

Department of Mental Health
TRANSMITTAL LETTER

SUBJECT Employee Conduct		
POLICY NUMBER DMH Policy 710.1	DATE JUL 0 6 2004	TL# 49

Purpose. To disseminate the District personnel policies and procedures relevant to employee conduct.

Applicability. Applies to all Department of Mental Health (DMH) staff.

Policy Clearance. Reviewed by responsible staff and cleared through appropriate Mental Health Authority offices.

Implementation Plans. A plan of action to implement or adhere to this policy must be developed by designated responsible staff. If materials and/or training are required to implement this policy, these requirements must be part of the action plan. Specific staff should be designated to carry out the implementation and program managers are responsible for following through to ensure compliance. Action plans and completion dates should be sent to the appropriate authority. Contracting Officer Technical Representatives (COTRs) must also ensure that contractors are informed of this policy if it is applicable or pertinent to their scope of work. *Implementation of all DMH policies shall begin as soon as possible. Full implementation of this policy shall be completed within sixty (60) days after the date of this policy.*

Policy Dissemination and Filing Instructions. Managers/supervisors of DMH must ensure that staff are informed of this policy. Each staff person who maintains policy manuals must ensure that this policy is filed in the DMH Policy and Procedures Manual.

*If any CMHS or DMH policies are referenced in this policy, copies may be obtained from the DMH Policy Support Division by calling (202) 673-7757.

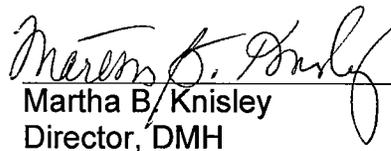
ACTION

REMOVE AND DESTROY

**CMHS Policy 50000.710.1, dated
August 16, 1988**

INSERT

DMH Policy 710.1


Martha B. Knisley
Director, DMH

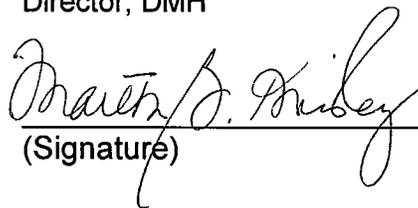
GOVERNMENT OF THE DISTRICT OF COLUMBIA  DEPARTMENT OF MENTAL HEALTH	Policy No. 710.1	Date JUL 0 6 2004	Page 1
	Supersedes CMHS Policy 50000.710.1, same title, dated August 16, 1988		

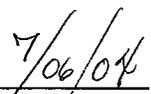
Subject: Employee Conduct

1. **Purpose.** To disseminate the attached District personnel policies and procedures relevant to employee conduct.
2. **Applicability.** Applies to all Department of Mental Health (DMH) staff.
3. **Authority.** District Personnel Manual (DPM) Chapter 18, Employee Conduct. **See Exhibit 1.**
4. **General Information.** This policy is being disseminated to DMH policy and procedure holders so that staff can become familiar with and have access to those D.C. Office of Personnel policies that are most pertinent and/or crucial to the day-to-day operations or activities of their programs.
5. **Inquiries.** Questions regarding this policy should be addressed to the DMH Division of Human Resources (DHR) at 202-673-3525.

Approved by:

Martha B. Knisley
 Director, DMH


 (Signature)


 (Date)

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Office of Personnel

DCOP HOME

DC Personnel Regulations, Chapter 18, Part I

SERVICES

Employee Conduct

INFORMATION

- DCOP Directory
- District Personnel Manual
- Forms and Applications
- Publications

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1800 Applicability

1800.1 Employees of the District government shall at all times maintain a high level of ethical conduct in connection with the performance of official duties, and shall refrain from taking, ordering, or participating in any official action which would adversely affect the confidence of the public in the integrity of the District government.

1800.2 The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by employees is essential to assure the proper performance of government business and the maintenance of confidence by citizens in their government. The avoidance of misconduct and conflicts of interest on the part of employees is indispensable to the maintenance of these standards. To accord with

these concepts, this chapter sets forth the regulations prescribing standards of conduct and the requirements for reporting outside employment and financial interests for District government employees.

1800.3 No employee of the District government shall engage in outside employment or private business activity or have any direct or indirect financial interest that conflicts or would appear to conflict with the fair, impartial, and objective performance of officially assigned duties and responsibilities.

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1801 Remedial Action

1801.1 Violation of these regulations by an employee may result in remedial action which may be in addition to any penalty prescribed by law.

1801.2 When, after consideration of the explanation of the employee, the Board of Elections and Ethics or the agency head decides that remedial action is required regarding any matter covered under this chapter, appropriate action shall be immediately taken or ordered. Remedial action may include, but shall not be limited to, the following:

- (a) Changes in assigned duties;
- (b) Divestment by the employee of his or her conflicting interest;
- (c) Corrective or adverse action pursuant to D.C. Code § 1-617.1(d) (1981); or
- (d) Disqualification for a particular assignment.

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1802 Coverage and Enforcement

1802.1 The provisions of this chapter shall apply to all District employees. In accordance with D.C. Code § 1-619.3(e) (1981), enforcement of this chapter shall, consistent with the regulations set forth herein, be the responsibility of each agency head, except that enforcement for the following persons shall be the responsibility of the D.C. Board of Elections and Ethics:

- (a) The Mayor, the Chairman and each Member of the Council, the President and each Member of the Board of Education, members of boards and commissions as provided in subsection (a) of Section 602 of the District of Columbia Campaign Finance Reform and Conflict of Interest Act, as amended (D.C. Code § 1-1462(a) (1981)); and
- (b) Employees in the Executive Service, and persons appointed under the authority of D.C. Code §§ 1-610.1 through 1-610.3 (1981) (and paid at a rate of DS-13 or above in the District Schedule or comparable compensation), or designated in D.C. Code § 1-610.8 (1981).

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1803 Responsibilities of Employees

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1803.1 An employee shall avoid action, whether or not specifically prohibited by this chapter, which might result in, or create the appearance of, the following:

- (a) Using public office for private gain;
- (b) Giving preferential treatment to any person;
- (c) Impeding government efficiency or economy;
- (d) Losing complete independence or impartiality;
- (e) Making a government decision outside official channels; or
- (f) Affecting adversely the confidence of the public in the integrity of government.

1803.2 Except as noted in § 1803.3, a District employee shall not solicit or accept, either directly or through the intercession of others, any gift, gratuity, favor, loan, entertainment, or other like thing of value from a person who singularly or in concert with others:

- (a) Has, or is seeking to obtain, contractual or other business or financial relations with the D.C. government;
- (b) Conducts operations or activities that are subject to regulation by the D.C. government; or
- (c) Has an interest that may be favorably affected by the performance or non-performance of the employee's official responsibilities.

1803.3 The restrictions outlined in § 1803.2 do not apply to the following:

- (a) Obvious personal relationships such as those that exist between an employee and his or her parents, children or spouse, when the circumstances make it clear that the motivating factor in these relationships is the individual's close family ties rather than the business of the persons concerned;
- (b) The acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or while on an inspection tour where an employee may properly be in attendance;
- (c) The acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees such as the acquisition of a car, home, or appliance;
- (d) The acceptance of unsolicited advertising or promotional material such as pens, pencils, note pads, calendars, and like items of nominal value; or
- (e) The acceptance of a voluntary gift of nominal value or of a cash donation in a nominal amount which is presented on a special occasion such as marriage, illness, or retirement.

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1803.4 An employee shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay. This subsection does not preclude the presentation or acceptance of a voluntary gift of nominal value or of a cash donation in a nominal amount when given on a special, infrequent occasion such as marriage, illness, or retirement.

1803.5 For the purposes of § 1803.4, the term nominal means an individual cash donation of no more than \$10 or an individual voluntary gift of no more than \$10 in market value.

1803.6 An employee shall not accept a gift, present, or decoration from a foreign government unless authorized by Congress as provided by the Constitution and in 5 U.S.C. § 7342.

1803.7 An employee shall not receive any salary or anything of monetary value from a private source as compensation for his or her services to the government (18 U.S.C. § 209).

1803.8 An employee shall report directly and without undue delay to his or her agency head and to the Office of the Inspector General of the District of Columbia any information concerning conduct which he or she knows, or should reasonably know, involves corrupt or other criminal activity, or conflict of interest:

(a) On the part of another District employee, which concerns that person's employment or office; or

(b) On the part of a person dealing with the District government, which concerns that person's dealings with the District government.

1803.9 An agency head who has information concerning conduct as described in § 1803.8 shall immediately report such information to the Office of the Inspector General of the District of Columbia.

1803.10 An employee shall not interfere with or obstruct an investigation by a District or federal agency of misconduct by another District employee or by a person dealing with the District.

1803.11 Coercion, harassment, or retaliatory action shall not be taken against an employee acting in good faith under § 1803.8.

1803.12 All employees of the District government shall comply with the requirements of the Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-96), as amended by the Freedom of Information Amendment Act of 2000, effective April 27, 2001 (D.C. Law 13-283; D.C. Official Code § 2-531 et seq.).

1803.13 Nothing contained in these regulations shall preclude the Mayor from serving as an honorary chair or honorary member of a nonprofit entity's fundraising event, so long as the entity for which funds are raised supports a nongovernmental bona fide charitable activity benefiting the District of Columbia. Use of the Mayor's name or title in fundraising solicitations or announcements of general circulation shall be in accordance with such terms and limitations as the Mayor may prescribe by Mayor's order or by direction in particular cases. The authority granted by this subsection shall not extend to the use of the Mayor's name or title in solicitations made by or on behalf of the Mayor directly to individual contributors.

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1804 Outside Employment and Other Outside Activity

1804.1 An employee may not engage in any outside employment or other activity which is not compatible with the full and proper discharge of his or her duties and responsibilities as a government employee. Activities or actions which are not compatible with government employment include, but are not limited to, the following:

(a) Engaging in any outside employment, private business activity, or other interest which may interfere with the employee's ability to perform his or her job, or which may impair the efficient operation of the District of Columbia government;

(b) Using government time or resources for other than official business, or government approved or sponsored activities, except that a District employee may spend a reasonable amount of government time and resources on such projects, reports, and studies as may be considered in aid of other government jurisdictions (local, state, or federal), provided the work so performed is within the scope of the individual's regular assignments as a District employee;

(c) Ordering, directing, or requesting subordinate officers or employees to perform during regular working hours any personal services not related to official D.C. government functions and activities;

(d) Maintaining financial or economic interest in or serving (with or without compensation) as an officer or director of an outside entity if there is any likelihood that such entity might be involved in an official government action or decision taken or recommended by the employee;

(e) Engaging in any outside employment, private business activity, or interest which permits an employee, or others, to capitalize on his or her official title or position;

(f) Divulging any official government information to any unauthorized person or in advance of the time prescribed for its authorized issuance, or otherwise making use of or permitting others to make use of information not available to the general public;

(g) Engaging in any outside employment, private business activity, or other interest which might impair an employee's mental or physical capacity to such an extent that he or she can no longer carry out his or her duties and responsibilities as a government employee in a proper and efficient manner;

(h) Serving in a representative capacity or as an agent or attorney for any outside entity involving any matter before the District of Columbia;
or

(i) Engaging in any outside employment, private business activity, or other interest which is in violation of federal or District law.

1804.2 An employee of the District of Columbia government may not do indirectly what he or she may not do directly under the foregoing restrictions.

1804.3 An employee may engage in teaching activities, writing for publication, consultative activities, and speaking engagements that are not prohibited by law,

regulation, or agency standards, only if such activities are conducted outside of regular working hours, or while the employee is on annual leave or leave without pay.

1804.4 The information used by an employee engaging in an activity under § 1804.3 shall not draw on official data or ideas which have not become part of the body of public information, except nonpublic information that has been made available on request for use in such capacity, or unless the agency head gives written authorization for use on the basis that its use is in the public interest.

1804.5 If the employee receives compensation or anything of monetary value for engaging in an activity under § 1804.3, the subject matter shall not be devoted substantially to the responsibilities, programs, or operations of his or her agency, to his or her official duties or responsibilities, or to information obtained from his or her government employment.

1804.6 An employee who is employed for not more than one hundred thirty (130) days during any period of three hundred sixty-five (365) consecutive days, to perform temporary duties, either on a full-time or intermittent basis, shall be subject to § 1804.1(h) only in relation to a particular matter involving specific parties in which he or she has at any time participated personally and substantially as a District government employee, or which is pending before the agency by which he or she is employed or in which he or she is serving.

1804.7 Nothing in this section shall prevent an employee, if not inconsistent with his or her duties, from acting without compensation as agent or attorney for any person who is the subject of any personnel administrative proceeding in connection with the proceeding.

1804.8 Nothing in this section shall prevent an employee from acting, with or without compensation, as agent or attorney for his or her parent(s), spouse, child, or any person for whom, or for any estate for which, he or she is serving as guardian, executor, administrator, trustee, or other personal fiduciary except in those matters in which he or she has participated personally and substantially as a government employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which are the subject of the employee's official responsibility, provided that the government official responsible for appointment to the employee's position approves.

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1805 Financial Interest

1805.1 No District employee or any member of his or her immediate household may knowingly acquire any stocks, bonds, commodities, real estate, or other property, whether held individually or in concert with others, the possession of which could unduly influence or give the appearance of unduly influencing the employee in the conduct of his or her official duties and responsibilities as an employee of the District of Columbia government.

1805.2 No District employee, or any member of his or her immediate household, may acquire an interest in or operate any business or commercial enterprise which is in any way related, directly or indirectly, to the employee's official duties, or which might otherwise be involved in an official action taken or recommended by the employee, or which is in any way related to matters over which the employee could wield any influence, official or otherwise.

1805.3 A District employee who is called upon to act for or on behalf of the District

government in a matter relating to or involving a non-governmental entity in which the employee or a member of the employee's immediate family has a financial interest, shall make this fact known to his or her immediate supervisor, in writing, at the earliest possible moment. The head of the employing D.C. agency shall subsequently determine whether or not the employee must divest himself or herself of such interest, or merely disqualify himself or herself from taking part in any official decision or action involving the matter.

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1806 Government Property

1806.1 A District employee shall not use or permit the use of government property, equipment, or material of any kind, including that acquired through lease, for other than officially approved purposes. An employee has a positive duty to protect and conserve government property, including such equipment, supplies, materials, and other items as may be issued or entrusted to him or her. Nothing in this subsection, however, shall serve to prohibit the following:

(a) The acceptance of any material, article, or service which is available as part of any D.C. government program properly being dispensed or provided free to D.C. residents or visitors to the District;

(b) The use of District facilities by recognized employee groups for authorized off-duty training or meeting purposes;

(c) The use of government facilities or equipment under circumstances which do not increase the maintenance cost of such resources; for example, the use of existing library materials or government-purchased books is not prohibited; or

(d) The temporary loan of office equipment such as dictaphones, typewriters, reference books, or similar equipment, provided that the District employee who would make use of such items does the following:

(1) Properly substantiates his or her need for same in writing;

(2) Acquires the prior approval of his or her supervisor;

(3) Limits their use to his or her own residence and then only for such purposes as will be considered of benefit to the D.C. government; and

(4) Duly notes the loan of such items on the agency's personal property records.

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1807 Indebtedness

1807.1 An employee shall pay each just financial obligation in a proper and timely manner.

1807.2 For the purpose of these regulations a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court or one imposed by

law, and "in a proper and timely manner" means in a manner which the agency determines does not, under the circumstances, reflect adversely on the District government as an employer. In the event of dispute between an employee and an alleged creditor, these regulations do not require an agency to determine the validity or amount of the disputed debt.

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1808 Gambling, Betting, and Lotteries

1808.1 An employee shall not participate, while on government-owned or leased property or while actually on duty, in any gambling activity, including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket, except for those lawful activities sponsored by the D.C. Lottery and Charitable Games Control Board or necessitated by an employee's agency-approved law enforcement duties.

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1809 Applicability of Federal Laws

1809.1 In accordance with D.C. Code § 1-633.4(1) (1981), the provisions of title 18, U.S. Code, insofar as they affect employees of the District government, shall not be affected by D.C. Code Title 1, Chapter 6 (1981).

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1810 Additional Standards of Conduct

1810.1 Each subordinate and independent agency of the District government may prescribe additional standards of ethical conduct and reporting requirements that are appropriate to the particular functions and activities of the agency and which are not inconsistent with law or this chapter.

1810.2 Additional standards of conduct and reporting requirements prescribed by an agency shall require the approval of the D.C. Office of Personnel and the D.C. Ethics Counselor prior to implementation.

1810.3 Each request for approval of additional standards shall be submitted in writing to the Director of Personnel and the D.C. Ethics Counselor, setting forth the need for the additional standards of conduct and reporting requirements based on the duties and responsibilities of the positions and the functions of that office.

1810.4 Each agency head shall notify all employees of any additional standards established under this section.

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1811 Ethics Counselors

1811.1 The D.C. Ethics Counselor, appointed by the Mayor pursuant to D.C. Code § 1-619.3(a) (1981), shall be an employee of the District of Columbia, and shall be responsible for the following:

- (a) Advising agency heads and ethics counselors with respect to their obligations and responsibilities under this chapter;

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(b) Coordinating the activities of agency ethics counselors appointed under § 1811.2; and

(c) Coordinating and enforcing the financial disclosure system established by § 1813.

1811.2 The head of each agency of the D.C. government shall appoint or designate an employee to serve as the agency ethics counselor.

1811.3 Agency ethics counselors shall undertake and satisfactorily complete such training programs as are prescribed by the D.C. Ethics Counselor.

1811.4 Under the general guidance of the D.C. Ethics Counselor, agency ethics counselors shall be responsible for the following:

(a) Advising agency employees with respect to their obligations under this chapter;

(b) Maintaining copies of all laws, regulations, orders, and advisory opinions with respect to ethical conduct and financial disclosure which are applicable to agency employees; and

(c) Advising the agency head with regard to the designation of agency employees required to file statements of financial interest under § 1813.

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1812 Advisory Opinions

1812.1 Upon the request of any person subject to the requirements of this chapter, the agency ethics counselor shall provide, within fifteen (15) days of receipt of the request, an advisory opinion with respect to any matter covered under this chapter that is presented by the person for resolution. The advisory opinion shall inform the person whether his or her conduct, activities, or outside interests would constitute or potentially constitute a violation of law or this chapter.

1812.2 Opinions issued under this section shall be considered advisory only, and, within thirty (30) days of their issuance, shall be published, pursuant to D.C. Code § 1-619.3(c) (1981), in the D.C. Register.

1812.3 The name of any person requesting an advisory opinion under this section shall not be disclosed in the D.C. Register without his or her prior written consent.

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1813 Reporting of Financial Interests

1813.1 No employee of the District government shall engage in outside employment or private business activity or have any direct or indirect financial interest that conflicts or would appear to conflict with the fair, impartial, and objective performance of officially assigned duties and responsibilities.

1813.2 Each agency head shall identify employees performing policy-making, contracting, or purchasing functions, or functions in which meaningful decisions are made respecting private organizations. These employees shall submit annual and supplementary statements of employment and financial interests as required by this

section.

1813.3 Each agency head shall designate employees required to submit a Confidential Statement of Employment and Financial Interests.

1813.4 The D.C. Ethics Counselor shall provide guidance in such designations and shall arrange, as appropriate, for hearings on appeals from employees contesting such designations.

1813.5 On or before April 15th of each year, each agency head shall designate the persons in the agency required to submit a Confidential Statement of Employment and Financial Interests by name, position, and grade level, and shall supply this list to the D.C. Ethics Counselor on or before April 30th of each year.

1813.6 An employee designated by an agency head shall be notified in writing of the following:

- (a) That he or she has been designated;
- (b) That he or she may request a review of the designation by the agency head within ten (10) days, after which he or she may appeal to the D.C. Ethics Counselor within fifteen (15) days; and
- (c) That no statement shall be required pending a review or appeal.

1813.7 An employee who has been designated as being required to submit a Confidential Statement of Employment and Financial Interests under § 1813.3 may request a redetermination of the designation as follows:

- (a) An employee may submit a written request for review to the agency head within ten (10) days of written notification of the designation;
- (b) The agency head shall make a redetermination, in writing, within fifteen (15) days of receipt of the request; and
- (c) The agency head's redetermination denying requested relief shall be appealable, in writing, within fifteen (15) days of receipt of the notice of denial, to the D.C. Ethics Counselor.

1813.8 The decision of the D.C. Ethics Counselor respecting the designation shall be in writing and shall be final. Failure or refusal to file a Confidential Statement of Employment and Financial Interests within ten (10) days of receipt of the decision shall be grounds for adverse action.

1813.9 No Confidential Statement of Employment and Financial Interests shall be required to be filed pending a review by the agency head or a decision by the D.C. Ethics Counselor.

1813.10 The agency head or his or her designee shall review each employee's Confidential Statement of Employment and Financial Interests and each supplementary statement and, on or before June 15th of each year, shall certify or otherwise report to the D.C. Ethics Counselor, indicating whether or not persons designated have filed the required statements, and if not, shall provide a list of those employees who have failed to submit the required statements.

1813.11 Confidential Statements of Employment and Financial Interests shall be reviewed by the agency head or his or her designee. Any remedial action ordered or taken shall be consistent with the provisions of § 1801.

1813.12 Confidential Statements of Employment and Financial Interests shall be held in strictest confidence and shall be retained in limited access files under the control of the agency head for no less than three (3) years; thereafter, the reports shall be retained for at least two (2) additional years, either in limited access files under the control of the agency head or transferred to the appropriate record retention center outside the agency.

1813.13 Each Confidential Statement of Employment and Financial Interests, and each supplemental statement, shall be considered an official personnel record and shall be made available only as authorized by chapter 31 of these regulations.

1813.14 An employee who has been designated to submit a Confidential Statement of Employment and Financial Interests shall provide the information specified in this section.

1813.15 Each employee required to submit a Confidential Statement of Employment and Financial Interests shall be provided with the statement and its instructions by his or her supervisor.

1813.16 An employee who is designated under § 1813.3 shall submit a Confidential Statement of Employment and Financial Interests to the agency head or the agency head's designee no later than May 15th of each year, even though no significant changes have occurred regarding his or her outside employment or financial interests, and:

(a) Ten (10) days from the date that he or she is appointed, transferred, promoted, or detailed to a position that is subject to these reporting requirements; or

(b) Ten (10) days after the position is determined to be covered by the reporting requirements.

1813.17 While assigned to a position requiring the submission of a Confidential Statement of Employment and Financial Interests, an employee shall keep the information on the statement current with respect to all categories and shall obtain prior approval from the agency head or his or her designee before engaging in additional outside employment or business activities.

1813.18 Notwithstanding the filing of the annual statement required by this section, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflict-of-interest provisions of 18 U.S.C. § 208, or this chapter.

1813.19 The interest (that is, any reportable interest specified in §§ 1813.20 through 1813.24) of a member of an employee's immediate household shall be considered to be an interest of the employee.

1813.20 If any information required to be included on a Confidential Statement of Employment and Financial Interests or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit information on his or her behalf.

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1813.21 A person who is providing services to a District agency without compensation under the provisions of § 4000 (Utilization of Voluntary Services) of these regulations shall be required to submit a Confidential Statement of Employment and Financial Interests if it is determined by the agency head that the volunteer's assignment is comparable to a position covered by this chapter requiring the submission of a Confidential Statement of Employment and Financial Interests.

1813.22 Each designated employee shall provide the following information pertaining to employment and financial interests:

(a) The names and addresses of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations, and educational or other institutions in any of the following circumstances:

(1) With which he or she is connected as an employee, officer, owner, director, member, trustee, partner, advisor, or consultant;

(2) In which he or she has a continuing financial interest, through a pension or retirement plan, shared income, or other arrangement as a result of any current or prior employment or business or professional association; or

(3) In which he or she has any financial interest through the ownership of stock, stock options, bonds, securities, or other arrangement, including trusts;

(b) The position held in the organization (employee, officer, owner, director, member, trustee, partner, advisor, or consultant); and

(c) The nature of the financial interest, that is, through a pension or retirement plan, shared income, or other arrangement as a result of any current or prior employment or business or professional association, or through the ownership of stock, stock options, bonds, securities, or other arrangement, including trusts.

1813.23 Each designated employee shall provide the following information pertaining to creditors:

(a) The names and addresses of his or her creditors other than those to whom he or she may be indebted by reason of a mortgage on property which he or she occupies as a personal residence or to whom he or she may be indebted for current and ordinary household and living expenses such as household furnishings, automobile, education, vacation, and similar expenses; and

(b) The character of the indebtedness, for example, personal loan, note, or security.

1813.24 Each designated employee shall provide the following information pertaining to interest in real property:

(a) List his or her interest in real property or rights in lands, other than property which he or she occupies as a personal residence;

(b) State the nature of the interest, for example, ownership, mortgage,

lien, investment, or trust;

(c) Identify the type of property, for example, residence, hotel, apartment, farm, or undeveloped land; and

(d) Give the address of the property (if rural, give RFD, county, and state).

1813.25 Each designated employee shall expressly indicate whether any person or entity identified in accordance with §§ 1813.22 through 1813.24 is (a) engaged in doing business with the District government or (b) regulated by any agency of the District government, except as to any licensing requirement under D.C. Code § 47-2801 (1981). If any change occurs regarding such persons or entities after the filing of an annual statement, the employee shall furnish the updated information by submission of a supplementary statement within ten (10) days of the commencement or cessation of the business activity or the regulatory function.

1813.26 For purposes of § 1813.25, a person or entity shall be deemed to be doing business with the District government if a contract or agreement has been formally entered into for supplying goods or services, including contracts for construction, to the District, or for extending a leasehold interest to the benefit of the District.

1813.27 If any information is to be supplied by other persons, for example, a trustee, attorney, accountant, or relative, the employee shall indicate the following information:

(a) The name and address of each other person;

(b) The date on which the information was requested by the employee to be supplied; and

(c) The nature of the subject matter involved.

1813.28 In responding to the requests for information required under §§ 1813.22 through 1813.27, the employee shall write "none," if applicable.

1813.29 The employee shall sign and date the Confidential Statement of Employment and Financial Interests, certifying the following:

(a) That he or she has received and read the instructions and the prohibitions pertaining to conflicts of interest as they relate to his or her employment;

(b) That, to the best of his or her knowledge and belief, he or she has no outside employment or other business interest other than the interests specifically listed and identified in accordance with §§ 1813.22 through 1813.28; and

(c) That the statements he or she provided are true, complete, and correct to the best of his or her knowledge and belief.

1813.30 Each employee shall submit a supplementary statement disclosing any additional financial interests not previously disclosed in the employee's annual statement within ten (10) days of his or her commencement of any previously unreported outside employment, acquisition of financial or real property interests, or agreement of indebtedness, in the same manner and to the same extent as specified for the submission of annual statements required by this section.

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1813.31 When an employee identifies a person or entity in accordance with §§ 1813.25 and 1813.26 as either not engaged in doing business with the District government or not regulated by any agency of the District government and thereafter the person or entity commences either to do business with or to become subject to regulation by the District, the employee, within ten (10) days of the commencement of the business or regulatory function, shall notify in writing his or her immediate supervisor and submit a supplementary statement identifying the change in status.

1813.32 Each employee required by this section to submit an annual statement shall notify his or her immediate supervisor in writing immediately whenever an assignment is given the employee which may directly or indirectly affect any person or entity identified by the employee in accordance with §§ 1813.22 through 1813.31.

1813.33 Upon notification under § 1813.32, the supervisor may reassign the matter in the event of a conflict of interest or the appearance of a conflict of interest when, in the discretion of the supervisor, a reassignment is warranted under the circumstances. This notification shall be in addition to the requirements under § 1805.3.

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1814 Post-Employment Conflict of Interest

1814.1 When used in §§ 1814 and 1815 the following terms have the meaning ascribed:

Agency—any unit of the District of Columbia government required by law, by the Mayor of the District of Columbia, or by the Council of the District of Columbia to administer any law, rule, or any regulation adopted under authority of law. The term "agency" also includes any unit of the District of Columbia created or organized by the Council of the District of Columbia as an agency.

Former government employee—one who was, and no longer is, an employee or officer of the District government.

Government employee—any officer or employee of the District government who performs a function and who receives compensation for the performance of such service, and special Government employees. It does not include an individual performing services for the District government as an independent contractor under a personal services contract.

Mayor—the Mayor of the District of Columbia or his or her designee.

Particular government matter involving a specific party—any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter in which the District government is a party or has a direct and substantial interest, and which has application to one (1) or more specifically identified persons or entities.

Senior employee—an officer or employee of the District government who serves or served in a position designated as a senior employee position by the Director of the Federal Office of Government Ethics and is subject to the restrictions set forth in 18 U.S.C. §§ 207(b)(ii) and (c). (See 5 C.F.R. §§ 737.25(b)(1) and 737.33.) The term "senior employee" also includes an officer or employee of the District government who serves or served in a position classified at the DS-17 or DS-18 level.

Special government employee—any officer or employee of an agency who is

retained, designated, appointed, or employed to perform temporary duties either on a full-time or intermittent basis, with or without compensation, for not to exceed one hundred and thirty (130) days during any period of three hundred and sixty five (365) consecutive days.

1814.2 With the exception of the expansion of the definition of the term "senior employee" to include a District government employee who is serving or has served in a position classified at the DS-17 or DS-18 level, § 1814 is intended to be in conformity with the provisions of 18 U.S.C. § 207 and implementing regulations set forth at 5 C.F.R. Part 737, Subparts A and B. If, otherwise, there is any conflict between the provisions of § 1814 and the provisions of 18 U.S.C. § 207, or of 5 C.F.R. Part 737, Subparts A and B, the latter provisions control. For more detailed guidance, see 5 C.F.R. Part 737.

1814.3 Questions regarding the application of 18 U.S.C. § 207, 5 C.F.R. Part 737, or these regulations to specific factual circumstances may be addressed to the ethics counselor of the agency where the government employee is or was employed, or to the D.C. Ethics Counselor.

1814.4 A former government employee shall be permanently prohibited from knowingly acting as an attorney, agent, or representative in any formal or informal appearance before an agency as to a particular government matter involving a specific party if the employee participated personally and substantially in that matter as a government employee.

1814.5 A former government employee shall be permanently prohibited from making any oral or written communication to an agency with the intent to influence that agency on behalf of another person as to a particular government matter involving a specific party if the employee participated personally and substantially in that matter as a government employee.

1814.6 A former government employee shall be prohibited for two (2) years after terminating employment by the District from knowingly acting as an attorney, agent, or representative in any formal or informal appearance before an agency as to a particular government matter involving a specific party if the employee had official responsibility for that matter.

1814.7 A former government employee shall be prohibited for two (2) years after terminating employment by the District from knowingly making any oral or written communication to any agency with the intent to influence that agency on behalf of another person as to a particular government matter involving a specific party if the former employee had official responsibility for that matter.

1814.8 For purposes of §§ 1814.6 and 1814.7, a matter for which the former government employee had official responsibility is any matter that was actually pending under the former employee's responsibility within a period of one (1) year before the termination of such responsibility.

1814.9 The two-year (2-year) restriction period in §§ 1814.6 and 1814.7 shall be measured from the date when the former employee's responsibility for a particular matter ends, not from the termination of government service, unless the two (2) occur simultaneously.

1814.10 A former senior employee shall be prohibited for two (2) years from knowingly representing or aiding, counseling, advising, consulting, or assisting in representing any other person (except the District of Columbia) by personal appearance before an agency as to a particular government matter involving a

specific party if the former senior employee participated personally and substantially in that matter as a government employee.

1814.11 The two-year (2-year) period in § 1814.10 shall be measured from the date of termination of employment in the senior employee position held by the former employee when he or she participated personally and substantially in the matter involved.

1814.12 A former senior employee (other than a special Government employee who serves for fewer than sixty (60) days in a calendar year) shall be prohibited for one (1) year from having any transactions with the former agency intended to influence the agency in connection with any particular government matter pending before the agency or in which it has a direct and substantial interest, whether or not such matter involves a specific party.

1814.13 The restriction in § 1814.12 is aimed at the possible use of personal influence based on past governmental affiliations to facilitate the transaction of business. Therefore, the restriction shall apply without regard to whether the former senior employee had participated in, or had responsibility for, the particular matter, and shall include matters which first arise after the senior employee leaves government service.

1814.14 The restriction in § 1814.12 shall apply whether the former senior employee is representing another or representing himself or herself, either by appearance before an agency or through communications with that agency.

1814.15 Communications from a former government employee shall be exempt from these prohibitions if he or she communicates with his or her agency solely to furnish scientific or technological information under procedures acceptable to the agency concerned.

1814.16 Nothing in § 1814 shall prevent a former government employee from giving testimony under oath, or from making statements required to be made under penalty of perjury.

1814.17 A former government employee may be exempted from the restrictions on post-employment practices if the Mayor or his or her designee, in consultation with the Director of the Office of Government Ethics, executes a certification published in the D.C. Register. The certification shall state that the former government employee has outstanding qualifications in a scientific, technological, or other technical discipline; is acting with respect to a particular matter which requires such qualifications; and the interest of the District would be served by such former government employee's participation.

1814.18 The one-year (1-year) restriction stated in § 1814.12 shall not apply to appearances, communications, or representation concerning new matters by a former senior employee if the former senior employee is an elected official of a state or local government and is acting on behalf of that government, or is regularly employed by and acting on behalf of an agency or instrumentality of federal, state, or local government; an accredited, degree-granting institution of higher education; or a non-profit hospital or medical research organization.

1814.19 The one-year (1-year) restriction stated in § 1814.12 shall not apply to appearances or communications by a former senior employee concerning matters of a personal and individual nature, such as personal income taxes or pension benefits, or the application of these regulations to an undertaking proposed by a former senior employee. A former senior employee may also appear pro se (on his or her own

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behalf) in any litigation or administrative proceeding involving the individual's former agency.

1814.20 The one-year (1-year) restriction stated in § 1814.12 shall not prevent a former senior employee from making or providing a statement, which is based on the former senior employee's own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received, other than that regularly provided for by law or regulation for witnesses.

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1815 Post-Employment Conflict of Interest: Administrative Enforcement Procedures

1815.1 Whenever an allegation is made that a former government employee has violated 18 U.S.C. § 207, or § 1814 of these regulations, the allegation and any supporting evidence shall be transmitted through the Corporation Counsel to the D.C. Ethics Counselor.

1815.2 The D.C. Ethics Counselor shall safeguard all allegations and evidence so as to protect the privacy of the former government employee prior to a determination of sufficient cause to initiate an administrative disciplinary proceeding.

1815.3 Upon receipt of information concerning a possible violation of 18 U.S.C. § 207, the Corporation Counsel shall expeditiously provide the following to the Inspector General of the District of Columbia and the United States Attorney for the District of Columbia for appropriate action:

- (a) All relevant evidence;
- (b) Any appropriate comments; and
- (c) Copies of applicable agency regulations.

1815.4 If the United States Attorney informs the Corporation Counsel and the Inspector General of the District of Columbia that his or her office intends to initiate criminal prosecution, the D.C. Ethics Counselor shall coordinate any investigation or administrative action with the United States Attorney in order to avoid prejudicing the criminal proceedings.

1815.5 If the Corporation Counsel, after appropriate review and recommendation by the D.C. Ethics Counselor, determines that there is reasonable cause to believe that there has been a violation of 18 U.S.C. § 207, or § 1814 of these regulations, the Corporation Counsel may direct the D.C. Ethics Counselor to initiate an administrative disciplinary proceeding.

1815.6 The D.C. Ethics Counselor or his or her designee shall represent the District government in a disciplinary proceeding.

1815.7 The D.C. Ethics Counselor shall provide the former government employee with adequate notice of his or her intention to initiate a disciplinary proceeding. The notice shall include all of the following:

- (a) A statement of allegations, and the basis thereof, in sufficient detail to enable the former government employee to prepare an adequate defense;

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1815.15 All hearings shall be open to the public unless closed for good cause by the hearing examiner. A finding of good cause shall be made a part of the record by the hearing examiner.

1815.16 Neither the D.C. Ethics Counselor, nor the former government employee, nor any representative thereof shall make any ex-parte communications to the hearing examiner concerning the merits of the allegations against the former government employee prior to the issuance of his or her initial decision.

1815.17 Within sixty (60) calendar days after the hearing record is closed, the hearing examiner shall issue an initial decision.

1815.18 Within fifteen (15) calendar days after service of the initial decision, either the former government employee or the D.C. Ethics Counselor may file a notice of appeal in writing with the Mayor. If hand-delivered, a notice of appeal shall be deemed filed on the day it is received by the Mayor. If a notice of appeal is mailed, it shall be deemed filed on the date the envelope is postmarked.

1815.19 If an appeal to the Mayor is not filed within the time period specified in § 1815.18, the hearing examiner's decision shall be final.

1815.20 After receiving a timely filed appeal, the Mayor shall promptly establish a briefing schedule. After briefs have been filed, the Mayor may permit the parties to present oral argument.

1815.21 Within forty-five (45) calendar days after briefs have been filed and oral argument, if any, has been presented, the Mayor shall render a decision. The Mayor may affirm, reverse, modify, or remand for further proceedings before the hearing examiner. If the Mayor modifies or reverses the hearing examiner's decision, the Mayor shall specify the findings of fact and conclusions of law that are different from those of the hearing examiner.

1815.22 Neither the D.C. Ethics Counselor, nor the former government employee, nor any representative thereof shall make any ex-parte communications to the Mayor concerning the merits of the appeal prior to issuance of the Mayor's final decision.

1815.23 The Mayor may take appropriate action in the case of any former government employee found in violation of 18 U.S.C. § 207, or § 1814 of these regulations, either (a) after a final administrative decision, or (b) after the employee fails to request a hearing after receiving adequate notice, by prohibiting the former government employee from making, on behalf of another person except the District of Columbia, any formal or informal appearance before, or, with the intent to influence, any oral or written communication to, the employee's former department or agency on any matter of business for a period not to exceed five (5) years, which may be accomplished by directing agency employees to refuse to participate in any appearance by the former employee or to accept any communication from the former employee.

1815.24 Any person found to have violated 18 U.S.C. § 207, or § 1814 of these regulations may seek judicial review of the administrative sanction imposed by the Mayor in a court of competent jurisdiction.

1815.25 For purposes of § 1815, service of an order or decision shall be deemed complete when the party, the party's attorney, or other representative is personally served with a copy of an order or decision. If an order or decision is issued out of the presence of the parties and their attorneys, or other representatives, and service of an order or decision is by mail, service shall be deemed complete five (5) days after

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are full-time residents of the employee's household, and the employee's minor children, irrespective of residence.

Official responsibility—the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, personally or through subordinates, to approve, disapprove, or otherwise direct governmental action.

Person—an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

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