

DEPARTMENT OF MILITARY AFFAIRS
STATE HUMAN RESOURCES
PRACTICE AND PROCEDURE MANUAL

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SUBJECT: Outside Employment

SECTION: Employee Services/Programs

I. PRACTICE

A. Statement of Policy and Purpose - General

The State Ethics Code (Ch. ER-MRS 24, Wis Admin Code) states that “no employee shall engage in any employment or maintain any investment if the employment or investment conflicts with the specific provisions of this chapter.” The ethical standards of ER-MRS 24 are intended to “avoid conflicts of interest between their personal interests and their public responsibilities...”. State agencies are required by ER-MRS 24 to “establish guidelines regarding outside employment of employees which shall include identifying those activities which are likely to cause a conflict of interest and requiring employees to obtain prior approval before accepting outside employment.”

It is the policy of the Department of Military Affairs (DMA) to permit employees to participate in outside activities for recreation, community service, continued education, management of personal properties and projects for supplemental income, and to work for others for remuneration. The DMA recognizes its employees’ rights to outside employment when such employment does not constitute a conflict of interest. Questionable activities must receive prior approval from the employee’s first and second line supervisor and from the Director of State Human Resources and shall be subject to certain restrictions and limitations in order to protect both employees and the agency from potential problems.

Acceptance of outside employment without advance approval or after being informed that such employment, in the Department’s judgment, constitutes a conflict of interest shall be cause for disciplinary action up to and including termination.

B. Statement of Policy and Purpose – Emergency Response Personnel

The DMA allows participation in first responder, fire, rescue and other emergency response programs by employees as long as that participation does not jeopardize or compromise the DMA's ability to respond to fires, crashes or mutual aid emergencies.

This policy does not prohibit DMA Fire/Crash/Rescue employees from participating as members of a fire department, ambulance, EMS or rescue squad, but does clarify when employees are in "work status" and are covered under DMA worker's compensation insurance. The restrictions in paragraph IIB clearly limit DMA's responsibilities regarding potential actions in matters of civil and criminal liability.

C. Definition

Outside employment includes any work in which the employee enters into an employee-employer relationship with an employer other than the department or performs work for gain other than for the department on an independent basis. Employment would not include those activities performed for work or education credits or reduced fees for organizations, such as Boy or Girl Scouts, athletic organizations, bowling leagues, etc. Outside employment activities of the same professional or occupational nature as the employee's work duties may create more of a potential for conflict of interest than activities which are unrelated to the employee's professional or occupational field of employment. As such, employees are required to seek approval for this type of employment.

II. PROCEDURE

A. Requirements - General

Outside employment may be approved if all the following conditions are met:

1. The employee is not acting as an official representative of the department or the State of Wisconsin.
2. The employee is not expected to present an official position of, or act as a spokesperson for, the department or the state.
3. State funds or materials (including travel advances or reimbursement) are not used and preparation is not done on state time.

4. The activity occurs while the employee is on approved vacation, personal or Saturday holiday, leave without pay, or during non-scheduled state work hours.
5. Neither the department nor state is obligated as a result of the activity.

B. Restrictions - Emergency Response Personnel

1. At no time will a Fire/Crash/Rescue employee respond in his/her capacity as a member of an outside fire department, ambulance, EMS or rescue squad while in state "work status" for DMA.
2. Any scheduling conflict will be resolved in favor of DMA unless otherwise authorized by a supervisor.
3. Any action or inaction taken by a DMA employee in his/her capacity as a member of an outside fire department, ambulance or rescue squad will be considered by DMA to be OUTSIDE their state "scope of employment."
4. Employees may NOT USE ANY DMA vehicle, equipment or supplies while engaged in outside employment.

C. Implementation Issues - Emergency Response Personnel

Approved and executed Mutual Aid Agreements between DMA and municipal fire departments allow for the provision of mutual assistance to municipal fire departments, ambulance, EMS and rescue squads by DMA employees performing job duties required in their DMA position descriptions. Under these circumstances, the DMA employee is considered within the "scope of state employment" and is covered by DMA worker's compensation unless specified otherwise in said Mutual Aid Agreement.

A DMA employee may be granted prior supervisory approval to switch during an incident and become a member of an emergency response organization. This prior supervisory approval to switch roles should be in the form of a written agreement which specifies the contact procedure between the employee and their supervisor or designee, i.e., dispatcher. The employee shall notify the fire chief or other person in charge of an incident when the switch to an emergency response is made.

D. Approval

Exempt Activities: Employees do not need to notify the Department of activities performed for which they receive no compensation (e.g., serving on a church board or acting as an officer in a professional organization). In addition, payment of expenses while performing activities on a volunteer basis (e.g., payment of travel expenses while performing charitable work) is exempt from application of this policy.

Nonexempt Activities: Employees should notify their supervisor and/or State Human Resources and seek advice before assuming any executive or policy making position, whether or not for compensation, in any organization, board, council, committee or association that employs a lobbyist, lobbies, or has interests that may affect the interests of the Department. Employees should realize that such positions or the activities of these organizations could place an employee in a situation perceived to be in conflict with the Department.

1. Prior to accepting outside employment of the kind having the potential for causing a conflict of interest, or involving emergency response outside employment, employees must submit a Request for Approval of Outside Employment form to their supervisor.
2. The supervisor shall make a determination as to whether or not a potential conflict of interest exists, secure 2nd line supervisor approval, and forward the recommendation to the Director of State Human Resources for approval. Every effort will be made to return a decision to the employee within 15 calendar days.

Some fire departments, ambulance or rescue squads compensate members for responses. Compensation may be in the form of cash or other benefits, such as clothing or equipment that becomes personal property of the employee. Employees engaging in such activities for compensation must submit a Request for Approval of Outside Employment (DMA Form 23) for DMA approval in accordance with Practice and Procedure Bulletin 3.120 (Outside Employment).

Attachment:

3.120.1 DMA Form 23-E Request for Approval of Outside Employment