

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**



Office of Government Ethics



Monday, August 7, 2023



Advisory Opinion

This opinion responds to your request for advice on the District’s outside activity restrictions. Specifically, you asked for guidance on whether you could maintain your employment as the Executive Director of [REDACTED] while also serving as an Adjunct Professor at [REDACTED] University. After reviewing the information you provided, I conclude that you may teach at [REDACTED] University, but that in so doing you must adhere to the ethics rules.

A. Background

You are currently the Executive Director of [REDACTED]. According to your request, you “study issues surrounding poverty, and evaluate current and previous poverty-reduction initiatives in the District and throughout the country to determine their effectiveness”. Based on your research and evaluations, you make comprehensive and continuing recommendations to the Mayor and the Council for strengthening and enhancing the economic status of persons in poverty through initiatives that will improve individuals educational, wellness, and housing outcomes. You also oversee the [REDACTED] which is made up of 19 members.

You would like to teach as an Adjunct Professor at [REDACTED] University and contacted BEGA to determine whether there were any ethics issues or conflicts between the two roles. You stated that, in your role as Executive Director, you do not participate in any matters that involve [REDACTED] University.

B. Conflicts of Interest and Recusal

The Conflict of Interest rule prohibits employees from using their official position or title, or personally and substantially participating... [in a] particular matter, or attempt[ing] to influence the outcome of a particular matter, in a manner that [they] know is likely to have a direct and predictable effect on [their] financial interests or the financial interests of a person closely affiliated with the employee.¹ The phrase “person closely affiliated with the employee” means a spouse, dependent child, general partner, a member of the employee’s household, or an affiliated organization.² This means that you are prohibited from taking action at [REDACTED] that would have a direct and predictable effect on your financial interests or the financial interests of your family members, business partners, those with which you are seeking employment or with whom you have an employment arrangement.

¹ See D.C. Official Code § 1-1162.23(a).

² D.C. Official Code § 1-1161.01(43).

In the instant case, ██████████ University will be your potential employer and will, therefore, be closely affiliated with you once you begin seeking and negotiating³ for the role of Adjunct Professor. Consequently, you will be prohibited from personally and substantially participating in ██████████ University matters, in your capacity as Executive Director. To participate personally and substantially in a matter means that you directly participate in the matter as a government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other direct participation in a matter. Additionally, the participation must be of significance to the matter (or form a basis for a reasonable appearance of such significance), which may be based on the amount and importance of your effort.⁴

If matters such as those described above come before you as the Executive Director ██████████ ██████████, you are required to immediately recuse yourself in writing. A written recusal is an affirmative obligation and refraining from acting without writing the recusal does not satisfy the rule and could subject you to penalties⁵.

C. Outside Employment

The outside employment rule is codified in Title 6B Chapter 18, Section 1807 of the District of Columbia Municipal Regulations (hereafter referred to as the Section 1807 of the District Personnel Manual (“DPM”)) and requires employees to ensure that their outside employment or other activity is not incompatible with the full and proper discharge of their duties and responsibilities.⁶ The rule provides a non-exhaustive list of activities or actions that are not compatible with government employment.⁷ In addition to the prohibitions listed under DPM § 1807, you are prohibited from serving in a representative capacity or as an agent or attorney for ██████████ University or any other outside entity involving any matter before the District of Columbia.⁸ Engaging in activities such as attending meetings and signing and submitting documents are tantamount to representation for purposes of this rule.

You are also prohibited from using government time or resources for other an official business; ordering, directing or requesting that an employee use government time or resources for other than official business; capitalizing on an official title or position; or divulging any confidential government information to unauthorized parties, etc. As it pertains to the prohibition against using government time or resources for other than official business, you are prohibited from using your official government title, email account, or letterhead in furtherance of any ██████████ University business. Additionally, you are prohibited from engaging in ██████████ University work or activities during your government tour of duty.

³ DPM § 1800.3(j) prohibits employees from in outside employment or activities, including seeking or negotiating for employment, that conflict with their official government duties and responsibilities; *See also* BEGA Advisory Opinion, “Seeking or Negotiating Employment”, dated December 28, 2021.

⁴ 5 C.F.R. § 2641.201(i).

⁵ D.C. Official Code § 1-1162.23(c)(2) provides the criteria for filing a written statement of recusal.

⁶ *See* BEGA Advisory Opinion, “Outside Employment and Private Representation”, dated September 7, 2022.

⁷ *See* DPM § 1807 for the non-exhaustive list of activities that are not compatible with government service.

⁸ *See* [DPM § 1807.1\(h\)](#).

In your request for advice, you mentioned that you are exploring the following teaching topics: “Negotiations Skills”, “Legal Analysis of Local & State Governments”, “Justice & Public Policy”, “Cities & Crime”. To the extent that you do not draw on information or resources that are substantially devoted to your District government work as Executive Director of the [REDACTED] or draw on non-public information you are privy to because of your District government work, you may teach these topics. Your teaching work must be conducted outside of your regular working hours, or while you are on annual leave, compensatory leave, exempt time off, or leave without pay.⁹

You should pay especially close attention to the ethics issues as they relate to teaching topics such as “Justice & Public Policy” and “Cities & Crime” because there is a possibility that, from a policy standpoint, poverty issues and the intersection of poverty and crime may be discussed in these classes. In instances where you might be especially tempted to draw on the information you use in your government job, you must be sure to analyze whether you are using information that is substantially devoted to your government work or non-public information and avoid such conduct.

D. Other Ethical Considerations

DPM § 1800.3(c) prohibits you from engaging in financial transactions using nonpublic government information or allowing the improper use of such information to further any private interest. Under this prohibition, you cannot use government information that has not been made available to the public in furtherance of your work at [REDACTED] University or [REDACTED] University’s interests. Lastly, you may only list your title and position amongst other biographical information in any outside activity materials (i.e. biographies and resumes). While instructing a class or otherwise working in your capacity as an Adjunct Professor, you may talk about your background and experience but are prohibited from singling out or only speaking about your government work experience.

E. Conclusion

You are permitted to teach at [REDACTED] University, but you must maintain clear separation between your government and teaching, and adhere to the guidance outlined above. As you pursue this opportunity, you should be sure to adhere to the restrictions outlined in this opinion. I encourage you to contact BEGA immediately if you have any uncertainty about a specific action you would like to take regarding your outside activity.

Please be advised that this advice is provided to you pursuant to section 219 of the Ethics Act (D.C. Official Code § 1-1162.19), which empowers me to provide such guidance. Pursuant to Chapter 3 of the D.C. Municipal Regulations § 5405.7 this proposed advisory opinion shall be published in the District of Columbia Register for a 30-day public-comment period during which time a person may submit information or comment to beqa@dc.gov. Sincerely,

ASHLEY D. COOKS

⁹ See [DPM §1807.2 - 1807.4](#).

Director of Government Ethics
Board of Ethics and Government Accountability

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