

OFFICIAL DUTIES v. OUTSIDE ACTIVITIES - WHAT HAT ARE YOU WEARING?



HOLLI BECKERMAN JAFFE, NIH/OD
TRACI MELVIN, NIH/NIDDK
SANDIE DUNHAM, NIH/NCI



OFFICIAL DUTY OR OUTSIDE ACTIVITY?



- Things to consider when an employee comes to an ethics official with a proposal to participate in an activity with an outside organization:
 - Mission of agency
 - Employee's official duties



OFFICIAL DUTY OR OUTSIDE ACTIVITY?



- The prohibitions posed by the criminal statutes
- The Government-wide and agency specific regulations
- The substance of the activity
- The audience or venue of the activity
- Agency's policies and procedures

OFFICIAL DUTY OR OUTSIDE ACTIVITY?



- **Who should be involved in the decision?**
 - Supervisor
 - Employee should be asked for preference



OFFICIAL DUTY OR OUTSIDE ACTIVITY?



- What are the issues?
 - Real Conflicts
 - Must deal with the conflict **before** the employee can participate in the matter
 - Is there an appropriate remedy available
 - Appearances of a conflict



OFFICIAL DUTY OR OUTSIDE ACTIVITY?



- The decision whether a request should be carried out in a personal capacity or as part of the employee's official duties depends on:
 - The reason for the invitation
 - Any official duties which would affect the outside entity
 - Whether the substance of the activity relates to an agency program or policy



OUTSIDE ACTIVITIES



- **Outside Activities must be permissible by statute, applicable regulations and/or agency policy.**
- **The substance of an outside activity needs to be unrelated to the employee's official duties.**
- **The work must be performed outside of Government time and without the use Government resources may.**

OUTSIDE ACTIVITIES



- **Ethics review of an outside activity:**
 - Is it permissible?
 - Does it comply with provisions in 5 CFR 2635.801 through 809?
 - Is there an applicable agency requirement such as prior approval?
 - Will employee need to report income and/or position on a financial disclosure report?



OUTSIDE ACTIVITIES



- Will a remedy be required for employee to participate in the activity?
- Does the supervisor approve of the employee participating in the activity?
- Is the activity with a foreign entity? If so, are there Emoluments issues?
- What counseling is required?

OFFICIAL DUTY ACTIVITIES



- **Official duty activities are performed by an employee as part of or an extension of regular official responsibilities.**
- **All official work performed with an outside organization must be consistent with the authority and mission of the agency.**



OFFICIAL DUTY ACTIVITIES



- There should be compelling agency policy reasons for official duty activities with outside organizations.
- An official duty activity may not be advisable if the outside organization engages in lobbying or takes public positions on matters of significant controversy involving the agency.

OFFICIAL DUTY ACTIVITIES



- Employee may not accept any compensation from the outside organization for the official duty activity.
- Employee may use official time and Government resources when participating in the activity.
- Employee may use official title in connection with the official duty. However, the employee must take care not to imply endorsement of the organization or its products or services.

OFFICIAL DUTY ACTIVITIES



- **Ethics review of official duty activities:**
 - What is employee's proposed role?
 - Will participation in the matter affect the employee's personal or imputed financial interests?
 - Is there agency interest in the employee's participation in the matter?
 - Does the supervisor approve of the official duty activity?



OFFICIAL DUTY ACTIVITIES

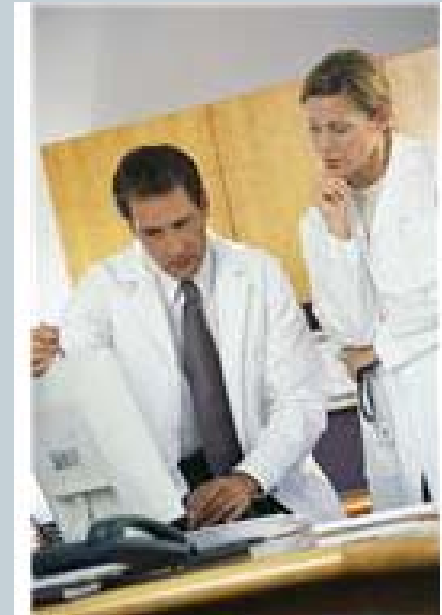


- Is the employee going to be asked to participate in the business affairs of the outside organization?
- Is the employee's participation better served if the employee serves in the role of federal liaison?
- Are there any issues of liability for the agency?

OFFICIAL DUTY ACTIVITIES AT THE NIH



- Many NIH employees participate in official duty activities with outside organizations.
- They serve as editors of journals, speak at professional organization's events, serve on advisory boards, collaborate with other researchers, and chair committees of professional organizations.



OFFICIAL DUTY ACTIVITIES AT THE NIH



- **There are different levels of approval required for the various types of official duty activities.**
- **The level of approval depends on the employee's position and nature of the official duty activity.**
- **See, for example, attached handout – Official Duty Activity Table**

SCENARIO ONE



- An employee has been asked to serve as an officer of a professional association. He prefers to serve in his personal capacity since he is expected to participate in the business affairs of the association. However, each year he makes a presentation about the accomplishments of his office at the association's annual meeting

How would you handle this request?



SCENARIO TWO



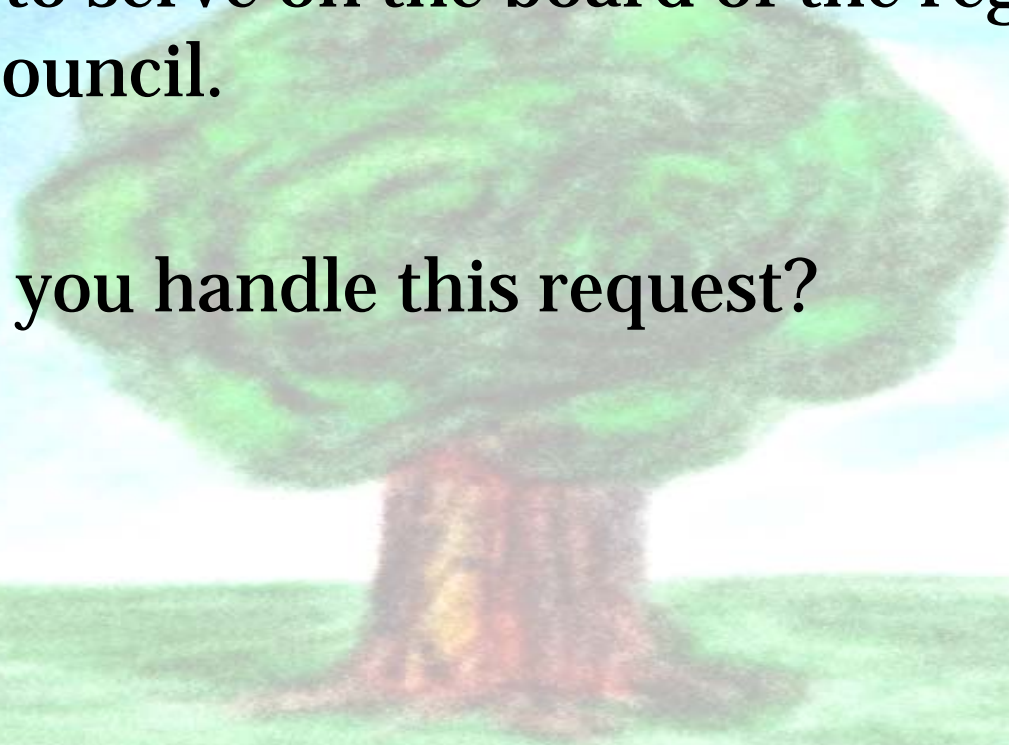
- An employee who works for the NIH is a health enthusiast. Her best friend, an editor for a yoga magazine, asks her to write an article for her publication. The employee plans to write about the health benefits of Vitamin D, summarizing published research.
- How would you handle this request?



SCENARIO THREE



- An employee who works at the Forest Service has been asked to serve on the board of the regional Boy Scout council.
- How would you handle this request?



SCENARIO FOUR



- An employee of the Department of State was asked by a university in Germany to give a speech about exporting agricultural products to Africa at its conference on the changing trends of world exports. This employee's official duties include conducting studies on the role of rice exports on Japan's economy.
- How would you handle this request?

