

## **OUTSIDE EMPLOYMENT (WHILE ON UNPAID ADMIN LEAVE / LWOP)**

### **General Rule**

The Department of State generally allows employees to engage in domestic outside activities—including outside employment and volunteer engagements—as long as they are able to comply with the ethics rules. All ethics laws and regulations apply to all employees while they are on LWOP (11 FAM 614.6).

### **Relevant Ethics Considerations**

Relevant ethics considerations are summarized below. Additional detail can be found at 11 FAM 610 ETHICS AND FINANCIAL DISCLOSURE PROGRAMS, and <https://usdos.sharepoint.com/sites/L-EFD/Pages/OutsideActivities.aspx>.

#### ***1. Restrictions Applicable to Employees on LWOP (11 FAM 614.6)***

A Department employee cannot undertake outside work that would pose a conflict of interest with his or her State Department duties. Thus, it is important to consider whether the outside job relates to the subject matter of your official Department duties or involves companies or entities that you may need to interact with as part of your federal job once the LWOP ends.

To avoid impartiality concerns, Department employees who take an outside position while on LWOP will need to recuse themselves from working on any matters at the Department that involve an outside employer/client for a period of one year after last serving as an employee or providing services for the organization (11 FAM 612.2). “Matters” include things like cases, contracts, meetings, solicitations, etc.

#### ***2. Representation of Third Parties before USG Entities (11 FAM 614.2)***

Federal employees cannot represent an individual or organization before any court, agency or department of the United States on any matter in which the United States is a party or has a direct and substantial interest. This prohibition applies even to representing parties before agencies other than the Department of State and with regard to matters that are totally unrelated to the employee’s duties with the Department of State. This would cover any contacts with executive branch officials (as the USG would be a party to those matters), and contacts with or representations to a court in a case in which the USG is a party or has a direct and substantial interest. *See* 18 U.S.C. §§ 203 and 205.

In short, this means that you may not write letters, send emails, take meetings, set up meetings, etc., on behalf of the organization with all other federal government agencies in addition to your own. For example, if your employer was going to meet with a U.S. federal entity and wanted you to come to this meeting, you would be prohibited from doing so.

### ***3. Teaching, Speaking or Writing***

If your outside activity involves outside teaching, speaking or writing, please refer specifically to 11 FAM 614.5. The ability to receive compensation for the activity may be restricted if the subject matter relates to or is a substantial part of official duties, as defined in 11 FAM 614.5-2(c) and 3 FAM 4170.

### ***4. Other important rules***

- Do not share any classified or nonpublic information;
- Any reference to your USG position in connection with your activities can only be if it is one of several biographical details given to identify you, and it is given no more prominence than other significant biographical details;
- You may not use any Government resources—including official duty time, office supplies, and nonpublic information—in connection with your outside work. *See* 5 C.F.R. §§ 2635.703-705.
- The Emoluments Clause of the U.S. Constitution prohibits USG employees/officers from accepting positions, gifts, or emoluments from a foreign state. This prohibition may be triggered even in some circumstances where the U.S. Government employee is paid by a firm but performs services for the foreign government

### **Additional Questions**

Employees are advised to consult with the Office of the Legal Adviser for Ethics and Financial Disclosure (L/EFD) at [EthicsAttorneyMailbox@state.gov](mailto:EthicsAttorneyMailbox@state.gov) if they have any questions about how the ethics rules apply to them.