



DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS

Program Statement

Number: 3040.5C
Date: November 5, 2009
Supersedes: 3040.5B (7/9/82)
Subject: Outside employment and
Other Activity

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1. **PURPOSE AND SCOPE.** To establish Department of Correction's position in regard to employees who are or who may be involved in outside employment or other outside activity, which would constitute a conflict of interest.
 2. **POLICY.** Employees of the Department of Corrections may not engage in any outside employment or other activity which is not compatible with the full and proper discharge of their duties and responsibilities as District government employees. Evaluation of such outside employment or activity must be made by the Director or his designee, or by the D.C. Office of Inspector General, or by the Director of Director of the D.C. Department of Human Resources.
 3. **APPLICABILITY.** This policy is applicable to DOC employees.
 4. **NOTICE OF NON-DISCRIMINATION**
 - a. In accordance with the DC Human Rights Act of 1977, as amended, DC Official Code Section 2-1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of actual or perceived race, color, religion, national origin, sex, age, martial status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination which is prohibited by the Act. In addition, harassment based on any of the above protected categories is prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subjected to disciplinary action.
 - b. DOC prohibits discrimination against inmates based on an inmate's race, religion, national origin, gender, sexual orientation, disability or any other type of prohibited discrimination when making administrative decisions and in providing access to services, programs and activities.

5. **DIRECTIVES AFFECTED**

a. Directives Rescinded

1) PS 3040.5B Outside Employment and Other Activity

b. Reference

1) D.C. Government Comprehensive Merit Personnel Act, D.C. Law 2-139, dated March 3, 1979

2) Chapter 18 of the District Personnel Manual.

6. **AUTHORITY.** DC Code § 24-211.02, Powers; Promulgation of Rules.

7. **DEFINITIONS.** For the purpose of this Program Statement the following definition apply:

a. Outside Employment - Any Private, state or local or federal employment which is in addition to any department Of Corrections employment.

b. Outside Activity - Teaching, lecturing, or writing which is dependent upon information obtained as a result of government employment; financial interest unduly influencing the conduct of official duties as an agent of the D.C Government; writing and editing for publication during work hours; speaking engagements without prior approval.

8. **PROCEDURES**

a. 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:

i. 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;

ii. 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;

- iii. 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;
 - iv. 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;
 - v. 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;
 - vi. 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;
 - vii. 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;
 - viii. Serving in a representative capacity or as an agent or attorney for any outside entity involving any matter before the District of Columbia; or
 - ix. Engaging in any outside employment, private business activity, or other interest which is in violation of federal or District law.
- b. An employee of the District of Columbia government may not do indirectly what he or she may not do directly under the foregoing restrictions.
 - c. 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.
 - d. The information used by an employee engaging in an activity under c. 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.
 - e. If the employee receives compensation or anything of monetary value for engaging in an activity under c., 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.

- f. 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.
- g. 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.
- h. 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.
- i. Employment with a Private Detective Agency or similar Non-Governmental Activity. Employees of the Department are prohibited from serving as an employee of a private detective agency or similar non-governmental activity as defined above or by the District Personnel manual Chapter 18.

9. PROCEDURE AT INITIAL EMPLOYMENT

At the time of initial orientation, each new employee shall be informed of this Program Statement and will be briefed on filing procedures necessary to secure approval for outside employment or activity. If the new employee is engaged in some outside activity or employment, at the time of hiring, he/she must file D.C. Form 35A, "Certification of Outside Employment", with the Office of Human Resources Management. Approval or disapproval of this request will rest with the Director

10. PROCEDURES DURING THE COURSE OF EMPLOYMENT

If, during the course of employment with this department, employees wish to engage in outside employment or other outside activity, they must file D.C. Form (35A) with the Office of Human Resource Management in advance. The Director will approve or disapprove the request. Cases shall be submitted sufficiently in

advance to permit evaluation and notification to the employee of the Director's decision. The employee must obtain approval of the Director before starting the outside employment or activity. Those cases involving employees in positions at pay grade DS13 or above in areas of contracting, procurement, or fiduciary responsibility which involve the disclosure of employment and financial interest, will be evaluated by other D.C. authority under different guidelines established for positions entailing such responsibility. Those cases involving membership in the MPD Reserve Corps will be jointly evaluated with the Special Officers Branch, MPD or the MPD Reserve Corps. The Director, upon determining that a conflict-of-interest exists or apparently exists will take such remedial action as required in order to protect the integrity of the Department of corrections and the D.C. Government. In all such cases, the employee shall be given an opportunity to explain the conflict, or apparent conflict, before remedial action is initiated.

11. REMEDIAL ACTION

- a. A violation of one or more conflict-of-interest provisions by an employee may be cause for remedial action. Remedial action may include, but is not limited to:
 - i. Change of assigned duties.
 - ii. Divestment by the employee of his/her conflicting interest.
 - iii. Disqualification for a particular assignment.
 - iv. Disciplinary action ranging form a warning to removal which may be in addition to any penalty prescribed by law.
- b. Remedial action shall be effected in accordance with the law and the District of Columbia Personnel regulations and orders.


Devon Brown
Director