

Good Morning:

Let's take a break from AR 27-26, Rules of Professional Conduct for Lawyers. This time we will review the rules concerning the outside practice of law, *i.e.*, the practice of law during off-duty time, on weekends, or while on leave.

The basic rule for civilian attorneys is found in paragraph 4-17b, AR 690-200: "[N]o Army civilian attorney will engage in the outside practice of law without prior written approval of the QA." The QA is the attorney's qualifying authority. For AMC civilian attorneys, the QA is the AMC Command Counsel. This rule does not apply to "teaching, lecturing or writing for publication ... [or] the infrequent, occasional rendering of legal advice or assistance without compensation to personal friends and relatives ... " This rule is adopted in the AMC Command Counsel Policy Statement 96-1 dated 28 Feb 96, Outside Employment.

Policy Statement 96-1 requires the attorney to submit a written request to engage in the outside practice of law, and provide sufficient information for evaluation to ensure no potential conflict, *e.g.*, reason for the outside practice, client pool, type of practice, etc. The request is to be forwarded through the Chief of the Legal Office with a recommendation to the AMC Command Counsel for approval. Approval will not be recommended by the Chief of the Legal Office or granted by the Command Counsel "to engage in the outside practice of law with respect to any matters involving government personnel who may receive service in an official capacity from his or her legal office. ... In no event will an AMC civilian patent attorney be permitted to engage in outside employment involving patent law. **[Comment: What about the situation where a prospective client is generally serviced by a different division from where the requesting attorney works? The request will not be approved. The restriction is directed to potential clients who receive "official" legal support from anyone in the legal office. In fact, paragraph 4-17c, AR 690-200 specifically excludes "matters ... (3) Involving Government personnel serviced by is or her legal office."]**

Attached is a format that can be used for such requests.



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The rule for uniformed attorneys is found in paragraph 4-3c, AR 27-1: "An attorney of the JALS [Judge Advocate Legal Service] will not engage in private law practice without the prior written approval of TJAG." Additional guidance is provided in paragraph 10-5, *JAGC Personnel Policies*: "JAs ... may not engage in the outside practice of law ... Exceptions to this policy may be authorized by TJAG. ... JAs ... are not prohibited from practicing law or performing legal services for themselves or members

or their immediate families..." [**Comment: Note that this exclusion is not as broad as that for the civilian attorney, i.e., "personal friends and relatives."**] There is a similar requirement for JAs leaving active duty in paragraph 9-6, *JAGC Personnel Policies*: "The practice of law outside the JAGC during the period of transition leave requires prior approval. TJAG has delegated authority to approve such requests to the Chief, PP&TO."

The format for such requests by JAs is explained in paragraph 10-5b of the *JAGC Personnel Policies*, and Figure 9-7 of that same reference is a format for a request to practice law during transition leave. JAs serving in AMC should send their requests through the Chief of their Legal Office and through the Command Counsel to TJAG or the Chief, PP&TO, as appropriate.

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