's members are current officers or employees of the United States or of the District of Columbia, or their spouses or dependent children.

(2) Paragraph (1)(B) does not apply with respect to a covered matter that--

(A) is a claim under subsection (a)(1) or (b)(1);

(B) is a judicial or administrative proceeding where the organization or group is a party; or

(C) involves a grant, contract, or other agreement (including a request for any such grant, contract, or agreement) providing for the disbursement of Federal funds to the organization or group.

(e) Nothing in subsection (a) or (b) prevents an officer or employee, including a special Government employee, from acting, with or without compensation, as agent or attorney for, or otherwise representing, his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except--

(1) in those matters in which he has participated personally and substantially as a Government employee or special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or

(2) in those matters which are the subject of his official responsibility,

subject to approval by the Government official responsible for appointment to his position.

(f) Nothing in subsection (a) or (b) prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States if the head of the department or agency concerned with the grant or contract certifies in writing that the national interest so requires and publishes such certification in the Federal Register.

(g) Nothing in this section prevents an officer or employee from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.

(h) For the purpose of this section, the term "covered matter" means any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter.

(i) Nothing in this section prevents an employee from acting pursuant to--

(1) chapter 71 of title 5;

(2) section 1004 or chapter 12 of title 39;

(3) section 3 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831b);

(4) chapter 10 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4104 et seq.); or

(5) any provision of any other Federal or District of Columbia law that authorizes labor-management relations between an agency or instrumentality of the United States or the District of Columbia and any labor organization that represents its employees.

18 U.S.C.A. § 207

§ 207. Restrictions on former officers, employees, and elected officials of the executive and legislative branches

(a) Restrictions on all officers and employees of the executive branch and certain other agencies.--

(1) Permanent restrictions on representation on particular matters.--Any person who is an officer or employee (including any special Government employee) of the executive branch of the United States (including any independent agency of the United States), or of the District of Columbia, and who, after the termination of his or her service or employment with the United States or the District of Columbia, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, on behalf of any other person (except the United States or the District of Columbia) in connection with a particular matter--

(A) in which the United States or the District of Columbia is a party or has a direct and substantial interest,

(B) in which the person participated personally and substantially as such officer or employee, and

(C) which involved a specific party or specific parties at the time of such participation,

shall be punished as provided in section 216 of this title.

(2) Two-year restrictions concerning particular matters under official responsibility.--Any person subject to the restrictions contained in paragraph (1) who, within 2 years after the termination of his or her service or employment with the United States or the District of Columbia, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, on behalf of any other person (except the United States or the District of Columbia), in connection with a particular matter--

(A) in which the United States or the District of Columbia is a party or has a direct and substantial interest,

(B) which such person knows or reasonably should know was actually pending under his or her official responsibility as such officer or employee within a period of 1 year before the termination of his or her service or employment with the United States or the District of Columbia, and

(C) which involved a specific party or specific parties at the time it was so pending,

shall be punished as provided in section 216 of this title.

(3) Clarification of restrictions.--The restrictions contained in paragraphs (1) and (2) shall apply--

(A) in the case of an officer or employee of the executive branch of the United States (including any independent agency), only with respect to communications to or appearances before any officer or employee of any department, agency, court, or court-martial of the United States on behalf of any other person (except the United States), and only with respect to a matter in which the United States is a party or has a direct and substantial interest; and

(B) in the case of an officer or employee of the District of Columbia, only with respect to communications to or appearances before any officer or employee of any department, agency, or court of the District of Columbia on behalf

of any other person (except the District of Columbia), and only with respect to a matter in which the District of Columbia is a party or has a direct and substantial interest.

(j) Exceptions.--

(1) Official government duties.--

(A) In general.--The restrictions contained in this section shall not apply to acts done in carrying out official duties on behalf of the United States or the District of Columbia or as an elected official of a State or local government.

(B) Tribal organizations and inter-tribal consortiums.--The restrictions contained in this section shall not apply to acts authorized by section 104(j) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450i(j)).

(2) State and local governments and institutions, hospitals, and organizations.--The restrictions contained in subsections (c), (d), and (e) shall not apply to acts done in carrying out official duties as an employee of--

(A) an agency or instrumentality of a State or local government if the appearance, communication, or representation is on behalf of such government, or

(B) an accredited, degree-granting institution of higher education, as defined in section 101 of the Higher Education Act of 1965, or a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1986, if the appearance, communication, or representation is on behalf of such institution, hospital, or organization.

(3) International organizations.--The restrictions contained in this section shall not apply to an appearance or communication on behalf of, or advice or aid to, an international organization in which the United States participates, if the Secretary of State certifies in advance that such activity is in the interests of the United States.

(4) Special knowledge.--The restrictions contained in subsections (c), (d), and (e) shall not prevent an individual from making or providing a statement, which is based on the individual's own special knowledge in the particular area that is the subject of the statement, if no compensation is thereby received.

(5) Exception for scientific or technological information.--The restrictions contained in subsections (a), (c), and (d) shall not apply with respect to the making of communications solely for the purpose of furnishing scientific or technological information, if such communications are made under procedures acceptable to the department or agency concerned or if the head of the department or agency concerned with the particular matter, in consultation with the Director of the Office of Government Ethics, makes a certification, published in the Federal Register, that the former officer or employee has outstanding qualifications in a scientific, technological, or other technical discipline, and is acting with respect to a particular matter which requires such qualifications, and that the national interest would be served by the participation of the former officer or employee. For purposes of this paragraph, the term "officer or employee" includes the Vice President.

(6) Exception for testimony.--Nothing in this section shall prevent an individual from giving testimony under oath, or from making statements required to be made under penalty of perjury. Notwithstanding the preceding sentence--

(A) a former officer or employee of the executive branch of the United States (including any independent agency) who is subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except pursuant to court order, serve as an expert witness for any other person (except the United States) in that matter; and **(B)** a former officer or employee of the District of Columbia who is subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except pursuant to court order, serve as an expert witness for any other person (except the District of Columbia) in that matter.

18 U.S.C.A. § 208

§ 208. Acts affecting a personal financial interest

(a) Except as permitted by subsection (b) hereof, whoever, being an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States, a Federal Reserve bank director, officer, or employee, or an officer or employee of the District of Columbia, including a special Government employee, participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest--

Shall be subject to the penalties set forth in section 216 of this title.

(b) Subsection (a) shall not apply--

(1) if the officer or employee first advises the Government official responsible for appointment to his or her position of the nature and circumstances of the judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee;

(2) if, by regulation issued by the Director of the Office of Government Ethics, applicable to all or a portion of all officers and employees covered by this section, and published in the Federal Register, the financial interest has been exempted from the requirements of subsection (a) as being too remote or too inconsequential to affect the integrity of the services of the Government officers or employees to which such regulation applies;

(3) in the case of a special Government employee serving on an advisory committee within the meaning of the Federal Advisory Committee Act (including an individual being considered for an appointment to such a position), the official responsible for the employee's appointment, after review of the financial disclosure report filed by the individual pursuant to the Ethics in Government Act of 1978, certifies in writing that the need for the individual's services outweighs the potential for a conflict of interest created by the financial interest involved; or

(4) if the financial interest that would be affected by the particular matter involved is that resulting solely from the interest of the officer or employee, or his or her spouse or minor child, in birthrights--

(A) in an Indian tribe, band, nation, or other organized group or community, including any Alaska Native village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians,

(B) in an Indian allotment the title to which is held in trust by the United States or which is inalienable by the allottee without the consent of the United States, or

(C) in an Indian claims fund held in trust or administered by the United States,

if the particular matter does not involve the Indian allotment or claims fund or the Indian tribe, band, nation, organized group or community, or Alaska Native village corporation as a specific party or parties.

(c)(1) For the purpose of paragraph (1) of subsection (b), in the case of class A and B directors of Federal Reserve banks, the Board of Governors of the Federal Reserve System shall be deemed to be the Government official responsible for appointment.

(2) The potential availability of an exemption under any particular paragraph of subsection (b) does not preclude an exemption being granted pursuant to another paragraph of subsection (b).

(d)(1) Upon request, a copy of any determination granting an exemption under subsection (b)(1) or (b)(3) shall be made available to the public by the agency granting the exemption pursuant to the procedures set forth in section 105 of the Ethics in Government Act of 1978. In making such determination available, the agency may withhold from disclosure any information contained in the determination that would be exempt from disclosure under section 552 of title 5. For purposes of determinations under subsection (b)(3), the information describing each financial interest shall be no more extensive than that required of the individual in his or her financial disclosure report under the Ethics in Government Act of 1978.

(2) The Office of Government Ethics, after consultation with the Attorney General, shall issue uniform regulations for the issuance of waivers and exemptions under subsection (b) which shall--

(A) list and describe exemptions; and

(B) provide guidance with respect to the types of interests that are not so substantial as to be deemed likely to affect the integrity of the services the Government may expect from the employee.

18 U.S.C.A. § 209

§ 209. Salary of Government officials and employees payable only by United States

(a) Whoever receives any salary, or any contribution to or supplementation of salary, as compensation for his services as an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality; or

Whoever, whether an individual, partnership, association, corporation, or other organization pays, makes any contribution to, or in any way supplements, the salary of any such officer or employee under circumstances which would make its receipt a violation of this subsection--

Shall be subject to the penalties set forth in section 216 of this title.

(b) Nothing herein prevents an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States, or of the District of Columbia, from continuing to participate in a bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer.

(c) This section does not apply to a special Government employee or to an officer or employee of the Government serving without compensation, whether or not he is a special Government employee, or to any person paying, contributing to, or supplementing his salary as such.

(d) This section does not prohibit payment or acceptance of contributions, awards, or other expenses under the terms of chapter 41 of title 5.

(e) This section does not prohibit the payment of actual relocation expenses incident to participation, or the acceptance of same by a participant in an executive exchange or fellowship program in an executive agency: *Provided*, That such program has been established by statute or Executive order of the President, offers appointments not to exceed three hundred and sixty-five days, and permits no extensions in excess of ninety additional days or, in the case of participants in overseas assignments, in excess of three hundred and sixty-five days.

(f) This section does not prohibit acceptance or receipt, by any officer or employee injured during the commission of an offense described in section 351 or 1751 of this title, of contributions or payments from an organization which is described in section 501(c) (3) of the Internal Revenue Code of 1986 and which is exempt from taxation under section 501(a) of such Code.

(g)(1) This section does not prohibit an employee of a private sector organization, while assigned to an agency under chapter 37 of title 5, from continuing to receive pay and benefits from such organization in accordance with such chapter.

(2) For purposes of this subsection, the term "agency" means an agency (as defined by section 3701 of title 5) and the Office of the Chief Technology Officer of the District of Columbia.

(h) This section does not prohibit a member of the reserve components of the armed forces on active duty pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13) of title 10 from receiving from

any person that employed such member before the call or order to active duty any payment of any part of the salary or wages that such person would have paid the member if the member's employment had not been interrupted by such call or order to active duty.

18 U.S.C.A. § 216

§ 216. Penalties and injunctions

(a) The punishment for an offense under section 203, 204, 205, 207, 208, or 209 of this title is the following:

(1) Whoever engages in the conduct constituting the offense shall be imprisoned for not more than one year or fined in the amount set forth in this title, or both.

(2) Whoever willfully engages in the conduct constituting the offense shall be imprisoned for not more than five years or fined in the amount set forth in this title, or both.

(b) The Attorney General may bring a civil action in the appropriate United States district court against any person who engages in conduct constituting an offense under section 203, 204, 205, 207, 208, or 209 of this title and, upon proof of such conduct by a preponderance of the evidence, such person shall be subject to a civil penalty of not more than $50,000 for each violation or the amount of compensation which the person received or offered for the prohibited conduct, whichever amount is greater. The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

(c) If the Attorney General has reason to believe that a person is engaging in conduct constituting an offense under section 203, 204, 205, 207, 208, or 209 of this title, the Attorney General may petition an appropriate United States district court for an order prohibiting that person from engaging in such conduct. The court may issue an order prohibiting that person from engaging in such conduct if the court finds that the conduct constitutes such an offense. The filing of a petition under this section does not preclude any other remedy which is available by law to the United States or any other person.

5 C.F.R. § 734.101

§ 734.101 Definitions.

For the purposes of this part:

Accept means to come into possession of something from a person officially on behalf of a candidate, a campaign, a political party, or a partisan political group, but does not include ministerial activities which precede or follow this official act.

Candidate means an individual who seeks nomination or election to any elective office whether or not the person is elected. An individual is deemed to be a candidate if the individual has received political contributions or made expenditures or has consented to another person receiving contributions or making expenditures with a view to bringing about the individual's nomination or election.

Campaign means all acts done by a candidate and his or her adherents to obtain a majority or plurality of the votes to be cast toward a nomination or in an election.

Election includes a primary, special, runoff, or general election.

Employee means any individual (other than the President, Vice President, or a member of the uniformed services) employed or holding office in--

(1) An Executive agency other than the General Accounting Office;

(2) A position within the competitive service which is not in an Executive agency;

(3) The Government of the District of Columbia, other than the Mayor or a member of the City Council or the Recorder of Deeds; or

(4) The United States Postal Service or the Postal Rate Commission.

Employing office shall have the meaning given by the head of each agency or instrumentality of the United States Government or District of Columbia Government covered by this part. Each agency or instrumentality shall provide notice identifying the appropriate employing offices within it through internal agency notice procedures.

Federal employee organization means any lawful nonprofit organization, association, society, or club composed of Federal employees.

Federal labor organization means an organization defined in 5 U.S.C. 7103(a)(4).

Multicandidate political committee means an organization defined in 2 U.S.C. 441a(a)(4).

Nonpartisan election means--

(1) An election in which none of the candidates is to be nominated or elected as representing a political party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected; or

(2) An election involving a question or issue which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance, or any question or issue of a similar character.

Occasional means occurring infrequently, at irregular intervals, and according to no fixed or certain scheme; acting or serving for the occasion or only on particular occasions.

Office means the U.S. Office of Personnel Management.

On Duty means the time period when an employee is:

(1) In a pay status other than paid leave, compensatory time off, credit hours, time off as an incentive award, or excused or authorized absence (including leave without pay); or

(2) Representing any agency or instrumentality of the United States Government or any agency or instrumentality of the District of Columbia Government in an official capacity.

Partisan when used as an adjective means related to a political party.

Partisan political group means any committee, club, or other organization which is affiliated with a political party or candidate for public office in a partisan election, or organized for a partisan purpose, or which engages in partisan political activity.

Partisan political office means any office for which any candidate is nominated or elected as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected, but does not include any office or position within a political party or affiliated organization.

Person means an individual; a State, local, or foreign government; or a corporation and subsidiaries it controls, company, association, firm, partnership, society, joint stock company, or any other organization or institution, including any officer, employee, or agent of such person or entity.

Political Action Committee means any committee, association, or organization (whether or not incorporated) which accepts contributions or makes expenditures for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals to Federal, State, or local elective public office.

Political activity means an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.

Political contribution means any gift, subscription, loan, advance, or deposit of money or anything of value, made for any political purpose.

(a) A political contribution includes:

(1) Any contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any political purpose;

(2) Any payment by any person, other than a candidate or a political party or affiliated organization, of compensation for the personal services of another person which are rendered to any candidate or political party or affiliated organization without charge for any political purpose; and

(3) The provision of personal services, paid or unpaid, for any political purpose.

(b) A political contribution does not include the value of services provided without compensation by any individual who volunteers on behalf of any candidate, campaign, political party, or partisan political group.

Political management means the direction or supervision of a partisan political group or campaign for partisan political office.

Political party means a national political party, a State political party, or an affiliated organization.

Political purpose means an objective of promoting or opposing a political party, candidate for partisan political office, or partisan political group.

Receive means to come into possession of something from a person officially on behalf of a candidate, a campaign, a political party, or a partisan political group, but does not include ministerial activities which precede or follow this official act.

Recurrent means occurring frequently, or periodically on a regular basis.

Room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency thereof includes, but is not limited to:

(1) Any Federally owned space (including, but not limited to, "public buildings" as defined in 40 U.S.C. 612(1)) or Federally leased space in which Federal employees perform official duties on a regular basis;

(2) Public areas as defined in 40 U.S.C. 490(a)(17) and 41 CFR 101–20.003 of buildings under the custody and control of the General Services Administration.

(3) A room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency thereof does not include rooms in the White House, or in the residence of the Vice President, which are part of the Residence area or which are not regularly used solely in the discharge of official duties.

Solicit means to request expressly of another person that he or she contribute something to a candidate, a campaign, a political party, or partisan political group.

Subordinate refers to the relationship between two employees when one employee is under the supervisory authority, control or administrative direction of the other employee.

Uniformed services means uniformed services as defined in 5 U.S.C. 2101(3).

5 C.F.R. § 734.102

(a) The United States Office of Special Counsel has exclusive authority to investigate allegations of political activity prohibited by the Hatch Act Reform Amendments of 1993, as implemented by 5 CFR part 734, prosecute alleged violations before the United States Merit Systems Protection Board, and render advisory opinions concerning the applicability of 5 CFR part 734 to the political activity of Federal employees and employees of the District of Columbia government. (5 U.S.C. 1212 and 1216. Advice concerning the Hatch Act Reform Amendments may be requested from the Office of Special Counsel:

(1) By letter addressed to the Office of Special Counsel at 1730 M Street NW., Suite 300, Washington, DC 20036, or

(2) By telephone on (202) 653–7188, or (1–800) 854–2824.

(b) The Merit Systems Protection Board has exclusive authority to determine whether a violation of the Hatch Act Reform Amendments of 1993, as implemented by 5 CFR part 734, has occurred and to impose a minimum penalty of suspension for 30 days and a maximum penalty of removal for violation of the political activity restrictions regulated by this part. (5 U.S.C. 1204 and 7326).

(c) The Office of Personnel Management is authorized to issue regulations describing the political activities which are permitted and prohibited under the Hatch Act Reform Amendments of 1993. (5 U.S.C. 1103, 1104, 7325; Reorganization Plan No. 2 of 1978, 92 Stat. 3783, 3 CFR 1978 Comp. p. 323; and E.O. 12107, 3 CFR 1978 Comp. p. 264.)

5 C.F.R. § 734.103

§ 734.103 Multicandidate political committees of Federal labor organizations and Federal employee organizations.

(a) In order to qualify under this part, each multicandidate political committee of a Federal labor organization must provide to the Office the following:

(1) Information verifying that the multicandidate political committee is a multicandidate political committee as defined by 2 U.S.C. 441a(a)(4);

(2) Information identifying the Federal labor organization to which the multicandidate political committee is connected; and

(3) Information that identifies the Federal labor organization as a labor organization defined at 5 U.S.C. 7103(4).

(b) In order to qualify under this part, each multicandidate political committee of a Federal employee organization must provide to the Office the following:

(1) Information verifying that the multicandidate political committee is a multicandidate political committee as defined in 2 U.S.C. 441a(a)(4);

(2) Information identifying the Federal employee organization to which the multicandidate political committee is connected; and

(3) Information indicating that the multicandidate political committee was in existence as of October 6, 1993.

SOURCE: 59 FR 48769, Sept. 23, 1994; 61 FR 35099, July 5, 1996, unless otherwise noted.

AUTHORITY: 5 U.S.C. 1103, 1104, 7325; Reorganization Plan No. 2 of 1978, 92 Stat. 3783; 3 CFR 1978 Comp. p. 323; and E.O. 12107; 3 CFR 1978 Comp. p. 264.

Current through August 4, 2011; 76 FR 47352

5 C.F.R. § 734.104

§ 734.104 Restriction of political activity.

No further proscriptions or restrictions may be imposed upon employees covered under this regulation except:

(a) Employees who are appointed by the President by and with the advice and consent of the Senate;

(b) Employees who are appointed by the President;

(c) Non-career senior executive service members;

(d) Schedule C employees, 5 CFR 213.3301, 213.3302; and

(e) Any other employees who serve at the pleasure of the President.

5 C.F.R. § 734.201

§ 734.201 Exclusion from coverage.

This subpart does not apply to employees in the agencies and positions described in subpart D of this part.

5 C.F.R. § 734.202

§ 734.202 Permitted activities.

Employees may take an active part in political activities, including political management and political campaigns, to the extent not expressly prohibited by law and this part.

5 C.F.R. § 734.203

§ 734.203 Participation in nonpartisan activities.

An employee may:

(a) Express his or her opinion privately and publicly on political subjects;

(b) Be politically active in connection with a question which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance or any other question or issue of a similar character;

(c) Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization, or of a similar organization; and

(d) Participate fully in public affairs, except as prohibited by other Federal law, in a manner which does not compromise his or her efficiency or integrity as an employee or the neutrality, efficiency, or integrity of the agency or instrumentality of the United States Government or the District of Columbia Government in which he or she is employed.

Example 1: An employee may participate, including holding office, in any nonpartisan group. Such participation may include fundraising as long as the fundraising is not in any way connected with any partisan political issue, group, or

candidate, and as long as the fundraising complies with part 2635 of this title as well as any other directives that may apply, e.g., the Federal Property Management Regulations in 41 CFR chapter 101.

Example 2: An employee, individually or collectively with other employees, may petition or provide information to Congress as provided in 5 U.S.C. 7211.

5 C.F.R. § 734.204

§ 734.204 Participation in political organizations.

An employee may:

(a) Be a member of a political party or other political group and participate in its activities;

(b) Serve as an officer of a political party or other political group, a member of a national, State, or local committee of a political party, an officer or member of a committee of a political group, or be a candidate for any of these positions;

(c) Attend and participate fully in the business of nominating caucuses of political parties;

(d) Organize or reorganize a political party organization or political group; and

(e) Participate in a political convention, rally, or other political gathering.

(f) Serve as a delegate, alternate, or proxy to a political party convention.

Example 1: An employee of the Department of Education may serve as a delegate, alternate, or proxy to a State or national party convention.

Example 2: A noncareer member of the Senior Executive Service, or other employee covered under this subpart, may serve as a vice-president of a political action committee, as long as the duties of the office do not involve personal solicitation, acceptance, or receipt of political contributions. Ministerial activities which precede or follow the official acceptance and receipt, such as handling, disbursing, or accounting for contributions are not covered under the definitions of accept and receive in § 734.101. Sections 734.208 and 734.303 describe in detail permitted and prohibited activities which are related to fundraising.

Example 3: An employee of the Federal Communications Commission may make motions or place a name in nomination at a nominating caucus.

Example 4: An employee of the Department of the Interior may serve as an officer of a candidate's campaign committee as long as he does not personally solicit, accept, or receive political contributions. Sections 734.208 and 734.303 of this part describe in detail permitted and prohibited activities which are related to fundraising.

5 C.F.R. § 734.205

§ 734.205 Participation in political campaigns.

Subject to the prohibitions in § 734.306, an employee may:

(a) Display pictures, signs, stickers, badges, or buttons associated with political parties, candidates for partisan political office, or partisan political groups, as long as these items are displayed in accordance with the provisions of § 734.306 of subpart C of this part;

(b) Initiate or circulate a nominating petition for a candidate for partisan political office;

(c) Canvass for votes in support of or in opposition to a partisan political candidate or a candidate for political party office;

(d) Endorse or oppose a partisan political candidate or a candidate for political party office in a political advertisement, broadcast, campaign literature, or similar material;

(e) Address a convention, caucus, rally, or similar gathering of a political party or political group in support of or in opposition to a partisan political candidate or a candidate for political party office; and

(f) Take an active part in managing the political campaign of a partisan political candidate or a candidate for political party office.

Example 1: An employee of the Environmental Protection Agency may broadcast endorsements for a partisan political candidate via a public address system attached to his or her private automobile.

Example 2: An employee of the Department of Interior may canvass voters by telephone on behalf of a political party or partisan political candidate.

Example 3: An employee of the Department of Agriculture may stand outside of polling places on election day and hand out brochures on behalf of a partisan political candidate or political party.

Example 4: An employee may appear in a television or radio broadcast which endorses a partisan political candidate and is sponsored by the candidate's campaign committee, a political party, or a partisan political group.

Example 5: An independent contractor is not covered by this part and may display a political button while performing the duties for which he or she is contracted.

Example 6: An employee of the Department of Commerce who is on official travel may take annual leave in the morning to give an address at a breakfast for a candidate for partisan political office.

Example 7: An employee may manage the political campaign of a candidate for public office including supervising paid and unpaid campaign workers.

Example 8: While not on duty, a Federal employee may distribute campaign leaflets by hand to homes or parked cars even though the leaflet may contain information concerning where to send contributions among other factual material about a partisan political candidate. However, should a member of the public stop the employee and request further information about contributions, the employee should refer that request to another campaign worker who is not a Federal employee.

Example 9: An employee may place in his or her front yard a sign or banner supporting a partisan political candidate.

5 C.F.R. § 734.206

§ 734.206 Participation in elections.

An employee may:

(a) Register and vote in any election;

(b) Act as recorder, watcher, challenger, or similar officer at polling places;

(c) Serve as an election judge or clerk, or in a similar position; and

(d) Drive voters to polling places for a partisan political candidate, partisan political group, or political party.

5 C.F.R. § 734.207

§ 734.207 Candidacy for public office.

An employee may:

(a) Run as an independent candidate in a partisan election covered by 5 CFR part 733; and

(b) Run as a candidate in a nonpartisan election.

Example 1: An employee who is a candidate for public office in a nonpartisan election is not barred by the Hatch Act from soliciting, accepting, or receiving political contributions for his or her own campaign; however, such solicitation,

acceptance, or receipt must comply with part 2635 of this title as well as any other directives that may apply, e.g., The Federal Property Management Regulations in 41 CFR chapter 101.

5 C.F.R. § 734.208

§ 734.208 Participation in fundraising.

(a) An employee may make a political contribution to a political party, political group, campaign committee of a candidate for public office in a partisan election and multicandidate political committee of a Federal labor or Federal employee organization.

(b) Subject to the prohibitions stated in section 734.303, an employee may--

(1) Attend a political fundraiser;

(2) Accept and receive political contributions in a partisan election described in 5 CFR part 733;

(3) Solicit, accept, or receive uncompensated volunteer services from any individual; and

(4) Solicit, accept, or receive political contributions, as long as:

(i) The person who is solicited for a political contribution belongs to the same Federal labor organization, or Federal employee organization, as the employee who solicits, accepts, or receives the contribution;

(ii) The person who is solicited for a political contribution is not a subordinate employee; and

(iii) The request is for a contribution to the multicandidate political committee of a Federal labor organization or to the multicandidate political committee of a Federal employee organization in existence on October 6, 1993.

(c) Subject to the provisions of § 734.306, an employee may make a financial contribution to a political action committee through a voluntary allotment made under § 550.311(b) of this chapter, if the head of the employee's agency permits agency employees to make such allotments to political action committees.

(d) An employee who is covered under this subpart and is a payroll official in an agency where employees are permitted to make allotments to political action committees may process the completed direct deposit forms for voluntary allotments which have been made to such committees under section 550.311(b) of this title.

Example 1: An GS–12 employee of the Department of Treasury who belongs to the same Federal employee organization as a GS–5 employee of the Department of Treasury may solicit a contribution for the multicandidate political committee when she is not on duty as long as the GS–5 employee is not under the supervisory authority of the GS–12 employee.

Example 2: An employee of the National Park Service may give a speech or keynote address at a political fundraiser when he is not on duty, as long as the employee does not solicit political contributions, as prohibited in § 734.303(b) of this part.

Example 3: An employee's name may appear on an invitation to a political fundraiser as a guest speaker as long as the reference in no way suggests that the employee solicits or encourages contributions, as prohibited in § 734.303 of this part and described in example 2 thereunder. However, the employee's official title may not appear on invitations to any political fundraiser, except that an employee who is ordinarily addressed using a general term of address, such as "The Honorable," may use or permit the use of that term of address for such purposes.

Example 4: When an employee of the Department of Transportation is not on duty, he or she may engage in activities which do not require personal solicitations of contributions, such as organizing mail or phone solicitations for political contributions. Activities such as stuffing envelopes with requests for political contributions also are permitted. However, he or she may not sign the solicitation letter unless the solicitation is for the contribution of uncompensated volunteer services of individuals who are not subordinate employees. An employee may not knowingly send to his or her subordinate employees a letter soliciting the contribution of their uncompensated services. However, he or she may sign a letter that solicits contributions of uncompensated volunteer services as part of a general mass mailing that might reach a subordinate employee, as long as the mass mailing is not specifically targeted to his or her subordinate employees.

Example 5: An employee who is not on duty may participate in a phone bank soliciting the uncompensated services of individuals. However, an employee may not make phone solicitations for political contributions even anonymously.

Example 6: An employee of the Department of Agriculture who is on official travel and is not in a pay status nor officially representing the Department may write invitations in his hotel room to a meet-the-candidate reception which he plans to hold in his home.

Example 7: An employee may serve as an officer or chairperson of a political fundraising organization or committee as long as he or she does not personally solicit, accept, or receive political contributions. For example, the employee may organize or manage fundraising activities as long as he or she does not violate the above prohibition.

Example 8: The head of a cabinet-level department may contribute one of her worn-out cowboy boots to the campaign committee of a Senatorial candidate to be auctioned off in a fundraising raffle for the benefit of the candidate's campaign.

Example 9: An employee may help organize a fundraiser including supplying names for the invitation list as long as he or she does not personally solicit, accept, or receive contributions.

Example 10: An employee on travel may engage in political activity when he or she is not on duty without taking annual leave.

Example 11: A Federal employee may solicit, accept, or receive the uncompensated volunteer services of any individual, except a subordinate employee, to work on behalf of a partisan political candidate or organization. However, such solicitation, acceptance, or receipt must comply with part 2635 of this title as well as any other directives that may apply, e.g., the Federal Property Management Regulations in 41 CFR chapter 101. Further, Federal employees are subject to criminal anti-coercion provisions found at 18 U.S.C. 610.

Example 12: An employee who desires to make a financial contribution to a political action committee through a voluntary allotment personally may obtain blank direct deposit forms from his or her payroll office. However, he or she may not complete the form while he or she is on duty, on Federal property, or in a Federally owned or leased vehicle. Moreover, he or she may not personally deliver his or her completed form, or the completed form of another employee, to the payroll office. However, the employee may mail his or her direct deposit form to his or her agency payroll office.

Example 13: Employees who are permitted to solicit, accept, or receive political contributions under the circumstances described in § 734.208(b)(4) may not solicit, accept, or receive such contributions either while they are on duty, or while they are on Federal premises, or both.

5 C.F.R. § 734.301

§ 734.301 Exclusion from coverage.

This subpart does not apply to employees in the agencies and positions described in subpart D of this part.

5 C.F.R. § 734.302

§ 734.302 Use of official authority; prohibition.

(a) An employee may not use his or her official authority or influence for the purpose of interfering with or affecting the result of an election.

(b) Activities prohibited by paragraph (a) of this section include, but are not limited to:

(1) Using his or her official title while participating in political activity;

(2) Using his or her authority to coerce any person to participate in political activity; and

(3) Soliciting, accepting, or receiving uncompensated individual volunteer services from a subordinate for any political purpose.

Example 1: An employee who signs a letter seeking uncompensated volunteer services from individuals may not identify himself or herself by using his or her official title. However, the employee may use a general form of address, such as "The Honorable."

Example 2: A noncareer member of the Senior Executive Service, or another employee covered by this subpart, may not ask his or her subordinate employees to provide uncompensated individual volunteer services for a political party, partisan political group, or candidate for partisan political office. Moreover, he or she may not accept or receive such services from a subordinate employee who offers to donate them.

Example 3: An employee may not require any person to contribute to a partisan political campaign in order to win a Federal contract:

5 C.F.R. § 734.303

§ 734.303 Fundraising.

An employee may not knowingly:

(a) Personally solicit, accept or receive a political contribution from another person, except under the circumstances specified in § 734.208(b);

(b) Personally solicit political contributions in a speech or keynote address given at a fundraiser;

(c) Allow his or her official title to be used in connection with fundraising activities; or

(d) Solicit, accept, or receive uncompensated volunteer services from an individual who is a subordinate.

Example 1: An employee may not host a fundraiser at his or her home. However, a spouse who is not covered under this part may host such a fundraiser and the employee may attend. The employee may not personally solicit contributions to the fundraiser. Moreover, the employee may not accept, or receive political contributions, except under the circumstances stated in § 734.208(b).

Example 2: An employee's name may not appear on an invitation to a fundraiser as a sponsor of the fundraiser, or as a point of contact for the fundraiser.

Example 3: An employee may not ask a subordinate employee to volunteer on behalf of a partisan political campaign.

Example 4: An employee may not call the personnel office of a business or corporation and request that the corporation or business provide volunteers or services for a campaign. However, an employee may call an individual who works for a business or corporation and request that specific individual's services for a campaign.

5 C.F.R. § 734.304

§ 734.304 Candidacy for public office.

An employee may not run for the nomination or as a candidate for election to partisan political office, except as specified in § 734.207.

5 C.F.R. § 734.305

§ 734.305 Soliciting or discouraging the political participation of certain persons.

(a) An employee may not knowingly solicit or discourage the participation in any political activity of any person who has an application for any compensation grant, contract, ruling, license, permit, or certificate pending before the employee's employing office.

(b) An employee may not knowingly solicit or discourage the participation in any political activity of any person who is the subject of, or a participant in, an ongoing audit, investigation, or enforcement action being carried out by the employee's employing office.

(c) Each agency or instrumentality of the United States or District of Columbia Government shall determine when a matter is pending and ongoing within employing offices of the agency or instrumentality for the purposes of this part.

Example 1: An employee with agency-wide responsibility may address a large, diverse group to seek support for a partisan political candidate as long as the group has not been specifically targeted as having matters before the employing office.

Example 2: An employee of the Federal Deposit Insurance Corporation (FDIC) may not solicit or discourage the participation of an insured financial institution or its employees if the institution is undergoing examination by the FDIC.

Example 3: An employee of the Food and Drug Administration may address a banquet for a partisan political candidate which is sponsored by the candidate's campaign committee, even though the audience includes three individuals who are employed by or are officials of a pharmaceutical company. However, she may not deliver the address if the banquet is sponsored by a lobbying group for pharmaceutical companies, of if she knows that the audience will be composed primarily of employees or officials of such companies.

§ 734.306 Participation in political activities while on duty, in uniform, in any room or building occupied in the discharge of official duties, or using a Federal vehicle.

(a) An employee may not participate in political activities subject to the provisions of subpart E of this part:

(1) While he or she is on duty;

(2) While he or she is wearing a uniform, badge, insignia, or other similar item that identifies the employing agency or instrumentality or the position of the employee;

(3) While he or she is in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency or instrumentality thereof; or

(4) While using a Government-owned or leased vehicle or while using a privately-owned vehicle in the discharge of official duties.

(b) The prohibitions in paragraph (a) of this section do not apply to employees covered under subpart E of this part.

Example 1: While on leave without pay, an employee is not subject to the prohibition in § 734.306(a)(1) because he or she is not on duty. However, while on leave without pay, the employee remains subject to the other prohibitions in subpart C.

Example 2: A Postal Service employee who uses her private vehicle to deliver mail may place a political bumper sticker on the vehicle, as long as she covers the bumper sticker while she is on duty.

Example 3: An employee who uses his or her privately owned vehicle on a recurrent basis for official business may place a partisan political bumper sticker on the vehicle, as long as he or she covers the bumper sticker while the vehicle is being used for official duties.

Example 4: An employee who uses his or her privately owned vehicle on official business, must cover any partisan political bumper sticker while the vehicle is being used for official duties, if the vehicle is clearly identified as being on official business.

Example 5: A noncareer member of the Senior Executive Service, or any other employee covered by this subpart, who uses his or her privately owned vehicle only on an occasional basis to drive to another Federal agency for a meeting, or to take a training course, is not required to cover a partisan political bumper sticker on his or her vehicle.

Example 6: An employee may not place a partisan political bumper sticker on any Government owned or Government leased vehicle.

Example 7: An employee may place a bumper sticker on his or her privately owned vehicle and park his or her vehicle in a parking lot of an agency or instrumentality of the United States Government or in a non-Federal facility for which the employee receives a subsidy from his or her employing agency or instrumentality.

Example 8: When an agency or instrumentality of the United States Government leases offices in a commercial building and that building includes the headquarters of a candidate for partisan political office, an employee of that agency or instrumentality may do volunteer work, when he or she is not on duty, at the candidate's headquarters and in other areas of the building that have not been leased by the Government.

Example 9: A Government agency or instrumentality leases all of the space in a commercial building; employees may not participate in political activity in the public areas of the leased building.

Example 10: An employee of the National Aeronautics and Space Administration (NASA) may not engage in political activities while wearing a NASA flight patch, NASA twenty-year pin or anything with an official NASA insignia.

Example 11: If a political event begins while an employee is on duty and continues into the time when he or she is not on duty, the employee must wait until he or she is not on duty to attend the event. Alternatively, an employee may request annual leave to attend the political event when it begins.

Example 12: Officials of labor organizations who have been given official time to perform representational duties are on duty.

Example 13: An employee may stuff envelopes for a mailing on behalf of a candidate for partisan political office while the employee is sitting in the park during his or her lunch period if he or she is not considered to be on duty during his or her lunch period.

Example 14: An employee who works at home may engage in political activities at home when he or she is not in a pay status or representing the Government in an official capacity.

Example 15: An employee who is appointed by the President by and with the advice and consent of the Senate (PAS) may attend a political event with an non-PAS employee whose official duties do not require accompanying the PAS as long as the non-PAS employee is not on duty.

Example 16: A noncareer member of the Senior Executive Service, or any other employee covered by this subpart, may not wear partisan political buttons or display partisan political pictures, signs, stickers, or badges while he or she is on duty or at his or her place of work.

Example 17: An employee may not engage in political activity in the cafeteria of a Federal building, even if the cafeteria is in space leased by a contractor.

Example 18: An employee who contributes financially to a political action committee through a voluntary allotment made under § 550.311(b) of this title may not complete the direct deposit forms while he or she is on duty, in a "room or building" defined in § 734.101 or in a Federally owned or leased vehicle.

Example 19: An employee who contributes financially to a political action committee through a voluntary allotment may not personally deliver his or her completed direct deposit form, or the completed direct deposit form of another employee, to the payroll employees who would process or administer such forms. However, the employee may mail his or her direct deposit form to his or her agency payroll office.

5 C.F.R. § 734.307

An employee covered under this subpart who is the spouse or family member of either a candidate for partisan political office, candidate for political party office, or candidate for public office in a nonpartisan election, is subject to the same prohibitions as other employees covered under this subpart.

Example 1: An employee who is married to a candidate for partisan political office may attend a fundraiser for his or her spouse, stand in the receiving line, sit at the head table, and urge others to vote for his or her spouse. However, the employee may not personally solicit, accept, or receive contributions of money or the paid or unpaid services of a business or corporation, or sell or collect money for tickets to the fundraiser.

Example 2: An employee who is the daughter of a candidate for partisan political office may appear in a family photograph which is printed in a campaign flier. She may distribute fliers at a campaign rally as long as she does not personally solicit contributions.

Example 3: An employee who is married to a candidate for political partisan political office may appear with her spouse in a political advertisement or a broadcast, and urge others to vote for her spouse, as long as the employee does not personally solicit political contributions.

5 C.F.R. § 734.401

§ 734.401 Coverage.

(a) This subpart applies to employees in the following agencies and positions:

(1) The Federal Election Commission;

(2) The Federal Bureau of Investigation;

(3) The Secret Service;

(4) The Central Intelligence Agency;

(5) The National Security Council;

(6) The National Security Agency;

(7) The Defense Intelligence Agency;

(8) The Merit Systems Protection Board;

(9) The Office of Special Counsel;

(10) The Office of Criminal Investigation of the Internal Revenue Service.

(11) The Office of Investigative Programs of the United States Customs Service;

(12) The Office of Law Enforcement of the Bureau of Alcohol, Tobacco, and Firearms;

(13) The Criminal Division of the Department of Justice;

(14) The Central Imagery Office;

(15) Career Senior Executive Service positions described in 5 U.S.C. 3132(a)(4);

(16) Administrative Law Judge positions described in 5 U.S.C. 5372;

(17) Contract Appeals Board Member positions described in 5 U.S.C. 5372a.

(b) Employees appointed by the President by and with the advice and consent of the Senate in the agencies and positions described in paragraph (a) of this section are excluded from coverage under this subpart.

(c) All employees covered under this subpart are free to engage in political activity to the widest extent consistent with the restrictions imposed by law and this subpart.

5 C.F.R. § 734.402

§ 734.402 Expression of an employee's individual opinion.

Each employee covered under this subpart retains the right to participate in any of the following political activities, as long as such activity is not performed in concert with a political party, partisan political group, or a candidate for partisan political office:

(a) Express his or her opinion as an individual privately and publicly on political subjects and candidates;

(b) Display a political picture, sign, sticker, badge, or button, as long as these items are displayed in accordance with the provisions of § 734.406;

(c) Sign a political petition as an individual;

(d) Be politically active in connection with a question which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance, or any other question or issue of a similar character; and

(e) Otherwise participate fully in public affairs, except as prohibited by other Federal law, in a manner which does not compromise his or her efficiency or integrity as an employee or the neutrality, efficiency, or integrity of the agency or instrumentality of the United States Government in which he or she is employed.

Example 1: An employee may purchase air time on a radio or television station to endorse a partisan political candidate. However, he or she may not endorse such a candidate in a commercial or program which is sponsored by the candidate's campaign committee, a political party, or a partisan political group.

Example 2: An employee may address a political convention or rally but not on behalf, or at the request of, a political party, partisan political group, or an individual who is running for the nomination or as a candidate for election to partisan political office.

Example 3: An employee may print at her own expense one thousand fliers which state her personal opinion that a partisan political candidate is the best suited for the job. She may distribute the fliers at a shopping mall on the weekend. However, she may not distribute fliers printed by the candidate's campaign committee, a political party, or a partisan political group.

Example 4: An employee may place in his or her yard a sign supporting a candidate for partisan political office.

Example 5: An employee may stand outside of a political party convention with a homemade sign which states his or her individual opinion that one of the candidates for nomination is the best qualified candidate.

Example 6: An employee, including a career SES employee, may wear a button with a partisan political theme when the employee is not on duty or at his or her place of work.

5 C.F.R. § 734.403

§ 734.403 Participation in elections.

Each employee covered under this subpart retains the right to:

(a) Register and vote in any election;

(b) Take an active part, as a candidate or in support of a candidate, in a nonpartisan election; and

(c) Serve as an election judge or clerk, or in a similar position, to perform nonpartisan duties as prescribed by State or local law.

5 C.F.R. § 734.404

§ 734.404 Participation in political organizations.

(a) Each employee covered under this subpart retains the right to:

(1) Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization, or of a similar organization;

(2) Be a member of a political party or other partisan political group and participate in its activities to the extent consistent with other Federal law;

(3) Attend a political convention, rally, fund-raising function, or other political gathering; and

(4) Make a financial contribution to a political party, partisan political group, or to the campaign committee of a candidate for partisan political office.

(b) Subject to the provisions in § 734.406, an employee covered under this subpart may make a financial contribution to a political action committee through a voluntary allotment made under § 550.311(b) of this chapter if the head of the employee's agency permits agency employees to make such allotments to political action committees.

(c) An employee who is covered under this subpart and is a payroll official in an agency where employees are permitted to make allotments to political action committees may process the completed direct deposit forms for voluntary allotments which have been made to such committees under § 550.311(b) of this chapter.

Example 1: An employee, or a noncareer SES employee who is subject to subpart D of part 734, may attend a political convention or rally solely as a spectator. However, the employee and noncareer SES employee may not

participate in demonstrations or parades which are sponsored by a political party, a partisan political group, or an individual who is running for nomination to be a candidate for partisan political office.

Example 2: An employee may attend a political party's annual barbecue, but he or she may not organize, distribute invitations to, or sell tickets to the barbecue.

Example 3: An employee who desires to contribute to a political action committee through an allotment personally may obtain blank direct deposit forms from his or her payroll office. The employee may not complete the direct deposit form while he or she is on duty, on Federal property, or in a Federally owned or leased vehicle. The employee also may not personally deliver his or her completed direct deposit form, or the completed direct deposit form of another employee, to his or her payroll office. However, the employee may mail the completed form to his or her agency payroll office.

5 C.F.R. § 734.405

§ 734.405 Campaigning for a spouse or family member.

An employee covered under this subpart who is the spouse or family member of either a candidate for partisan political office, or a candidate for political party office, may appear in photographs of the candidate's family which might appear in a political advertisement, a broadcast, campaign literature, or similar material. A spouse or a family member who is covered by the Hatch Act Reform Amendments also may attend political functions with the candidate. However, the spouse or family member may not distribute campaign literature or solicit, accept, or receive political contributions.

Example 1: An employee who is the spouse of a candidate for partisan political office may stand in the receiving line and sit at the head table during a political dinner honoring the spouse.

Example 2: An employee who is the daughter of a candidate for partisan political office may appear in a family photograph which is printed in a campaign flier, but she may not distribute the flier at a campaign rally.

5 C.F.R. § 734.406

§ 734.406 Participation in political activities while on duty, in uniform, in any room or building occupied in the discharge of official duties, or using a Federal vehicle; prohibition.

(a) An employee covered under this subpart may not participate in political activities:

(1) While he or she is on duty;

(2) While he or she is wearing a uniform, badge, or insignia that identifies the employing agency or instrumentality or the position of the employee;

(3) While he or she is in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency or instrumentality thereof; or

(4) While using a Government-owned or leased vehicle or while using a privately owned vehicle in the discharge of official duties.

Example 1: An employee who uses his or her privately owned vehicle on a recurrent basis for official business may place a bumper sticker on the vehicle, as long as he or she covers the bumper sticker while the vehicle is being used for official duties.

Example 2: An employee who uses his or her privately owned vehicle on official business, must cover any partisan political bumper sticker while the vehicle is being used for official duties, if the vehicle is clearly identified as being on official business.

Example 3: An employee or career SES employee who uses his or her privately owned vehicle only on an occasional basis to drive to another Federal agency for a meeting, or to take a training course, is not required to cover a partisan political bumper sticker on his or her vehicle.

Example 4: An employee may not place a partisan political bumper sticker on any Government owned or Government leased vehicle.

Example 5: An employee may place a bumper sticker on his or her privately owned vehicle and park the vehicle in a parking lot of an agency or instrumentality of the United States Government or in a non-Federal facility for which the employee receives a subsidy from his or her employing agency or instrumentality.

Example 6: An employee, or noncareer SES employee who is subject to subpart D of this part 734, may not wear partisan political buttons or display partisan political pictures, signs, stickers, or badges while he or she is on duty or at his or her place of work.

Example 7: An employee who contributes financially to a political action committee through a voluntary allotment made under § 550.311(b) of this title may not complete the direct deposit forms while he or she is on duty, in a "room or building" defined in § 734.101, or in a Federally owned or leased vehicle.

Example 8: An employee who contributes financially to a political action committee may not personally deliver his or her completed direct deposit form, or the completed direct deposit form of another employee, to the payroll employees who would process or administer such forms. However, the employee may mail his or her direct deposit form to his or her agency payroll office.

(b) [Reserved]

5 C.F.R. § 734.407

§ 734.407 Use of official authority; prohibition.

An employee covered under this subpart may not use his or her official authority or influence for the purpose of interfering with or affecting the result of an election.

5 C.F.R. § 734.408

§ 734.408 Participation in political management and political campaigning; prohibitions.

An employee covered under this subpart may not take an active part in political management or in a political campaign, except as permitted by subpart D of this part.

5 C.F.R. § 734.409

§ 734.409 Participation in political organizations; prohibitions.

An employee covered under this subpart may not:

(a) Serve as an officer of a political party, a member of a national, State, or local committee of a political party, an officer or member of a committee of a partisan political group, or be a candidate for any of these positions;

(b) Organize or reorganize a political party organization or partisan political group;

(c) Serve as a delegate, alternate, or proxy to a political party convention; and

(d) Address a convention, caucus, rally, or similar gathering of a political party or partisan political group in support of or in opposition to a candidate for partisan political office or political party office, if such address is done in concert with such a candidate, political party, or partisan political group.

5 C.F.R. § 734.410

§ 734.410 Participation in political fundraising; prohibitions.

An employee covered under this subpart may not:

(a) Solicit, accept, or receive political contributions; or

(b) Organize, sell tickets to, promote, or actively participate in a fundraising activity of a candidate for partisan political office or of a political party, or partisan political group.

5 C.F.R. § 734.411

§ 734.411 Participation in political campaigning; prohibitions.

An employee covered under this subpart may not:

(a) Take an active part in managing the political campaign of a candidate for partisan political office or a candidate for political party office;

(b) Campaign for partisan political office;

(c) Canvass for votes in support of or in opposition to a candidate for partisan political office or a candidate for political party office, if such canvassing is done in concert with such a candidate, or of a political party, or partisan political group;

(d) Endorse or oppose a candidate for partisan political office or a candidate for political party office in a political advertisement, broadcast, campaign literature, or similar material if such endorsement or opposition is done in concert with such a candidate, political party, or partisan political group;

(e) Initiate or circulate a partisan nominating petition.

5 C.F.R. § 734.412

§ 734.412 Participation in elections; prohibitions.

An employee covered under this subpart may not:

(a) Be a candidate for partisan political office;

(b) Act as recorder, watcher, challenger, or similar officer at polling places in concert with a political party, partisan political group, or a candidate for partisan political office;

(c) Drive voters to polling places in concert with a political party, partisan political group, or a candidate for partisan political office.

5 C.F.R. § 734.413

§ 734.413 Employees of the Federal Election Commission; prohibitions.

(a) An employee of the Federal Election Commission may not request or receive from, or give to, an employee, a Member of Congress, or an officer of a uniformed service a political contribution.

(b) This section does not cover employee of the Federal Election Commission who are appointed by the President by and with the advice and consent of the Senate.

5 C.F.R. § 734.501

§ 734.501 Permitted and prohibited activities.

Except as otherwise specified in this part 734, employees who are appointed by the President by and with the advice and consent of the Senate are subject to the provisions of subparts B and C of this part.

5 C.F.R. § 734.502

§ 734.502 Participation in political activity while on duty, in uniform, in any room or building occupied in the discharge of official duties, or using a Federal vehicle.

(a) This section applies to an employee:

(1) The duties and responsibilities of whose position continue outside normal duty hours and while away from the normal duty post; and

(2) Who is--

(i) An employee paid from an appropriation for the Executive Office of President; or

(ii) An employee appointed by the President by and with the advice and consent of the Senate whose position is located within the United States, who determines policies to be pursued by the United States in relations with foreign powers or in the nationwide administration of Federal laws;

(b) For the purposes of this subpart, normal duty hours and normal duty post will be determined by the head of each agency or instrumentality of the United States or District of Columbia Government.

(c) An employee described in paragraph (a) of this section may participate, subject to any restrictions that may be imposed in accordance with § 734.104, in political activities:

(1) While he or she is on duty;

(2) While he or she is wearing a uniform, badge, or insignia that identifies the agency or instrumentality of the United States Government or the position of the employee;

(3) While he or she is in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency or instrumentality thereof; or

(4) While using a Government-owned or leased vehicle or while using a privately-owned vehicle in the discharge of official duties.

(d) An employee, to whom subpart E of this part does not apply, who is not on duty may participate in political activities in rooms of the White House or the Residence of the Vice President which are part of the Residence area or which are not regularly used solely in the discharge of official duties.

Example 1: An Inspector General is appointed under the Inspector General Act of 1978, as amended. According to section 3(c) of that Act, he or she does not qualify as an employee who determines policies to be pursued by the United States in the nationwide administration of Federal laws. therefore, he or she may not participate in political activities while on duty, while wearing a uniform, badge, or insignia that identifies his or her office or position, while in any room or building occupied in the discharge of official duties, or while using a Government-owned or leased vehicle or while using a privately-owned vehicle in the discharge of official duties.

Example 2: An employee who is covered by this subpart and wears a uniform as an incident of her office may wear the uniform while she is giving a speech at a political fundraiser.

Example 3: The head of an executive department may hold a partisan political meeting or host a reception which is not a fundraiser in his conference room during normal business hours.

Example 4: An employee accompanies the Secretary of Transportation to a political party convention as part of the Secretary's security or administrative detail. The employee is considered to be on duty while protecting or performing official duties for the Secretary regardless of the nature of the function that the Secretary is attending.

Example 5: An American Ambassador overseas obtains authorization from the Department of State to depart post in order to take a vacation away from post. During the period she is authorized to be on vacation away from post, she is not considered to be on duty for the purpose of the Hatch Act Reform Amendments and may engage in any political activity permitted under the Hatch Act Reform Amendments of 1993.

§ 734.503 Allocation and reimbursement of costs associated with political activities.

(a) The costs associated with the political activities described in § 733.502(c) of this chapter may not be paid for by money derived from the Treasury of the United States. Costs associated with a political activity are deemed not to be paid for by money derived from the Treasury of the United States if the Treasury is reimbursed for the costs within a reasonable period of time.

(b) For the purposes of this section, costs associated with a political activity do not include any costs that the Government would have or have incurred regardless of whether the activity was political. Examples of such costs are:

(1) The compensation of the employee described in § 734.502(a);

(2) The value of any office or other real property owned or leased by the Government;

(3) The compensation and expenses of any Government employee that is required in the performance of his or her duties to accompany or assist the person engaging in the political activity; and

(4) The cost of special security arrangements for the person engaging in the political activity, including special transportation vehicles or methods.

(c)(1) An employee covered under this subpart must apportion the costs of mixed travel based on the time spent on political activities and the time spent performing official duties. Prorating the cost of travel involves determining the "total activity time" which is the amount of time actually spent by the employee in meetings, receptions, rallies, and similar activities. Time spent in actual travel, private study, or rest and recreation is not included in the computation of the "total activity time". The proration of the cost then is determined based on how the "total activity time" was spent. The formula is as follows:

Time spent in official meetings, receptions, etc. + Time spent in political meetings, receptions, rallies = Total activity time

Time spent in official activity ÷ Total activity time = Percentage of trip that is official

Time spent in political activity ÷ Total activity time = Percentage of trip that is political

The percentage figure that represents the political portion of the trip is then multiplied by the amount that would be reimbursed to the Government if all of the travel was political. The product of that calculation represents the amount to be paid by the political entity or organization.

(2) The allocation method must be applied to all of the relevant costs of mixed travel.

(3) Expenses that are associated specifically with a political activity and not with any official activity must be treated as political, and expenses associated specifically with an official activity and not with any political activity must be treated as official.

(4) In allocating the costs of travel other than air travel, the allocation formula should be applied to any Government maximum for that type of expenditure.

(5) The determination of the proper amount of allocation must be based on the facts and circumstances involved.

(6) In the event that a minor, clearly incidental percentage of the activity of a mixed trip is devoted to either official or political activity, e.g. less than 3%, the entire trip should be treated as if it was wholly of the type represented by the substantial figure. The balance should be treated as de minimis and need not be reimbursed as political or charged as official.

(d) For any cost of a political activity of an employee that is required to be reported to the Federal Election Commission under the Federal Election Campaign Act (FECA) or the Presidential Election Campaign Fund Act (PECFA), the employee shall use the same method of allocation as used under the FECA or PECFA and regulations thereunder in lieu of the allocation method in paragraph (c) of this section.

Example 1: The Secretary, an employee described by section 7324(b)(2) of title 5 of the United States Code, holds a catered political activity (other than a fundraiser) in her office. Her security detail attends the reception as part of their duty to provide security for her. The Secretary will not be in violation of the Hatch Act Reform Amendments if the costs of her office, her compensation, and her security detail are not reimbursed to the Treasury. A violation of the Hatch Act Amendments occurs if Government funds, including reception or discretionary funds, are used to cater the political activity, unless the Treasury is reimbursed for the cost of the catering within a reasonable time.

Example 2: There should be no allocation between official and political funds for a sound system rented for a single event.

Example 3: If on a mixed trip a Government employee is only entitled to $26 per diem for food on a wholly official trip and the trip is 50% political and 50% official, the Government share would be 50% of $26, not 50% of the actual amount spent.

Example 4: The President is transported by special motorcade to and from the site of the political event. The expense of the motorcade is for special security arrangements. Thus, it would not be a violation of the Hatch Act Reform Amendments if the costs of the security arrangements, including the cost of the motorcade, are not reimbursed to the Treasury.

5 C.F.R. § 734.504

§ 734.504 Contributions to political action committees through voluntary payroll allotments prohibited.

An employee described in § 734.502(a) may not financially contribute to a political action committee through a voluntary allotment made under § 550.311(b) of this title.

5 C.F.R. § 734.601

§ 734.601 Employees who work on an irregular or occasional basis.

An employee who works on an irregular or occasional basis or is a special Government employee as defined in 18 U.S.C. 202(a) is subject to the provisions of the applicable subpart of this part when he or she is on duty.

Example: An employee appointed to a special commission or task force who does not have a regular tour of duty may run as a partisan political candidate, but may actively campaign only when he or she is not on duty.

5 C.F.R. § 734.701

§ 734.701 General.

In addition to the provisions regulating political activity set forth in subparts A through G of this part, there are a number of statutes and Executive orders that establish standards to which the political activity of an employee, a Federal labor organization, a Federal employee organization, and a multicandidate political committee must conform. The list set forth in § 734.702 references some of the more significant of those statutes. It is not comprehensive and includes only references to statutes of general applicability.

5 C.F.R. § 734.702

§ 734.702 Related statutes and Executive orders.

(a) The prohibition against offering anything of value in consideration of the use or promise of use of influence to procure appointive office (18 U.S.C. 210).

(b) The prohibition against solicitation or acceptance of anything of value to obtain public office for another (18 U.S.C. 211).

(c) The prohibition against intimidating, threatening, or coercing voters in Federal elections (18 U.S.C. 594).

(d) The prohibition against use of official authority to interfere with a Federal election by a person employed in any administrative position by the United States in connection with any activity financed in whole or in part by Federal funds (18 U.S.C. 595).

(e) The prohibition against the promise of employment, compensation, or benefits from Federal funds in exchange for political activity (18 U.S.C. 600).

(f) The prohibition against the deprivation of or threat of deprivation of employment in exchange for political contributions (18 U.S.C. 601).

(g) The prohibition against soliciting political contributions (18 U.S.C. 602).

(h) The prohibition against making certain political contributions (18 U.S.C. 603).

(i) The prohibition against soliciting or receiving assessments, subscriptions, or contributions for political purposes from persons on Federal relief or work relief (18 U.S.C. 604).

(j) The prohibition against disclosing and receiving lists or names of persons on relief for political purposes (18 U.S.C. 605).

(k) The prohibition against intimidating employees to give or withhold a political contribution (18 U.S.C. 606).

(l) The prohibition against soliciting political contributions in navy yards, forts, or arsenals (18 U.S.C. 607).

(m) The prohibition against coercing employees of the Federal Government to engage in, or not to engage in, any political activity (18 U.S.C. 610).

(n) The prohibition against certain personnel practices (5 U.S.C. 2302).

(o) The prohibition against making, requesting, considering, or accepting political recommendations (5 U.S.C. 3303).

(p) The prohibitions against misuse of a Government vehicle (31 U.S.C. 1344).

(q) The requirements and prohibitions stated in the Federal Election Campaign Act (2 U.S.C. 431–455).

(r) The prohibitions against soliciting for gifts to superiors, giving donations for such gifts, and accepting gifts from employees who receive a lower rate of pay (5 U.S.C. 7351).

(s) The prohibitions against soliciting or accepting things of value from specified persons (5 U.S.C. 7353).

(t) The prohibitions and requirements stated in the Ethics in Government Act of 1978 (5 U.S.C. App.) and Executive Order 12674 (54 FR 15159–15162; 3 CFR 1989 Comp. 215–218) as modified by Executive Order 12731 (55 FR 42547–42550; 3 CFR 1990 Comp. 306–311).

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Division I. Government of District.
Title 1. Government Organization. (Refs & Annos)
Chapter 6. Merit Personnel System.
Subchapter XVIII. Employee Conduct. (Refs & Annos)
➡§ 1-618.01. Standards of conduct.

(a) Each employee of the District government must at all times maintain a high level of ethical conduct in connection with the performance of official duties, and shall refrain from taking, ordering, or participating in any official action which would adversely affect the confidence of the public in the integrity of the District government.

(a-1) As a matter of public policy, each employee of the District is encouraged to report, pursuant to subchapter XV-A of this chapter, any violation of a law or rule, or the misuse of government resources, as soon as the employee becomes aware of the violation or misuse of resources.

(b) The Mayor shall issue rules and regulations governing the ethical conduct of all District employees after consultation with the District of Columbia Board of Education, the Board of Trustees of the University of the District of Columbia, and recognized labor representatives of District employees, and shall require the submission by designated employees at a policy making, contract negotiating, or purchasing level of reports of financial interest in matters which may create conflicts of interest. The Mayor shall provide for the annual auditing of all reports filed under the authority of this subsection.

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Division I. Government of District.
Title 1. Government Organization. (Refs & Annos)
Chapter 6. Merit Personnel System.
Subchapter XVIII. Employee Conduct. (Refs & Annos)
➡§ 1-618.02. Conflicts of interest.

No employee of the District government shall engage in outside employment or private business activity or have any direct or indirect financial interest that conflicts or would appear to conflict with the fair, impartial, and objective performance of officially assigned duties and responsibilities.

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Chapter 6. Merit Personnel System.
Subchapter XVIII. Employee Conduct. (Refs & Annos)
➡§ Search Term Begin 1-618. Search Term End 03. Ethics counselors; codification of advisory opinions.

(a) Each agency head shall appoint an employee to serve as the ethics counselor for the agency. Employees so appointed shall be required to undertake and satisfactorily complete such training as is necessary in order to adequately discharge their duties. The training program required by this subsection shall be developed by the Mayor after consultation with the District of Columbia Board of Education, the Board of Trustees of the University of the District of Columbia, and the District of Columbia Board of Elections and Ethics. The Mayor shall appoint an ethics counselor for the District of Columbia.

(b) Ethics counselors shall issue advisory opinions concerning potential conflicts of interest which are presented by employees of the agency for resolution. The ethics counselor shall issue an advisory opinion within 15 days of receipt of an inquiry from an employee.

(c) The opinions authorized pursuant to this section shall be considered advisory opinions authorized under subsection (c) of § 1-1435, and shall be published in the District of Columbia Register.

(d) All oral communications between employees of an agency and ethics counselors shall be privileged communications, and may not form the basis for any civil or criminal liability. Ethics counselors shall not disclose the nature or contents of such communications, except in accordance with the provisions of subsection (c) of this section.

(e) The Mayor, the Chairman and each member of the Council, the President and each member of the Board of Education, members of boards and commissions as provided in subsection (a) of § 1-1106.02, employees in the Executive Service, and persons appointed under the authority of §§ 1-609.01 through 1-609.03 (and paid at a rate of GS-13 or above in the General Schedule or comparable compensation under subchapter XII of this chapter) or designated in § 1-609.08 shall not be included within the provisions of this subchapter for the purposes of enforcement. Enforcement of this subchapter and provisions of subchapter I of Chapter 11 of this title for persons included in this section shall be enforced by the District of Columbia Board of Elections and Ethics as provided in the subchapter I of Title 10 of this title and subchapter I of Chapter 11 of this title.

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Subchapter I. General Provisions. (Refs & Annos)

Part F. Conflict of Interest and Disclosure. (Refs & Annos)

➡§ 1-1106.01. Conflict of interest.

(a) The Congress declares that elective and public office is a public trust, and any effort to realize personal gain through official conduct is a violation of that trust.

(b) No public official shall use his or her official position or office to obtain financial gain for himself or herself, any member of his or her household, or any business with which he or she or a member of his or her household is associated, other than that compensation provided by law for said public official. This subsection shall not affect a vote by a public official: (1) On any matter which affects a class of persons (such a class shall include no less than 50 persons) of which such public official is a member if the financial gain to be realized is de minimus; (2) on any matter relating to such public official's compensation as authorized by law; or (3) regarding any elections law. If an action is taken by any department, agency, board, or commission of the District of Columbia, except by the Council of the District of Columbia, in violation of this section, such action may be set aside and declared void and of no effect, upon a proper order of a court of competent jurisdiction.

(c) No person shall offer or give to a public official or a member of a public official's household, and no public official shall solicit or receive anything of value, including a gift, favor, service, loan gratuity, discount, hospitality, political contribution, or promise of future employment, based on any understanding that such public official's official actions or judgment or vote would be influenced thereby, or where it could reasonably be inferred that the thing of value would influence the public official in the discharge of his or her duties, or as a reward, except for political contributions publicly reported pursuant to § 1-1102.06 and transactions made in the ordinary course of business of the person offering or giving the thing of value.

(d) No person shall offer or pay to a public official, and no public official shall solicit or receive any money, in addition to that lawfully received by the public official in his or her official capacity, for advice or assistance given in the course of the public official's employment or relating to his or her employment.

(e) No public official shall use or disclose confidential information given in the course of or by reason of his or her official position or activities in any way that could result in financial gain for himself or herself or for any other person.

(f) No member or employee of the Council of the District of Columbia or Board of Education of the District of Columbia shall accept assignment to serve on a committee the jurisdiction of which consists of matters (other than of a de minimis nature) in which he or she or a member of his or her family or a business with which he or she is associated, has financial interest.

(g) Any public official who, in the discharge of his or her official duties, would be required to take an action or make a decision that would affect directly or indirectly his or her financial interests or those of a member of his or her household, or a business with which he or she is associated, or must take an official action on a matter as to which he or she has a conflict situation created by a personal, family, or client interest, shall:

(1) Prepare a written statement describing the matter requiring action or decision, and the nature of his or her potential conflict of interest with respect to such action or decision;
(2) Cause copies of such statement to be delivered to the District of Columbia Board of Elections and Ethics (referred to in this part as the "Board"), and to his or her immediate superior, if any;

(3) If he or she is a member of the Council of the District of Columbia or member of the Board of Education of the District of Columbia, or employee of either, deliver a copy of such statement to the Chairman thereof, who shall cause such statement to be printed in the record of proceedings, and, upon request of said member or employee, shall excuse the member from votes, deliberations, and other action on the matter on which a potential conflict exists;

(4) If he or she is not the Mayor or a member of the Council of the District of Columbia, his or her superior, if any, shall assign the matter to another employee who does not have a potential conflict of interest, or, if he or she has no immediate superior, except the Mayor, he or she shall take such steps as the Board prescribes through rules and regulations to remove himself or herself from influence over actions and decisions on the matter on which potential conflict exists; and

(5) During a period when a charge of conflict of interest is under investigation by the Board, if he or she is not the Mayor or a member of the Council of the District of Columbia or a member of the Board of Education, his or her superior, except the Mayor, if any, shall have the arbitrary power to assign the matter to another employee who does not have a potential conflict of interest, or if he or she has no immediate superior, he or she shall take such steps as the Board shall prescribe through rules and regulations to remove himself or herself from influence over actions and decisions on the matter on which there is a conflict of interest.

(h) Neither the Mayor nor any member of the Council of the District of Columbia may represent another person before any regulatory agency or court of the District of Columbia while serving in such office. The preceding sentence does not apply to an appearance by such an official before any such agency or court in his or her official capacity or to the appearance by a member of the Council (not the Chairman) licensed to practice law in the District of Columbia, before any court or non-District of Columbia regulatory agency in any matter which does not affect his or her official position.

(h-1)(1) No member of a board or commission shall be eligible for appointment by the members of that board or commission to any paid office or position under the supervision of that board or commission.

(2) No former member of a board or commission shall be eligible for appointment to any paid office or position under the supervision of the board or commission on which he or she served, unless:

(A) At least 45 days have passed since the date of termination of his or her service as a member of the board or commission; and

(B) He or she has followed the same employment application requirements required of other applicants for the paid office or position.

(i) As used in this section, the term:

(1) "Public official" means any person required to file a financial statement under § 1-1106.02.
(2) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock, trust, and any legal entity through which business is conducted for profit.

(3) "Business with which he or she is associated" means any business of which the person or member of his or her household is a director, officer, owner, employee, or holder of stock worth $1,000 or more at fair market value, and any business which is a client of that person.

(4) "Household" means the public official and his or her immediate family.

(5) "Immediate family" means the public official's spouse or domestic partner and any parent, brother, or sister, or child of the public official, and the spouse or domestic partner of any such parent, brother, sister, or child.

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Part F. Conflict of Interest and Disclosure. (Refs & Annos)

§ 1-1106.02. Disclosure of financial interest.

(a) Any candidate for nomination for election, or election, to public office at the time he or she becomes a candidate, who does not occupy any such office, shall file within one month after he or she becomes a candidate for such office, and the Mayor and the Chairman and each member of the Council of the District of Columbia holding office under the District of Columbia Home Rule Act, a Representative or Senator elected pursuant to § 1-123, the President and each member of the Board of Education, and each member of the Retirement Board, and persons serving as subordinate agency heads or serving in positions designated as within the Legal Service, the Excepted Service, or the Management Supervisory Service (regardless of date of appointment) and paid at a rate of DS-13 or above, or MS-13 or above in case of the Management Supervisory Service, or designated in § 1-609.08, and each member of the District of Columbia Board of Accountancy, established by § 3-1503; the Board of Examiners and Registrars of Architects, established by § 3-1601; the Board of Directors of the Public Parking Authority of the District of Columbia, established by § 50-2503; the Board of Barber Examiners for the District of Columbia, established by § 3-1703; the District of Columbia Boxing and Wrestling Commission, established by § 3-604; the Board of Dental Examiners, established by § 3-2101; the District of Columbia Board of Cosmetology, established by § 3-2002; the Education Licensure Commission, established by § 38-1303; the Electrical Board, established by Commissioners' Order No. 54-1301, dated June 17, 1954; the Board of Funeral Directors, established by § 3-403; District of Columbia Taxicab Commission, established by Chapter 3 of Title 50; the Commission on Licensure to Practice the Healing Art in the District of Columbia, established by § 3-2903; the Board of Examiners for Nursing Home Administrators, established by Commissioner's Order No. 70-37, effective October 15, 1970; the Board of Occupational Therapy Practice, established by § 3-2305.5; the Board of Optometry, established by § 3-2403; the Board of Pharmacy, established by Chapter 20 of Title 2; the Practical Nurses' Examining Board, established by § 3-2302.06; the Physical Therapists' Examining Board,established by § 3-2303.05; the Board of Psychologist Examiners, established by § 3-2304.05; the Plumbing Board,established by § 3-2501; the Board of Podiatry Examiners, established by§ 3-2601; the District of Columbia Board of Registration for Professional Engineers, established by § 47- 2886.05; the Real Estate Commission of the District of Columbia, established by § 42-1723; the Refrigeration and Air Conditioning Board, established by Commissioners' Order No. 55-2028, effective October 18, 1955; the Nurses Examining Board, established by § 3-2301.02; the Board of Examiners of Steam and Other Operating Engineers, established by § 3-2702; the Board of Examiners in Veterinary Medicine, established by § 3-531; the Alcoholic Beverage Control Board, established by § 25-104; the Board of Appeals and Review, established by Part I of Commissioners' Order No. 55-1500, effective August 11, 1955; the District of Columbia Armory Board, established by § 3- 302; the Commission on the Arts and Humanities, established by § 39-203; the Condemnation Review Board, established by Commissioners' Order No. 54-2305, dated September 27, 1954; the Contract Appeals Board, D.C., established by Part VI of Commissioner's Order No. 68-399, dated June 6, 1968; the Criminal Justice Supervisory Board, established by § 3-903; the D.C. General Hospital Commission, established by § 44-1911 et seq.; the District of Columbia Developmental Disabilities Planning Council, established by Mayor's Order No. 77-

51a, dated March 30, 1977; the District of Columbia Board of Elections and Ethics, established by § 1-1001.03; the Office of Employee Appeals, established by subchapter VI of Chapter 6 of this title; Board of Real Property Assessments and Appeals for the District, established by § 47-825.01; the Board of Library Trustees, established by § 39-104; the District of Columbia Small and Local Business Opportunity Commission, established by § 2-218.21; the District of Columbia Occupational Safety and Health Board, established by Reorganization Plan No. 1 of 1978, effective June 27, 1978; the Public Employee Relations Board, established by subchapter V of Chapter 6 of this title; the Committee for the Purchase of Products and Services of the Blind and Other Severely Handicapped, established by § 32-303; the District of Columbia Rental Accommodations Commission, established by Chapter 40 of Title 42; the Statewide Health Coordinating Commission, established by Mayor's Order No. 72- 43, dated March 15, 1977; the Board of Trustees of the University of the District of Columbia, established by § 38-1202.01 et seq.; the Board of Zoning Adjustment, established by § 6-641.07; the Zoning Commission, established by § 6-621.01; the District of Columbia Commission on Postsecondary Education, established by Mayor's Order No. 75-23a, dated February 1, 1975; the District of Columbia Redevelopment Land Agency, established by § 6-301.03; the District of Columbia Housing Finance Agency, established by § 42-2702.01; and any board or commission created after April 23, 1980, which makes decisions in areas of contracting, procurement, administration of grants or subsidies, planning or developing policies, inspecting, licensing, regulating, auditing or acting in areas of responsibility involving any potential conflict of interest shall file annually with the Board a report containing a full and complete statement of:

(1) the name of each business entity (including sole proprietorships, partnerships, and corporations) transacting any business with the District of Columbia government (including any of its agencies, departments, boards, commissions, or educational bodies) in which such person (or his or her spouse, if property is jointly titled): (A) has a beneficial interest (including those held in such person's own name, in trust, or in the name of a nominee) exceeding in the aggregate $1,000; provided, however, if such interest consists of corporate stocks which are registered and traded upon a recognized national exchange, such aggregate value must exceed $5,000; or (B) earns income for services rendered during a calendar year in excess of $1,000; or (C) serves as an officer, director, partner, employee, consultant, contractor, or in any other formal capacity or affiliation;
(2) any outstanding individual liability in excess of $1,000 for borrowing by such person or his or her spouse if such liability is joint, from anyone other than a federal or state insured or regulated financial institution (including any revolving credit and installment accounts from any business enterprise regularly engaged in the business of providing revolving credit or installment accounts) or a member of such person's immediate family;

(3) all real property located in the District of Columbia (and its actual location) in which such person or his or her spouse if such property is jointly titled, has an interest with a fair market value in excess of $5,000; provided, however, that this provision shall not apply to personal residences actually occupied by such person or his or her spouse;

(4) all professional or occupational licenses issued by the District of Columbia government held by such person;

(5) all gifts received in an aggregate value of $100 in a calendar year by such person from any business entity (including sole proprietorships, partnerships, and corporations) transacting any business with the District of Columbia government (including any of its agencies, departments, boards, commissions, or educational bodies); and

(6) an affidavit stating that the subject candidate or office holder has not caused title to property to be placed in another person or entity for purposes of avoiding the disclosure requirements of this subsection. In addition to the foregoing information required to be disclosed pursuant to this

subsection, the Mayor, the members of the Council, and the members of the Board of Education shall also disclose annually all outside income and honoraria, as defined in § 1-1108.01, accepted during the calendar year, as well as the identity of any client for whom the public official performed a service in connection with the public official's outside income if the client has a contract with the government of the District of Columbia or the client stands to gain a direct financial benefit from legislation that was pending before the Council during the calendar year. For the purpose of this subsection, "outside income" means any fixed payment at regular intervals for services rendered, self-employment, and royalties for any publication. For the purpose of this subsection, the words "immediate family" shall have the same meaning as in § 1-1106.01. The Board may, by rule, provide forms for the submission of the statement required by this subsection in aggregate categories. Information supplied pursuant to this subsection shall be modified by the filer within 30 days of any changes therein, and failure to inform the Board of such modifications is deemed to be a willful violation of this filing requirement. The Board may, on a case-by- case basis, provide for certain exemptions to this filing requirement which are deemed to be de minimis by the Board.

(b) Before the 1st day of February of each year, the Mayor of the District of Columbia for persons appointed under the authority of subchapter VIII-B of Chapter 6 of this title (and paid at a rate of DS-13 or above), subchapter X of chapter 6 of this title or §§ 1-609.01 through 1-609.03 or § 1-609.09 (and paid at a rate of GS-13 or above in the District Schedule or comparable compensation under subchapter XI of Chapter 6 of this title), subchapter IX-A of Chapter 6 of this title (and paid at a rate of DS-13 or above, or MS-13 or above in the case of the Management Supervisory Service or comparable compensation under subchapter XI of Chapter 6 of this title) or designated in § 1-609.08 (and appointed by the Mayor) and members of boards and commissions listed in subsection (a) of this section; the Chairman of the Council of the District of Columbia for persons appointed under the authority of subchapter VIII-B of Chapter 6 of this title (and paid at a rate of DS-13 or above), §§ 1-609.01 through 1-609.03 or § 1-609.09 (and paid at a rate of GS-13 or above in the District Schedule or comparable compensation under subchapter XI of Chapter 6 of this title), subchapter IX-A of Chapter 6 of this title) (and paid at a rate of DS-13 or above, or MS-13 or above in the case of the Management Supervisory Service or comparable compensation under subchapter XI of Chapter 6 of this title) or designated in § 1-609.08 and employed by the Council; and the Chief Executive Officer of the Board of Education, the University of the District of Columbia, or any independent agency or instrumentality by whom a person appointed under subchapter VIII-B of Chapter 6 of this title (and paid at a rate of DS-13 or above), or a person designated in § 1-609.08 is employed shall submit on behalf of their respective agency, the names and current mailing addresses of all persons required to file a financial statement as required by this section with the Director of Campaign Finance. It shall be the responsibility of each chief executive to maintain the currency of the names and current mailing addresses of all persons required to file under this chapter, and to advise the Director of Campaign Finance within 21 days of such person's appointment, election, resignation, termination, or death. During April of each year, the Board shall publish, in the District of Columbia Register, a list of names of candidates, officers, and employees required to file under this section as of the last day of the preceding March.

(c) Except as otherwise provided by this section, all papers filed under this section shall be kept by the Board in the custody of the Director for not less than 4 years. Upon receipt of a request by any member of the Board adopted by a recorded majority vote of the full Board requesting the examination and audit of any of the reports filed by any individual under subsection (b) of this section, the Director shall transmit to the Board the envelopes containing such reports. Within a reasonable time after such recorded vote has been taken, the individual concerned shall be informed of the vote to examine and audit, and shall be advised of the nature and scope of such examination. If, upon such

examination, the Board determines that further consideration by the Board is warranted and within the jurisdiction of the Board, or the Director or General Counsel of the Board which is required for the discharge of his or her official duties, the Board may receive the papers as evidence, after giving to the individual concerned due notice and opportunity for hearing in a closed session. The Board shall publicly disclose not later than the 1st day of June each year the names of the candidates, officers, and employees who have filed a report. The Director shall dispose of papers filed pursuant to this section in accordance with Chapter 17 of Title 2.

(d)(1) Reports required by this section (other than reports so required by candidates) shall be filed not later than 60 days following August 14, 1974, and not later than May 15th of each succeeding year. In the case of any person who ceases, prior to such date in any year, to occupy the office or position, the occupancy of which imposes upon him or her the reporting requirements contained in subsection (a) of this section, he or she shall file such report on the last day he or she occupies such office or position, or on such later date, not more than 3 months after such last day, as the Board may prescribe. The Board shall publish, in the District of Columbia Register, not later than the 15th day of June each year, the name of each candidate, officer, and employee who has filed a report under this section; the name of each candidate, officer, and employee who has sought and received an extension of the deadline filing requirement and the reason therefor; and the name of each candidate, officer, and employee published in the District of Columbia Register under subsection (c) of this section who has not filed a report and the reason for not filing, if known. The Director shall dispose of papers filed pursuant to this section in accordance with Chapter 17 of Title 2.

(2) Any report required to be filed with the Director from an employee who is no longer covered under the provisions of this subchapter on March 1, 1979, shall be returned to such employee or his or her representative on or before June 1, 1979; provided, however, that should the Director certify that any routine audit or an investigation concerning compliance with the provisions of this subchapter is currently underway, such reports shall not be returned to such employees, except as otherwise provided in this section.

(e) Reports required by this section shall be in such form and detail as the Board may prescribe. The Board may provide for the grouping of items of income, sources of income, assets, liabilities, dealings in securities or commodities, and purchases and sales of real property, when separate itemization is not feasible or is not necessary for an accurate disclosure of the income, net worth, dealing in securities and commodities or purchases, and sales of rental property of any individual.

(f) All public reports filed under this section shall be maintained by the Board as public records which, under such reasonable regulations as it shall prescribe, shall be available for inspection by members of the public.

(g) For the purposes of any report required by this section, an individual shall be considered to have been a public official, if he or she has served as a public official for more than 30 days during any calendar year in a position for which financial disclosure reports are required under this part.

(h) For purposes of this section, the term:

(1) "Income" means gross income as defined in § 61 of the Internal Revenue Code of 1954.

(2) "Security" means security as defined in § 2 of the Securities Act of 1933, as amended (15 U.S.C. § 77b).

(3) "Commodity" means commodity as defined in § 2 of the Commodities Exchange Act, as amended (7 U.S.C. § 2).

(4) "Transactions in securities or commodities" means any acquisition, holding, withholding, use, transfer, or other disposition involving any security or commodity.

(5) "Immediate family" means the child, parent, grandparent, brother, or sister of an individual, and the spouse or domestic partner of such person.

(6) "Tax" means the taxes imposed under Chapter 1 of the Internal Revenue Code of 1954, under the District of Columbia Revenue Act of 1947, and under the District of Columbia Public Works Act of 1954 and any other provision of law relating to the taxation of property within the District of Columbia.

(7) "Gift" means a payment, subscription, advance, forebearance, rendering or deposit of money, services or any thing of value, unless consideration of equal or greater value is received, for the purpose of influencing the actions of a public official in making or influencing the making of an administrative decision or legislative action; and shall not include a political contribution otherwise reported as required by law, a commercially reasonable loan made in the ordinary course of business, or a gift received from a member of the person's immediate family.

(i)(1) This section shall not apply to any candidate for nomination for election, or election as a member of an Advisory Neighborhood Commission, or to any member of an Advisory Neighborhood Commission, except to the extent that the section applies to the candidate or member because of his or her status other than as the candidate or member.

(2) Members of Advisory Neighborhood Commissions shall be covered under the conflict of interest provisions of § 1-1106.01.

(j) No person shall unlawfully disclose or use for any purpose other than in accordance with the terms of this subchapter any information contained in financial statements required by this subchapter.

District of Columbia Official Code 2001 Edition

Division I. Government of District.

Title 1. Government Organization. (Refs & Annos)

Chapter 11. Election Campaigns; Lobbying; Conflict of Interest. (Refs & Annos)

Subchapter I. General Provisions. (Refs & Annos)

Part F-I. Use of Government Resources for Campaign-Related Activities.

➡§ 1-1106.51. Prohibition on the use of District government resources for campaign related activities.

(a) No resources of the District of Columbia government, including, the expenditure of funds, the personal services of employees during their hours of work, and nonpersonal services, including supplies, materials, equipment, office space, facilities, telephones and other utilities, shall be used to support or oppose any candidate for elected office, whether partisan or nonpartisan, or to support or oppose any initiative, referendum, or recall measure, including a charter amendment referendum conducted in accordance with § 1-203.03.

(b)(1) This part shall not prohibit the Mayor, the Chairman and members of the Council, or the President and members of the Board of Education from expressing their views on a District of Columbia election as part of their official duties.

(2) This subsection shall not be construed to authorize any member of the staff of the Mayor, the Chairman and members of the Council, or the President and members of the Board of Education, or any other employee of the executive or legislative branch to engage in any activity to support or oppose any candidate for elected office, whether partisan or nonpartisan, an initiative, referendum, or recall measure during their hours of work, or the use of any nonpersonal services including supplies, materials, equipment, office space, facilities, telephones and other utilities to support or oppose an initiative, referendum, or recall matter.

District of Columbia Official Code 2001 Edition

Division I. Government of District.

Title 1. Government Organization. (Refs & Annos)

Chapter 11. Election Campaigns; Lobbying; Conflict of Interest. (Refs & Annos)

Subchapter I. General Provisions. (Refs & Annos)

Part G. Miscellaneous Provisions.

§ 1-1107. Penalties; prosecutions.

(a) Except as provided in subsection (b) of this section, any person or political committee who violates any of the provisions of this subchapter shall be fined not more than $5,000, or shall be imprisoned for not longer than 6 months, or both.

(b) Any person who knowingly files any false or misleading statement, report, voucher, or other paper, or makes any false or misleading statement to the Board, shall be fined not more than $10,000, or shall be imprisoned for not longer than 5 years, or both.

(c) The penalties provided in this section shall not apply to any person or political committee who, before August 14, 1974, during calendar year 1974, makes political contributions or receives political contributions or makes any political campaign expenditures, in excess of any limitation placed on such contributions or expenditures by this subchapter, except such person or political committee shall not make any further such contributions or expenditures during the remainder of calendar year 1974.

(d) Prosecutions of violations of this subchapter, except as provided in § 1-1001.14(b)(4), shall be brought by the United States Attorney for the District of Columbia in the name of the United States.

(e) The provisions of this section shall not apply to violations of part E of this subchapter.

(f) All actions of the Board or of the United States Attorney for the District of Columbia to enforce the provisions of this subchapter must be initiated within 3 years of the actual occurrence of the alleged violation of the chapter.

District of Columbia Official Code 2001 Edition

Division I. Government of District.

Title 2. Government Administration. (Refs & Annos)

Chapter 3A. Government Procurement.

Subchapter IV. Source Selection and Contract Formation.

§ 2-354.01. Source selection methods.

(a)(1) Except as otherwise authorized by law, all District government contracts shall be awarded by:

(A) Competitive sealed bidding pursuant to § 2-354.02;
(B) Competitive sealed proposals pursuant to § 2-354.03;

(C) Sole source procurements pursuant to § 2-354.04;

(D) Emergency procurements pursuant to § 2-354.05;

(E) Human care procurements pursuant to § 2-354.06;

(F) Small purchase procurements pursuant to § 2-354.07;

(G) Special pilot procurements pursuant to § 2-354.08;

(H) Reverse auctions pursuant to § 2-354.09;

(I) Procurements through a General Services Administration schedule pursuant to § 2-354.10;

(J) Cooperative agreements pursuant to § 2-354.11;

(K) Procurements through the DCSS pursuant to § 2-354.12; or

(L) Infrastructure facilities and services pursuant to subchapter VI of this chapter.

(2) The CPO shall publish annually on the Internet a report on the number of and dollar value of contracts executed under each source selection method.

(b)(1) Except for members of a technical advisory group, a District employee or official shall not attempt to influence a procurement professional with respect to source selection; provided, that an employee or official may attempt to prevent a procurement professional from violating law or rules.

(2) Any employee or official who violates this section shall be subject to suspension, dismissal, or other disciplinary action under the procedures pursuant to subchapter XVI-A of Chapter 6 of Title 1.

District of Columbia Official Code 2001 Edition

Division I. Government of District.

Title 2. Government Administration. (Refs & Annos)

Chapter 3A. Government Procurement.

Subchapter IV. Source Selection and Contract Formation.

§ 2-354.16. Contingent fees.

(a) A contractor shall not offer to pay any fee or other consideration that is contingent on the making of a contract.

(b) Every contract shall contain the following prohibition against contingent fees: "The contractor warrants that no person or selling agency has been employed or retained to solicit or secure the contract upon an agreement or understanding for a commission, percentage, brokerage fee, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the contractor for the purpose of securing business. For a breach or violation of this warranty, the District shall have the right to terminate the contract without liability or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of the commission, percentage, brokerage, or contingent fee.

(c) A District employee shall not solicit or secure, or offer to solicit or secure, a contract for which the employee is paid or is to be paid any fee or other consideration contingent on the making of the contract between the employee and any other person.

3200 APPLICABILITY

3200.1 The Financial Disclosure Statement (FDS) form, prescribed by the Director of the Office of Campaign Finance (the Director) (OCF), shall be filed by the following public officials:

(a) Any candidate for election to public office, except the office of Advisory Neighborhood Commissioner (ANC), who, at the time of candidacy, does not occupy any such office;

(b) All elected officials, except ANC members;

(c) Members of specific boards and commissions, pursuant to the Act;

(d) Employees within the excepted and legal services, paid at a rate of DS-13 or above;

(e) Employees within the management supervisory service, paid at a rate of MS-13, or above;

(f) Persons serving as subordinate agency heads pursuant to the Personnel Act; and

(g) Any other public official expressly subject to the financial disclosure provisions of the Act.

3200.2 The FDS shall also be filed by members of any board or commission created after April 23, 1980, which makes decisions in the following areas:

(a) Contracting;

(b) Procurement;

(c) Administration of grants or subsidies;

(d) Planning or developing policies;

(e) Inspecting;

(f) Licensing;

(g) Regulating;

(h) Auditing; or

(i) Acting in areas of responsibility involving any potential conflict of interest.

3200.3 The Honoraria and Outside Income Disclosure Statement (HOIDS) form, prescribed by the Director, shall be filed by the following public officials:

(a) The Mayor;

(b) Each member of the Council; and

(c) Each member of the State Board of Education.

3200.4 Any potential filer may request an exemption by the Director on the basis that the activities of the potential filer may be deemed de minimis.

3201 DISCLOSURE REQUIREMENTS

3201.1 The public official shall list on the FDS the following:

(a) Business entities transacting any business with the District government in which the public official (or spouse for jointly titled property) has a beneficial interest, including those held in the public officials' name, in trust, or in the name of a nominee, valued in excess of one thousand dollars ($1,000);

(b) Business entities transacting any business with the District government in which the public official (or spouse for jointly titled property) has a beneficial interest consisting of corporate stock, registered and traded on a national exchange, with a value over five thousand dollars ($5,000);

(c) Business entities transacting any business with the District government in which the public official (or spouse for jointly titled property) earns income for services rendered during a calendar year in excess of one thousand dollars ($1,000);

(d) Business entities transacting any business with the District government in which the public official (or spouse for jointly titled property) serves as an officer, director, partner, employee, consultant, contractor or in any other formal capacity or affiliation;

(e) Each outstanding liability borrowed by the individual (or spouse if joint liability) exceeding one thousand dollars ($1,000) which is not a loan from a federal or state insured or regulated financial institution, immediate family, or revolving credit or installment accounts;

(f) Each real property located in the District of Columbia (other than the personal residence actually occupied by the public official or spouse) with a fair market value in excess of five thousand dollars ($5,000) in which the public official or spouse (jointly titled) holds an interest;

(h) Each professional or occupational license issued by the District government;

(i) Each gift received in excess of one hundred dollars ($100) in a calendar year from any business entity transacting any business with the District government; and

(j) An affidavit stating that the public official has not caused title to property to be placed in the name of another person or entity for purposes of avoiding the requirements of this section.

3201.2 The public official shall list on the HOIDS the following:

(a) The source and amount of all outside income earned during the calendar year;

(b) The name of each client who transacted business with the District government from whom the public official received outside income during the calendar year;

(c) The name of each client who stands to gain a direct financial benefit from legislation that was pending before the Council during the calendar year;

(d) Each honorarium earned by the public official or any member of the public official's immediate family during the year in which the right to receive the honorarium accrued, including the source and amount;

(e) Royalties during the year in which the right to receive the royalty accrues received by the Mayor, Chairman of the Council or any member of their immediate families for the works of the Mayor or of the Chairman of the Council; and

(f) Any honoraria or royalties paid to a charitable organization.

3201.3 No public official, required to file a HOIDS, pursuant to § 3201.2, shall earn honoraria in excess of ten thousand dollars ($10,000) during the year in which the right to receive the honorarium accrues, except that any amounts paid to a charitable organization, on behalf of the public official, shall not be calculated as part of the aggregate total.

3201.4 Neither the Mayor nor the Chairman of the Council shall earn royalties in excess of ten thousand dollars ($10,000) during the year in which the right to receive the royalty accrues, except that any amounts paid to a charitable organization, on behalf of the public official, shall not be calculated as part of the aggregate total.

3201.5 The limitation on the receipt of royalties in excess of ten thousand dollars ($10,000) in any calendar year shall apply to the following public officials and their immediate families:

(a) The Mayor; and

(b) The Chairman of the Council.

3202 FILING REQUIREMENTS

3202.1 The FDS shall be deemed timely filed in person or by first class mail if received in the Office of Campaign Finance by no later than 5:30 p.m. of May 15th of each year for the prior calendar year in which the public official served.

3202.2 The FDS may be filed electronically no later than 12:00 midnight of the filing deadline; Provided that, the paper filing of the FDS, verified by the public official, is filed within five (5) days of the filing deadline.

3202.3 The HOIDS shall be filed with the Director of Campaign Finance not later than May 15th of each year for the prior calendar year in which the public official served.

3202.4 The HOIDS shall be deemed timely filed in person or by first class mail when received in the Office of Campaign Finance by no later than 5:30 p.m. on May 15th of each year for the prior calendar year in which the public official served.

3202.5 A public official shall submit an amended FDS and HOIDS within thirty (30) days after changes in any information represented on the FDS and the HOIDS.

3202.6 A public official may make a request of the Director, in writing, for an extension of up to thirty (30) days in which to submit the FDS and the HOIDS.

3202.7 The Director may extend the period of time for submission of the FDS and the HOIDS by a public official, for good cause shown.

3202.8 The list of public official required to file the FDS shall be published in the DC Register in April of each calendar year, and made available to the public, under Chapter 37 of this Title.

1800 Applicability

1800.1 Employees of the District government shall at all times maintain a high level of ethical conduct in connection with the performance of official duties, and shall refrain from taking, ordering, or participating in any official action which would adversely affect the confidence of the public in the integrity of the District government.

1800.2 The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by employees is essential to assure the proper performance of government business and the maintenance of confidence by citizens in their government. The avoidance of misconduct and conflicts of interest on the part of employees is indispensable to the maintenance of these standards. To accord with these concepts, this chapter sets forth the regulations prescribing standards of conduct and the requirements for reporting outside employment and financial interests for District government employees.

1800.3 No employee of the District government shall engage in outside employment or private business activity or have any direct or indirect financial interest that conflicts or would appear to conflict with the fair, impartial, and objective performance of officially assigned duties and responsibilities.

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1801 Remedial Action

1801.1 Violation of these regulations by an employee may result in remedial action which may be in addition to any penalty prescribed by law.

1801.2 When, after consideration of the explanation of the employee, the Board of Elections and Ethics or the agency head decides that remedial action is required regarding any matter covered under this chapter, appropriate action shall be immediately taken or ordered. Remedial action may include, but shall not be limited to, the following:

(a) Changes in assigned duties;

(b) Divestment by the employee of his or her conflicting interest;

(c) Corrective or adverse action pursuant to DC Code § 1-617.1(d) (1981); or

(d) Disqualification for a particular assignment.

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1802 Coverage and Enforcement

1802.1 The provisions of this chapter shall apply to all District employees. In accordance with DC Code § 1-619.3(e) (1981), enforcement of this chapter shall, consistent with the regulations set forth herein, be the responsibility of each agency head, except that enforcement for the following persons shall be the responsibility of the DC Board of Elections and Ethics:

(a) The Mayor, the Chairman and each Member of the Council, the President and each Member of the Board of Education, members of boards and commissions as provided in subsection (a) of Section 602 of the District of Columbia Campaign Finance Reform and Conflict of Interest Act, as amended (DC Code § 1-1462(a) (1981)); and

(b) Employees in the Executive Service, and persons appointed under the authority of DC Code §§ 1-610.1 through 1-610.3 (1981) (and paid at a rate of DS-13 or above in the District Schedule or comparable compensation), or designated in DC Code § 1-610.8 (1981).

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1803 Responsibilities of Employees

1803.1

(a) An employee shall avoid action, whether or not specifically prohibited by this chapter, which might result in or create the appearance of the following:

(1) Using public office for private gain;

(2) Giving preferential treatment to any person;

(3) Impeding government efficiency or economy;

(4) Losing complete independence or impartiality;

(5) Making a government decision outside official channels; or

(6) Affecting adversely the confidence of the public in the integrity of government.

(b) In all cases arising under section 1803 of this chapter, employees are encouraged to consult with their supervisors or the agency's ethics counselor.

1803.2

(a) Except as noted in section 1803.3 of this section, a District government employee shall not solicit or accept, either directly or through the intercession of others, any gift from a prohibited source.

(b) For the purposes of this section, the following terms shall have the meaning ascribed:

Gift - any gratuity, favor, loan, entertainment, or other like thing of value.

Prohibited source - any person or entity that:

(1) Has or is seeking to obtain contractual or other business or financial relations with the District government;

(2) Conducts operations or activities that are subject to regulation by the District government; or

(3) Has an interest that may be favorably affected by the performance or non-performance of the employee's official responsibilities.

(c) An employee who receives a gift that cannot be accepted under the provisions of this section shall:

(1) Return the gift to the donor or reimburse the donor the market value of the gift; or

(2) If the gift is perishable and it would not be practical to return it to the donor, donate the gift to charity, share it with the office staff, or destroy it.

1803.3 The restrictions outlined in section 1803.2 of this section do not apply to the following:

(a) Bona fide personal relationships such as those between an employee and his or her family or personal friends;

(b) The acceptance of food and refreshments of nominal value on infrequent occasions:

(1) In the ordinary course of a luncheon or dinner meeting, or while on an inspection tour where an employee may properly be in attendance; or

(2) In connection with an annual holiday party or event sponsored by an entity other than the District government, provided that the employee shall notify his or her supervisor in time sufficient for the supervisor to make a meaningful judgment to approve or disapprove the employee's attendance. When making the determination the supervisor may consider such factors as the agency's interests and any appearance of a conflict of interest. The supervisor shall disapprove the employee's attendance if there is an actual conflict of interest.

(c) The acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees such as the acquisition of a car, home, or appliance;

(d) The acceptance of unsolicited advertising or promotional material such as pens, pencils, note pads, calendars, and like items of nominal value; or

(e) The acceptance of a voluntary gift of nominal value or of a cash donation in a nominal amount which is presented on a special non-recurring occasion such as marriage, illness, or retirement, but excluding birthdays, or other annually-recurring events.

1803.4 An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay. This subsection does not preclude the presentation or acceptance of a voluntary gift of nominal value or of a cash donation in a nominal amount when given on a special, infrequent occasion such as marriage, illness, or retirement.

1803.5 For the purposes of section 1803.4 of this section, the term nominal means an individual cash donation of no more than $10 or an individual voluntary gift of no more than $10 in market value.

1803.6 An employee shall not accept a gift, present, or decoration from a foreign government unless authorized by Congress as provided by the Constitution and in 5 USC § 7342.

1803.7 An employee shall not receive any salary or anything of monetary value from a private source as compensation for his or her services to the government (18 USC § 209).

1803.8 An employee shall report directly and without undue delay to his or her agency head and to the Office of the Inspector General of the District of Columbia any information concerning conduct which he or she knows, or should reasonably know, involves corrupt or other criminal activity, or conflict of interest:

(a) On the part of another District employee, which concerns that person's employment or office; or

(b) On the part of a person dealing with the District government, which concerns that person's dealings with the District government.

1803.9 An agency head who has information concerning conduct as described in section 1803.8 of this section shall immediately report such information to the Office of the Inspector General of the District of Columbia.

1803.10 An employee shall not interfere with or obstruct an investigation by a District or federal agency of misconduct by another District employee or by a person dealing with the District.

1803.11 Coercion, harassment, or retaliatory action shall not be taken against an employee acting in good faith under section 1803.8 of this section.

1803.12 All employees of the District government shall comply with the requirements of the Freedom of Information Act of 1976, effective March 29, 1977, as amended (DC Law 1-96; DC Official Code § 2-531 et seq.) (2005 Supp.).

1803.13 Nothing contained in these regulations shall preclude the Mayor from serving as an honorary chair or honorary member of a nonprofit entity's fundraising event, so long as the entity for which funds are raised supports a nongovernmental bona fide charitable activity benefiting the District of Columbia. Use of the Mayor's name or title in fundraising solicitations or announcements of general circulation shall be in accordance with such terms and limitations as the Mayor may prescribe by Mayor's order or by direction in particular cases. The authority granted by this subsection shall not extend to the use of the Mayor's name or title in solicitations made by or on behalf of the Mayor directly to individual contributors.

1803.14

(a) It is the policy of the District government to avoid conflicts of interest concerning the award, implementation, monitoring, and performance of contracts for services. As a means of assisting District government agencies to evaluate real or potential conflicts of interest in this area, a new hire will be required to disclose to the personnel authority upon initial appointment such previous employment relationships (whether in the private or public sectors) as the personnel authority may direct, including full disclosure of any ongoing economic benefits to the employee from previous employment relationships.

(b) The new hire will make such disclosure to the personnel authority as part of the new hire processing conducted by the personnel authority, and to the employee's supervisor upon arrival at the employing agency.

(c) The personnel authority will communicate the information required to be disclosed under this section to the head of the employing agency, and will advise the employee in writing of the restrictions imposed by sections 1803.14 (d) and (e) of this section.

(d) For one (1) year after the date of initial employment with the District government, an employee required to make a disclosure under this section will be screened from, and shall not participate in any manner, in the District government's decision to enter into, extend, modify, or renew a contract or consultancy engagement with the employee's former employer (hereafter, "procurement action").

(e) The one-year (1-year) restriction from participation in any procurement action prescribed in section 1803.14 (d) of this section will be extended for as long as the employee receives an ongoing economic benefit from a former employer. It will be the employee's responsibility to advise his or her immediate supervisor of the continued receipt of the ongoing economic benefit from a former employer.

(f) Notwithstanding the prohibitions set forth in sections 1803.14 (d) and (e) of this section, the head of the employing agency may authorize an employee required to make a disclosure under this section, as part of the employee's official duties, to do any of the following: (1) participate in the oversight or review of the work-product or performance of a former employer that is currently a contractor or consultant with the

District government; (2) serve as the District government's liaison with the former employer; or (3) otherwise communicate with the former employer on matters pending before the employee's employing agency.

(g) The determination to require that the employee perform any of the duties listed in section 1803.14 (f) of this section will be based upon the written determination of the agency head, made in light of all relevant circumstances, that the interest of the District government in the employee's participation outweighs the concern that a reasonable person might question the integrity of the District government's programs or operations. Applying this standard, the agency head may determine that the employee's participation reasonably may be permitted in certain activities involving the employee's former employer, but not in others. In all instances under this section in which the employee is prohibited from participation, the employee will be screened from the receipt of any information regarding the former employer's matter that is pending before the District government.

(h) An agency head may delegate the responsibility for making any of the determinations prescribed in this section to other personnel in the agency. The person in the agency making any such determinations may consult with the DC Ethics Counselor or with the agency's ethics counselor.

(i) For the purposes of this section, an "ongoing economic benefit from a former employer" will include any pension, annuity, stock option, bonus, cash or in-kind distribution in satisfaction of equitable interest, payment of all or a portion of the premiums on a life or health insurance policy, or any other comparable benefit; and a "former employer" is any person or organization: (1) for which the employee has, within the one (1) year preceding his or her employment by the District government, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee, or (2) from which the employee receives an ongoing economic benefit.

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1804 Outside Employment and Other Outside Activity

1804.1 An employee may not engage in any outside employment or other activity which is not compatible with the full and proper discharge of his or her duties and responsibilities as a government employee. Activities or actions which are not compatible with government employment include, but are not limited to, the following:

(a) Engaging in any outside employment, private business activity, or other interest which may interfere with the employee's ability to perform his or her job, or which may impair the efficient operation of the District of Columbia government;

(b) Using government time or resources for other than official business, or government approved or sponsored activities, except that a District employee may spend a reasonable amount of government time and resources on such projects, reports, and studies as may be considered in aid of other government jurisdictions (local, state, or federal), provided the work so performed is within the scope of the individual's regular assignments as a District employee;

(c) Ordering, directing, or requesting subordinate officers or employees to perform during regular working hours any personal services not related to official DC government functions and activities;

(d) Maintaining financial or economic interest in or serving (with or without compensation) as an officer or director of an outside entity if there is any likelihood that such entity might be involved in an official government action or decision taken or recommended by the employee;

(e) Engaging in any outside employment, private business activity, or interest which permits an employee, or others, to capitalize on his or her official title or position;

(f) Divulging any official government information to any unauthorized person or in advance of the time prescribed for its authorized issuance, or otherwise making use of or permitting others to make use of information not available to the general public;

(g) Engaging in any outside employment, private business activity, or other interest which might impair an employee's mental or physical capacity to such an extent that he or she can no longer carry out his or her duties and responsibilities as a government employee in a proper and efficient manner;

(h) Serving in a representative capacity or as an agent or attorney for any outside entity involving any matter before the District of Columbia; or

(i) Engaging in any outside employment, private business activity, or other interest which is in violation of federal or District law.

1804.2 An employee of the District of Columbia government may not do indirectly what he or she may not do directly under the foregoing restrictions.

1804.3 An employee may engage in teaching activities, writing for publication, consultative activities, and speaking engagements that are not prohibited by law, regulation, or agency standards, only if such activities are conducted outside of regular working hours, or while the employee is on annual leave or leave without pay.

1804.4 The information used by an employee engaging in an activity under § 1804.3 shall not draw on official data or ideas which have not become part of the body of public information, except nonpublic information that has been made available on request for use in such capacity, or unless the agency head gives written authorization for use on the basis that its use is in the public interest.

1804.5 If the employee receives compensation or anything of monetary value for engaging in an activity under § 1804.3, the subject matter shall not be devoted substantially to the responsibilities, programs, or operations of his or her agency, to his or her official duties or responsibilities, or to information obtained from his or her government employment.

1804.6 An employee who is employed for not more than one hundred thirty (130) days during any period of three hundred sixty-five (365) consecutive days, to perform temporary duties, either on a full-time or intermittent basis, shall be subject to § 1804.1(h) only in relation to a particular matter involving specific parties in which he or she has at any time participated personally and substantially as a District government employee, or which is pending before the agency by which he or she is employed or in which he or she is serving.

1804.7 Nothing in this section shall prevent an employee, if not inconsistent with his or her duties, from acting without compensation as agent or attorney for any person who is the subject of any personnel administrative proceeding in connection with the proceeding.

1804.8 Nothing in this section shall prevent an employee from acting, with or without compensation, as agent or attorney for his or her parent(s), spouse, child, or any person for whom, or for any estate for which, he or she is serving as guardian, executor, administrator, trustee, or other personal fiduciary except in those matters in which he or she has participated personally and substantially as a government employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which are the subject of the employee's official responsibility, provided that the government official responsible for appointment to the employee's position approves.

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1805 Financial Interest

1805.1 No District employee or any member of his or her immediate household may knowingly acquire any stocks, bonds, commodities, real estate, or other property, whether held individually or in concert with others, the possession of which could unduly influence or give the appearance of unduly influencing the employee in the conduct of his or her official duties and responsibilities as an employee of the District of Columbia government.

1805.2 No District employee, or any member of his or her immediate household, may acquire an interest in or operate any business or commercial enterprise which is in any way related, directly or indirectly, to the employee's official duties, or which might otherwise be involved in an official action taken or recommended by the employee, or which is in any way related to matters over which the employee could wield any influence, official or otherwise.

1805.3 A District employee who is called upon to act for or on behalf of the District government in a matter relating to or involving a non-governmental entity in which the employee or a member of the employee's immediate family has a financial interest, shall make this fact known to his or her immediate supervisor, in writing, at the earliest possible moment. The head of the employing DC agency shall subsequently determine whether or not the employee must divest himself or herself of such interest, or merely disqualify himself or herself from taking part in any official decision or action involving the matter.

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1806 Government Property

1806.1 A District employee shall not use or permit the use of government property, equipment, or material of any kind, including that acquired through lease, for other than officially approved purposes. An employee has a positive duty to protect and conserve government property, including such equipment, supplies, materials, and other items as may be issued or entrusted to him or her. Nothing in this subsection, however, shall serve to prohibit the following:

(a) The acceptance of any material, article, or service which is available as part of any DC government program properly being dispensed or provided free to DC residents or visitors to the District;

(b) The use of District facilities by recognized employee groups for authorized off-duty training or meeting purposes;

(c) The use of government facilities or equipment under circumstances which do not increase the maintenance cost of such resources; for example, the use of existing library materials or government-purchased books is not prohibited; or

(d) The temporary loan of office equipment such as dictaphones, typewriters, reference books, or similar equipment, provided that the District employee who would make use of such items does the following:

(1) Properly substantiates his or her need for same in writing;

(2) Acquires the prior approval of his or her supervisor;

(3) Limits their use to his or her own residence and then only for such purposes as will be considered of benefit to the DC government; and

(4) Duly notes the loan of such items on the agency's personal property records.

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1807 Indebtedness

1807.1 An employee shall pay each just financial obligation in a proper and timely manner.

1807.2 For the purpose of these regulations a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court or one imposed by law, and "in a proper and timely manner" means in a manner which the agency determines does not, under the circumstances, reflect adversely on the District government as an employer. In the event of dispute between an employee and an alleged creditor, these regulations do not require an agency to determine the validity or amount of the disputed debt.

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1808 Gambling, Betting, and Lotteries

1808.1 An employee shall not participate, while on government-owned or leased property or while actually on duty, in any gambling activity, including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket, except for those lawful activities sponsored by the DC Lottery and Charitable Games Control Board or necessitated by an employee's agency-approved law enforcement duties.

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1809 Applicability of Federal Laws

1809.1 In accordance with DC Code § 1-633.4(1) (1981), the provisions of title 18, US Code, insofar as they affect employees of the District government, shall not be affected by DC Code Title 1, Chapter 6 (1981).

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1810 Additional Standards of Conduct

1810.1 Each subordinate and independent agency of the District government may prescribe additional standards of ethical conduct and reporting requirements that are appropriate to the particular functions and activities of the agency and which are not inconsistent with law or this chapter.

1810.2 Additional standards of conduct and reporting requirements prescribed by an agency shall require the approval of the DC Office of Personnel and the DC Ethics Counselor prior to implementation.

1810.3 Each request for approval of additional standards shall be submitted in writing to the Director of Personnel and the DC Ethics Counselor, setting forth the need for the additional standards of conduct and reporting requirements based on the duties and responsibilities of the positions and the functions of that office.

1810.4 Each agency head shall notify all employees of any additional standards established under this section.

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1811 Ethics Counselors

1811.1 The DC Ethics Counselor, appointed by the Mayor pursuant to DC Code § 1-619.3(a) (1981), shall be an employee of the District of Columbia, and shall be responsible for the following:

(a) Advising agency heads and ethics counselors with respect to their obligations and responsibilities under this chapter;

(b) Coordinating the activities of agency ethics counselors appointed under § 1811.2; and

(c) Coordinating and enforcing the financial disclosure system established by § 1813.

1811.2 The head of each agency of the DC government shall appoint or designate an employee to serve as the agency ethics counselor.

1811.3 Agency ethics counselors shall undertake and satisfactorily complete such training programs as are prescribed by the DC Ethics Counselor.

1811.4 Under the general guidance of the DC Ethics Counselor, agency ethics counselors shall be responsible for the following:

(a) Advising agency employees with respect to their obligations under this chapter;

(b) Maintaining copies of all laws, regulations, orders, and advisory opinions with respect to ethical conduct and financial disclosure which are applicable to agency employees; and

(c) Advising the agency head with regard to the designation of agency employees required to file statements of financial interest under § 1813.

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1812 Advisory Opinions

1812.1 Upon the request of any person subject to the requirements of this chapter, the agency ethics counselor shall provide, within fifteen (15) days of receipt of the request, an advisory opinion with respect to any matter covered under this chapter that is presented by the person for resolution. The advisory opinion shall inform the person whether his or her conduct, activities, or outside interests would constitute or potentially constitute a violation of law or this chapter.

1812.2 Opinions issued under this section shall be considered advisory only, and, within thirty (30) days of their issuance, shall be published, pursuant to DC Code § 1-619.3(c) (1981), in the DC Register.

1812.3 The name of any person requesting an advisory opinion under this section shall not be disclosed in the DC Register without his or her prior written consent.

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1813 Reporting of Financial Interests

1813.1 No employee of the District government shall engage in outside employment or private business activity or have any direct or indirect financial interest that conflicts or would appear to conflict with the fair, impartial, and objective performance of officially assigned duties and responsibilities.

1813.2 Each agency head shall identify employees performing policy-making, contracting, or purchasing functions, or functions in which meaningful decisions are made respecting private organizations. These employees shall submit annual and supplementary statements of employment and financial interests as required by this section.

1813.3 Each agency head shall designate employees required to submit a Confidential Statement of Employment and Financial Interests.

1813.4 The DC Ethics Counselor shall provide guidance in such designations and shall arrange, as appropriate, for hearings on appeals from employees contesting such designations.

1813.5 On or before April 15th of each year, each agency head shall designate the persons in the agency required to submit a Confidential Statement of Employment and Financial Interests by name, position, and grade level, and shall supply this list to the DC Ethics Counselor on or before April 30th of each year.

1813.6 An employee designated by an agency head shall be notified in writing of the following:

(a) That he or she has been designated;

(b) That he or she may request a review of the designation by the agency head within ten (10) days, after which he or she may appeal to the DC Ethics Counselor within fifteen (15) days; and

(c) That no statement shall be required pending a review or appeal.

1813.7 An employee who has been designated as being required to submit a Confidential Statement of Employment and Financial Interests under § 1813.3 may request a redetermination of the designation as follows:

(a) An employee may submit a written request for review to the agency head within ten (10) days of written notification of the designation;

(b) The agency head shall make a redetermination, in writing, within fifteen (15) days of receipt of the request; and

(c) The agency head's redetermination denying requested relief shall be appealable, in writing, within fifteen (15) days of receipt of the notice of denial, to the DC Ethics Counselor.

1813.8 The decision of the DC Ethics Counselor respecting the designation shall be in writing and shall be final. Failure or refusal to file a Confidential Statement of Employment and Financial Interests within ten (10) days of receipt of the decision shall be grounds for adverse action.

1813.9 No Confidential Statement of Employment and Financial Interests shall be required to be filed pending a review by the agency head or a decision by the DC Ethics Counselor.

1813.10 The agency head or his or her designee shall review each employee's Confidential Statement of Employment and Financial Interests and each supplementary statement and, on or before June 15th of each year, shall certify or otherwise report to the DC Ethics Counselor, indicating whether or not persons designated have filed the required statements, and if not, shall provide a list of those employees who have failed to submit the required statements.

1813.11 Confidential Statements of Employment and Financial Interests shall be reviewed by the agency head or his or her designee. Any remedial action ordered or taken shall be consistent with the provisions of § 1801.

1813.12 Confidential Statements of Employment and Financial Interests shall be held in strictest confidence and shall be retained in limited access files under the control of the agency head for no less than three (3) years; thereafter, the reports shall be retained for at least two (2) additional years, either in limited access files under the control of the agency head or transferred to the appropriate record retention center outside the agency.

1813.13 Each Confidential Statement of Employment and Financial Interests, and each supplemental statement, shall be considered an official personnel record and shall be made available only as authorized by chapter 31 of these regulations.

1813.14 An employee who has been designated to submit a Confidential Statement of Employment and Financial Interests shall provide the information specified in this section.

1813.15 Each employee required to submit a Confidential Statement of Employment and Financial Interests shall be provided with the statement and its instructions by his or her supervisor.

1813.16 An employee who is designated under § 1813.3 shall submit a Confidential Statement of Employment and Financial Interests to the agency head or the agency head's designee no later than May 15th of each year, even though no significant changes have occurred regarding his or her outside employment or financial interests, and:

(a) Ten (10) days from the date that he or she is appointed, transferred, promoted, or detailed to a position that is subject to these reporting requirements; or

(b) Ten (10) days after the position is determined to be covered by the reporting requirements.

1813.17 While assigned to a position requiring the submission of a Confidential Statement of Employment and Financial Interests, an employee shall keep the information on the statement current with respect to all categories and shall obtain prior approval from the agency head or his or her designee before engaging in additional outside employment or business activities.

1813.18 Notwithstanding the filing of the annual statement required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflict-of-interest provisions of 18 USC § 208, or this chapter.

1813.19 The interest (that is, any reportable interest specified in §§ 1813.20 through 1813.24) of a member of an employee's immediate household shall be considered to be an interest of the employee.

1813.20 If any information required to be included on a Confidential Statement of Employment and Financial Interests or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information on his or her behalf.

1813.21 A person who is providing services to a District agency without compensation under the provisions of § 4000 (Utilization of Voluntary Services) of these regulations shall be required to submit a Confidential Statement of Employment and Financial Interests if it is determined by the agency head that the volunteer's assignment is comparable to a position covered by this chapter requiring the submission of a Confidential Statement of Employment and Financial Interests.

1813.22 Each designated employee shall provide the following information pertaining to employment and financial interests:

(a) The names and addresses of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations, and educational or other institutions in any of the following circumstances:

(1) With which he or she is connected as an employee, officer, owner, director, member, trustee, partner, advisor, or consultant;

(2) In which he or she has a continuing financial interest, through a pension or retirement plan, shared income, or other arrangement as a result of any current or prior employment or business or professional association; or

(3) In which he or she has any financial interest through the ownership of stock, stock options, bonds, securities, or other arrangement, including trusts;

(b) The position held in the organization (employee, officer, owner, director, member, trustee, partner, advisor, or consultant); and

(c) The nature of the financial interest, that is, through a pension or retirement plan, shared income, or other arrangement as a result of any current or prior employment or business or professional association, or through the ownership of stock, stock options, bonds, securities, or other arrangement, including trusts.

1813.23 Each designated employee shall provide the following information pertaining to creditors:

(a) The names and addresses of his or her creditors other than those to whom he or she may be indebted by reason of a mortgage on property which he or she occupies as a personal residence or to whom he or she may be indebted for current and ordinary household and living expenses such as household furnishings, automobile, education, vacation, and similar expenses; and

(b) The character of the indebtedness, for example, personal loan, note, or security.

1813.24 Each designated employee shall provide the following information pertaining to interest in real property:

(a) List his or her interest in real property or rights in lands, other than property which he or she occupies as a personal residence;

(b) State the nature of the interest, for example, ownership, mortgage, lien, investment, or trust;

(c) Identify the type of property, for example, residence, hotel, apartment, farm, or undeveloped land; and

(d) Give the address of the property (if rural, give RFD, county, and state).

1813.25 Each designated employee shall expressly indicate whether any person or entity identified in accordance with §§ 1813.22 through 1813.24 is (a) engaged in doing business with the District government or (b) regulated by any agency of the District government, except as to any licensing requirement under DC Code § 47-2801 (1981). If any change occurs regarding such persons or entities after the filing of an annual statement, the employee shall furnish the updated information by submission of a supplementary statement within ten (10) days of the commencement or cessation of the business activity or the regulatory function.

1813.26 For purposes of § 1813.25, a person or entity shall be deemed to be doing business with the District government if a contract or agreement has been formally entered into for supplying goods or services, including contracts for construction, to the District, or for extending a leasehold interest to the benefit of the District.

1813.27 If any information is to be supplied by other persons, for example, a trustee, attorney, accountant, or relative, the employee shall indicate the following information:

(a) The name and address of each other person;

(b) The date on which the information was requested by the employee to be supplied; and

(c) The nature of the subject matter involved.

1813.28 In responding to the requests for information required under §§ 1813.22 through 1813.27, the employee shall write "none," if applicable.

1813.29 The employee shall sign and date the Confidential Statement of Employment and Financial Interests, certifying the following:

(a) That he or she has received and read the instructions and the prohibitions pertaining to conflicts of interest as they relate to his or her employment;

(b) That, to the best of his or her knowledge and belief, he or she has no outside employment or other business interest other than the interests specifically listed and identified in accordance with §§ 1813.22 through 1813.28; and

(c) That the statements he or she provided are true, complete, and correct to the best of his or her knowledge and belief.

1813.30 Each employee shall submit a supplementary statement disclosing any additional financial interests not previously disclosed in the employee's annual statement within ten (10) days of his or her commencement of any previously unreported outside employment, acquisition of financial or real property interests, or agreement of indebtedness, in the same manner and to the same extent as specified for the submission of annual statements required by this section.

1813.31 When an employee identifies a person or entity in accordance with §§ 1813.25 and 1813.26 as either not engaged in doing business with the District government or not regulated by any agency of the District government and thereafter the person or entity commences either to do business with or to become subject to regulation by the District, the employee, within ten (10) days of the commencement of the business or regulatory function, shall notify in writing his or her immediate supervisor and submit a supplementary statement identifying the change in status.

1813.32 Each employee required by this section to submit an annual statement shall notify his or her immediate supervisor in writing immediately whenever an assignment is given the employee which may directly or indirectly affect any person or entity identified by the employee in accordance with §§ 1813.22 through 1813.31.

1813.33 Upon notification under § 1813.32, the supervisor may reassign the matter in the event of a conflict of interest or the appearance of a conflict of interest when, in the discretion of the supervisor, a reassignment is warranted under the circumstances. This notification shall be in addition to the requirements under § 1805.3.

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1814 Post-Employment Conflict of Interest

1814.1 When used in §§ 1814 and 1815 the following terms have the meaning ascribed:

Agency—any unit of the District of Columbia government required by law, by the Mayor of the District of Columbia, or by the Council of the District of Columbia to administer any law, rule, or any regulation adopted under authority of law. The term "agency" also includes any unit of the District of Columbia created or organized by the Council of the District of Columbia as an agency.

Former government employee—one who was, and no longer is, an employee or officer of the District government.

Government employee—any officer or employee of the District government who performs a function and who receives compensation for the performance of such service, and special Government employees. It does not include an individual performing services for the District government as an independent contractor under a personal services contract.

Mayor—the Mayor of the District of Columbia or his or her designee.

Particular government matter involving a specific party—any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter in which the District government is a party or has a direct and substantial interest, and which has application to one (1) or more specifically identified persons or entities.

Senior employee—an officer or employee of the District government who serves or served in a position designated as a senior employee position by the Director of the Federal Office of Government Ethics and is subject to the restrictions set forth in 18 USC §§ 207(b)(ii) and (c). (See 5 CFR §§ 737.25(b)(1) and 737.33.) The term "senior employee" also includes an officer or employee of the District government who serves or served in a position classified at the DS-17 or DS-18 level.

Special government employee—any officer or employee of an agency who is retained, designated, appointed, or employed to perform temporary duties either on a full-time or intermittent basis, with or without compensation, for not to exceed one hundred and thirty (130) days during any period of three hundred and sixty five (365) consecutive days.

1814.2 With the exception of the expansion of the definition of the term "senior employee" to include a District government employee who is serving or has served in a position classified at the DS-17 or DS-18 level, § 1814 is intended to be in conformity with the provisions of 18 USC § 207 and implementing regulations set forth at 5 CFR Part 737, Subparts A and B. If, otherwise, there is any conflict between the provisions of § 1814 and the provisions of 18 USC § 207, or of 5 CFR Part 737, Subparts A and B, the latter provisions control. For more detailed guidance, see 5 CFR Part 737.

1814.3 Questions regarding the application of 18 USC § 207, 5 CFR Part 737, or these regulations to specific factual circumstances may be addressed to the ethics counselor of the agency where the government employee is or was employed, or to the DC Ethics Counselor.

1814.4 A former government employee shall be permanently prohibited from knowingly acting as an attorney, agent, or representative in any formal or informal appearance before an agency as to a particular government matter involving a specific party if the employee participated personally and substantially in that matter as a government employee.

1814.5 A former government employee shall be permanently prohibited from making any oral or written communication to an agency with the intent to influence that agency on behalf of another person as to a particular government matter involving a specific party if the employee participated personally and substantially in that matter as a government employee.

1814.6 A former government employee shall be prohibited for two (2) years after terminating employment by the District from knowingly acting as an attorney, agent, or representative in any formal or informal appearance before an agency as to a particular government matter involving a specific party if the employee had official responsibility for that matter.

1814.7 A former government employee shall be prohibited for two (2) years after terminating employment by the District from knowingly making any oral or written communication to any agency with the intent to influence that agency on behalf of another person as to a particular government matter involving a specific party if the former employee had official responsibility for that matter.

1814.8 For purposes of §§ 1814.6 and 1814.7, a matter for which the former government employee had official responsibility is any matter that was actually pending under the former employee's responsibility within a period of one (1) year before the termination of such responsibility.

1814.9 The two-year (2-year) restriction period in §§ 1814.6 and 1814.7 shall be measured from the date when the former employee's responsibility for a particular matter ends, not from the termination of government service, unless the two (2) occur simultaneously.

1814.10 A former senior employee shall be prohibited for two (2) years from knowingly representing or aiding, counseling, advising, consulting, or assisting in representing any other person (except the District of Columbia) by personal appearance before an agency as to a particular government matter involving a specific party if the former senior employee participated personally and substantially in that matter as a government employee.

1814.11 The two-year (2-year) period in § 1814.10 shall be measured from the date of termination of employment in the senior employee position held by the former employee when he or she participated personally and substantially in the matter involved.

1814.12 A former senior employee (other than a special Government employee who serves for fewer than sixty (60) days in a calendar year) shall be prohibited for one (1) year from having any transactions with the former agency intended to influence the agency in connection with any particular government matter pending before the agency or in which it has a direct and substantial interest, whether or not such matter involves a specific party.

1814.13 The restriction in § 1814.12 is aimed at the possible use of personal influence based on past governmental affiliations to facilitate the transaction of business. Therefore, the restriction shall apply without regard to whether the former senior employee had participated in, or had responsibility for, the particular matter, and shall include matters which first arise after the senior employee leaves government service.

1814.14 The restriction in § 1814.12 shall apply whether the former senior employee is representing another or representing himself or herself, either by appearance before an agency or through communications with that agency.

1814.15 Communications from a former government employee shall be exempt from these prohibitions if he or she communicates with his or her agency solely to furnish scientific or technological information under procedures acceptable to the agency concerned.

1814.16 Nothing in § 1814 shall prevent a former government employee from giving testimony under oath, or from making statements required to be made under penalty of perjury.

1814.17 A former government employee may be exempted from the restrictions on post-employment practices if the Mayor or his or her designee, in consultation with the Director of the Office of Government Ethics, executes a certification published in the DC Register. The certification shall state that the former government employee has outstanding qualifications in a scientific, technological, or other technical discipline; is acting with respect to a particular matter which requires such qualifications; and the interest of the District would be served by such former government employee's participation.

1814.18 The one-year (1-year) restriction stated in § 1814.12 shall not apply to appearances, communications, or representation concerning new matters by a former senior employee if the former senior employee is an elected official of a state or local government and is acting on behalf of that government, or is regularly employed by and acting on behalf of an agency or instrumentality of federal, state, or local government; an accredited, degree-granting institution of higher education; or a non-profit hospital or medical research organization.

1814.19 The one-year (1-year) restriction stated in § 1814.12 shall not apply to appearances or communications by a former senior employee concerning matters of a personal and individual nature, such as personal income taxes or pension benefits, or the application of these regulations to an undertaking proposed by a former senior employee. A former senior employee may also appear pro se (on his or her own behalf) in any litigation or administrative proceeding involving the individual's former agency.

1814.20 The one-year (1-year) restriction stated in § 1814.12 shall not prevent a former senior employee from making or providing a statement, which is based on the former senior employee's own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received, other than that regularly provided for by law or regulation for witnesses.

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1815 Post-Employment Conflict of Interest: Administrative Enforcement Procedures

1815.1 Whenever an allegation is made that a former government employee has violated 18 USC § 207, or § 1814 of these regulations, the allegation and any supporting evidence shall be transmitted through the Corporation Counsel to the DC Ethics Counselor.

1815.2 The DC Ethics Counselor shall safeguard all allegations and evidence so as to protect the privacy of the former government employee prior to a determination of sufficient cause to initiate an administrative disciplinary proceeding.

1815.3 Upon receipt of information concerning a possible violation of 18 USC § 207, the Corporation Counsel shall expeditiously provide the following to the Inspector General of the District of Columbia and the United States Attorney for the District of Columbia for appropriate action:

(a) All relevant evidence;

(b) Any appropriate comments; and

(c) Copies of applicable agency regulations.

1815.4 If the United States Attorney informs the Corporation Counsel and the Inspector General of the District of Columbia that his or her office intends to initiate criminal prosecution, the DC Ethics Counselor

shall coordinate any investigation or administrative action with the United States Attorney in order to avoid prejudicing the criminal proceedings.

1815.5 If the Corporation Counsel, after appropriate review and recommendation by the DC Ethics Counselor, determines that there is reasonable cause to believe that there has been a violation of 18 USC § 207, or § 1814 of these regulations, the Corporation Counsel may direct the DC Ethics Counselor to initiate an administrative disciplinary proceeding.

1815.6 The DC Ethics Counselor or his or her designee shall represent the District government in a disciplinary proceeding.

1815.7 The DC Ethics Counselor shall provide the former government employee with adequate notice of his or her intention to initiate a disciplinary proceeding. The notice shall include all of the following:

(a) A statement of allegations, and the basis thereof, in sufficient detail to enable the former government employee to prepare an adequate defense;

(b) A notification of the right to a hearing; and

(c) An explanation of the method by which a hearing may be requested.

1815.8 A hearing may be obtained by submitting a written request to the DC Ethics Counselor within twenty (20) calendar days of the receipt of the notice described in § 1815.7. The request shall indicate whether the former government employee intends to appear alone, with counsel, or with another representative of his or her choice, and shall state the name, address, and telephone number of counsel or other representative, if any. If hand-delivered, a written request for a hearing shall be deemed submitted on the day it is received by the DC Ethics Counselor. If mailed, a written request for a hearing shall be deemed submitted on the date the envelope is postmarked.

1815.9 The presiding official at the hearing shall be a hearing examiner who has the authority to make an initial decision. The hearing examiner shall be a District government employee designated by the Director of the DC Office of Personnel. The hearing examiner shall be impartial and shall not have participated in any manner in the decision to initiate the proceedings.

1815.10 The hearing examiner shall have the following responsibilities:

(a) To hear testimony;

(b) To question representatives and witnesses;

(c) To rule on the admissibility of evidence;

(d) To request and offer clarifications;

(e) To limit the scope or extent of questions;

(f) To issue an initial decision; and

(g) To recommend the sanction to be imposed.

1815.11 The hearing shall be conducted at a reasonable time, date, and place. In setting the hearing date, the hearing examiner shall give due regard to the former government employee's need for adequate

time properly to prepare a defense and to the need for an expeditious resolution of allegations that may be damaging to the former employee's reputation.

1815.12 Official notice of the time, date, and place of the hearing shall be sent by registered mail, return receipt requested, to the former government employee. The mailing shall include a copy of §§ 1814 and 1815 of this chapter.

1815.13 The hearing shall be conducted in accordance with the requirements of the District of Columbia Administrative Procedure Act for hearings in contested cases.

1815.14 For good cause shown, the hearing examiner may permit the parties to conduct reasonable discovery prior to the hearing. No pre-hearing briefs shall be submitted, absent a specific request of the hearing examiner. For good cause shown, the hearing examiner may permit a party to inspect the documents in the hearing examiner's file prior to the hearing.

1815.15 All hearings shall be open to the public unless closed for good cause by the hearing examiner. A finding of good cause shall be made a part of the record by the hearing examiner.

1815.16 Neither the DC Ethics Counselor, nor the former government employee, nor any representative thereof shall make any ex-parte communications to the hearing examiner concerning the merits of the allegations against the former government employee prior to the issuance of his or her initial decision.

1815.17 Within sixty (60) calendar days after the hearing record is closed, the hearing examiner shall issue an initial decision.

1815.18 Within fifteen (15) calendar days after service of the initial decision, either the former government employee or the DC Ethics Counselor may file a notice of appeal in writing with the Mayor. If hand-delivered, a notice of appeal shall be deemed filed on the day it is received by the Mayor. If a notice of appeal is mailed, it shall be deemed filed on the date the envelope is postmarked.

1815.19 If an appeal to the Mayor is not filed within the time period specified in § 1815.18, the hearing examiner's decision shall be final.

1815.20 After receiving a timely filed appeal, the Mayor shall promptly establish a briefing schedule. After briefs have been filed, the Mayor may permit the parties to present oral argument.

1815.21 Within forty-five (45) calendar days after briefs have been filed and oral argument, if any, has been presented, the Mayor shall render a decision. The Mayor may affirm, reverse, modify, or remand for further proceedings before the hearing examiner. If the Mayor modifies or reverses the hearing examiner's decision, the Mayor shall specify the findings of fact and conclusions of law that are different from those of the hearing examiner.

1815.22 Neither the DC Ethics Counselor, nor the former government employee, nor any representative thereof shall make any ex-parte communications to the Mayor concerning the merits of the appeal prior to issuance of the Mayor's final decision.

1815.23 The Mayor may take appropriate action in the case of any former government employee found in violation of 18 USC § 207, or § 1814 of these regulations, either (a) after a final administrative decision, or (b) after the employee fails to request a hearing after receiving adequate notice, by prohibiting the former government employee from making, on behalf of another person except the District of Columbia, any formal or informal appearance before, or, with the intent to influence, any oral or written communication to, the employee's former department or agency on any matter of business for a period not to exceed five

(5) years, which may be accomplished by directing agency employees to refuse to participate in any appearance by the former employee or to accept any communication from the former employee.

1815.24 Any person found to have violated 18 USC § 207, or § 1814 of these regulations may seek judicial review of the administrative sanction imposed by the Mayor in a court of competent jurisdiction.

1815.25 For purposes of § 1815, service of an order or decision shall be deemed complete when the party, the party's attorney, or other representative is personally served with a copy of an order or decision. If an order or decision is issued out of the presence of the parties and their attorneys, or other representatives, and service of an order or decision is by mail, service shall be deemed complete five (5) days after mailing to either the party, his or her attorney, or other representative.

1815.26 In computing any period of time prescribed or allowed by § 1815, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, nor a legal holiday. As used in this section, "legal holiday" includes New Year's Day, Dr. Martin Luther King's Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President or the Congress of the United States, or by the District of Columbia.

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1816 Government Contracts

1816.1 An employee shall not be a party to a contract with the District government and shall not knowingly cause or allow a business concern or other organization owned or substantially owned or controlled by the employee to be a party to such a contract, unless a written determination has been made by the head of the procuring agency that there is a compelling reason for contracting with the employee, such as when the government's needs cannot reasonably otherwise be met.

1816.2 This policy is intended to avoid any conflict of interest that might arise between an employee's private interests and the employee's District government duties, and to avoid the appearance of favoritism or preferential treatment by the District government toward its employees.

1816.3 A "special government employee," as defined in § 1814.1, shall not be considered an employee for the purposes of this section unless one of the following is true:

(a) The contract arises directly out of the individual's activity as a special government employee;

(b) In the individual's capacity as a special government employee, the individual is in a position to influence the award of the contract; or

(c) Another conflict of interest is determined to exist.

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1899 Definitions

1899.1 In this chapter, the following terms have the meaning ascribed:

DC Ethics Counselor—the official designated pursuant to DC Code § 1-619.3(a) (1981). The Mayor has designated the Corporation Counsel as the Ethics Counselor for the District of Columbia through the

issuance of Mayor's Order 82-136 (July 7, 1982). The Corporation Counsel has the authority to redelegate this responsibility.

Employee—an individual employed by the District of Columbia government and subject to DC Code title 1, chapter 6 (1981).

Immediate household—consists of the employee's spouse and blood relations who are full-time residents of the employee's household, and the employee's minor children, irrespective of residence.

Official responsibility—the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, personally or through subordinates, to approve, disapprove, or otherwise direct governmental action.

Person—an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

PART I
D.C. PERSONNEL REGULATIONS
CHAPTER 35
VOLUNTARY SERVICES

4000 UTILIZATION OF VOLUNTARY SERVICES

4000.1 For the purposes of this section, the following terms have the meaning ascribed:

Agency -- Any governmental instrumentality or body of the District Government, except the Superior Court of the District or Columbia and the District of Columbia Court of Appeals.

Employee -- A person who is paid by the District Government from grant or appropriated funds for his or her services.

Volunteer -- A person who donates his or her services to a specific program or department of the District Government, by his or her free choice and without payment for the services rendered, except that reimbursement for actual expenditures by a volunteer on behalf of the District Government shall not make that person an employee for the purposes of this section.

4000.2 Agencies of the District of Columbia are authorized to accept and utilize the services of persons on a voluntary basis in accordance with the provisions of D.C. Law 2-12 (D.C. Code, "1-304-308, 1981 ed.) and the provisions of this section.

4000.3 Volunteers may be utilized to perform services for any purpose which is in the interests of the government, except where specifically provided otherwise by this section, any rule or regulation, or the laws of the District of Columbia.

4000.4 No volunteer shall fill an authorized position or be utilized to perform any function or service which is currently being performed by an employee of the District of Columbia, provided that volunteers may be utilized to perform the following:

(a) Any service or function which augments or supplements an existing function, service, or program which is staffed by employees of the District of Columbia;

(b) Any service or function which creates a community service capability which would not be available under existing programs or within the level of available resources;

(c) The duties assigned to a regular employee during the temporary absence of the regular employee, provided the volunteer is qualified to perform the assigned duties; or

(d) The duties assigned to a regular employee on a temporary basis during periods of heavy workload or to assist in relieving an existing backlog of work.

4000.5 Volunteers may be used only to enhance District functions by contributing a service which would not otherwise be available. Therefore, normal recruitment, employment, and internal placement activities will not be affected by the use of volunteers.

4000.5 In no case shall the utilization of voluntary services or the availability of voluntary services be used as the basis for a reduction in force. The availability of voluntary services may be considered as a factor in determining the allocation of limited resources.

4000.6 The standards of conduct prescribed for employees of the District of Columbia shall be applicable to all volunteers.

4000.7 The services of a person on a voluntary basis shall not be accepted or utilized where such services or the use of such services would constitute a conflict of interest or could reasonably give rise to the appearance of a conflict of interest, as set forth in '4 of D.C. Law 2-12 (D.C. Code, '1-306, 1981 ed.).

4000.8 Except as provided in subsection 4000.9 below, persons whose services are utilized on a voluntary basis shall not be eligible for any benefits normally accruing to employees of the District of Columbia, including health insurance, retirement, life insurance, leave, or the right to organize for collective bargaining purposes, unless such benefits are specifically provided by the laws of the District of Columbia.

4000.9 Persons whose services are utilized on a voluntary basis are eligible for compensation for work-related injuries to the extent authorized by Section 2301(a)(2) of D.C. Law 2-139, except that, in cases of organizations which supply volunteers to perform services for the District of Columbia also provide disability or workers' compensation for such volunteers, in which event the coverage provided by such organizations would be applicable.

4000.10 Persons whose services are utilized on a voluntary basis shall be considered employees of the District of Columbia for the purposes of liability for tortious injuries caused by the volunteer while acting within the scope of duty under the supervision and control of the District of Columbia.

4000.11 All rules and procedures with respect to the confidentiality of personnel records and release of personnel information which are in effect for employees of the District of Columbia shall be applicable to persons whose services are utilized on a voluntary basis.

4000.12 The acceptance and utilization of the services of any person on a voluntary basis shall be at the discretion of each agency, and the utilization of such services may be discontinued by the agency at any time for any reason.

4000.13 The decision by an agency official to discontinue the utilization of the voluntary services of any person shall not be considered an adverse action and shall not give rise to any right or process of appeal.

4000.14 Each volunteer shall be assigned to an employee of the agency utilizing the volunteer's services, who shall be responsible for assignment of duties; supervision and control of the activities of the volunteer; evaluation of performance; and establishment and

monitoring of the hours during which voluntary services are performed, if appropriate.

4000.15 Volunteers shall not engage in political activities during the time voluntary services are being performed.

4000.16 Persons who offer services on a voluntary basis shall only be utilized to perform services for which they are qualified based on training, education, experience, and maturity.

4000.17 Volunteers must be mentally and physically capable of performing the duties assigned without unreasonable danger of harm or injury to the volunteer or any other person.

4000.18 Although physical examinations shall not ordinarily be required, the agency head or designated supervisor may require a physical examination where voluntary services involve the handling of food or participating in activities which may be strenuous or potentially hazardous.

4000.19 Any volunteer whose services are utilized to perform duties which would ordinarily require that the person be licensed in a trade or craft under the laws of the District of Columbia shall be required to have or obtain the required license(s) prior to the performance of voluntary services.

4000.20 No offer of voluntary services by any person shall be unlawfully rejected on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, family responsibilities, matriculation, political affiliation, physical handicap, source of income, place of residence or business, or any other basis of unlawful discrimination under the laws of the District of Columbia.

4000.21 The Director of Personnel shall establish guidelines for the acceptance and utilization of voluntary services in the agency, including guidelines for the deployment and supervision of volunteers pursuant to the provisions of this section. Agency heads may supplement such guidelines when appropriate.

4000.22 The residency requirements contained in chapter 3 of these regulations shall not apply to volunteers under this section.

4000.23 No agency head, supervisor, or other employee of the District of Columbia shall be authorized to limit, waive, amend, or otherwise modify the restrictions and requirements on the use of voluntary services set forth in this section without the approval of the Director of Personnel.

4000.24 Each volunteer shall be informed of the requirements and restrictions set forth in this section and in the guidelines established by the agency head.

4000.25 Prior to engaging in the performance of voluntary services for the District of Columbia, each volunteer shall be required to sign a statement which acknowledges the following:

(a) That the volunteer has been informed of the nature and scope of the voluntary services to be performed;

(b) That the volunteer has been informed of and understands all of the provisions of this section, of D.C. Law 2-12, and of the applicable agency guidelines for the use of volunteers; and

(c) That the volunteer agrees to perform voluntary services under the terms and conditions set forth in this section, in D.C. Law 2-12, and in the applicable agency guidelines for the use of volunteers.

4000.26 The Director of Personnel shall issue such procedures as he or she deems appropriate to implement the provisions of this section.

see M.O 86-177

NMENT OF THE DISTRICT OF COLUMBIA

NISTRATIVE ISSUANCE SYSTEM

Mayor's Order 82-136
July 13, 1982

CT: Establishment - Community Advisory Board on the Deinstitutionalization of Forest Haven

NATING AGENCY: Office of the Mayor

rtue of the authority vested in me as Mayor of the District olumbia by section 422 of the District of Columbia Self-nment and Governmental Reorganization Act of 1973 as ded, D.C. Code section 1-242, and in accordance with Section (c) p. 7 of Civil Action No. 76-0293, it is hereby ORDERED

tablishment: There is established in the Government of the rict of Columbia, a Community Advisory Board on the stitutionalization of Forest Haven, hereinafter cited as the rd".

urpose: The purpose of the Board is to investigate, monitor evaluate complaints regarding the plan for the deinstitu-alization of residents of Forest Haven, including plans and rams developed for those residents of Forest Haven awaiting stitutionalization, and to advise the Developmental bilities Professional, the Director of the Department of n Services, and the Corporation Counsel of their findings recommendations.

unctions: The Board shall act in an advisory, independent ewing, monitoring and fact-finding body to assess the pro-s of the officials of the District of Columbia in carrying the mandate of the related Court Order, through:

a) receipt of complaints;
b) investigations;
c) a review of reports and findings of other monitoring bodies;
d) identififcation of problems;
e) recommendation of priorities for problem solving;
f) recommendation of actual solutions to identified problems;
g) preparation of quarterly reports that address findings.

Composition: The Board shall be composed of eleven (11) bers appointed by the Mayor, who shall have demonstrated an erest and concern for mentally retarded/developmentally dis-ed persons and shall be representative of the following anizations, individuals or groups:

arents, relatives or guardians of current Forest Haven residents
haplains serving residents or outplaced residents of Forest Haven
riends of Forest Haven
.C. Association for Retarded Citizens
urrent or former residents of Forest Haven
rganizations concerned with rights and welfare of mentally retarded (civic & advocates)
rofessional organizations and associations concerned with mentally retarded and developmentally disabled
ndividuals concerned with rights of mentally retarded and developmentally disabled
ndividuals interested to serve

bership: At no time during the period of appointment shall mber be:

) an employee of the D.C. Department of Human Services,
) an employee of any private, profit or non-profit corporation or organization receiving funds from or through contract or grant from the D.C. Department of Human Services,
c) a direct individual recipient of any grant or contract for the provision of direct habilitation services to or for mentally retarded/developmentally disabled persons in the District of Columbia from or through the D.C. Department of Human Services,
d) an employee or contractee/grantee of any D.C. Government department which provides direct habilitation services to or for mentally retarded/developmentally disabled citizens of the District of Columbia.

rms: Members of the Board shall serve terms of two (2) years, t that, in making initial appointments, six (6) of the members be appointed for one (1) year terms and five (5) shall be nted for two (2) year terms, as determined by the Mayor at the of appointment. Members shall be eligible for reappointment hall continue to serve until reappointment is effective or a ssor has been appointed. Terms shall regularly begin on April the respective calendar year of appointment. Any member nted to fill a vacancy occuring prior to the expiration of the for which the precedessor member was appointed, shall be nted only for the remainder of such term.

mpensation: Members shall serve without compensation, but priate, reasonable expenses incurred in carrying out nsibilities of the Board shall be reimbursed, as provided for e budget of the administering agency.

nization: The Mayor shall appoint the Chairperson from the Members of the Board, who shall serve a full two-year The Board shall select the Vice Chairperson, Secretary and officers necessary for efficient Board operations. Six (6) s shall constitute a quorum for official actions of the

inistration: The Developmental Disabilities Professional taff shall provide administrative support to the Board.

ports: Required quarterly reports of the Board to the pmental Disabilities Professional, the Director of the epartment of Human Services, and the Counsel shall be ted on the following dates: January 15 - April 15 - July ctober 15.

fective Date: The provisions of this Order shall become ive immediately.

MARION BARRY, JR.
MAYOR

t:

DWIGHT S. CROPP
EXECUTIVE SECRETARY

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2010-167
October 15, 2010

SUBJECT: Donations and Gifts to the District Government

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(6) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code §§ 1-204.22(6) and (11) (2010 Supp.), and section 115 of the District of Columbia Appropriations Act, 2003, approved February 20, 2003, 117 Stat. 123, Pub. L. 108-7, D.C. Official Code § 1-329.01 (2010 Supp.) ("Donations Approval Act"), it is hereby **ORDERED** that:

1. The City Administrator is hereby delegated the authority vested in the Mayor by the Donations Approval Act to approve the acceptance and use of donations and gifts by District agencies. The City Administrator may further delegate this authority to subordinates under his jurisdiction.

2. The City Administrator shall:

   a. Implement the Rules of Conduct Governing Donations and Honorary Gifts to the District of Columbia Government, Mayor's Memorandum 2010-2, dated October 15, 2010, through measures that include the establishment of procedures to be used by District agencies to obtain approval to solicit, accept, and use donations;

   b. Review requests by agencies to solicit, accept, and use donations and, in consultation with the Office of the Attorney General where appropriate, approve or disapprove such requests; and

   c. Publish, at least annually, a report identifying each donation and, for each donation, the donor, the type of donation, the value of the donation, and the purpose for which each donation was made. This report may incorporate by reference any similar report required by law to be made by an agency.

3. The City Administrator may:

   a. Enter into a memorandum of understanding with the Chief Financial Officer to establish deposit and disbursement procedures for donated

funds and such other donations-related policies and procedures as the City Administrator deems appropriate; and

b. Establish, in coordination with the Chief Financial Officer, procedures for the creation of auditable records, subject to public inspection, that account for the use of donated funds.

4. Each agency requesting authority to solicit, accept, and use donations shall designate an employee to be the point of contact with the City Administrator for the purpose of providing information about the agency's donation-related activities and otherwise coordinating with the City Administrator on donation-related activities.

5. Each employee of the Office of the City Administrator whose main responsibility is related to the donations process shall complete a Confidential Statement of Employment and Financial Interests (DPM Form 35) to be reviewed and maintained by the City Administrator or his or her designee. These statements shall be used to address issues concerning actual or potential conflicts of interest related to the solicitation, receipt, or use of donations.

6. This Order does not apply to the recruitment of volunteers under the Volunteer Services Act, effective June 28, 1977 (D.C. Law 2-12; D.C. Official Code § 1-319.01 *et seq.*).

7. This Order supersedes all previous Mayor's Orders to the extent of any inconsistency.

8. Mayor's Orders 2010-60, dated April 6, 2010, Mayor's Order 2009-228, dated December 30, 2009, Mayor's Order 2008-33, dated February 26, 2008, and Mayor's Order 2001-141, dated September 18, 2001 are rescinded.

9. **EFFECTIVE DATE**: This Order shall be effective *nunc pro tunc* to October 1, 2010.

ADRIAN M. FENTY
MAYOR

ATTEST: Stephanie D. Scott
STEPHANIE D. SCOTT
SECRETARY OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Memorandum 2003-6
August 22, 2003

TO: Departments and Agency Heads

ORIGINATOR: Anthony A. Williams, Mayor AAW

SUBJECT: Policies on Outside Employment and Dual Compensation

Pursuant to D.C. Official Code § 1-618.01, et seq., (2001), each employee of the District government must at all times maintain a high level of ethical conduct in connection with the performance of official duties. Such ethical conduct includes the avoidance of misconduct and conflicts of interest such as those created by holding a "second job" that interferes with the employee's scheduled tour of duty with the District government, or that conflicts with the interests of the District government.

District government employees are prohibited from holding second jobs that (i) present scheduling conflicts with their assigned tour of duty, (ii) conflict with the interests of the District government, or (iii) pay additional compensation for a second government job where the employee would receive pay from two or more government positions for more than an aggregate of 40 hours in any work week.

I. Outside Employment Generally

A District government employee is prohibited from holding outside employment (that is, where the employer is other than the District government) if (i) the "second job" would present a conflict with the interests of the District government or (ii) would interfere with the District employee's scheduled tour of duty on the District government job. The District employee is not prohibited to take a second job while on approved annual leave solely because the hours of employment on the second job coincide with those during which the employee works while at his or her District government job. Generally, a one-time paid activity, undertaken while the District employee is on approved annual leave, is less likely to interfere with the employee's scheduled tour of duty than would a practice of regularly taking annual leave for a second job during the normal hours of the employee's tour when on duty. For example, a District employee invited to participate in a one-time-only, paid two-day seminar, the subject of which does not conflict with the interests of the District government, would not be prohibited from using annual leave for those two days, solely because the hours of the seminar happen to coincide with those of the employee's tour when on duty. However, a second job that requires the District employee to take annual leave every Friday afternoon for two hours probably would be prohibited because such frequent absences are likely to interfere with the District employee's performance of his or her governmental duties.

Annual leave is subject to approval of the District employee's supervisor. See D.C. Official Code § 1-612.03 (2001) and District Personnel Manual ("DPM"), Chapter 12, Part II, Subpart 4, § 4.9(I).

In all respects, employment must be consistent with the standards prescribed by Chapter 18 of the D.C. Personnel Regulations in the DPM.

II. Dual Compensation - Holding a Second Government Job

Unless specifically authorized, a District government employee is prohibited from holding a second government position where the employee would receive pay from two or more government positions for more than an aggregate of 40 hours in any workweek. Exemptions and exceptions to the dual compensation provisions are listed in Chapter 1 lB of the DPM, Part II, Subpart 6, § 6.2. This prohibition applies to second jobs with the federal government, but not with a State or local government other than the District government unless the State or local government prohibits or limits such dual employment.

III. Compliance

Department and agency heads are responsible for (i) ensuring compliance with the provisions governing outside employment and dual compensation described in this memorandum, and (ii) referring any incidents or violations that warrant investigation to the authorities, including, where appropriate, the Office of the Inspector General or the Office of the Corporation Counsel.

Violations of the policies described herein may result in disciplinary action, including termination.

IV. **Effective Date**: This Mayor's Memorandum is effective as of the date of its issuance. Mayor's Memorandum 2001-3, dated March 14, 2001, is hereby rescinded.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Memorandum 2010-2
October 15, 2010

TO: All Deputy Mayors and Department, Agency, and Office Heads

ORIGINATOR: Office of the Mayor

SUBJECT: **RULES OF CONDUCT GOVERNING DONATIONS AND HONORARY GIFTS TO THE DISTRICT OF COLUMBIA GOVERNMENT**

By virtue of the authority vested in me as Mayor of the District of Columbia pursuant to section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code §§ 1-204.22(11) (2010 Supp.), and section 115 of the District of Columbia Appropriations Act, 2003, approved February 20, 2003, 117 Stat. 123, Pub. L. 108-7, D.C. Official Code §1-329.01 (2010 Supp.), the following rules of conduct governing donations and honorary gifts to the District of Columbia government ("District government") are hereby issued. The rules of conduct shall apply to all employees of the District government. Any District government employee who does not comply with a rule set forth in this memorandum may be subject to adverse personnel action.

I. GENERAL

A. As used in this Memorandum "donations" are funds, services, or property given to the District of Columbia government specifically to assist an agency or office to carry out an authorized duty of that agency or office. Donations can come from foreign or domestic sources. "Honorary gifts" are items of an honorary, celebratory, or commemorative nature given to the District government (and generally presented to the Mayor or a District employee) that are not intended to assist with official government business.

B. Pursuant to section 115 of the District of Columbia Appropriations Act, 2003, approved February 20, 2003, 117 Stat. 123, Pub. L. 108-7, D.C. Official Code § 1-329.01 (2010 Supp.) (the "Donations Approval Act"), Congress has authorized the District to augment its budget through the acceptance and use of donations. Under the Donations Approval Act, the Mayor must approve the acceptance and use of donations of funds, services, and property.

C. Pursuant to Mayor's Order 2010-167, dated October 15, 2010, the Mayor has delegated his authority under the Donations Approval Act to the City

Administrator. The City Administrator may further delegate that authority to subordinates under his jurisdiction.

D. Each donation to any District Government agency, including independent agencies, must be approved in advance by the City Administrator or his or her designee. The only agencies that are exempt from the requirement to receive the approval of the City Administrator or his or her designee are the Council of the District of Columbia, the District of Columbia courts, and the District of Columbia Board of Education. Although the District of Columbia Board of Education is exempt, the District of Columbia Public Schools must receive prior approval from the City Administrator and follow the procedures established by this Memorandum.

E. If an agency has statutory authority to accept and use donations under a statute other than the Donations Approval Act, the agency must still follow the rules set forth in this Memorandum to meet the requirements of the Donations Approval Act.

F. In order for a donation to be legally authorized, the following requirements must be met:

1. The solicitation (if any), acceptance, and use of the donation must be approved by the City Administrator or his or her designee;

2. The donation must be used for an authorized function or duty of the District government and the agency receiving the donation; and

3. Use of the donation must be accounted for through record-keeping that is auditable and accessible for public inspection as directed by the City Administrator and the Office of the Chief Financial Officer.

G. The City Administrator is the only official who, on behalf of the Mayor, may approve the solicitation or acceptance of donations to the District government, unless that authority has been delegated specifically and directly from the City Administrator.

H. Donations may come from individuals, organizations, foundations, corporations, businesses, associations, governments, and other entities and may be in the form of checks, securities, real property (land and improvements), facilities, personal property, and services.

I. There are three steps required for the legal donation of goods, services, or property to the District of Columbia.

1. A District agency must submit to the City Administrator an application to solicit or accept a donation;

2. The Office of the Attorney General ("OAG") must review the submitted application and certify its legal sufficiency;

3. The District agency and the donor must enter into a donation agreement approved by the City Administrator.

II. APPLICATION TO SOLICIT DONATIONS

A. Before an agency solicits a donation for the District government, the solicitation must be approved on a form prescribed by the City Administrator.

B. The form shall include:

1. A description of the purpose for which the donation is sought;

2. A certification that:

a. The donation will be used by an agency of the District government to fulfill an authorized function or duty;

b. The donation is directly related to, and will be expended solely for, programs or purposes described in the form; and

c. The donation is consistent with applicable laws and policies; and

3. A description of the effect (if any) of the donation on future budgets of the District government.

III. ACCEPTANCE OF DONATIONS

A. Acceptance of a donation to the District government must also be approved on a form prescribed by the City Administrator (which may be the same form as described above). A written donation agreement between the donor and the agency must be attached to the form.

B. The donation agreement must be signed by authorized representatives of both the donor and the District government and include:

1. A description of the donation;

2. A statement of the planned use of the donation and any conditions placed on its use by the donor;

3. A statement of the authority for the agency's use of the donation; and

4. A statement by the donor that the donation is a *bona fide* donation such that the donor does not expect any special treatment from the District government as a result of the donation.

C. A donation of funds may be accepted only if it is in the form of a check or other negotiable instrument, and made payable to the order of, or endorsed to, the District of Columbia Treasurer. Donation of funds may only be accepted by the City Administrator and shall be forwarded immediately to the Office of the Chief Financial Officer. All monetary donations must be deposited in an appropriate account and maintained and disbursed under the same standards of accountability and the same safeguards as monies appropriated by Congress.

D. A non-monetary donation may be received directly by an agency, after the donation agreement has been approved by the City Administrator. The agency must account for an asset under the same standards and procedures used to account for other similar government property.

IV. REASONS TO DISAPPROVE SOLICITATION OR ACCEPTANCE OF DONATIONS

A. The City Administrator shall disapprove the solicitation or acceptance of a donation if any of the following circumstances applies:

1. It appears that the donation is being offered with the expectation of obtaining advantage or preference in dealing with the District government or any of its agencies;

2. Acceptance of the donation would create an apparent or actual conflict of interest for the government employee to whom authority to solicit or accept donations has been delegated;

3. The conditions placed on a donation are inconsistent with the authorized purposes, policies, or plans of the District government;

4. The intended use of the donation is inconsistent with or otherwise seeks to circumvent laws, regulations, or policies;

5. The donation is not in compliance with 18 U.S.C. § 209;

6. The acceptance of the donation will be used by the donor to state or imply the endorsement by the District government of a product, service, or entity; or

7. The donation reasonably may be viewed as funding for a political activity.

B. A donation from an organization in which a District government employee is an officer or director (including an *ex officio* director) or is otherwise engaged in a leadership or coordinating role may be accepted only if the donation has been approved by the OAG. The requirement to receive the approval of the OAG is in addition to the other requirements and standards established by this Memorandum.

V. FOREIGN/INTERNATIONAL DONATIONS

A donation solicited from, or offered by or on behalf of, a foreign government, a foreign national, or an organization based outside the United States shall be coordinated with the Office of the Secretary of the District of Columbia. The requirement to coordinate with the Office of the Secretary is in addition to the other requirements and standards established by this Memorandum. Such a donation must receive initial approval from the Office of the Secretary before the agency submits an application to solicit or accept a donation to the City Administrator.

VI. HONORARY GIFTS

A. A gift of an honorary, celebratory, or commemorative nature (an "honorary gift") given to the District government (and generally presented to the Mayor or a District employee) from a foreign or domestic source is considered a donation to the District of Columbia that is subject to the Donations Approval Act and this Memorandum if:

1. The honorary gift is given by or on behalf of a foreign national or a foreign government and its fair market value would be judged by a reasonable person to be in excess of the minimal value established by the General Services Administration pursuant to 5 U.S.C. § 7342; or

2. The honorary given gift is given from, or on behalf of, a citizen of the United States or a domestic organization, and would be judged by a reasonable person to have a fair market value of five hundred dollars ($500) or more.

B. The solicitation (if any) and acceptance of an honorary gift that meets the standards of subsection A of this section must comply with both the requirements of this section and section VII of this Memorandum and the donation requirements of this Memorandum. The solicitation (if any) and acceptance of an honorary gift that does not meet the standards of subsection A of this section must comply with the standards of this section and section VII of this Memorandum, but is not required to meet the donation requirements of this Memorandum.

C. An honorary gift shall be promptly deposited with the Executive Assistant to the Mayor by the employee who receives the gift. The Executive Assistant to the Mayor shall catalog each honorary gift, with a notation of who presented the honorary gift, the estimated value of the honorary gift, and the date on which the honorary gift was received. The Executive Assistant shall then deposit the honorary gift with the Office of the Secretary, along with the information collected pursuant to this subsection. The Office of the Secretary shall thereafter display or dispose of the gift in accordance with section VII of this Memorandum. The Office of the Secretary shall maintain a separate catalog listing each honorary gift, the information provided by the Executive Assistant pursuant to this subsection, and information regarding the display or disposition of the honorary gift.

D. An honorary gift given by, or on behalf of, a foreign national, foreign organization, or foreign government shall be reported to and deposited with the Executive Assistant to the Mayor as required by subsection C of this section, and the Executive Assistant shall thereafter deposit the gift with the Office of the Secretary also in accordance with subsection C. If the gift would be judged by a reasonable person to have a fair market value in excess of the minimal value established by the General Services Administration pursuant to 5 U.S.C. § 7342, the Office of the Secretary shall handle the gift in accordance with 5 U.S.C. § 7342. A District employee may not request or otherwise encourage the tender of an honorary gift from a foreign government.

E. Goods or services provided to the District by, or on behalf of, a foreign national, foreign organization, or foreign government intended for a District governmental purpose shall not be treated as an honorary gift. Such goods and services shall be considered a donation, and treated as set forth in section V of this Memorandum.

VII. DISPLAY AND DISBURSAL

A. An honorary gift deemed by the Secretary to be worthy of public display may be displayed in a suitable location in a District-owned or District-leased building or in other appropriate public space. An honorary gift that is not on public display shall be appropriately stored until at least thirty (30) days have elapsed since the day the honorary gift was received.

B. After thirty (30) days, an honorary gift deemed appropriate by the Secretary for use by a charitable organization operating in the District of Columbia may be granted to such organization to aid in the carrying out of the charitable organization's purposes.

C. An honorary gift to the District government shall not be sold or auctioned by the District government, nor may an honorary gift be granted, given, or sold to an employee of the District government for personal use, or used by a District government employee outside of that employee's official duties and functions, unless approved in writing by the Secretary.

VIII. ETHICAL CONDUCT

A. Failure of a District government employee to follow a provision contained in this Memorandum may be considered, at a minimum, as evidence of an official decision outside official channels in violation of the District government's standards of conduct (*see* 6 DCMR B1803.1(a)(5)) and may subject the employee to adverse personnel action.

B. An employee may not use his or her official title, position, or any authority associated with public office to solicit funds for a non-District government organization (such as a nonprofit organization) or otherwise further a donation to the non-District government organization, even if the organization subsequently donates the funds to the District government. (*See* 6 DCMR B1803.1(a) and 6 DCMR B1804.1(e).)

C. An employee who, without delegated authority, solicits funds for the District government from a non-District government entity that interacts with the District government or is regulated by it, may be subject to adverse personnel action based on a finding that the employee violated the standard of conduct which prohibits a government employee from seeking, either directly or through the intercession of others, a gift, gratuity, favor, loan, entertainment, or other like thing of value from a person who singularly or in concert with another:

1. Has, or is seeking to obtain, contractual or other business or financial relations with the District government;

2. Conducts operations or activities regulated by the District government; or

3. Has an interest that may be favorably affected by the performance or non-performance of the employee's official responsibilities. (*See* 6 DCMR B1803.2.)

D. The failure of a District government employee to follow the requirements of this Memorandum may be considered to adversely affect the confidence of the public in the integrity of government (*see* 6 DCMR B1803.1(a)(6)) and may subject the employee to adverse personnel action.

E. The use of a donation by a District government employee in a manner inconsistent with this Memorandum may be a violation of either or both the

District and Federal Anti-Deficiency Acts and may subject the employee to adverse personnel and criminal prosecution.

F. Under the provisions of the Hatch Act, 5 U.S.C. § 7321 *et seq.* and D.C. Official Code §1-1106.51 (2010 Supp.), no employee may solicit funds for a political campaign for any office, either on duty or off duty.

IX. RECOGNITION OF DONORS

A. Donors may be recognized for their donations through letters of acceptance and appreciation, press releases, certificates, and other items that commemorate the donation.

B. Recognition of corporate donations must not give the impression of advertising or commercialization. At the discretion of the City Administrator, a short, discreet, unobtrusive donor credit line may be used as recognition, but no product names or logos may be used.

X. RESCISSION

This memorandum rescinds and replaces Mayor's Memorandum 2010-1, dated April 6, 2010.

XI. EFFECTIVE DATE

This Memorandum shall become effective immediately.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL

Immediate Office

Administrative Memorandum No. 2006-1

SUBJECT: Guidance on fundraising in the office

Pursuant to Reorganization Order No. 50 of June 26, 1953, as amended, and Office Order No. 2005-28, the following administrative memorandum will take effect immediately:

I. Policy

Generally, government buildings may not be used to fundraise for private organizations. There are some limited exceptions. This memorandum sets forth the rules relating to fundraising by employees and relevant exceptions. The general rule is based upon the ethics standard that a government employee may not use public office for private gain and the prohibition against using government property for other than official business. See §§ 1803.1(a) and 1804.1(b) respectively, of the DC Personnel Regulations.

II. Guidelines

Fundraising through the sale of items (such as cookies or wrapping paper) or asking colleagues for contribution of funds, is not a government authorized activity, except as provided in this memorandum. Direct solicitation for these causes while at the office is not permitted under the ethics rules. This means that an OAG employee cannot actively contact—either in person, by telephone, or via e-mail—any other person in the workplace to ask that person to purchase items or donate money to support fundraising efforts.

However, voluntary participation by employees in a manner that does not disrupt work and ensures that absolutely no pressure is exerted on any employee is permitted. As long as the fundraising is for a nonprofit organization, OAG policy allows employees to display catalogs or other fundraising requests in designated employee areas, such as the two break rooms on the 6th Floor at 441 Fourth Street NW. Any such displays should not interfere with other employees' access to the break rooms.

III. Permitted Activities

A. Outside Activities – An OAG employee may take part in the activities of a non-government organization, including fundraising, when acting outside the scope of official duties. There is one significant exception to this guideline.

Solicitation of political contributions by OAG employees, both on and off the job, is expressly prohibited.

B. Authorized Activities – The following solicitations are officially sanctioned and are permitted within OAG during work hours.

1. Terrell Junior High School - Employee contributions to the Terrell Junior High School Higher Achievement Project are official donations to this Office under the government's donation rules. Requests for voluntary contributions to this project are officially sanctioned.

2. Children's Advocacy Center (CAC) - The CAC provides a place where those District of Columbia government agencies charged with responding to child abuse can come together to share information, gather facts, and assist child abuse victims through a multidisciplinary team. OAG is a member of this multidisciplinary team. Occasionally OAG forwards requests from the CAC for voluntary contributions. This is an officially sanctioned communication.

3. Every year the District of Columbia government administers the One Fund Campaign through which employees may authorize payroll deductions or make monetary donations to any of the charitable and nonprofit organizations on a government-maintained list. Soliciting on behalf of, and contributing to, the One Fund are officially sanctioned.

All questions about OAG's fundraising policy should be directed to Polly Rich, District of Columbia Ethics Counselor at 724-5561, or by e-mail at polly.rich@dc.gov .

Robert J. Spagnoletti
Attorney General

BY: Polly A. Rich
Polly A. Rich
D.C. Ethics Counselor

Dated this 17th day of January, 2006.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
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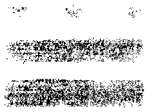

ATTORNEY GENERAL

Office Order No. 2006-27

SUBJECT: Outside Employment by Attorneys.

I. Background

Attorneys employed by the District of Columbia Office of the Attorney General (OAG) owe a duty of loyalty to their primary client, the District government. However, to the greatest extent possible, consistent with legal and ethical restrictions, it is the policy of OAG to permit attorneys to engage in outside employment. Among these legal and ethical restrictions are: (1) federal criminal statutes; and (2) other relevant standards delineated in the Standards of Conduct, Chapter 18 of the District of Columbia Personnel Manual (DPM) and the governing statute, Title XVIII of the District of Columbia Government Comprehensive Merit Personnel Act of 1979, D.C. Official Code § 1-618.1 *et seq.* (2001). Consistent with these statutes and regulations, this Order rescinds OAG's existing policy on outside employment by attorneys, originally adopted in 1982, and replaces it with a more flexible policy governing such employment

II. Policy and Procedures

A. An attorney employed by OAG shall obtain written approval from the Attorney General, in accordance with this Order, before engaging in any outside employment, whether or not compensated. All requests for such approval shall be in writing and directed to the Attorney General.

B. For purposes of this Order, "outside employment" means any form of employment, business relationship, or activity, whether compensated or *pro bono*, involving the provision of personal services by an OAG attorney other than in the discharge of official duties, including but not limited to services as an attorney, agent, contractor, director, employee, expert witness, officer, speaker, teacher, or writer.

C. The Attorney General will consider the criteria set forth in Section III of this Order in determining whether to approve an OAG attorney's request for permission to engage in outside employment.

III. Criteria for Decision

In deciding whether to grant an OAG attorney's request for permission to engage in outside employment, the Attorney General will consider whether engaging in such employment would:

A. Be consistent with the attorney's faithful performance of official responsibilities and the needs of OAG;

B. Comply with the factors set forth in § 1804.1 of the D.C. Personnel Regulations and with Mayor's Memorandum 2003-6, "Policies on Outside Employment and Dual Compensation," dated August 22, 2003;

C. Violate 18 U.S.C. §§ 203 and 205 (which generally prohibit any compensated or uncompensated representational work by a District government employee as an agent or attorney before any part of the District government other than in the course of his or her official duties), 18 U.S.C. § 208 (the federal conflict-of-interest statute, which applies to District government employees), or 18 U.S.C. § 209 (which prohibits supplementation of government income from an outside source); and

D. In the case of proposed compensated or *pro bono* speaking, writing or teaching activity, be consistent with the standards contained in §§ 1804.2 through 1804.6 of the D.C. Personnel Regulations, which contain a waivable prohibition against using official data or ideas that have not yet become public information and an absolute prohibition against paid speaking, writing, or teaching activities that are devoted substantially to the responsibilities, programs, or operations of OAG, the attorney's official duties or responsibilities, or information obtained from the attorney's government employment.

IV. Examples of Acceptable and Unacceptable Outside Employment

A. Based on these criteria, the following proposed outside employment activities are likely to be approved, provided they are consistent with relevant laws and regulations and do not involve matters either in which the attorney has participated personally and substantially as a government employee or which are the subject of the attorney's official responsibilities:

1. The practice of law that is uncompensated, is in nature of community service, and does not involve the District government.

2. Acting as agent or attorney, whether or not compensated, for the attorney's parents, spouse, or any person for whom, or for any estate for which, the attorney is serving as guardian, executor, administrator, trustee, or other personal fiduciary.

B. Based on the foregoing criteria, the following proposed outside employment activities are likely to be disapproved:

1. The practice of law, litigation, investigations, contracts, grants or other matters in which the District is a party, or in which OAG represents a party, witness, litigant, investigator, contracting officer, or grant-maker.

2. Work relating to a matter under the attorney's official responsibility or a matter in which the attorney participated personally and substantially as a government employee.

3. A second job with the federal or District government where the OAG attorney would receive compensation from the two government positions for more than an aggregate of 40 hours in any work week.

V. Rescission of Office Order No. 14-82

Office Order No. 14-82, "Outside Employment", dated October 28, 1982, is hereby rescinded.

VI. Effective Date

This Order will take effect immediately and supersedes all other previous Orders to the extent of any inconsistency.

Robert J. Spagnoletti
Robert J. Spagnoletti
Attorney General

Dated this 25th day of August, 2006