

## OFF-DUTY EMPLOYMENT

This page covers the rules affecting outside activities, such as working (or "moonlighting"), teaching, writing, and speaking by active duty and civilian DoD personnel.

The general rule for outside activities is permissive: Executive branch employees, subject to some limitations, are allowed to participate in outside activities. An employee may not have outside employment or be involved in outside activity that conflicts with the official duties of the employees position.

An activity conflicts with official duties --

- if it is prohibited by statute or by the regulations of the employee's agency, or
- if the activity would require the employee to be disqualified from matters so central to the performance of the employee's official duties as to materially impair the employee's ability to carry out those duties.

"Outside activity" guidance includes the following requirements for permissible outside employment, speaking teaching and writing, and other specific activities.

- DoD personnel may engage in **outside employment** or be self-employed outside the work place so long as there is:
  1. **No interference with official duties.** Generally, you cannot be on both sides of a matter.
    - i. **Interference Generally.** A DoD employee may not engage in outside activities that interfere with his performance of military duties, are prohibited by statute or regulation, or would require the employee's disqualification from matters critical to the office.
    - ii. **Security and Agency Specific Requirements.** Agencies may require employees to seek approval for outside employment and may prohibit such activities if they will detract from readiness or pose a security risk. Check with your command or agency ethics official.
    - iii. **Financial Disclosure Filers.** Within DoD, financial disclosure filers must obtain prior written approval from their supervisor before working for a prohibited source. Permission shall be granted unless the outside activity involves conduct prohibited by statute or regulation.
  2. **No representing to the Federal Government.** *Note - these are criminal provisions.* Employees may not act as agent or attorney for anyone before any agency of the Government on any matter in which the United States is a party or has a direct and substantial interest. See 18 U.S.C. § 205. Other than in the performance of official duties, employees may not receive compensation for representational services rendered either personally or by another . See 18 U.S.C. § 203. Further, the criminal conflict of interest statute bars any employee from participating personally and substantially in an official capacity in any particular Government matter that would have a direct and predictable effect on his own (or imputed) financial interests.

3. **No Appearance of Impropriety.** In addition to the limitations described above, Federal employees are prohibited from taking positions when to do so would create an improper appearance of a conflict of interest with his or her federal employment.
- DoD personnel may engage in **teaching, speaking, or writing** related to their official duties only under limited circumstances. A Government employee may not use his public office for private gain.

Federal regulation precludes the acceptance of compensation from a non-Federal source for teaching, speaking, or writing when:

1. The activity is undertaken as part of the employee's official duties; or
2. The invitation was extended because of the employee's official position rather than his expertise; (meaning, the prohibition on accepting compensation does not apply to matters within the employee's discipline or expertise based on education or experience) or
3. The invitation is from a person whose interest may be affected by the employee's official duties; or
4. The presentation is based on nonpublic information; or
5. The topic deals with the employee's current duties or those during the previous year, or the topic deals with a policy, program, or operation of the employee's agency.

Note, however, an exception allows an employee to accept compensation for teaching a course of the regularly established curriculum of an elementary school, high school, or institution of higher education.

Check with an ethics official about other possible concerns in outside activities including improper use of nonpublic information, prohibited solicited sales to junior personnel, misuse of uniform or position title, restrictions on receiving income from foreign governments, and fundraising restrictions in the Federal workplace.

DAF 3902 Off Duty Employment Form:

[https://www.google.com/search?sca\\_esv=19b551ade1306bfb&q=AF+IMT+3902+epubs&sa=X&ved=2ahUKEwjQtP3MkoSIAxVyhIkeEHesADLEQ1QJ6BAgxEAE](https://www.google.com/search?sca_esv=19b551ade1306bfb&q=AF+IMT+3902+epubs&sa=X&ved=2ahUKEwjQtP3MkoSIAxVyhIkeEHesADLEQ1QJ6BAgxEAE)