



Forest Service Ethics Newsletter



Spring 2012

HOLIDAY PARTIES—Supervisor's Options and Time Coding



During our annual holiday and gift-giving training session we received several good questions relating to a supervisor's authority and discretion in allowing time for employee holiday office parties. While the use of official time certainly does have ethical connections (*Employees duty is to put forth a good faith effort to perform their responsibilities.*) when the question becomes what gives the supervisor the authority to allow such activity we must reach out to our Human Resources (HR) team.

Our HR brethren have graciously provided us with guidance on this issue.

Under existing FSH regulations (FSH 6109.11) there are two possible ways management can authorize time for holiday office parties:

1. 38.43—Management may authorize regular time at base rate (TC-01) [rather than TC-66] in the following situations:

(4) **Officially Approved or Sponsored Activities.** Officially approved or jointly sponsored activities of a **quasi-official** or public nature, or activities that may contribute to the training or morale of employees involved, may be conducted on regular time (TC 01). Employees' participation in such activities is subject to the approval of their supervisors.

Our colleague in HR reports that while the leadership needs to make a definitive decision on the issue of using this section for 'holiday parties'—past practice within Human Resource Management (HRM) has been to allow for **two hours** under the above section. This time frame of course is situation dependent. You should contact your Human Resources Officer (HRO) if you are contemplating granting more than two hours.

2. 38.42—Administrative Discretion: Management may grant other paid absence (TC 66) without charge to personal leave in the following situations:

(16) **Time Off Awards (TOA).** Supervisors have the authority to grant an excused absence as a TOA. When a TOA is taken, the employee's absence is reported as an excused absence (TC-66, Prefix 61) on the Time and Attendance record.

Under the DR, [<http://www.ocio.usda.gov/directives/doc/DR4040-451-1.pdf> page 10, paragraph 6,] it appears that supervisors are empowered to grant 1-10 hour TOA's to individuals or groups without higher level review or approval (although the award must be justified in writing). *TOAs may only be taken after being entered in the payroll/personnel system and is available in the NFC database.*

Thus, it is conceivable for a supervisor to appropriately grant a TOA to his/her employees in contemplation for use at an upcoming holiday office party.

Special Thanks to our HR Experts who diligently researched this issue: Jay Mckeever, Marty Dall, and Tracie Linne

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What Government Employees Need to Know about Job Seeking and Post Government Employment

Looking to retire or separate from the government? Ready to start a second career in the private sector? Before you begin to distribute your resume or schedule your first interview you need to know how the federal ethics laws may affect you, both while you are looking for a job and after you leave the government.

Our mission in this article is not to make you Post Government Employment (PGE) experts, but to familiarize you with some of the rules and resources available to you.

Job Seeking:

While still employed by the Federal government you must be aware that under the conflict of interest rules (18 U.S.C. §208) you generally may not work on any matter (contract, project, partnership agreement, program, etc) that would affect the financial interests of a person or entity with whom you are **“negotiating employment or have an arrangement concerning prospective employment.”**

A related executive branch-wide regulation, Subpart F of [5 C.F.R. part 2635](#), prohibits an employee from working on a particular matter if the employee is “seeking employment” with a person or organization affected by that matter, even though the employee’s job search has not progressed to actual negotiations.

So what does it mean to be “seeking employment?”

The question might seem straightforward but the answer, I assure you, is counter-intuitive. “Seeking employment” is broadly construed. In many cases you will be considered to be seeking employment well before you are actually engaged in what **you** would consider seeking employment.

For example, submitting a job application or taking a job interview may often constitute prohibited conduct. Even a casual conversation, whether initiated by you or a partner/contractor, about your future employment plans may cross the line. Therefore, where a government employee is contacted regarding a future employment opportunity from a company with whom he currently interacts during the course of performing his government duties, he should first seek to disqualify himself unless the sole contact is initiated by the prospective employer and the employee immediately rejects it (e.g. “Thank you but I am not interested in employment outside the Forest Service.”) However, there are exceptions to this law if the federal employee acts unilaterally. Contact our office if you are considering seeking employment with a non-federal entity you work with.

How do I continue to work for the federal government and pursue possible private employment?

If an employee has official duties involving a company with whom he or she wishes to explore the potential for PGE; that employee **must first be disqualified** from any duties involving that particular company **before** they begin to “negotiate for” or “seek” employment under those broadly defined terms as discussed above. The employee’s disqualification must be in writing and directed toward his or her supervisor. **A format for a disqualification letter is available upon request from this office.** [\[see link\]](#)

NOTE: *The employee’s agency is not required to approve the request for disqualification from duties. [See 5 CFR 2635.604(d)] A disqualification letter can disqualify an employee from duties involving one company, or many companies. Also, an employee may want to notify his or her coworkers that he or she is prohibited from working on matters involving the company, so that they will not ask the employee to work on such matters. [5 CFR 2635.604 (b)]*

When/How Does an Employee’s Disqualification Involving a Specific Company Terminate?

If an employee’s PGE discussions with a company does not lead to an employment arrangement, their disqualification from duties involving the company can be terminated.

However, if the employee was disqualified from duties involving a company, and they did seek employment with the company (by having discussions or submitting a resume), the employee may not end the disqualification and resume duties involving the company **unless:**

1. either the employee or the company *has rejected the possibility of employment* **and** *all employment discussions have ended*, **or**
2. *two months* have passed since the employee sent an unsolicited resume or employment proposal to the company, **and** he or she has received no indication of interest from the company [5 CFR 2635.603(b)(2)].

PGE (Criminal) Restrictions [18 U.S.C. §207]:

“Restrictions on PGE do not bar you from working for any particular employer. The restrictions are designed to address certain activities that involve, or may appear to involve, the misuse of your prior Government employment. How these restrictions apply to you depends upon your position and duties during government service”].

18 U.S.C. § 207a1 (Lifetime Ban)

As an executive branch employee, you are barred **permanently** (under what is referred to as the Lifetime Ban) from trying to influence any Federal agency, court, or employee, by communications or appearances on behalf of someone other than yourself or the United States (i.e., “representational contacts”), on a particular matter involving specific parties (such as a contract, grant, partnership agreement, special use permit, grazing permit, lawsuit, or other agreement) if you worked on that same matter involving that same party/parties (i.e., contractor) during your time as a government employee.

Example: *A District Ranger signed/issued grazing permits for Ranch X and Ranch Y. Soon after, she retired and started a consulting business and was hired by both Ranch X and Ranch Y (for whom she had previously issued grazing permits while working for the Forest Service). A severe thunderstorm passed through the district washing out the access roads to the grazing allotments held by these two ranches. The retired District Ranger called the district on behalf of the Ranch X and Y and requested to speak to the new District Ranger hoping to get him (influence) and his staff to clear and restore allotment access for his clients. **Outcome:** The retired District Ranger has violated title 18 U.S.C. § 207 because she cannot represent (communicate or appear on behalf of) these ranches back to the government on the very same grazing permits involving the same two ranches to whom she issued grazing permits while working for the government.*

18 U.S.C. §207a2 (the 2-Year Ban)

If the matter (contract, grant, program, etc.) was under **your official responsibility during your last year of government service**, even if you did not personally participate in it, you are barred from making representational contacts (communicating or appearing before the government on behalf of another party) about that matter for **two years**. [18 U.S.C. 207(a)(1), (2)].

Example: *The Assistant Regional Fire and Aviation Director has a number of subordinates that she supervises. Some of those subordinates were, (during the last year of the director’s employment) responsible for contract compliance involving Folsom Airplane. If the assistant regional director were approached by Folsom and asked (once she retires next month) to ‘switch sides’ and work on this same contract for Folsom could she do so? No, since the matter fell under the director’s official responsibility in the last year of her employment she would be prohibited from representing Folsom back to the government for two years on the existing contract her subordinates worked on.*

[For Restrictions on Senior or Very Senior Employees \(Executive Level/SES who are ES-6 or ES-5\) \(CLICK HERE \)](#)

Some Final Thoughts and Options Available to You:

The rules involving job seeking and PGE can be difficult, but it is your responsibility to know and understand how they apply to you. However, you are not alone. Current and former employees may always seek ethical guidance from our office on matters pertaining to PGE. Often times, ethics specialists can answer questions about the applicability of these restrictions (informally) without the need to submit a full PGE questionnaire.

In some complex cases, the Forest Service Ethics Branch (FSEB) will require the completion of a PGE questionnaire (FSEB Form 110). From the receipt of a fully completed **FSEB_110** specialists are normally able to issue a formal opinion within 30 days.

FSEB will periodically offer PGE training webinars throughout the year (our first one was this past January) and taped sessions and slides will soon be posted on our intranet site.

We invite you to review PGE materials and resources (below) and welcome your questions (now and after you retire) at FSEthics@dm.usda.gov. Lastly, thank you for your service to the agency and your country.

Stay Tuned—next newsletter we will discuss Post Government Employment and the Procurement Integrity Act!



- USDA Bulletin AD-815 Post Employment and Seeking Employment [Post-Employment Restrictions](#)
- Seeking Employment and Post-Employment Prohibitions [A Walk Through Post-Employment](#)
- Office of Government Ethics (OGE) [Ethics and Procurement Integrity Guide](#)
- OGE’s PGE [“Rules of the Road”](#)

- OGE’s Substantive 18 U.S.C. §207 [Prohibitions Chart](#)
- USDA’s [Model Seeking Outside Employment Recusal Letter](#)
- Forest Service Ethics Branch [Intranet site](#) (FORMS)

THE TRAINING CORNER



We at FSEB believe that training is a proactive means to keep federal employees out of trouble. FSEB will be offering monthly training in several venues in the hope that making ethics training more available will allow all of you to partake. Our training will meet a new employee's requirement for training and an annual filer's training requirement. We also offer tailored ethics training to any unit interested in a specific area of ethics. So mark your calendars!

DATE	TOPIC	TYPE OF TRG	TIME
Thurs, June 26, 2012	Temp (1039), Seasonal, New Entrant	e-Meeting	1:30 PM to 3:00pm
Tue, July 17, 2012	Conflicts of Interest	e-Meeting	12:00 PM to 1:30 PM
Tue, July 31, 2012	Combination) CFC /Hatch Act/Fundraising	e-Meeting/Live-YATES	1:30 PM TO 3:00 PM
Tue, August 14, 2012	(Combination) CFC /Hatch Act/Fundraising	e-Meeting	12:00 PM to 1:30 PM
Tue, August 28, 2012	(Combination) CFC /Hatch Act/Fundraising	e-Meeting/Live-YATES	1:30 PM TO 3:00 PM
Tue, September 11, 2012	(General Training)	e-Meeting	12:00 PM to 1:30 PM

**All Times are Eastern Standard Time

Per USDA Designated Agency Ethics Official (DAEO) direction, and in accordance with 5 C.F.R. § 2638, all ethics training (with the exception of AGLEARN Training Modules) MUST be conducted by a qualified ethics advisor/instructor. (Thankfully, Jack, Rainee, and Lina are such qualified individuals.)

Ask Abby the Ethics Hound *(Tracking Down the Answers to Your Ethics Questions)*



QUESTION: Abby, I do quite a bit of traveling using government vehicles to fight fires (usually a pickup or SUV). Can I use the government vehicle to transport a piece of furniture I purchased from a thrift store located next to my hotel?

ANSWER: Another good question and I'm glad you asked because the answer in this case is NO. Government vehicles are to be used for official use only. Transporting a piece of furniture, even if room is available, would constitute personal and not official use.

The following is good information to have about the use of government vehicles while in travel status.

41 CFR 301-10.201 [\(Click Here\)](#) describes the approved limited use of Government-furnished vehicles while on travel status. Listed below are examples of authorized and unauthorized uses of Government-furnished vehicles.

(1) Authorized Uses:

- (a) Going to drug stores.
- (b) Going to grocery stores.
- (c) Attending worship services.
- (d) Going to barber shops.
- (e) Going to restaurants.
- (f) Going to dry cleaning or laundry establishments.
- (g) Similar places necessary for the sustenance, comfort, or health of the employee.

(2) Unauthorized Uses:

- (a) Going to antique shops.
- (b) Attending local sporting events or attractions.
- (c) Going to liquor stores, bars, or lounges.



Misadventures in Ethics: *(Learning from Other's Mistakes)*

The intent of this column is to call attention to serious ethical failures so our employees can learn from the mistakes made by other Federal employees. We employ levity and humor here and throughout our newsletter as a mechanism to catch the readers attention in a subject area that can be dry and tedious.

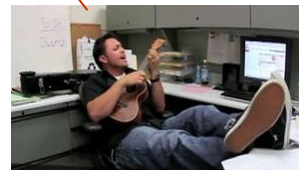


GSA's 800k Vegas Vacation (Conference):

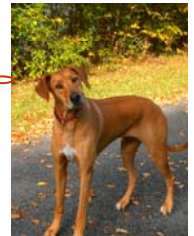
Unless you've been living under a rock (or in the forest, as most of our hardworking employees do) you may have missed GSA's faux pas extraordinaire, spending \$823,000 on a conference outside of Las Vegas. An IG investigation, found that "many of the expenditures on this conference were excessive and wasteful (i.e., 300 shrimp at \$4.00 per shrimp), and that in many instances GSA followed neither Federal procurement laws, nor its own policy on conference spending."

To read the IG Report: [\[Click Here \]](#)

"Never be under OIG investigation" (excerpt from GSA employee's youtube video/song)



Think again buddy!
(Abby the Ethics Hound)



Fuzzy Logic—Navy statistician miscalculates the probability of prosecution for improper use of government credit card.

The Administrative Judge found that the employee had used or attempted to use the government credit card to purchase airline tickets, movie tickets, and cosmetic surgery services.

The court did not accept the employees contention that the government failed to train her on use of the government credit card and that the card was for official use only—especially since all cards bear the words For Official Use Only (FOUO).



Terminated [\[Click Here \]](#)

DOD Bribe Taker's Emotional Appeal Sways No One

Judges hear a lot of excuses. Here's one that did not prevent the judge from imposing a 20 month sentence on an ex-DOD official:



"It was a one-time deal. I thought if I did that, I could walk away from Afghanistan," Wade said in an emotional and occasionally rambling statement. "I had seen enough." *Navy Times* provides more [\[CLICK HERE \]](#):

Desi Deandre Wade is an Army veteran who was the Defense Department's top firefighting official in Afghanistan when he was arrested at an August conference in Atlanta moments after taking a bag crammed with \$95,000 in cash.

He pleaded guilty to taking the bribe to influence a contract, saying Wednesday he wanted to return home to Georgia with enough money to leave behind a three-year stint in Afghanistan.



A HATCH ACT REMINDER

Keep partisan political activity out of the federal workplace this election season (*Don't be that employee who puts their own employment in jeopardy by sending or forwarding political emails at work from their government computer.*)

Below you will find some links to Hatch Act resources.

- Questions about social media (twitter, Facebook, etc.) and the Hatch Act [\[Click Here \]](#)
- Displaying President Obama's picture in employees workspaces (cubicles/offices) now that he is a candidate [\[Click Here \]](#)
- Office of Special Counsel—Hatch Act Unit Website [\[Click Here \]](#)

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FSEB Intranet Website (Forms and More):

<http://fsweb.asc.fs.fed.us/HRM/ethics/policy.php>

Don't Forget the USDA Office of Ethics [Website](#)

Send us your Ethics Questions and Training Requests at:
FSEthics@dm.usda.gov

SCIENCE ETHICS BRANCH :

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Science Ethics Branch Website:

<http://www.usda-ethics.net/science/topic-index/index.htm>

Send us an email at: Science-Ethics@dm.usda.gov

A Tale of Two Ethics Branches

Confused over who to contact regarding ethics? The following should help:

The **Science Ethics Branch** provides ethics services for the following groups:

- | | |
|---|------------------------------------|
| International Institute for Tropical Forestry | Rocky Mountain Research Station |
| Southern Research Station | Northern Research Lab |
| Forest Products Lab | Pacific Northwest Research Station |
| Pacific Southwest Research Station | Washington R&D Deputy Area |

The **Forest Service Ethics Branch (FSEB)** services ***all other GS career*** Forest Service Employees.

Forest Service Ethics Branch
1601 N Kent Street
Suite 600, RPC
Arlington, VA 22209

Tel: 703-605-0860

E-FAX: 855-245-9806



Science Ethics Branch
5601 Sunnyside Avenue,
Rm. 2-2290
GWCC Mail Stop 5620
Beltsville, MD 20705-5620

TEL: 301-504-4414

FAX: 301-504-1496

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