

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>

Government+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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<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

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 & Adrienne 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

Auditor
Public Service Commission
Retirement Board

Counselor

Tia Clark
Ken Hughes
Erie Sampson

Phone

727-9707
626.5157
343-3230

Email

Tial.clark@dc.gov
KHughes@psc.dc.gov
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)

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:		
<ul style="list-style-type: none"> serve in a representative capacity or as an agent or attorney for any outside entity involving any matter before the District?³³ 		
<ul style="list-style-type: none"> act as an agent or attorney for anyone before the District government or a DC court regarding a particular matter?³⁴ 		
<ul style="list-style-type: none"> 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 <i>only</i> “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.”

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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