

§ 73.735-709

counselor or the Department Ethics Counselor in all cases that raise a difficult or novel question of law or fact. The approving official shall approve or disapprove each request and communicate his or her decision in writing to the employee.

§ 73.735-709 Annual reporting of outside activities.

By September 10 of each year the approving official shall require a report from each person for whom outside work has been approved during the past year. The report shall show:

(a) For the 12 months just past (ending August 31):

(1) Whether the anticipated work was actually performed for the person or organization named in the request for approval;

(2) Actual amount of time spent on the activity.

(b) For the forthcoming 12 months (ending August 31):

(1) Whether it is anticipated that the outside work will continue;

(2) Whether any change is anticipated with respect to information supplied in accordance with the original request on which approval was based.

§ 73.735-710 Maintenance of records.

The official responsible for the administrative aspects of these regulations (§ 73.735-202) shall make provisions for the retention and filing of requests for approval of outside work (or copies of such requests), a copy of the notification of approval or disapproval, and the annual report.

Subpart H—Financial Interest

§ 73.735-801 Participation in matters affecting a personal financial interest.

(a) An employee shall not participate personally and substantially as a Government employee in a matter in which any of the following individuals or organizations has a financial interest:

(1) The employee;

(2) The employee's spouse;

(3) The employee's minor child;

(4) An organization in which the employee serves as an officer, director, trustee, partner, or employee; or

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(5) A person or organization with which the employee is negotiating for prospective employment or has an arrangement for prospective employment. Criminal penalties may be imposed under 18 U.S.C. 208 for violations of the prohibition.

(b) Applying the provision of 18 U.S.C. 208:

(1) A "financial interest" is any interest of monetary value which may be directly and predictably affected by the official action of an employee. There is no minimum amount of value or control that constitutes a financial interest.

Example 1: An employee owns a single share of stock in a widely-held corporation. If the corporation is likely to be affected by a matter in which the employee participates as a Government official, the employee may violate 18 U.S.C. 208.

Example 2: An employee has a paid part-time position with a non-federal organization. If the organization is likely to be affected by a matter in which the employee participates as a Government official, the employee would violate 18 U.S.C. 208.

(2) The prohibition of 18 U.S.C. 208 applies to personal and substantial involvement by an employee in a matter, exercised through decision, approval, disapproval, recommendation, investigation, giving advice, or other significant effort regarding the matter.

Example 1: An employee is a member of a panel that evaluates proposals for contracts and makes recommendations as to their award. If the employee's spouse owns stock in a company which submits a proposal that is reviewed by the panel, the employee would violate 18 U.S.C. 208 even though the panel recommendation may be rejected by the contracting officer.

Example 2: An employee is on a leave of absence from a university. He or she would violate 18 U.S.C. 208 by participating in the drafting of regulations which would have a "direct and predictable effect" upon universities in general and, therefore, upon the employee's university.

(3) An employee must know that the financial interest exists in order to violate 18 U.S.C. 208.

Example: An employee inherited a beneficial interest in a trust. He or she does not, however, have actual knowledge of the specific property held by the trustee. If the trust contains stock in a corporation which may be affected by the employee's official actions, he or she would not violate 18 U.S.C.