



OSHA INSTRUCTION

U.S. DEPARTMENT OF LABOR

Occupational Safety and Health Administration

DIRECTIVE NUMBER: PER 02-00-004

EFFECTIVE DATE: 02/07/2017

SUBJECT: OUTSIDE EMPLOYMENT AND OTHER ACTIVITIES

ABSTRACT

- Purpose:** To provide OSHA policy regarding outside employment or other types of professional activities while employed by the federal government in accordance with federal and Department of Labor ethics requirements. Other types of professional activities include consulting, teaching, lecturing, writing and speaking.
- Scope:** OSHA-wide.
- References:** Executive Order 12731, Principles of Ethical Conduct for Government Officers and Employees, October 17, 1990.
- 5 CFR 2635, Standards of Ethical Conduct for Employees of the Executive Branch.
- Department of Labor, How to Keep Out of Trouble, Summary of the Ethics Rules, 2017 or update.
- Department of Labor Manual Series (DLMS) 9, Chapter 900, or update.
- 18 U.S.C. §208, Financial Conflict of Interest Rule.
- Cancellations:** OSHA Instruction PER 02-00-003, Outside Employment -Teaching, Lecturing and Writing, October 30, 1978.
- State Impact:** State Program adoption is not required.
- Action Offices:** National, Regional and Area Offices.

Originating Office: Directorate of Administrative Programs
200 Constitution Ave., NW, Room N3101
Washington, DC 20210

By and Under the Authority of

David Michaels, PhD, MPH
Assistant Secretary

Executive Summary

To ensure public confidence in the integrity of the federal government, Executive Order 12731, *Principles of Ethical Conduct for Government Officers and Employees*, provides the framework for the ethical behavior required and expected of all federal employees. This Instruction outlines the policy for ethical behavior for agency personnel engaging in outside activities, such as employment, consulting, lecturing, teaching, writing and speaking.

Significant Changes

This Instruction provides ethics information related to federal employees participation in outside employment and other types of professional activities. A new requirement mandates that OSHA employees consult with ethics officials in the Office of the Solicitor prior to engaging in certain outside activities (compensated or not) in which the position has responsibilities/duties related to the business of the agency or its mission and functions.

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- III. References.
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 - A. Responsible Office. Directorate of Administrative Programs.
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- VI. State Impact: State Program adoption is not required.
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- VIII. Policy.

There is no general prohibition against OSHA employees engaging in outside activities

including holding another job. In most situations, agency employees may engage in outside employment and other professional activities (compensated or not) including endeavors that require the use of inherent expertise provided his/her work does not create a real or a perceived conflict of interest by interfering with official duties.

Examples of acceptable outside employment for employees at various levels of supervision are provided in 5 CFR 2635, *Standards of Ethical Conduct for Employees of the Executive Branch*, Subpart F – Seeking Other Employment.

To prevent the likelihood of a conflict of interest or ethics issue, the requirements listed below must be adhered to by all agency employees when engaged in outside employment and other professional activities that relate to the business of the agency or its mission and functions.

- A. **Seek Consultation with DOL Ethics Officials:** Employees must seek a legal determination from the Office of the Solicitor (SOL) prior to engaging in any outside activity that relates to the business of the agency (positions/activities involving occupational safety and health) or its mission and functions. Employees may seek advice from the Counsel for Ethics or their appropriate Regional Solicitor, and they must provide SOL with all pertinent information regarding the position/activity. SOL will provide a written determination. If appropriate, *e.g.*, the activity is indeed related to the employee's responsibilities, notification of the SOL determination must be provided by the employee in writing to his/her supervisor prior to engaging in the activity.
- B. **Use of Personal Time:** The hours involved in performing outside activities must not interfere with the performance of any official duties. An employee must conduct all outside activities on his/her personal time. If an employee is performing outside activities during regular working hours, the employee must be on approved leave (*e.g.*, credit hours or compensatory hours) or leave without pay and not be present at his/her duty station.
- C. **Recusal:** Generally, an employee must recuse himself from any particular matters that could directly and predictably affect his outside employee, under the financial conflict of interest rule found at 18 U.S.C. §208. If an employee is engaged in other professional activities that are compensated or could demonstrate the employee has more than mere membership in an organization, then the employee should also recuse themselves from particular matters that will affect that organization. The employee must immediately notify his/her OSHA supervisor of the recusal if such a matter arises. SOL will provide advice on when a recusal is necessary.
- D. **Use of Government Resources and Information:** An employee may not use government resources (*e.g.*, equipment, services, supplies or staff) in the performance of outside activities. See the Department of Labor Management

Series (DLMS) 9, Chapter 900. Additionally, only information, data or material that is in the public domain may be used in the performance of such activities. Under no circumstances may official internal federal government documents be used in any manner in these activities.

- E. **Use of Official Titles:** Both the employee and an outside organization are prohibited from referencing the title of an agency employee in connection with any outside employment or other professional activity in a manner that could be construed as an official endorsement or sanction. Based on advice from SOL, employees should include a disclaimer that clarifies their actions are not official, when writing or speaking on OSHA-related topics in their personal capacity to an audience who may know of their employment with OSHA.
- F. **Financial Disclosure Filers:** All agency financial disclosure filers must follow the requirements to disclose required information on outside activities when filing annual financial disclosure reports.
- G. **Understand Ethics Rules:** Employees considering engaging in outside employment and other professional activities including consulting, teaching, lecturing, writing and speaking should carefully review the provisions of 5 CFR Part 2635, *Standards of Ethical Conduct for Employees of the Executive Branch*, Subpart H, *Outside Activities* and the Office of the Solicitor's publication *How to Keep Out of Trouble, Summary of the Ethics Rules*.
- H. **Other Provisions outlined in Subpart H:** In addition to the activities discussed above, employees must adhere to Subpart H provisions governing involvement in fundraising, serving as an expert witness and outside earned income requirements applicable to certain political appointee positions.