

6401.105 Participation in professional associations.

Employees may participate in the activities of professional associations and similar entities organized to enhance the skills and abilities of their members or to advance the profession. Employees may participate through membership or service as compensated or uncompensated officers, directors, trustees, employees or members of professional associations subject to the limitations contained in this section and consistent with part 2635 of this title.

(a) *Participation as part of official EPA duty.* The Agency may designate an employee to serve in his or her official capacity as its official liaison or representative to a professional association in which the Agency has a specific interest. Unless specifically authorized by statute, executive order or regulation, an employee cannot be designated to serve any outside organization as an employee, director, trustee, officer, or other fiduciary capacity. Any employee who is designated to serve in his or her official capacity as the Agency's official liaison or representative, consistent with this paragraph, must obtain written approval from his or her supervisor and Deputy Ethics Official.

Example 1: Under the Environmental Education Act, 20 U.S.C. § 5590(b)(1)(B), the head of the Agency's environmental education office serves as a member of the Board of Directors of the Environmental Education Foundation. No prior approval is required.

Example 2: An EPA attorney who is active in her state bar association is asked to chair a subcommittee in the Environmental Law Section. Due to the nature of the subcommittee's work, the attorney seeks to perform this activity as part of her official duties. Because chairing a subcommittee does not involve any fiduciary responsibility for the governing body of the professional association, she may be approved by her supervisor and Deputy Ethics to participate in her official capacity.

(b) *Participation in personal capacity.* Employees who participate in the activities of professional associations and similar entities in their personal capacities are subject to the following restrictions:

(1) *Prior approval requirement.* Employees must comply with the requirement for prior approval in 5 C.F.R. 6401.104 before participating in the activities of professional associations.

(2) *Use of official title and position.* Employees may not refer to their official title and position unless in accordance with 5 C.F.R. 2635.807(b) and 5 CFR 6401.106.

(3) *Use of government property and resources.* Employees may use government equipment only if such use is consistent with the Agency's limited personal use policy See EPA Order 2101.0.

(4) *Use of official time*

(i) *Participation in substantive agency-related content.* At the discretion of the supervisor and consistent with the Agency's leave policies, employees may be granted official time to attend or otherwise participate in a substantive program sponsored by a professional association or similar organization. Such authorization must be made by the supervisor on the basis of a determination that the substantive content of the program relates to the performance of the employee's official duties and that the employee's participation is in the interest of the Agency.

(ii) *No use of official time for participation in non-substantive content.* Employees may not be granted use of official time to administer the internal affairs of any such organization or to carry out its internal or business affairs, or to attend or to participate in meetings or events that primarily serve those purposes. Nothing in this paragraph prohibits an employee from using official time to participate in a substantive program that he or she is authorized to attend under paragraph (b)(4)(i) of this section if only a small portion of the program is devoted to the internal or business affairs of the organization, or from occasionally using Government equipment for the conduct of organizational affairs or to prepare for committee meetings if such use is consistent with the Agency's limited personal use policy. See EPA Order 2101.0.

(6) *Conflict of interest considerations.* Any employee who serves in his or her personal capacity as an officer, director, trustee or employee of a professional association or similar organization is prohibited, in accordance with 18 U.S.C. 208(a) and the standards set forth at 5 CFR part 2640, from participating in his or her official capacity in any particular matter that has a direct and predictable effect on a financial interest of that organization.

Example 3: In her personal capacity, an EPA attorney is Secretary of a national bar association and serves on the association's nominating committee. She may not use EPA equipment or resources to produce or mail bills for association dues or ballots for the election of officers. She may, consistent with the Agency's limited use policy, use her EPA computer to notify members of the next meeting or to send out minutes of the previous meeting.

Example 4: An EPA attorney serves as an officer of his local bar association. He must take annual leave to attend a meeting of the association's officers or to run the internal affairs of the association. However, he may be authorized by his supervisor to use official time to attend an association meeting on environmental justice where his participation is determined to be related to his official duties and in the interest of the Agency. To improve his professional skills, he may also be authorized to use official time to attend a seminar on professional conduct sponsored by the association. In the absence of a waiver issued by the Deputy Ethics Official under 18 U.S.C. 208(a) and 5 CFR 2635.502, however, he may not direct a subordinate to speak at a seminar

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sponsored by the association, nor could he sign a training form obligating EPA funds to pay the fee for a subordinate to attend the seminar.

Example 5: A biologist is a grants analyst for EPA who oversees research grants on the effect of chemicals upon human health. He is a member of a national chemical society, and he is writing an article on the human health effects of a chemical to submit to its journal. He submits, and his DEO approves, a request for prior approval pursuant to 5 CFR 6401.104(a)(2)(iii). Writing articles of this kind is not part of the employee's official duties or responsibilities for the agency. However, he asks his supervisor for time to complete the article. The employee is doing this activity in his personal capacity even if the supervisor grants him administrative leave to complete the article.

Example 6: In her personal capacity, a toxicologist is approved by her Deputy Ethics Official to serve as Treasurer of a national toxicology association. In her official EPA capacity, she is also approved to attend the association's annual conference. During this time at the conference, she is representing EPA and can identify herself as an EPA employee with reference to her official title and position. At various other times during the conference, the association's officers will meet to address internal association business. The employee cannot use official time to attend these meetings. She must perform these activities in her personal capacity on her own time and without reference to her official EPA title or position. Her supervisor may not grant her official time, excused absence or administrative leave to carry out organizational or operational activities of the professional association.