

ACDEANINST 5370.4D
2/ADF
21 June 1994

ACADEMIC DEAN AND PROVOST INSTRUCTION 5370.4D

From: Academic Dean and Provost

Subj: POLICY CONCERNING OUTSIDE EMPLOYMENT AND PROFESSIONAL
ACTIVITIES FOR FACULTY

Ref: (a) DOD Regulation 5500.7 (Joint Ethics Regulations)
(b) 5 CFR § 2635 (Standards of Ethical Conduct for
Employees of the Executive Branch)

Encl: (1) Format for advanced notification of outside employment

1. Purpose. To establish policy and institute procedures for USNA officer and civilian faculty to engage in professional activity and employment with or without remuneration outside the Naval Academy.

2. Cancellation. ACDEANINST 5370.4C

3. Information. This directive is a complete revision and should be reviewed in its entirety; no special markings appear because revisions are extensive.

4. Background. Outside employment and/or professional activities are means of enhancing the professional competence of a faculty member. Although officer and civilian faculty participation in outside activities is generally accompanied by many benefits to the institution, as well as the individual, such action can also give rise to interference with primary academic duties, dual allegiances, and the possibility of conflicts of interest. Among the considerations that should govern the actions of an officer or civilian faculty member with respect to outside professional activities are the following:

a. As a federal government employee, each faculty member must recognize that it is often necessary to adhere to higher standards than those acceptable in many private sectors.

b. The faculty member's first duty and loyalty must be to the Naval Academy, since the member is under obligation to render the most effective service of which he or she is capable.

c. For the purpose of this directive, USNA cognizance of outside employment does not imply immunity from the conditions of references (a) and (b) pertaining to ethical standards and related requirements. Each faculty member is responsible for knowing the contents of references (a) and (b) and will adhere strictly thereto. The Staff Judge Advocate has been designated by the Secretary of the Navy as Deputy Ethics Counselor. As such, he or she is responsible for providing advice and assistance on matters relating to conduct and conflicts of interest to both the Naval Academy and government employees thereof.

5. Policy

a. Outside employment of officer and civilian faculty that interferes with the member's Naval Academy obligations, irrespective of remuneration, should not be undertaken. The intent of this policy is to enhance the integrity of the institution while permitting the officer or civilian faculty member maximum freedom consistent with assigned duties and responsibilities at the Naval Academy. Each faculty member must understand that outside activities are in addition to the individual's full-time commitment to the Academy and not in lieu of a portion thereof. Outside professional activities not in excess of the equivalent of one day per work week are considered to be in conformance with this policy. Individuals wishing to engage in outside work in excess of these weekly guidelines may do so by taking annual leave during periods when their presence at the Academy is not required. Such periods might include semester breaks or during the Christmas leave period when the Brigade of Midshipmen is absent.

b. This policy is not to be construed to mean that faculty members have a four-day obligation to the Naval Academy per week. They do, in fact, have a full-time obligation and the one-day of outside professional activity in addition to this obligation is proffered to enhance their benefit to the academy.

c. In order to avert possible difficulties for faculty members who are considering outside employment, some basic principles set forth in references (a) and (b) are enumerated below, together with illustrative examples.

(1) Government facilities, property, and manpower may not be used for other than officially approved purposes. EXAMPLE: An Academy professor teaching courses for another university or professional organization may not hold classes at USNA without the prior written approval of the Superintendent. Furthermore, stationary, stenographic and typing assistance, copying facilities, telephone, and other assets owned, leased, or paid for by the government may only be used for official government purposes. Accordingly, a faculty member may not use school equipment such as instrumentation, computers etc., nor the services of secretaries, staff or midshipmen for private purposes. These provisions do not preclude the use of government facilities for approved activities in furtherance of Naval community relations, provided they do not interfere with military missions or government business.

(2) Government employees may not use government facilities for private gain. EXAMPLE: A faculty member may not use the computer facility to provide remunerated or nonremunerated services for an outside agency. (If Academy facilities are to be utilized, appropriate procedures exist for transfer of funds to the Academy to pay for such usage.)

(3) A government employee may not engage in any activity which might result in a conflict of interest or appearance of conflict of interest (see reference (a)). EXAMPLE: A faculty member cannot utilize students for activities primarily of interest to a firm for which the faculty member is consulting.

(4) Department of Defense (DOD) employees are prohibited

from receiving pay or allowances or supplements of pay or benefits from any source other than the United States for the performance of official service or duties unless specifically authorized by law. Note that a task or job that is performed outside normal working hours does not necessarily allow acceptance of payment for performing it. If the undertaking is part of one's official duties, pay for its performance may not be accepted from any source other than the United States regardless of when it was performed.

(5) Federal employees may not receive extra pay from the federal government for the performance of official duties. Subject to certain limitations, civilian DOD employees may hold two distinctly different federal government positions and receive the salaries of both if the duties of each are performed. Absent specific authority, however, military members may not do so because any arrangement by a military member for rendering services to the federal government in another position is incompatible with the military member's actual or potential military duties.

(6) A government employee may not use, directly or indirectly, inside information to further a private gain for themselves or for others.

(7) A government employee is prohibited from using his or her grade, rank, title, or position in connection with any commercial enterprise or in endorsing any commercial product. This does not preclude author identification for materials published in accordance with Department of Defense (DOD) procedures.

(8) A government employee may not engage in outside employment or other outside activity, with or without compensation, that may reasonably be expected to bring discredit on the government or the Department of the Navy.

(9) A government employee may not engage in outside employment, with or without compensation, that is otherwise inconsistent with references (a) and (b), including the requirement to avoid actions and situations which reasonably can be expected to create the appearance of conflicts of interests.

c. Faculty members who propose to do consulting which entails travel should make proposed travel requirements known to the Academic Dean and Provost at the time that notice is given of the consulting agreement, and should inform the Academic Dean and Provost of subsequent changes in travel requirements. A faculty member's primary responsibility is to the Naval Academy, and this relationship must not be compromised. With proper notice of the basic consulting relationship, approval need not be sought for each journey outside the immediate area. Any problem which may arise as a result of this outside-of-area consulting should be treated in the same manner as it would be handled due to a delay in return from annual leave.

EXAMPLE: Inclement weather prevents the timely return to the Academy of a faculty member who consults at ABC Corporation on Wednesday afternoons under an approved arrangement. The faculty member should contact the appropriate Department Chair and make necessary arrangements to alleviate the consequences of the conflict.

EXAMPLE: When the same professor as in the preceding example again misses his commitments at the Academy, it would appear that consulting demands are interfering with Academy responsibilities.

6. Action. The above policy is in effect during all periods when an officer or civilian faculty member is a government employee, whether or not receiving pay as a member of the U.S. Naval Academy staff.

a. It is the responsibility of the individual officer or civilian faculty member to inform the Academic Dean and Provost and the Staff Judge Advocate in advance of any proposed engagement in extra-Academy employment. This shall be initiated through completion of enclosure (1), which is designed to furnish the essential information regarding the proposed arrangement. The form will be submitted via the individual's Department Chair, Division Director, and Staff Judge Advocate to the Academic Dean and Provost.

b. Per paragraph 2-205 of reference (a), general approval to engage in outside employment is given to civilian faculty members who are not required to file a confidential financial disclosure report (SF 278) or a public financial disclosure report (SF 450), provided the outside employment is to occur during an intersessional period during which the civilian faculty member is not employed by the Academy.

(1) When outside employment falls within the parameters of the general approval set out above, the civilian faculty member is not required to complete enclosure (1).

c. Neither a specific nor general approval of outside employment exempts any faculty member from the requirements established by references (a) and (b) or other statutes or regulations. All faculty members, officer or civilian, who are considering outside employment should ensure that they comply with the regulations concerning standards of ethical conduct for federal employees.

ROBERT H. SHAPIRO

Distribution:
OF

Date_____

From: _____

To: Academic Dean and Provost

Via: (1) Chair, _____

(2) Director, Division of _____

(3) Staff Judge Advocate (Deputy Standards of Conduct Counselor)

Subj: ADVANCED NOTIFICATION OF OUTSIDE EMPLOYMENT OR PROFESSIONAL ACTIVITY

Ref: (a) ACDEANINST 5370.4D

(b) DOD Regulation 5500.7

1. This advance notification of outside employment (not) involving remuneration is submitted in accordance with reference (a).

2. Pursuant to the Privacy Act of 1974, I acknowledge the following:

a. The authority for requesting the information hereon is derived from 5 U.S. Code 4302 and 5 U.S. Code 201, Departmental Regulations.

b. The major purpose for which the information will be used is to advise superiors in advance of any extra-Academy professional involvement or employment.

c. The routine use to be made of the information hereon is to keep superiors informed of my extra-Academy involvement so as to resolve any possible future conflicts with my primary academic duties and the provisions of reference (b). USNA cognizance of outside employment, however, does not imply immunity from the conditions of reference (b) and Naval Academy instructions pertaining to standards of conduct and use of government facilities.

d. Disclosure of the requested information is mandatory. My failure to respond will be a basis for disapproving my extra-Academy involvement and will substantially interfere with my superior's ability to fully evaluate the academic/professional performance of his or her officers and faculty.

3. I have read the applicable sections of references (a) and (b) above and consider that this employment is not in conflict with policy stated therein.

4. a. Name of Employer

b. Will this employer benefit in any way from the fact that you are presently employed at the Naval Academy? If so, how? (Explain in detail using reverse side.)

c. For whom are services to be provided?

d. Nature of employment (be specific)

e. What connection, if any, is there between your outside employment and your duties at the Naval Academy?

f. Name and address of place where services are to be performed. If services occasionally or routinely involve travel outside the USNA community area, so state.

g. Estimated average hours or days per week to be spent on outside employment.

h. Potential benefit to the Navy or Naval Academy (if none, so state).

SIGNATURE

Copy to:
Director of Research