

ETHICS FLASH UPDATED SHUTDOWN EDITION

Fiscal, Ethics and
Administrative Law
Division
(SAF/GCA)

SAF/GCA ETHICS TEAM

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Attached Supplemental Information

SOCO Advisory 25-03
(with attachment)

OGE LA 24-13

OGE LA 20-07

DAF DAEO
Memo of 26 Jan 25

Hatch Act Quick Guide

WE INTERRUPT THIS PROGRAM.....

September 30th is just around the corner and with a possible lapse in appropriations, it's time for a refresher on ethics and shutdowns.

Bottom line up front: Department of the Air Force (DAF) employees remain subject to the Federal ethics rules even when furloughed. For purposes of this Ethics Flash, we mean all Federal personnel in a non-pay status, whether required to work or not.

This Ethics Flash updates and rescinds Ethics Flash 23-03 and should be read in its entirety. It will highlight the areas in which we receive the most questions. For detailed information, supplemental



information is available from the Department of War (DoW) Standards of Conduct Office (SOCO), as well as the Office of Government Ethics. In keeping with our time-honored tradition of being awesome and sharing, we will also throw in extra infor-

mation about the Hatch Act, fundraising, and even off-duty employment.

As always, this Ethics Flash is not a substitute for legal advice. Seek advice from an ethics official if you are in doubt. Will there be an ethics official working during a shutdown? Yes! Never fear, **our newly minted Deputy General Counsel for Fiscal, Ethics and Administrative Law** will be manning the Ethics Fort! But — there is always a “but” — do plan ahead. You may need approval for some activities and your approving official may be at home unable to...approve....so reach out now with any questions!

GIFTS

During a shutdown, there are often opportunities made available only to federal employees. During a shutdown, the public likes to give us stuff. They want to supplement our income through fundraising, provide free meals, or even services. Unless an exclusion or exception applies, you cannot accept a gift given because of your official position or offered by a prohibited source. A prohibited source is anyone who (1) is seeking official ac-

tion from the DoD; (2) does or seeks to do business with the DoD; (3) conducts activities regulated by the DoD; (4) has interests that can be affected by the performance or nonperformance of your official duties; or (5) is an organization the majority of whose members are described in (1) - (4). Again, if an exclusion or exception applies, you may be able to accept the offer.

Crowdsourced fundraising (e.g., GoFundMe) campaigns

raise myriad ethics issues. The primary issue is that Federal employees cannot use their official positions to solicit gifts and raise funds to cover expenses during furloughs or layoffs (insert favorite “not getting paid” word here). We also have to be careful we do not accept gifts from prohibited sources. Before engaging in crowdsourcing, please contact the “excepted” ethics official on duty!

COMPENSATION RESTRICTIONS

18 USC § 209, a criminal statute, prohibits federal personnel from accepting payment from a non-Federal source for performing their Federal duties. The criminal statute applies even when the receipt of outside compensa-

tion does not create a conflict of interest or cause actual injury to the United States. For example, the law could prohibit DAF employees from working for a contractor that closely supports their DAF position. Like what, you ask? Well, if

your official duties are IT support and you are sent home, you can't show up on 1 October working for the contractor and performing your regular official duties, but as a contract employee instead...So. much. no.

OUTSIDE/OFF-DUTY EMPLOYMENT

Whether in a shutdown or not, DAFI 36-147 requires all civilian employees to report outside business activity or compensation from outside employment to their supervisors. If you are an OGE Form 278e or OGE Form 450 filer, you must notify and obtain approval from your supervisor before engaging in a business activity, or even getting a temporary job, with a defense contractor or other prohibited source.

Submit requests using DAF Form 3902 to your supervisor and then to your local ethics

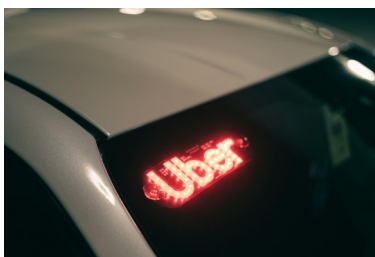


Image not an endorsement!!

official for review and guidance. Remember when we talked about planning ahead??? If you already have an approved DAF Form 3902 for working while off-duty—consider updating it to

reflect your new hours.

If you do take an outside position, a few things to keep in mind:

1. 18 USC 203/205 — you cannot represent an outside employer back to any federal agency.
2. You may not use government resources, time, or position for other than official or authorized purposes. Your computers are in the office — not at home — and they are most certainly not being used to support your outside employer.

3. Outside employment cannot conflict with your official duties. When the furlough ends, you return to your official duties.

4. Your outside employment may create a conflict of interest when you return to work. You will need to reach out to your local ethics official to determine whether your outside employment during the lapse would require you not to work on matters involving your former employer for a period of two years, under Section 1117 of the FY22 NDAA.

POLITICAL ACTIVITY DURING FURLOUGH

The Hatch Act still applies during a shutdown, though it applies to civilian employees only. It limits the political activities of federal employees. Generally, the Hatch Act prohibits employees from engaging in political activity in a federal workplace or while on duty.

There are different restrictions for different categories of employees; however, we are just going to highlight the prohibitions that apply 24/7 (i.e., regardless of whether on duty or in the federal workplace) to all DoW civilian employees. First, you may not knowingly solicit,

accept, or receive a political contribution for a political party, a candidate in a partisan race, or a partisan political group. Second, you may never use your official authority or influence to affect the outcome of an election.

This is an *extremely* limited

overview. Please read the attached quick guide for more information. Uniform personnel are governed by DoD Directive 1344.10. If you are on active duty, please contact your local judge advocate for further guidance.

FAQS

Q. I am a new financial disclosure filer and my new entrant report is due after 1 October. How do I file my report on time?

A. If you are unable to complete your report prior to 1 October, an ethics official may grant you an extension based on the inability to access CAC enabled systems and/or unavailability of ethics official assistance.

Q. I have an existing AF Form 3902 documenting my outside employment. How am I supposed to update it if my supervisor is furloughed?

A. Any supervisor in your chain of command may approve your request. In addition, there will be a minimum of four hours, or whatever time is actually needed for "an orderly shutdown", on 1 October.

Q. May I give my subordinates

gifts to assist them financially?

A. While there are no restrictions on superiors gifting their subordinates, you must either gift them all or none at all to avoid the appearance of favoritism.

Q. Restaurants are advertising free lunches to all furloughed government personnel. May I accept?

A. Yes. As long as the offer is extended to all federal work-

ers, it may be accepted as a benefit available to a class consisting of all Government employees or all uniformed military personnel, even if the offer is restricted by geography.

Q. What is the Ethics Team's current over and under on a shutdown?

A. How dare you!!! Gambling is prohibited on federal property and as the premier Ethics Team in the DAF, we set the example.

The Air Force Ethics Office directs the daily activities of the Department of the Air Force ethics program. We serve as legal counsel to the Secretariat, Air Staff and Space Staff. While we are happy to assist with any ethics issues, individuals outside of Headquarters should consult with their local ethics counselor.

*Should you have any questions, please reach out to our workflow at
SAF.GCA.Ethics.Workflow@us.af.mil.*