

Frigo, Victoria (COE)

From: Frigo, Victoria (COE)
Sent: Wednesday, February 13, 2013 3:20 PM
To: Brewer-McDuffie, Cecilia (WASD)
Cc: Centorino, Joseph (COE)
Subject: Outside Employment (INQ 13-34)

Ms. Brewer-McDuffie

You asked if a County employee is required to obtain permission to engage in outside employment when she owns a family business, is named as president of the business, but reports that she receives no income and that others run the business.

The test is not *ownership* or receiving *actual* compensation but rather if the employee *performs a personal service* for the business that is *customarily compensated*.

Performing as a president of a company is a personal service that is customarily compensated. Therefore, it appears that the individual you discussed is engaged in outside employment unless she can provide evidence that her business compensates someone else to act in the capacity of its president.

In numerous ethics opinions we have found outside employment activities include, but are not limited to, the following:

- providing a personal service to a family-owned business (*e.g.*, secretarial, bookkeeping, sales, or consulting services), regardless of whether one is compensated
- providing a personal service to one's own business, regardless of whether the business is officially incorporated, or if incorporated, regardless of the jurisdiction in which it is incorporated, or regardless of whether the business is currently generating income
- serving as a compensated officer or director of any for-profit corporation, regardless of the jurisdiction in which the entity is incorporated and regardless of whether one performs any duties for the board
- managing three or more single-family rental units.

Our office will be happy to speak with employees about their involvement with family businesses or open investigations to determine if outside employment is being conducted.

Sincerely,

VICTORIA FRIGO, SENIOR STAFF ATTORNEY

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From: Brewer-McDuffie, Cecilia (WASD)
Sent: Tuesday, February 12, 2013 3:16 PM
To: Ethics (COE)
Subject: Outside Employment

Lately, we have had several employees who own a family run business but have advised that they receive no income. He/She is identified as the President of the company, but explain that other members of the family run the business. I want to confirm that we should in fact still require that this employee complete a "Request for Outside Employment" form. Please advise. Thank you.

Cecilia Brewer-McDuffie
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