

# Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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## COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

### 5 CFR Chapter LXX

[CSOSA-0009-P]

RIN 3209-AA15 and 3225-AA07

### Supplemental Standards of Ethical Conduct for Employees of the Court Services and Offender Supervision Agency for the District of Columbia

**AGENCY:** Court Services and Offender Supervision Agency for the District of Columbia.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Court Services and Offender Supervision Agency for the District of Columbia (CSOSA or Agency), with the concurrence of the Office of Government Ethics (OGE), is issuing interim regulations for employees of CSOSA and for employees of the District of Columbia Pretrial Services Agency (PSA), an independent entity within CSOSA, that supplement the Standards of Ethical Conduct (Standards) for Employees of the Executive Branch issued by OGE. CSOSA's supplemental regulations address requirements for outside employment. These requirements are necessary to address ethical conduct standards pertinent to an agency with a criminal justice mission.

**DATES:** This interim rule is effective April 21, 2011. Written comments must be received by May 23, 2011.

**ADDRESSES:** You may submit comments, identified by RIN numbers 3209-AA15 and 3225-AA07, by any of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
2. E-mail to [generalcounsel.helpdesk@csosa.gov](mailto:generalcounsel.helpdesk@csosa.gov).

Include RIN numbers 3209-AA15 and 3225-AA07 in the subject line of the message.

3. Mail to Theresa A. Rowell, Assistant General Counsel, Office of the General Counsel, Court Services and Offender Supervision Agency, Room 1378, 633 Indiana Avenue, NW., Washington, DC 20004.

4. Hand Delivery or Courier to Theresa A. Rowell, Assistant General Counsel, Office of the General Counsel, Court Services and Offender Supervision Agency, Room 1378, 633 Indiana Avenue, NW., Washington, DC 20004.

**FOR FURTHER INFORMATION CONTACT:** Theresa A. Rowell, Assistant General Counsel, Office of General Counsel, telephone: (202) 220-5364; e-mail: [theresa.rowell@csosa.gov](mailto:theresa.rowell@csosa.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Background

Section 2635.105 of the Standards authorizes executive branch agencies to publish, with the concurrence of OGE, agency-specific supplemental regulations that are necessary to implement their respective ethics programs. Accordingly, CSOSA, with the concurrence of OGE, has determined that the following supplemental regulation is necessary for the success of its ethical program.

#### II. Analysis of the Regulations

##### *Section 8001.101 General*

Section 8001.101 explains that these regulations supplement the executive-wide Standards and remind CSOSA and PSA employees that they remain subject to the Standards and to executive branch-wide financial disclosure regulations.

##### *Section 8001.102 Prior Approval for Outside Employment*

Where it is determined to be necessary or desirable for the purpose of administering an agency's ethics program, 5 CFR 2635.803 authorizes an agency to issue supplemental regulations requiring agency employees to obtain prior approval before engaging in outside employment. Given the nature of its criminal justice mission, CSOSA and PSA have determined that it is necessary to monitor the outside employment of CSOSA and PSA employees, to ensure public confidence in the impartiality and objectivity with

which CSOSA and PSA carry out their mission, and to avoid any appearance of misuse of position. CSOSA provides supervision, through qualified supervision officers, to offenders on probation, parole, and supervised release for violation of District of Columbia Code offenses. Accordingly, CSOSA supervises all offenders placed on probation by the Superior Court of the District of Columbia (Superior Court), and all individuals on parole pursuant to the District of Columbia Code. CSOSA provides supervision to offenders from other jurisdictions in accordance with the provisions of the Interstate Parole and Probation Compact. PSA is responsible for securing pertinent data and providing for any judicial officer in the District of Columbia or any officer or member of the Metropolitan Police Department issuing citations, reports containing verified information concerning any individual with respect to whom a bail or citation determination is to be made. PSA supervises defendants released from custody by the Superior Court and by the United States District Court during the pretrial period by monitoring compliance with conditions of release and by assuring that they appear for scheduled court hearings. PSA also provides courtesy supervision of defendants for other Federal and State pretrial agencies. An employee's outside employment may conflict with the employee's official duties or create the appearance that the employee is violating the law or ethical standards due to contacts with offenders/defendants, their families and/or close associates during the course of such employment.

Section 8001.102(a) requires CSOSA and PSA employees to obtain prior written approval from the employee's immediate supervisor and the Designated Agency Ethics Official (DAEO) before engaging in outside employment. The approval requirement will help to ensure that potential ethical problems are identified and resolved before employees begin outside employment that could involve a violation of applicable statutes and standards of conduct.

Section 8001.102(b) defines employment to cover any form of non-Federal employment, business relationship, or activity involving the provision of personal services by the

employee, whether or not for compensation. It includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher, or speaker. It includes writing when done under an arrangement with another person for production or publication of the written product. It does not, however, include participation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service, or civic organization, unless the participation involves the provision of professional services or advice for compensation other than reimbursement for actual expenses, the organization's activities are devoted substantially to matters relating to the employee's official duties, or involves conduct prohibited by statute or Federal regulation, including 5 CFR part 2635 and paragraph (c) of this section.

Section 8001.102(c) establishes the standard to be used in approving requests for outside employment. Approval shall be granted only upon a determination that the outside employment is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635. The employee's immediate supervisor and the DAEO will approve or deny the employee's request within seven (7) calendar days of receiving sufficient information from the employee to make such determination.

Section 8001.102(d) states the scope of the approval, which will be for a period of three years. At the end of three years, the employee shall submit a renewed request for approval in accordance with this section. However, where there is a significant change in the nature or scope of the outside employment or in the employee's official position within the Agency prior to the three-year period, the employee must, within ten (10) calendar days, submit a renewed request for approval.

Section 8001.102(e) sets out the procedures for requesting prior approval to engage in outside employment. The employee shall submit the request, through the employee's immediate supervisor, to the DAEO. The employee shall complete a form provided by the DAEO that will set forth, at the minimum, the description of the employee's current position; information on the prospective employment, including the nature of the service to be performed, the anticipated date, and number of hours of work per week; whether the prospective employer has any contractual relationship with the Federal government; whether the

employee will come in contact with defendants, offenders, family members, or their representatives in the course of the outside employment; whether the prospective employment involves any criminal justice matters; whether the employee will be required to testify as an expert witness in any matter related to the prospective employment; and whether the prospective employment involves solicitation or advertising services. The request must be submitted not less than ten (10) calendar days prior to the date the proposed employment will begin, in order to allow completion of the review before the anticipated start of the outside employment.

Section 8001.102(f) describes the appeal process if the request is denied by the DAEO. The employee may appeal to the Agency Director if the request is denied.

#### Matters of Regulatory Procedure

##### *Administrative Procedure Act*

Pursuant to 5 U.S.C. 553(b) and (d)(3), CSOSA has found good cause for waiving, as unnecessary and contrary to the public interest, the general notice of proposed rulemaking, the opportunity for advanced public comment, and the 30-day delay in effectiveness as to this interim rule. The reason for this determination is based on the fact that (1) the rulemaking is related to the internal organization, procedure, and practice of the Agency; and (2) the rulemaking pertains to Agency management and personnel. Nonetheless, this is an interim rulemaking with provision for a 30-day public comment period. The Agency will review all comments received during the comment period and will consider any modifications that appear appropriate in adopting these rules as final, with the concurrence and co-signature of the Office of Government Ethics.

##### *Executive Order 12866*

Because this rule relates to CSOSA and PSA personnel, it is exempt from the provisions of Executive Order No. 12866.

##### *Executive Order 13132*

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, CSOSA has determined that this rule does not have sufficient federalism

implications to warrant the preparation of a Federalism Assessment.

##### *Regulatory Flexibility Act*

CSOSA, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule and by approving it certifies that this rule will not have a significant economic impact upon a substantial number of small entities. This rule pertains to Agency management, and its economic impact is limited to the Agency's appropriated funds.

##### *Unfunded Mandates Reform Act of 1995*

This rule will not result in the expenditure by State, local and Tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, CSOSA has determined that no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

##### *Small Business Regulatory Enforcement Fairness Act of 1996*

This rule is not a major rule as defined by sec. 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

##### *Paperwork Reduction Act*

The Paperwork Reduction Act, 44 U.S.C. chapter 35, does not apply because this rulemaking does not contain information collection requirements subject to the approval of the Office of Management and Budget.

##### *Congressional Review Act*

CSOSA has determined that this rule is not a rule as defined in 5 U.S.C. 804, and thus, does not require review by Congress.

##### *Plain Language Instructions*

We want to make CSOSA's documents easy to read and understand. If you have suggestions on how to improve the clarity of these regulations, write, e-mail, or call the Office of General Counsel at the address or telephone number given above in the **ADDRESSES** and **FOR FURTHER INFORMATION CONTACT** captions.

**List of Subjects in 5 CFR Part 8001**

Conflict of interests, Government employees.

Accordingly, for the reasons set for in the preamble, the Court Services and Offender Supervision Agency for the District of Columbia, with the concurrence of the Office of Government Ethics, is amending title 5 of the Code of Federal Regulations by adding a new chapter LXX, consisting of part 8001, to read as follows.

**CHAPTER LXX—COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA****PART 8001—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE COURT SERVICES AND OFFENDER SUPERVISION AGENCY**

Sec.

8001.101 General.

8001.102 Prior approval for outside employment.

**Authority:** 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.801, 2635.802, 2635.803.

**§ 8001.101 General.**

(a) *Purpose.* In accordance with 5 CFR 2635.105, the regulations in this part apply to the employees of the Court Services and Offender Supervision Agency (CSOSA or Agency), and the employees of the Pretrial Services Agency (PSA or Agency), an independent entity within CSOSA. The regulations in this part supplement the Standards of Conduct for Employees of the Executive Branch contained in 5 CFR part 2635.

(b) *Cross-references.* In addition to 5 CFR part 2635 and this part, CSOSA and PSA employees are subject to the executive branch financial disclosure regulations at 5 CFR part 2634, the regulations concerning executive branch financial interest contained in 5 CFR part 2640, and the regulations concerning executive branch employee responsibilities and conduct contained in 5 CFR part 735.

**§ 8001.102 Prior approval for outside employment.**

(a) *Prior approval requirement.* An employee, other than a special Government employee, must obtain written approval from the employee's immediate supervisor and the Designated Agency Ethics Official (DAEO) before engaging in any outside employment, whether or not for compensation.

(b) *Definition of employment.* For purposes of this section, "employment" means any form of non-Federal employment, business relationship or activity involving the provision of personal services by the employee, whether or not for compensation. It includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher, or speaker. It includes writing when done under an arrangement with another person for production or publication of the written product. It does not, however, include participation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service, or civic organization, unless the participation involves the provision of professional services or advice for compensation other than reimbursement for actual expenses, the organization's activities are devoted substantially to matters relating to the employee's official duties, or involves conduct prohibited by statute or Federal regulation, including 5 CFR part 2635 and paragraph (c) of this section.

(c) *Standard of approval.* Approval shall be granted only upon a determination that the outside employment or activity is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635. The employee's immediate supervisor and the DAEO shall approve or deny the employee's request for prior approval of outside employment within seven (7) calendar days of receiving from the employee complete information necessary to make such a determination.

(d) *Scope of approval.* Approval will be for a period of three years, after which the employee must request renewed approval in accordance with this section. If during the approved three-year period there is a significant change in the nature or scope of the outside employment or in the employee's Agency position or duties, the employee shall submit a renewed request for approval within ten (10) calendar days of the change.

(e) *Submission of application.* The employee shall submit the request on a form provided by the DAEO through the employee's immediate supervisor. The request must be submitted not less than ten (10) calendar days prior to the date the proposed employment will begin, in order to allow for completion of the review before the anticipated start of the outside employment. The form shall set forth at the minimum the description of the employee's current position;

information on the prospective employment, including the nature of the service to be performed, the anticipated date, and number of hours of work per week; whether the prospective employer has any contractual relationship with the Federal government; whether the employee will come in contact with defendants, offenders, family members, or their representatives in the course of the outside employment; whether the prospective employment involves any criminal justice matters; whether the employee will be required to testify as an expert witness in any matter related to the prospective employment; and whether the prospective employment involves solicitation or advertising services.

(f) *Appeal.* If the Designated Agency Ethics Official denied the request, the employee may appeal that decision to the Agency Director.

**Adrienne Poteat,**

*Deputy Director, Court Services and Offender Supervision Agency.*

**Robert I. Cusick,**

*Director, Office of Government Ethics.*

[FR Doc. 2011-9027 Filed 4-20-11; 8:45 am]

**BILLING CODE 3129-04-P**

**DEPARTMENT OF AGRICULTURE****Animal and Plant Health Inspection****9 CFR Part 145**

[Docket No. APHIS-2009-0031]

RIN 0579-AD21

**National Poultry Improvement Plan and Auxiliary Provisions**

*Correction*

In rule document 2011-6539 appearing on pages 15791-15798 in the issue of Tuesday, March 22, 2011, make the following corrections:

**§ 145.52 [Corrected]**

On page 15794, in the first column, immediately following the text of § 145.52, add the following asterisks:

\* \* \* \* \*

[FR Doc. C1-2011-6539 Filed 4-20-11; 8:45 am]

**BILLING CODE 1505-01-D**