

**BY ORDER OF THE COMMANDER
AIR COMBAT COMMAND**

**AIR COMBAT COMMAND
INSTRUCTION 51-500**



21 JANUARY 2025

Law

**OFF DUTY EMPLOYMENT, OUTSIDE
EMPLOYMENT & BUSINESS
ACTIVITIES**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This instruction implements AFD 51-5, *Administrative Law, Gifts, and Command Relationships*, Title 10 United States Code (USC), *Armed Forces*, the inherent authority of commanders, and is consistent with applicable portions of the *Joint Ethics Regulation* (JER). This instruction mandates all military and civilian personnel assigned to Air Combat Command, including those assigned at bases of another host command, report in writing any off-duty employment, outside employment, or business activities via a DAF Form 3902, *Application and Approval for Off-Duty Employment*. It applies to all ACC Regular Air Force (RegAF), Air Force Reserve, and Air National Guard units, except as noted herein. This instruction does not apply to contractors or the United States Space Force. This instruction establishes internal agency procedures for processing requests for approval of off-duty employment, outside employment, and business activities filed by military and civilian employees in accordance with paragraph 2-502 of the JER and DAFI 36-147, *Civilian Conduct and Responsibility*. This instruction also delegates to agency designees, commanders, heads of organizations, and supervisors the authority expressly granted by paragraph 2-502 of the JER and DAFI 36-147 to prohibit off-duty employment that will detract from readiness or pose a security risk. Ensure all records generated as a result of processes prescribed in this publication adhere to AFI 33-322, *Records Management and Information Governance Program*, and are disposed of in accordance with the Air Force Records Disposition Schedule, which is located in the Air Force Records Information Management System. Refer recommended changes and questions about this publication to the OPR using DAF Form 847, *Recommendation for Change of Publication*; route DAF Forms 847 from the field through the appropriate functional chain of command to ACC/JAC. The authorities to waive wing and unit level requirements in this

publication are identified with a tier number (“T-0, T-1, T-2, T-3”) following the compliance statement. See DAFMAN 90-161, *Publishing Processes and Procedures*, for a description of the authorities associated with the Tier numbers. Submit requests for waivers through the chain of command to the requestor’s commander for non-tiered compliance items. This publication may not be supplemented or further implemented/extended at any level.

SUMMARY OF CHANGES

This publication has been substantially revised in its entirety and must be completely reviewed. Major changes include: updated references, points of contact, explanation of terms, scope of prohibitions, and clarifying that all members of ACC engaging in off-duty employment, outside employment, and business activities must submit, seek, and receive prior approval in writing using a DAF Form 3902.

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1. Guidance:

1.1. No ACC personnel will engage in off-duty employment, outside employment, or business activities without written approval as detailed in this instruction.

1.2. **Prohibitions.** ACC personnel, both military and civilian, must not engage in off-duty employment, outside employment, or business activity that:

1.2.1. Is prohibited by statute, regulation, or the Uniform Code of Military Justice;

1.2.2. Would detract from readiness;

1.2.3. Would pose a security risk;

1.2.4. Would conflict with an employee’s official duties;

1.2.5. Is not approved in writing on a DAF Form 3902;

1.2.6. Requires a commissioned military officer on active duty (except while on transition/terminal leave) to separate from their organization, branch, or unit, or interferes with the performance of military duties IAW Title 10 United States Code Section 973, *Duties: officers on active duty; performance of civil functions restricted*; and/or

1.2.7. Would involve knowingly making solicited sales to DoD personnel who are junior in rank, grade or position, or to the family members of such personnel, on or off duty. In the absence of coercion or intimidation, this does not prohibit the sale or lease of an ACC employee’s noncommercial personal or real property, or commercial sales solicited and made in a retail establishment during off-duty employment. *See JER para. 2-504.*

1.3. **Explanation of Terms:**

1.3.1. Off-duty employment, consistent with the definitions in the JER, means business activities and compensated outside employment, including self-employment. Examples of self-employment include the sale of insurance, real estate, cosmetics, household supplies, vitamins, and other goods or services. It does not include the one-time sale of personal property; the conduct of a garage sale or similar event; the rental of a residence previously occupied by the owner; or the occasional, compensated provision of personal services such as babysitting, house sitting, lawn mowing, car repair, or musical entertainment. Nor does it include services rendered as a volunteer when an incidental, non-monetary benefit (such as free childcare or a free meal) is involved. For purposes of the above exceptions, an activity is “occasional” if it occurs less frequently than once a month, on the average.

1.3.2. Outside employment, consistent with the definition in Title 5, Code of Federal Regulations (CFR), Section 3601.106, *Prior approval for outside employment and business activities*, means any form of non-Federal employment or business relationship involving the provision of personal services by the ACC employee. Outside employment includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, or trustee; as well as delivery services, ride shares, and other independent contracting work. Outside employment does not include uncompensated activities for purposes of this instruction.

1.3.3. Business activities, consistent with the definition in 5 CFR § 3601.106, means any business, contractual, or other financial relationship not involving the provision of personal services by the ACC employee. Business activities include any receipt of revenue from advertising, subscriptions, traffic, or views from internet commerce, to include streaming sites and/or social media. It does not include a routine commercial transaction or the purchase of an asset or interest, such as common stock, that is available to the general public, nor does it include uncompensated activities for purposes of this instruction.

1.3.4. Prohibited by statute or regulation means employment mentioned within the USC or Federal regulations such as the CFR, the Federal Acquisition Regulations (FAR), or the JER as unauthorized for current Federal employees which includes, but is not limited to:

1.3.4.1. A commissioned military officer or civilian working for a contractor within the Federal workplace of any agency while currently employed by a Federal agency such as the DoD (including while on transition/terminal leave);

1.3.4.2. A commissioned military officer or civilian receiving compensation for any representational services as an agent or attorney or otherwise acting as an agent or attorney of a third party before any Executive or Judicial branch agency, court, or commission in connection to a matter in which the United States is a party or has a direct and substantial interest;

1.3.4.3. Receiving compensation from any source other than the employee’s Federal government employer for performance of official duties; and/or

1.3.4.4. Receiving an appropriated fund contract award from a Federal contracting officer, absent an exception.

1.3.5. Readiness includes the ability of the Air Force to perform its mission in the manner and at the time and place required, and the ability of a military member or civilian employee to perform his or her government duties in the manner and at the time and place required.

1.3.6. Conflicts with an employee's official duties, consistent with 5 CFR Section 2635.101, *Basic obligation of public service*, means it is prohibited by statute or by an agency regulation or would require the employee's disqualification from matters so central to the performance of his or her official duties that the employee's ability to perform the duties of his or her position would be materially impaired.

1.3.7. Prohibited source, in accordance with 5 CFR Section 2635.203, *Definitions*, means any person or company who is seeking official action by the employee's Federal agency such as the DoD, does business or seeks to do business with the employee's agency, conducts activities regulated by the employee's agency, has interests that may be substantially affected by the performance or nonperformance of the employee's official duties, or an organization a majority of whose members are described herein.

1.3.8. Ethics Official is defined in JER, Appendix A. For the purposes of this instruction, it is limited to an ACC attorney who has been appointed in writing by the Air Force Designated Agency Ethics Official (DAEO) or designee to generally assist in implementing and administering the Air Force ethics program and to provide ethics advice to ACC civilian and military personnel. The term "ethics official" includes individuals previously referred to as "ethics counsel" or "ethics counselor."

1.3.9. Delegatee of the Unit Commander means the employee's Unit Deputy/Vice Commander (or civilian equivalent), or the first individual in the employee's chain of command or supervision who is a commissioned military officer (or a civilian equivalent in the grade of GS-12 or above) who is not the employee's immediate supervisor.

1.4. Requirements:

1.4.1. All military personnel and civilian personnel desiring to perform off-duty employment, including employment while on terminal and other forms of leave, shall submit a DAF Form 3902, *Application and Approval for Off-Duty Employment*, to their first-level supervisor at least two weeks before beginning employment (except in cases where two weeks' notice is not possible). This does not apply to the regular civilian employment of ACC Reservists and Guard members working at ACC; however, all other ethics laws and regulations are applicable to that employment; see your servicing Ethics Official for specific guidance. Final approval must be obtained prior to starting off-duty employment. This process satisfies the requirement in DAFI 36-147, *Civilian Conduct and Responsibility*, that AF civilian employees report outside business activities or compensated outside employment to their respective supervisors. Medical service personnel must comply with the requirements regarding off-duty employment in AFI 44-102, *Medical Care Management*, in addition to the requirements of this instruction. Legal personnel must comply with the requirements regarding outside employment in AFI 51-110, *Professional Responsibility Program*, in addition to the requirements of this instruction.

1.4.2. Personnel who have not obtained prior approval and who are, on the effective date of this instruction, already engaged in off-duty employment, shall have 90 days from that date to obtain such approval.

1.4.3. A new DAF Form 3902 must be submitted whenever the type of employment or the employer changes, the individual's principal Air Force duties change, or the number of

regularly scheduled off-duty-hours increases. Occasional increases in hours due to situations such as the availability of overtime work, or the need to fill in for an absent coworker, do not require resubmission of the DAF Form 3902. Previously denied requests may be resubmitted after a change in the individual's Air Force duties or readiness requirements. **(T-3)** Approval may be revoked by anyone authorized to complete Section IV of the DAF Form 3902 if the previously approved outside employment or business activity is subsequently determined to fall within one or more of the categories of [paragraph 1.2](#).

2. Procedures for Completing DAF Form 3902:

2.1. **Section I.** The employee completes Section I and the continuation sheet when applicable.

2.2. **Section II.** The employee's immediate supervisor completes Section II.

2.3. **Section III.** An Ethics Official from the employee's servicing legal office completes Section III. Section III may be supplemented by a written legal review as appropriate. For any employee required to file any financial disclosures, including but not limited to an Office of Government Ethics (OGE) Form 450, *Confidential Financial Disclosure Report*, or OGE Form 278, *Public Financial Disclosure Report*, the Ethics Official must be the same attorney that reviews their financial disclosure forms.

2.4. **Section IV.** Section IV is completed by the employee's Unit Commander or a Delegatee of the Unit Commander. See [paragraph 1.3.9](#).

2.5. **Filing DAF Form 3902.** After a request is approved or disapproved, the individual completing Section IV of the DAF Form 3902 will maintain the original request, furnishing a copy to the employee and, if the employee is an OGE Form 450 or 278 filer, a copy to the Ethics Official completing Section III for retention with the individual's financial disclosure. If the individual completing Section IV is not the Unit Commander, a copy of the completed form will also be furnished to the Unit Commander (or other unit organization designated by the Unit Commander) to ensure the Unit Commander is informed of unit member off-duty employment activities.

TYSON D. KINDNESS, Colonel, USAF
Staff Judge Advocate

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

5 CFR § 2635.101, *Basic obligation of public service*
5 CFR § 2635.203, *Definitions*
5 CFR § 3601.106, *Prior approval for outside employment and business activities*
10 USC, *Armed Forces*
10 US Code § 973, *Duties: officers on active duty; performance of civil functions restricted*
AFI 33-322, *Records Management and Information Governance Program*, 23 March 2020
AFI 44-102, *Medical Care Management*, 17 March 2015
AFI 51-110, *Professional Responsibility Program*, 11 December 2018
AFPD 51-5, *Administrative Law, Gifts, and Command Relationships*, 31 August 2018
DAFI 36-147, *Civilian Conduct and Responsibility*, 11 January 2023
DAMAN 90-161, *Publishing Processes and Procedures*, 18 October 2023
JER, 15 May 2024

Prescribed Forms

None

Adopted Forms

DAF Form 847, *Recommendation for Change of Publication*
DAF Form 3902, *Application and Approval for Off-Duty Employment*
OGE Form 278, *Public Financial Disclosure Report*
OGE Form 450, *Confidential Financial Disclosure Report*

Abbreviations and Acronyms

CFR—Code of Federal Regulations
DAEO—Designated Agency Ethics Official
FAR—Federal Acquisition Regulations
JER—Joint Ethics Regulation
OGE—Office of Government Ethics
RegAF—Regular Air Force
USC—United States Code