



DEPARTMENT OF THE ARMY  
DEFENSE LANGUAGE INSTITUTE FOREIGN LANGUAGE CENTER  
PRESIDIO OF MONTEREY  
MONTEREY, CALIFORNIA 93944-5000

ATFL-CMDT

24 November 2018

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Command Policy #17 - Outside Employment

1. References.

- a. DoD 5500.07-R, The Joint Ethics Regulation (JER), (Incorporating Change 7, 17 November 2011).
- b. 5 C.F.R. 2635, Standards of Conduct for Employees of the Executive Branch.
- c. 5 C.F.R., Part 3601, Supplemental Standards of Conduct for Employees of the Department of Defense.
- d. 18 U.S.C. §208, Acts Affecting a Personal Financial Interest.
- e. Negotiated Agreement Between Defense Language Institute, Presidio of Monterey, CA and American Federation of Government Employees Local 1263, 28 August 2014

2. Purpose. This policy outlines the rules and regulations governing outside employment, including business activities, for Defense Language Institute Foreign Language Center (DLIFLC) employees, otherwise known as "moonlighting."

3. Applicability. This policy applies to all DLIFLC civilian and military personnel, regardless of location or station. The outside employment or business activities of contractors and contract employees are governed by the terms of the applicable contract. This policy is punitive. Violations of this policy may subject military offenders to adverse administrative action or to punitive action under the Uniform Code of Military Justice (UCMJ). Civilian employees may face adverse administrative or judicial action in accordance with applicable Federal laws or regulations.

4. Policy. Activities that would create an actual or perceived conflict of interest between the employee's government employment and outside employment are generally prohibited. This includes activities that would require the employee's disqualification from matters critical to their office or would have a direct or predicable effect on the personal financial interests of the employee. This general prohibition extends to

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activities involving any person or entity that seeks official action by the employee's agency, that does business or seeks to do business with the employee's agency, or has interests that may be substantially affected by performance or nonperformance of the employee's official duties. Pursuant to ref. a, to avoid actual or perceived abuse of government resources, employees must ensure outside employment activities are conducted outside of normal duty hours. Employees may not use government resources for outside employment. Outside employment that has a negative impact upon official duties is expressly prohibited.

a. Prior reporting and approval is required for any outside employment with organizations, companies, individuals, or activities that seek official action by the employee's agency, that do business or seek to do business with the employee's agency, or have interests that may be substantially affected by the performance or nonperformance of the employee's official duties. Prior reporting and approval is required for any outside employment related to the employee's official government duties. Employees currently engaged in any outside employment falling within the categories described above have 15 days from the date of publication of this policy to obtain approval or terminate the activity. Failure to do so may result in adverse action. This policy complies with references a. and e.

b. For military members, prior reporting and approval is required for any outside employment for ethical reasons (paragraph 4a, above) and also due to the need for military members to be available for mission requirements.

c. Approval shall be granted unless a determination is made that the business activity or outside employment is expected to involve conduct prohibited by statute or regulation; creates a conflict real or perceived; will detract from the mission; or pose a security risk.

d. In accordance with reference e., bargaining unit employees are free to engage in outside employment or activities, with or without compensation, insofar as it does not pose an actual or perceived conflict of interest, interfere with the performance of official duties, or give rise to a reasonable expectation that the Employer or the Federal Government will be discredited. Bargaining unit employees will not be required to secure management permission to engage in outside employment or activities, except as provided for in this policy.

5. Employee Reporting Requirement. Employees subject to this policy must report the following information to their first-line supervisor:

a. Name of proposed outside employer, location of the place of employment, and contact information for the employer.

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b. Terms of proposed employment, to include at a minimum work schedule, job title, job duration (if temporary or term), and description of duties or work to be performed.

c. Terms of DLIFLC employment, to include at a minimum work schedule, position title, and description of duties and responsibilities.

d. Description of any known current or contemplated business relationship between the outside employer and the Department of Defense or any subordinate entity, to include the Department of the Army and DLIFLC.

6. Command/Management Action on Receipt of Report. There are two processes for approving outside employment, the basic request, for which management has three (3) working days to complete their review; and the more detailed request, for which management has seven (7) working days to complete their review when a possible conflict is identified requiring additional information. In either case, management will make reasonable efforts to complete the review process within the specified timelines. The approving authority for civilian employees is the Associate Provost or Director-level management official, and for military members is the service unit commander.

a. The Basic Request - if approved, this is the final step in the process. After ensuring that the information requested in paragraph 5 has been provided, the employee's first-line supervisor will confirm whether the employee provided sufficient information to identify any potential bars to approval. The supervisor will request additional information from the employee if insufficient information has been provided. If no bars to approval are apparent, the first-line supervisor will obtain an ethics opinion from a Designated Agency Ethics Official (DAEO) at the DLIFLC Legal Office (this may be an email). After obtaining an ethics opinion, the first-line supervisor will route the packet to the approving authority with a recommendation for or against approval.

b. The Detailed Request. If potential or possible conflict is identified at any point in the process and additional information/review is required, the first-line supervisor will request additional information as provided for in paragraphs 6.b.(1) - (7). Once the first-line supervisor receives the additional information, he or she will forward the report to the DLIFLC Legal Office for a written legal review by a Designated Agency Ethics Official (DAEO). Thereafter, the first-line supervisor will forward the request and the ethics opinion, together with a recommendation for or against approval, to the approving authority. The first-line supervisor may request any or all of the following additional information from the employee:

(1) Positions held and major duties performed during the past two years, including the current/most recent position;

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(2) Whether in the last two years the employee has taken any action to resolve a previous potential conflict of interest, including issuing a written disqualification, changing jobs, changing duties, or taken any other action to resolve a potential conflict of interest;

(3) Whether, within the last two years, the employee has served as a contracting officer, a member of a source selection authority, a program manager, deputy program manager, or administrative contracting officer;

(4) Whether, within the last two years, the employee has personally taken action regarding an acquisition or contract in excess of \$10 million to include approval of a contract, subcontract, modification, task order or delivery order, payment of a contract claim, establishment of overhead or other rates, or approval of a contract payment;

(5) Whether the employee participated in an acquisition with a value in excess of \$10 million;

(6) Elaboration upon positions sought and potential outside employer information, to include more information regarding job description and hours of employment; and the outside employer's relationship with the U.S. Government; and

(7) Potential impact upon current duty requirements.

7. Further delegation of approval authority is not authorized. The Civilian Personnel Advisory Center will retain requests for civilian employees. A service member's unit will retain requests for military personnel. Supervisors will review outside employment files yearly during mid-point counseling or, for military members, more frequently at the commander's discretion, to ensure circumstances have not changed that would cause an issue addressed in paragraph 4.

8. Point of contact for this action is the Administrative Law Section, Office of the Staff Judge Advocate at (831) 242-5082.

Encl  
Request for Ethics Approval for  
Outside Employment



GARY M. HAUSMAN  
COL, MI  
Commandant

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