



DEPARTMENT OF THE ARMY

U.S. Army Corps of Engineers
WASHINGTON, D.C. 20314-1000

12 APR 1988

REPLY TO
ATTENTION OF:

CECC-ZA

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: Outside Practice of Law by Civilian Attorneys

1. References

- a. AR 690-300, Chapter 302, subchapter 7, para. 7-14
- b. USACE Suppl 1 to AR 690-300, para. D-14
- c. Interim Change I09, 18 December 1985

2. Interim Change No. I13, 9 January 1988, has extended the regulatory restrictions on outside employment and outside practice of law in Ref. 1.c. to 9 January 1990. Paragraph 7-14 b. of Interim Change I09 prohibits civilian attorneys from participating in any outside practice of law for compensation without prior written authority from the qualifying authority. Teaching, lecturing or writing for publication are not included in the prohibition. Pro bono practice is included only if compensation is involved.

3. This guidance applies only to civilian attorneys serving in positions classified as attorney positions under the 905 classification standards. Individuals serving in other types of positions (e.g. realty specialist) are not covered, even though they may otherwise be fully qualified members of the bar.

4. Written justification supporting requests for my approval must meet the following criteria:

a) The requesting attorney will comment specifically on the limitations stated in paragraph 7-14 b.(2) of Ref.1.c. and agree to abide by them.

b) The request will describe the specific arrangements made to insure that the outside practice does not interfere or conflict with either the substance or the scheduling of the attorney's work for the Government. I regard as interference any unscheduled leave necessary to meet court or other third-party controlled time commitments; outside client visits or phone calls at the attorney's Government office; use of Government facilities, supplies, or other resources (e.g. computer legal research); and any other activities that impinge on the attorney's work activities for the Government or make use of Government resources. The outside practice must be truly outside.

SUBJECT: Outside Practice of Law by Civilian Attorneys

c) At a minimum, the description required by the preceding subparagraph will include the type and limitations of the proposed practice; the arrangements for office space, telephone, mail, secretarial support, legal research, associate or back-up counsel; and the approximate number of hours per week to be devoted to the practice.

d) Each attorney-manager in the legal command chain must make a specific written recommendation for approval or disapproval of the request. Simply initialing an endorsement forwarding the request is not sufficient. If an attorney in Real Estate is making the request, a recommendation from the ranking attorney in the applicable Real Estate office should be included, as well as a recommendation from the applicable District or Division Counsel.

e) I will approve, in most instances, requests for outside practice limited to representation of family members, or to matters wholly within the sponsorship of a recognized bar or bar association group.

f) I will also consider favorably any circumstances showing that financial hardship would result from denial of a request for approval of outside practice.

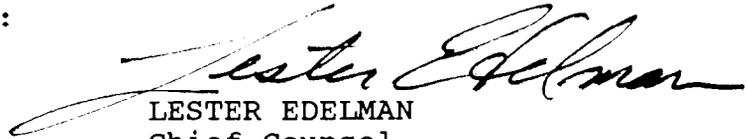
5. Serving as a personal representative (e.g. guardian, executor, administrator, custodian, etc.) of an estate does not, in my opinion, constitute the practice of law unless the concerned jurisdiction requires bar membership as a qualification for appointment or the circumstances require actions that would normally be considered the practice of law. There may conceivably be other law-related activities that are outside the scope of the regulation. If there is any doubt, however, a request for approval raising and discussing the issue should be submitted.

6. This letter supersedes my earlier guidance contained in my letter of 30 January 1986 and my Ontyme message of 16 July 1986. Any request which has not been approved prior to the date of this letter must be resubmitted in accordance with the guidance herein if the requesting attorney still desires to engage in outside practice.

SUBJECT: Outside Practice of Law by Civilian Attorneys

7. I expect every District and Division Counsel to take an active and exemplary role in managing the implementation of this regulation. If you have any questions, please contact Ray Powell at (202) 272-0035.

FOR THE CHIEF OF ENGINEERS:


LESTER EDELMAN
Chief Counsel

Enclosure

DISTRIBUTION:

All Assistant Counsel
& Assistant Chief Counsels, HQUSACE
All Division and District Counsels

Headquarters
Department of the Army
Washington, D. C.
9 January 1988

Immediate Action INTERIM CHANGE

AR 690-300
Interim Change
No I13
Expires 9 January 1990

CIVILIAN PERSONNEL

Employment

Justification. This interim change continues the guidance concerning outside employment of civilian attorneys of Interim Change I09 dated 18 December 1985.

Expiration. This interim change expires two years from the date of publication and will be destroyed at that time unless superseded by a permanent change.

1. Post this change per DA Pamphlet 310-13.
2. File this interim change in front of the "300" series of chapters in the basic Federal Personnel Manual.

(DAPE-CPE)

By Order of the Secretary of the Army:

CARL E. VUONO
General, United States Army
Chief of Staff

Official:

R. L. DILWORTH
Brigadier General, United States Army
The Adjutant General

Distribution:

Active Army, ARNG, USAR: To be distributed in accordance with DA Form 12-4, requirements for the FPM (block 24).

Headquarters
Department of the Army
Washington, D. C.
18 December 1985

Immediate Action
INTERIM CHANGE

AR 690-300
Interim Change
NO. 109
Expires 18 December 1987

Civilian Personnel

Employment

Justification: This interim change revises paragraph 7-14 of AR 690-300, chapter 302, subchapter 7. It provides specific guidance on outside employment activity and the outside practice of law for Department of the Army (DA) civilian attorneys to eliminate the potential for actual or apparent conflicts of interests.

Expiration: This interim change expires two years from the date of publication and will be destroyed at that time unless sooner superseded by a permanent change.

1. Chapter 302, page 7-7, paragraph 7-14, is changed as follows:

7-14. OUTSIDE EMPLOYMENT.

a. Army civilian attorneys are expected to devote their principal efforts to their official responsibilities; therefore, outside employment is discouraged. A qualifying authority or supervisor may impose a requirement for prior written approval to engage in outside employment. In any event, no Army civilian attorney will participate in any outside employment activity, with or without compensation, which -

(1) In any manner interferes or is incompatible with the proper and effective performance of his or her official responsibilities;

(2) Creates a conflict of interest or the appearance of one; or

(3) May reasonably be expected to reflect adversely on the Government or DA.

b. Because of the greater potential for actual or apparent conflicts of interests, the outside practice of law particularly is discouraged. Therefore, in addition to

the restrictions in a above, no Army civilian attorney will engage in the outside practice of law without the prior written approval of the qualifying authority in accordance with paragraph (1) below. For purposes of this regulation, practice of law means representing, advising or providing other legal services for a client or employer for compensation. It does not include teaching, lecturing or writing for publication.

(1) An Army civilian attorney may be authorized by the responsible qualifying authority to participate in the outside practice of law. Requests for approval will be submitted in writing through legal office command channels and will include any applicable justification. The qualifying authority's response will also be in writing. If the request is approved, copies of the request and the response will be furnished to the Office of the General Counsel, Department of the Army, Washington, D. C. 20310-0104, within 14 calendar days of approval.

(2) Even with written approval to participate in the outside practice of law, no attorney will engage in such practice in violation of 18 USC 203 or 205 (U. S. is a party or has an interest) or 209 (outside compensation for official services), AR 600-50, or (for those for whom TJAG is the qualifying authority) AR 27-1, nor with respect to matters -

(a) Referred from his or her Army legal office; or

(b) With which he or she is, or may be expected to become, involved in an official capacity; or

(c) Involving Government personnel serviced by his or her legal office.

c. The General Counsel may authorize deviations from paragraphs 7-14 a and b above under exceptional circumstances.

d. Army civilian attorneys may provide pro bono services subject to the restrictions in this paragraph and the guidance in FPM chapter 990. This guidance precludes pro bono services on Government time or at its expense or which may interfere with the timely discharge of the attorney's official duties. Except for certain personnel proceedings, representing anyone else in a matter in which the Government has a direct and substantial interest is also prohibited.

2. Post this change per DA Pamphlet 310-13.

18 December 1985

I09, AR 690-300

3. File this interim change in front of the "300" series of chapters in the basic Federal Personnel Manual.

(DAPE-CPE)

By Order of the Secretary of the Army:

JOHN A. WICKHAM, JR.
General, United States Army
Chief of Staff

Official:

MILDRED E. HEDBERG
Brigadier General, United States Army
The Adjutant General

Distribution:

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