

# ETHICS EXPRESS

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## March Madness and Gambling in the Workplace

March Madness fever is quickly approaching. Millions of anxious viewers will be glued to their TVs, computers or hand held electronic devices ready to pick their brackets and, for many, place their bets on their favorite team.

While this undoubtedly is considered “The Big Dance” for college basketball fans for whom nothing compares to the hype of the college basketball championship, predicting which teams will advance to the next level for even a few measly bucks is absolutely prohibited in the Federal workplace.

Federal rules prohibit employees from gambling while on duty, or while on government-owned or leased property. These restrictions apply not only to Federal employees, but also to members of the public at large, contractors, vendors, and exhibitors when on GSA-controlled property. Federal rules on gambling are found at sections (5 CFR 735.201) and (41 CFR 102-74.395).

Violations of the regulations

may be cause for disciplinary action by the employee's agency, which may be in addition to any penalty prescribed by law.

The only authorized exception is for activities and games that take place during the time period of the annual Combined Federal Campaign (CFC), in accordance with Executive Order 12353. However, CFC raffles are not synonymous with gambling when conducted in accordance with part 950 of title 5 of the Code of Federal Regulations.

Legally defined, gambling requires 3 elements:

- \* A game of chance;
- \* Consideration for the opportunity to play the game; and
- \* An offering of a prize.

A game of chance includes, but is not limited to, a raffle, lottery, sports pool, game of cards, the selling or purchasing of a numbers slip or ticket, or any game for money or property. Consideration includes a

participation fee, a wager of money, and something of value in return for the possibility of winning a reward or prize. A prize would include a monetary award, or a tangible or intangible item. Examples include meals,



drinks, administrative leave, gift certificates, tickets to events, or cash.

In addition to the Federal rules, State law may also prohibit gambling activities and impose additional penalties. The best advice for Federal employees is to avoid any March Madness office pools or work place activity where employees gamble on the outcome of the “Big Dance.”

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# Ethics Extra

## BLM Employee Sentenced

On February 22, 2010, a former BLM abandoned mine lands coordinator in California signed a plea agreement admitting he made false statements in an official writing.

Required to submit confidential financial disclosure forms annually, the employee failed to disclose any positions held or income received outside of his Government employment. He knowingly and willfully failed to disclose that he operated a business that earned him more than \$200,000 while also working as a BLM employee. This failure prevented BLM from assessing whether any conflicts of interest existed with his Government position, through which he had significant influence over the choice of contractors for abandoned mine lands restoration.

On July 19, 2010, the BLM employee was sentenced to 12 months probation, fined \$3,750, and ordered to pay BLM restitution of \$16,838.80.

## Office of Special Counsel Files Hatch Act Complaint Against Department of Justice Employee

WASHINGTON, DC - On February 15, 2011, the U.S. Office of Special Counsel (OSC) filed a complaint with the U.S. Merit Systems Protection Board (MSPB) requesting that an attorney with the U.S. Department of Justice (DOJ) receive disciplinary action, up to removal from her employment, for engaging in political activity prohibited by the Hatch Act. An investigation conducted by OSC found evidence that the DOJ employee engaged in prohibited political activity, including accepting and/or receiving partisan political contributions from subordinate employees, and using staff to help her efforts to assist a partisan political campaign.

Thus, OSC's investigation found evidence that the DOJ employee violated four Hatch Act prohibitions - soliciting, accepting or receiving political contributions from any person; engaging in political activity while on duty; engaging in political activity while in a room or building occupied in the discharge of official duties by an individual employed in the

Government of the United States; and using one's official authority or influence for the purpose of interfering with or affecting the result of an election. In order to fulfill its mission to safeguard the merit system, OSC has filed a complaint with the MSPB, seeking disciplinary action for the employee's knowing violation of the Hatch Act.



*OSC is an independent investigative and prosecutorial agency with jurisdiction to enforce the Hatch Act. OSC is authorized to provide advisory opinions on the Hatch Act and enforces the provisions of the Act by investigating allegations of violations and filing petitions for disciplinary action such as the one described above. For more information, visit our website at [www.osc.gov](http://www.osc.gov) or call 1-800-85-HATCH.*



## Outside Activities: Publication of Books, Articles, and other Writings by Federal Employees



Interior employees engage in a wide variety of activities and employment outside of their Federal employment. Some employees are interested in writing books and articles for publication. Those employees who are interested in outside writing should be aware that the Standards of Ethical Conduct for Employees of the Executive Branch place some limitations on outside writing. As a starting point, the rules generally address writing done in an employee's personal rather than official capacity. While in most instances employees easily distinguish between

writing done in an official and personal capacity, there can be instances where the distinction is not clear. As a general rule, writing or any activity done in an official capacity is done as part of an employee's official duties. Employees who have questions about whether a particular activity is official or personal should contact their bureau ethics advisor or the Departmental Ethics Office for advice. It is worth noting, however, that an employee may not accept outside compensation for work done in an official capacity.



### Employees may not be paid for outside writing that relates to the employee's official duties

For writing done in a personal capacity, there are rules that address when an employee may be paid or receive compensation. An employee may not receive outside or non-Federal compensation for writing that relates to the employee's official duties (5 CFR 2635.807(a)). The regulation (5 CFR 2635.807) states that writing relates to an employee's official duties if any of the following apply:

## Outside Activities-Cont'd.

1. It is done as part of the employee's official duties.
2. The circumstances indicate that the employee was offered compensation primarily because of his official position rather than his or her expertise in the subject matter.
3. The compensation is offered to the employee directly or indirectly by someone who has interests that may be affected by the performance or nonperformance of the employee's official duties.
4. The information conveyed in the writing is from official non-public information.
5. The subject matter of the writing deals in significant part with:
  - a. Any matter to which the employee is currently assigned or has been assigned within a one-year period.
  - b. Any ongoing or announced policy, program, or operation of the agency.

The term compensation in the context of outside writing related to an employee's

official duties is broadly defined and includes any form of consideration or remuneration of income, including royalties. However, it does not include travel expenses consisting of transportation, lodging, or meals incurred in connection with outside writing activity related to an employee's official duties.

### Additional rules on outside writing

What about an employee who does outside writing for no pay or compensation? While the rules here are less restrictive, there are limitations that apply to all outside writing (compensated or not).

### Use of official position

An employee writing in a personal capacity generally may not use his or her official position to identify him or herself in connection with the writing. This rule is intended to prevent the use of or reference to the author/employee's official position as an implied government sanction or endorsement of the content of the writing. There are a few limited exceptions to this rule (at 5 CFR 2635.807(b)): An employee may include or permit the use of his or her official position as one of several biographical details to identify himself or herself in connection with his or her writing. However, the official title or position can have no greater prominence than other

biographical details.

An employee may also use his or her official position in connection with an article published in a scientific or professional journal if it is accompanied by a reasonably prominent disclaimer approved by the agency that states that the views expressed in the article do not necessarily reflect the views of the agency or the United States.

### May not use non-public information

Additionally, an employee may not use non-public information in his or her personal writing. Non-public information is defined as information that has not been made available to the public. If an employee is unsure whether certain information has been made available to the public he or she should consult with a bureau or Department representative.

### Presidential Appointees

There are special rules on compensation for outside activities that apply to Presidential appointees, even if the activity is not related to official duties. Employees in this category who have questions should contact the Departmental Ethics Office for ethics advice.



## Financial Disclosure

### **FDonline**

*FDonline* is the new electronic financial disclosure database that is an easy-to-use solution for automating the annual financial disclosure reports. It is a flexible web-based system designed to improve communications, reduce cumbersome and inefficient paperwork processes and improve the overall financial disclosure process.

#### **Benefits:**

##### Employees

- Filers can complete their forms at work or at home on a secure, web-based electronic system.
- Automated notifications and reminders help ensure that paperwork is completed in a timely fashion.

- An intelligent interview wizard guides the employee through the complex maze of properly completing the financial disclosure paperwork.
- No hard copy forms need to be mailed, filed, or otherwise physically handled. Filers can sign the form digitally. *FDonline* then automatically routes it to the appropriate ethics office for review.
- Saves information from year to year and only requires that employees update and maintain their information.

##### Ethics Official Productivity

- Ethics Officials responsible for meeting this government mandate can send, receive and review financial disclosure forms and easily track completion status electronically;



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- Ethics Officials can electronically review and sign completed forms;
- Mass e-mails can easily be sent and tracked;
- Cautionary letters are easy to send and are recorded immediately in the system;
- Attachments can be uploaded to a filer's form; reviewers can note corrections on a filer's submission.

Compliance



**Q - Is my information submitted through the Department of the Interior's online financial disclosure system secure?**

**A – Yes. It is very secure.**

All data is accessed through a secure connection ([https](https://)) and is encrypted when sent to the database which is behind two firewalls.

The only data that is available at any time is the data that is on the current open screen. Once the filer clicks on the 'next' button, the data is encrypted and sent through the web server which is behind the first firewall to the database server which is behind the second firewall. Once the filer has submitted a financial disclosure form, the system digitally signs the data file, which locks down the data. Any tampering with the file will destroy the data. The only way to view the data is within the system and only through our rendering engine and only by persons authorized to view that specific filing.

The software is hosted in a secure federal government hosting facility and has undergone extensive security testing.

The system complies with the Office of Government Ethics' (OGE) **DAEOgrams DO-07-014 and DO-09-004** and is available for inspection by DOI's Chief Information Officer.

The entire process is documented, repeatable and restricts access by user account profile.

**OGE Form 278 Replaces SF 278**

The United States Office of Government Ethics has issued **DAEOgram DO-10-20** dated December 17, 2010, informing agencies of the replacement of the Standard Form 278 (SF 278) Executive Branch Personnel Public Financial Disclosure Report with a new form for collecting public financial disclosure reports in the Federal executive branch. The OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report.

The replacement of the SF 278 report with the OGE Form 278 report is effective immediately. However, public financial disclosure filers in the Federal executive branch may continue to file either SF 278 reports or OGE Form 278 reports through December 31, 2011.

## Bureau Highlights

### New Ethics Official



**Carolyne St. Louis** serves as an Ethics Counselor for the Office of the Special Trustee for American Indians and is located in Albuquerque, NM. Carolyne's Federal career began with her 2002 appointment as a Presidential Management Fellow with the Department of Labor. Following several years with the Department of Labor, Carolyne joined the

National Institutes of Health.

Prior to her Federal service, Carolyne served as a law clerk for the 8th Judicial Circuit and as a teaching assistant at the University of Florida, Levin College of Law. She earned her bachelor's degree from the University of South Florida in English Literature and African Studies. She also holds a master's degree in Health Administration and a Juris Doctor from the University of Florida.