



DAEO

SUPPLEMENTAL INSTRUCTION

No. 21-3

Date: June 8, 2021

Pursuant to the authority vested in me as Alternate Designated Agency Ethics Official (ADAEO), under the delegation from the Secretary, dated July 16, 2019, and the provisions of section 5501.106(d)(7)(i) of title 5 of the Code of Federal Regulations, I hereby exempt the following type(s) of outside activities from the prior approval requirements specified in the Department of Health and Human Services Supplemental Agency Ethics Regulations at section 5501.106(d) of title 5 of the Code of Federal Regulations:

OUTSIDE POSITIONS AS OFFICER, DIRECTOR, BOARD MEMBER, OR OTHER LEADERSHIP POSITION OF A PARENT-TEACHER ASSOCIATION, OR SIMILAR ORGANIZATION FOCUSED ON FACILITATING PARENTAL PARTICIPATION IN A LOCAL SCHOOL, WITH RESPECT TO WHICH THE EMPLOYEE HAS A FAMILIAL CONNECTION THROUGH A CHILD'S ATTENDANCE AT THE SCHOOL.

The basis for this determination is stated in a DAEO memorandum of June 8, 2021. The change shall be effective immediately.

Randall J. Hall
Alternate Designated Agency Ethics Official and
Acting Designated Agency Ethics Official

For further information, contact:

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MEMORANDUM

TO: Deputy Ethics Counselors
Ethics Contacts

FROM: Randall J. Hall
Associate General Counsel
Acting Designated Agency Ethics Official

DATE: June 8, 2021

SUBJECT: Instruction Exempting Services as Officer, Director, Board Member, or Other Leadership Position of a Local Parent-Teacher Association or Similar Organization from Prior Approval Requirement

Introduction

The HHS Supplemental Standards of Ethical Conduct require employees to obtain prior approval before engaging in certain types of outside activities. All HHS employees must obtain prior approval for providing “services to a non-Federal entity as an officer, director, or board member, or as a member of a group, such as a planning commission, advisory council, editorial board, or scientific or technical advisory board or panel, which requires the provision of advice, counsel, or consultation.” 5 C.F.R. § 5501.106(d)(1)(iii). However, the Supplemental Standards provide that the Designated Agency Ethics Official “may issue an instruction or manual issuance exempting categories of employment or other outside activities from a requirement of prior written approval.” 5 C.F.R. § 5501.106(d)(7)(i). The DAEO may issue such an exemption upon “a determination that the employment or activities within those categories would generally be approved and are not likely to involve conduct prohibited by statute or Federal regulations, including 5 CFR part 2635 and this part. *Id.* This memorandum transmits, as an attachment, an exemption for the category of outside positions as officer, director, board member, or other leadership position of a parent-teacher association, or similar organization focused on facilitating familial participation in a local school (PTA), with respect to which the employee has a familial connection through a child’s attendance at the school.

Discussion

This office has received questions from numerous employees who would like to serve as officer, director, board member, or other leadership position of a local PTA. During this time, we have never encountered a significant problem related to the Ethics Program with any such proposed

activity. Given the nature of HHS programs and operations, the family-school focus of the types of organizations involved, and the likelihood that only state or local laws will be implicated, such outside activities are unlikely to pose potential conflicts of interest or other ethics concerns.

This exemption will not apply if the requisite familial connection through a child's attendance at the local school is lacking. For example, an HHS employee still must obtain prior approval to serve as officer, director, board member, or other leadership position of a state or national PTA. Prior approval is required where a familial connection is lacking because of the possibility that the employee may have been recruited for the position because of his or her official position and presumed influence rather than because of a direct personal concern about family-school matters. Prior approval may well be granted in many of such cases, but employees are likely to benefit from the review and counseling by an official authorized to approve outside activity requests.

The determination to exempt certain personal PTA activities from the prior approval requirement does not mean that such activities never can raise ethical or legal issues. Even though employees will be excused from the procedural requirement of prior approval, they should be aware that all substantive requirements still apply. These include, among others, the prohibition against representing private parties before any agency of the Federal Government. See 18 U.S.C. § 205. Thus, for example, an HHS employee could not represent his or her PTA before the United States Department of Agriculture in connection with the organization's opposition to revisions to the National School Lunch Program.

Conclusion

In sum, service as officer, director, board member, or other leadership position of a local PTA that facilitates familial participation in a school attended by child in the employee's family constitutes a category of activities that generally would be approved in any event and that are not likely to involve conduct prohibited by statute or regulation. Accordingly, I am issuing an exemption pursuant to my authority in 5 C.F.R. § 5501.106(d)(7)(i). Please disseminate this change widely and maintain a copy in a separate binder for permanent retention in each component. Also, consult your labor relations staff concerning any requirements that may apply to dissemination of the document to union representatives and bargaining unit employees.

Attachment

cc: Deputy General Counsels
Associate General Counsels
Chief Counsels, Regions I-X