



UNITED STATES GOVERNMENT  
**NATIONAL LABOR RELATIONS BOARD**

Ethics Office  
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Washington, DC 20570

To: All Employees  
From: Monica L. Garcia  
Associate General Counsel, Ethics and Designated Agency Ethics Official (DAEO)  
Date: October 1, 2025  
Subject: Ethics Issues During a Lapse in Appropriations

Topline Guidance: During a lapse in appropriations, NLRB furloughed employees remain employees of the Federal government and must continue to abide by the ethics laws and regulations.

- **Ethics Office Frequently Asked Questions – Lapse in Appropriations**

We have attached the Ethics Office's Frequently Asked Questions (FAQ) for a Lapse in Appropriations. This document provides answers to frequently asked ethics questions that may arise during lapses in appropriations. We encourage you to maintain a copy of this document so that you may refer to it in the event of a lapse in appropriations.

- **Prior Approval for Outside Employment and the NLRB's Supplemental Regulations**

During a lapse in appropriations, furloughed employees remain subject to the rules regarding outside employment and activities, including the requirement to obtain prior approval for any outside work. If you decide to seek outside employment during a lapse in appropriations, please use your personal email to communicate with essential personnel listed below and include "Seeking Outside Employment Approval" in the subject line of your email.

- For employees on the Board Side of the Agency, your contact is Solicitor Fred Jacob (Fred.Jacob@nlrb.gov).
- For employees on the General Counsel Side of the Agency, your contact is Acting Deputy General Counsel, Stephanie Cahn (Stephanie.Cahn@nlrb.gov).

If your request is approved, you must not use your NLRB title in connection with any outside employment and must always use your own, and never Agency, resources. For example, you should not engage in activities relating to your outside employment using your Agency laptop, email system, or phone. You also should not use Agency resources, including WestLaw, in connection with your outside activities.

We have also attached NLRB focused job aids that provide guidance for requesting approval for outside employment or the outside practice of law.

- ✓ Can I Have a Job Outside the NLRB? Job Aid
- ✓ Can I Practice Law Outside the NLRB? Job Aid
- ✓ Outside Practice of Law and Pro Bono Services Checklist

- **The Hatch Act Applies During a Lapse in Appropriations**

Hatch Act's restrictions continue to apply during a lapse in appropriations. The Hatch Act does not prohibit participation in partisan political activity on your own time and in your personal capacity (i.e., while furloughed or otherwise off duty). However, it does prohibit you at all times, including during a lapse in appropriations, from: using your official authority or influence for the purpose of interfering with or affecting the result of an election; knowingly soliciting, accepting, or receiving political contributions (i.e., fundraising); being a candidate in a partisan election; and knowingly encouraging or discouraging the political activity of a person with business pending before the NLRB.

For more information about Hatch Act restrictions, please visit the [Hatch Act Library](#) on the NLRB Ethical Highway.

- **Prohibition on Furloughed Employees Attending External Meetings, Training, Conferences, etc.**

In the event of a lapse in appropriations, furloughed employees must not participate in external meetings, conferences, or other events (e.g., training paid for by the Agency held in-person or virtually) in an official capacity. Attendance at these events, even as a speaker on behalf of the Agency, generally would not be considered an essential duty covered under the [NLRB's Lapse Plan](#).

# Ethics Issues During a Lapse in Appropriations

## FREQUENTLY ASKED QUESTIONS

NLRB Ethics Office

September 2025

The NLRB Ethics Office has prepared answers to frequently asked ethics questions that arise when employees are in a non-pay status during a lapse in appropriations. Employees continue to be subject to all of the ethics rules while they are in non-pay status, including the ethics rules for gifts, crowdsourcing, outside employment, and the Hatch Act. If in doubt as to whether a proposed course of action may violate the ethics statutes, the standards of ethical conduct, or other ethics regulations, employees should refrain from taking action or accepting a gift until first obtaining ethics guidance.

### Outside Employment

#### **Q: May I seek alternative employment while I am in non-pay status?**

A: Generally, yes if the employment does not conflict with your official duties and responsibilities. You are required by ethics laws to avoid conflicts of interest and the appearance of a lack of impartiality between your work for the NLRB and a potential non-federal employer. You may not accept outside employment unless you receive prior approval from the designated NLRB official during this period. If you accept outside employment and are also a public or confidential financial disclosure filer, you must also report any outside earned income and employment positions on your financial disclosure forms. Likewise, some noncareer employees are prohibited from earning outside income, and certain other noncareer employees are limited in the amount they can earn.

Because you may be unable to contact an ethics official during a lapse in appropriations, we encourage you to become familiar with the NLRB's outside employment rules as soon as possible.

#### **Q: Are there limitations on what I can do for an outside employer?**

A: Yes. You are prohibited from representing outside parties before the federal government. For example, even if you are furloughed, you may not contact a federal government agency or court that is open during a lapse in appropriations in order to sell a company's products or services. If you are considering outside employment that involves representation before the federal government, please seek guidance from the Ethics Office as soon as possible.

#### **Q: May I use my official title or position in connection with my non-federal employment?**

A: No. You are prohibited from using your federal government title or position to benefit a non-federal employer.

**Q: May I volunteer to continue to carry out my NLRB duties during a lapse in appropriations?**

A: No. If you are furloughed, you must not volunteer your services and are prohibited from working on NLRB business during a lapse in appropriations.

**Q: What happens if I take an outside job and the government lapse in appropriations ends?**

A: If you accept a job with a non-federal employer, please be aware that you must return to your position with the NLRB on the next regular workday after being notified about the end of your furlough. Additionally, please consult with the Ethics Office upon your return to work at the NLRB as to whether any recusal or other ethics-related requirements result from your non-federal employment.

### Gifts

**Q: May I accept a gift during a government lapse in appropriations?**

A: It depends. The general rules concerning gifts from an outside or non-federal source (versus gifts between employees) are that, as a federal employee, you:

- must not solicit gifts from a prohibited source
- must not solicit gifts to be given to you because of your official position
- must not accept a gift from a prohibited source, or
- must not accept a gift given because of your official position.

A gift is considered to be given because of your official position when the circumstances make it clear that you would not have received the gift, but for your employment status with the federal government generally and/or the NLRB specifically.

A prohibited source is any person, company, or organization that does business with the NLRB, is seeking to do business with the NLRB, conducts operations or activities that are regulated by the NLRB, or has any interests that might be affected by the performance or non-performance of your official duties, or is an organization a majority of whose members are described above, including for profit or non-profit labor groups and other organizations, contractors, unions, partners, and entities that receive assistance from the NLRB, etc.

**Q: How do I determine whether I can accept a gift from a non-federal source during a government lapse in appropriations?**

A: Your ability to accept a gift will depend upon the value of the gift and who offers it to you. The general rule is that you may not solicit or accept gifts given because of your official position or offered by a prohibited source. A gift is anything that has monetary value that you obtain for less than market value.

- A gift may include, but is not limited to, any gratuity, favor, discount, cash, gift certificate, gift card, entertainment, hospitality, loan, forbearance, or other item having monetary value. It also applies to services, training, transportation, travel, lodging, and meals.
- Market value is the retail price that a member of the general public would have to pay to purchase it.

However, ethics regulations provide a few exceptions and exclusions to the general rule, and those common exceptions are discussed below.

**Q: Do these rules apply if the gift is given to my spouse, child, parent, sibling, dependent relative, or a member of my household?**

A: This is determined on a case-by-case basis. If the gift is given to your spouse, child, parent, sibling, dependent relative, or a member of your household because of that person's relationship to you, then it is considered to be an indirect gift and is treated as a gift to you under the ethics regulations. Therefore, all of the rules, restrictions, and considerations discussed in these FAQs will apply to any indirect gift.

However, if the gift is given to your spouse, child, parent, sibling, dependent relative, or a member of your household for reasons independent of that person's relationship to you, then it is generally not considered a gift to you and will likely not be governed by the rules, restrictions, and considerations discussed in these FAQs. Please remember that you must at all times avoid any actions which would make a reasonable person with knowledge of the relevant facts question your impartiality or create the appearance that you are violating the law or the ethical standards.

**Q: May I accept a free meal or discount offered to all federal workers or the general public?**

A: Yes. As long as the offer is extended to the general public or all federal employees, even if the offer is restricted by geography, you may accept it. For example, you may accept a free meal or Metro ride made available to anyone in the Washington D.C. area who shows a federal employee ID card. In addition, you may ask for and accept assistance from organizations that provide aid to members of the general public, such as food banks or religious institutions.

**Q: May I accept free meals, discounts or other benefits offered only to furloughed employees?**

A: It depends on who is offering the free meal or other benefit. You may accept gifts offered to a class of government employees that does not discriminate on the basis of official duties or rank if given by an organization or person who is not a prohibited source.

For example, you could accept a free month of gym membership offered to all furloughed employees as long as the organization making the offer is not a prohibited source.

If an organization is a prohibited source because it conducts business with the NLRB, you may accept tangible, non-cash gifts (such as a meal, hat, book, ticket to a movie, etc.) with a retail market value of \$20 or less, per occasion from that organization so long as the total value of gifts you accept from the organization does not exceed \$50 in a calendar year, and you do not accept gifts so frequently from this organization that a reasonable person would question your impartiality. If the gift has a retail market value in excess of \$20, you may not pay the difference in order to accept the gift, but rather you must either decline the gift or pay the entire market value of the gift to the donor in order to accept it.

**Q: May I accept a cash gift card from an organization that does business with the NLRB?**

A: No. You must never accept cash, cash gift cards issued by a credit card company or other financial institution (Visa, Mastercard, American Express, etc.) or checks made out to you, in any amount, from a prohibited source or if given because of your official position, under any circumstances. Importantly, the \$20 or less exception does not apply to gifts of cash, as cash gifts are never permissible.

**Q: May I accept a cash gift card offered to only employees impacted by the government lapse in appropriations from a local organization that has no business before the NLRB?**

A: No. You must never accept cash, cash gift cards issued by a credit card company or other financial institution (Visa, Mastercard, American Express, etc.) or checks made out to you, in any amount, given because of your official position (in this case because you are an employee impacted by the lapse in appropriations) under any circumstances. Importantly, the \$20 or less exception does not apply to gifts of cash, as cash gifts are never permissible.

**Q: May I accept a grocery store gift card that is offered to me by a local organization that does business with the NLRB?**

A: In this case, it generally depends on the donor and the amount of the gift card offered to you. The ethics regulations distinguish between gift cards issued by a credit card company or other financial institutions, which are viewed as the equivalent of a gift of cash and may not be accepted, and gift cards issued by specific stores such as restaurants and grocery and retail stores, which may be accepted in certain circumstances. Here, although the local organization is a prohibited source because it does business with the NLRB, you may

still accept a gift card to a grocery store offered to employees and valued at \$20 or less per occasion, so long as the total value of these gifts to you from the local organization does not exceed \$50 in a calendar year, and you do not accept gifts so frequently from the local organization that a reasonable person would question your impartiality.

Additionally, if an organization was handing out packets of gift cards issued by specific stores or restaurants to all federal employees, all federal employees in a specific geographic area (e.g., all federal employees who work in Denver, Colorado), or anyone impacted by the government lapse in appropriations (and the offer is not limited only to certain federal employees, such as those employed by the NLRB), then you can accept the packet of gift cards even if the total amount of the various gift cards exceeds \$20.

Also, if a local organization offers packets of gift cards issued by specific stores or restaurants to any family or individual in need in the community as a result of the government lapse in appropriations, you could accept the packets of gift cards. Under the gift rules, any opportunities and benefits, including favorable rates and commercial discounts, available to the general public or to a class consisting of all federal employees or all uniformed military personnel, whether or not restricted on the basis of geographic considerations, is not considered a prohibited gift and may be accepted.

**Q: May I accept a commercial discount or benefit offered by a local business?**

A: Yes, you may accept commercial discounts or benefits available to the general public, to all federal government employees, or to anyone impacted by the government lapse in appropriations (so long as the offered discount or benefit is not limited to a certain group of federal employees, such as only those employed by the NLRB).

**Q: May I present my federal government identification badge to receive a permissible discount or benefit offered to all federal employees?**

A: Yes. You may show your federal government ID to prove that you are eligible for an existing discount or benefit. Please remember that you may not use your federal government ID to solicit or encourage a gift or special treatment - this is a misuse of position.

**Q: If an accredited or licensed financial institution, such as a credit union, offers low or no interest loans, may I accept such a loan?**

A: It will depend on the terms of the loan offer. The ethics regulations exclude from the definition of gifts “loans from banks and other financial institutions on terms generally available to the public.” Additionally, you may accept opportunities and benefits, including favorable loan rates and commercial discounts, available to the general public or to all federal employees, whether or not restricted on the basis of geographic considerations. The ethics regulations also permit you to accept opportunities and benefits, including

favorable loan rates and commercial discounts, offered to members of an organization, such as an employee association or credit union.

**Q: If a local non-profit or other organization offers to provide NLRB employees with interest free loans of \$1,000 as a result of the government lapse in appropriations, may I accept this offer?**

A: In almost all circumstances, no. This would be a gift offered because of your official position and no applicable gift exception or exclusion would likely apply. Additionally, if you accepted any such offered loan, then you would be required under 18 U.S.C. § 208, a criminal statute, and 5 C.F.R. § 2635.502, to recuse yourself from any official matters involving that entity until the loan was completely repaid. Finally, we urge caution before entering into financial transactions with entities that are not accredited or licensed financial institutions.

**Q: May I accept a loan or assistance from a colleague or co-worker?**

A: It depends. You must consider the colleague's employer. If, for example, your colleague is employed by a party whom the NLRB conducts business with, the loan or assistance will likely be considered a gift from a prohibited source.

If your colleague is a federal employee or employed by the same agency, you must be mindful of your professional relationship status and your comparative pay as you must not accept a loan or assistance from an employee that receives less pay or an employee whom you supervise. A loan may be permissible under certain limited circumstances, and we urge you to seek ethics guidance before accepting a loan from any colleague or co-worker, and particularly for any loan from a subordinate or an employee receiving less pay.

**Q: May I donate money and other items to other co-workers?**

A: It depends. You are still subject to the limits on gifts between employees, on fundraising for charitable organizations, and on fundraising in the federal workplace, including those on gifts between supervisors and subordinates, during a lapse in appropriations.

Generally, you may not give, donate to, or solicit contributions for, an official supervisor.

You may generally give or accept non-cash gifts of less than \$10 in value or gifts of personal hospitality of a type and value customarily provided. While there are other potential exceptions to the rules on gifts between employees, such as gifts given on the occasion of marriage, illness, or retirement, please contact the Ethics Office to determine whether an exception applies in your specific situation. As a general matter, you are also encouraged to discuss offers of financial or other assistance between co-workers with the Ethics Office.



## Crowdsourcing

**Q: May I, or someone on my behalf, set up a crowdsourcing campaign such as a GoFundMe page or other online fundraising request to help with my expenses during a government lapse in appropriations?**

A: Most likely, no. These kinds of online fundraising campaigns raise a variety of ethics concerns, particularly when the funds are solicited because of your official position or offered from a prohibited source.

First, you, or someone acting on your behalf (such as a spouse), cannot solicit a gift based on your federal employment. Therefore, you cannot use your agency, title, or status for any such solicitation for your own private gain or the private gain of another under the gift and misuse of position rules. In addition, any such online solicitation could not reference your employment with the NLRB or your employment status with the federal government. Any online solicitation should also not include images of you (or others) wearing official insignia, featuring a logo for the NLRB, or including an image publicly identified as NLRB office space or facilities.

Second, you are prohibited from soliciting or accepting gifts given from prohibited sources. Therefore, even if you do not use your agency, title, or status for a solicitation, you would need to be able to identify and reject any donations from prohibited sources. You may not be able to accept anonymous donations or other donations that do not provide sufficient information to determine whether they are from prohibited sources. Due to the high likelihood of violating gift rules, we strongly recommend that you seek guidance from an ethics official before establishing or engaging in any such online fundraising campaigns.

If you limit a crowdsource request to close friends and family, you should carefully evaluate the relevant factors to determine the motivation of any donation, such as whether the donor has any reason to be motivated to donate due to your official position, the history and nature of the relationship with the donor, and whether the family member or friend personally pays for the gift. You may solicit or accept a gift from an individual under circumstances which make it clear that the gift is motivated by a family relationship or personal friendship rather than your federal position.

Even when limiting the audience for a crowdsourcing campaign, you should be cautious about labeling yourself as a federal employee in any description and should certainly never request that you receive donations because you are a federal employee. Moreover, crowdsource funding can create additional reporting requirements if you file a financial disclosure form. If you are a financial disclosure filer, your annual report must include any gifts over the financial disclosure reporting thresholds (which are periodically updated) that you receive from a single source during the reporting period. If you are a financial disclosure filer and accept gifts during the reporting period, please contact the Ethics Office for additional guidance.

**Q: May I accept assistance from a crowdsourcing campaign intended to help anyone impacted by the government lapse in appropriations?**

A: It depends. Such offers can only be accepted if (1) offered to the general public or to a broad class of government employees that does not discriminate based on responsibility, rank, or rate of pay and (2) the campaign organizer is not a prohibited source.

[Hatch Act](#)

**Q. May I engage in political activity during a government lapse in appropriations?**

A: It depends. Political activity is defined as activity that is directed at the success or failure of a partisan candidate, partisan political party, or partisan political group. You are prohibited from engaging in political activity while on duty, in the federal workplace, or while teleworking. When off duty, outside a federal office or government vehicle, not wearing official insignia, and not using federal government resources, you may:

- Register and vote as you choose
- Express personal opinions on political subjects
- Display campaign signs at home
- Be a member of a political club or party
- Follow, like, comment on the social media pages of candidates for partisan political office, political parties, or political groups
- Make financial contributions to political parties, campaigns, or partisan groups
- Attend political rallies, meetings, or fundraising events

When you are off duty, including when furloughed, you are still subject to the 24/7 Hatch Act prohibitions, described in the answer below.

**Q: Does the Hatch Act still apply if I am furloughed or in non-pay status?**

A: Yes. Certain Hatch Act restrictions apply to activities taking place off duty. The 24/7 restrictions continue while you are furloughed, as well as when you are on official time to perform representational duties, annual leave, sick leave, leave without pay, administrative leave, and voting leave.

At all times, even in non-pay status, the Hatch Act prohibits you from:

- using your official authority in an attempt to interfere with or affect the result of an election
- soliciting or receiving political contributions (i.e., fundraising), including hosting a fundraiser
- encouraging or discouraging the participation in political activity of any person with business before the NLRB
- running for partisan political office

- intimidating, threatening, commanding, coercing, suggesting, or requesting any federal employee engage in or not engage in any political activity; or
- organizing or engaging in partisan fundraising on official government property.

**Q: Would I violate the Hatch Act if I use my Agency laptop or other resources during a lapse in appropriations for partisan political activities?**

A: Yes. The use of Agency resources, including the NLRB's IT resources for any partisan political purpose is prohibited by the Hatch Act, the misuse provisions in the Standards of Ethical Conduct, as well as the NLRB's IT policies.

**Q: Where could I locate additional information about the Hatch Act?**

A: For additional guidance visit the [Office of Special Counsel's Hatch Act resources](#).

### Questions?

For any additional questions or to request tailored guidance, please contact the NLRB Ethics Office at [ethics@nlrb.gov](mailto:ethics@nlrb.gov). Please note that if Ethics Office employees are furloughed, we will get back to you as quickly as possible.



# Can I Have a Job Outside the NLRB?

*A practical guide to pursuing outside employment while working for the NLRB*

## What is Outside Employment?

Outside employment is any form of non-federal employment or business relationship involving the provision of personal services, whether **paid** or **unpaid**, including serving as an officer, director, employee, agent, attorney<sup>‡</sup>, consultant, contractor, general partner, trustee, teacher, or speaker. It also includes arrangements made when writing for publication.

## Who Approves Requests for Outside Employment?

All outside employment **requires written approval** from your **Chief Counsel, Regional Director, Branch Chief, or equivalent manager**. Approving officials **must** consult with the Ethics Office prior to granting approval.

## How Do I Request Permission to Work Outside the NLRB?

You must make your request to engage in outside employment in **writing** to the appropriate approving official. Your request should include:

- the name of the employer;
- nature of the work to be performed;
- estimated duration of employment;
- amount of compensation to be earned, if any; and
- any other relevant facts about the anticipated employment.

## Teaching, Speaking, and Writing on Labor Law



Employees may **NOT** be paid for outside teaching, speaking, or writing activities if the subject matter is substantially related to the work of the NLRB or the content draws from official NLRB data or non-public information. However, an exception permits employees to be compensated for teaching classes related to the mission of the NLRB if: **1)** the course is part of a regularly scheduled curriculum; **2)** the employee will teach multiple presentations, as opposed to a single guest lecture or symposium; and **3)** the course is offered at an accredited institution of higher education, secondary school, or elementary school.

## What Do I Need to Be Mindful of AFTER My Request Has Been Approved?

**You MUST participate in your PERSONAL capacity.**

**For example, you may NOT:**

- ☐ Use your official title or identify the NLRB as your place of employment, *unless done as part of a general biographical sketch in connection with teaching, speaking, or writing activities where the mention of the NLRB is given no more prominence than other biographical details*
- ☐ Hand out NLRB business cards to promote your business
- ☐ Distribute Agency e-mail address or phone numbers as a means of contacting you about your outside business

**You MUST use your own RESOURCES.**

**For example, you may NOT:**

- ☐ Use your Agency computer, email address, photocopier, or phone
- ☐ Conduct research with your Agency Westlaw account
- ☐ Meet with client in your Agency office space

**You MUST use your own TIME.**

You must conduct all business while you are **off-duty**. This means you must either conduct business **after work hours** or **take annual leave** as needed.

## What is NOT Outside Employment?

Outside employment does not include participation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service, or civic organization, *unless such activities involve the provision of professional services or advice or are for compensation other than reimbursement of expenses.*



## When Can Outside Employment Be Denied?

The NLRB can deny a request to engage in outside employment if:

- the employment conflicts with your official duties;
- a financial conflict of interest exists such that you cannot perform your official duties;
- an appearance of a lack of impartiality in performing your NLRB duties would arise;
- you would receive compensation from an outside source for performing your official duties at the NLRB; or
- you would be compensated for representation of someone in a matter in which the Federal Government has a direct and substantial interest, whether the representation is done by you or someone else under circumstances where you would be entitled to a share of the profits or compensation.\*

*\*A limited exception exists when representing, e.g., yourself or a parent, spouse, or child. For more information, contact the Ethics Office.*

<sup>‡</sup> Please see the Ethical Highway Insider page for more information on special rules regarding the outside practice of law.





# Can I Practice Law Outside the NLRB?

*A practical guide for obtaining approval to engage in outside practice of law which does not fall under the NLRB's Pro Bono Program.<sup>1</sup>*

**Outside employment** is defined in the NLRB's Supplemental Regulations as any form of non-federal employment or business relationship involving the provision of personal services by the employee, whether **paid** or **unpaid**, and includes serving as an attorney. This encompasses providing professional legal services to a non-profit organization or its clients. See 5 C.F.R. § 7101.102.

## What is the Approval Process to Practice Law Outside the NLRB?

- 1) You fill out the [Outside Practice of Law and Pro Bono Services Checklist](#) and submit it to your Approving Official to request approval to engage in the outside practice of law and you send a copy to the Ethics Office;
- 2) Your Approving Official consults with the Ethics Office so that they are aware of potential conflicts and/or limitations that the Standards of Conduct, Criminal Conflict of Interest Statutes, NLRB Supplemental Regulations, and Rules of Professional Conduct may place on your proposed activity. The Ethics Office will provide this information to your Approving Official so that they may consider it in making their determination; and
- 3) Your Approving Official will grant or deny the request. If granted, the Ethics Office will prepare a formal guidance memo for you.

## Outside practice of law requests will be denied if:

- The activity conflicts with your official duties;  
*This includes representation involving labor law, labor-management relations, or other areas substantially related to the NLRB's responsibilities, programs, or operations.*
- Your representation would create an actual or perceived conflict of interest that would require your recusal from matters so critical to the performance of your official NLRB duties that your ability to perform the duties of your position would be materially impaired;
- Your representation would require you to act as an agent or attorney for prosecuting any claim against the United States or representing anyone before a federal court, court martial, department, or agency in any matter in which the United States is a party or has a direct or substantial interest.\*  
*Keep in mind, this prohibition on "representing" includes appearing before, or signing documents filed with or submitted to a federal agency or tribunal with an intent to influence a discretionary government action.*

*\*Please note, these limitations implicate 18 U.S.C. § 205. This criminal statute essentially prevents federal employees from stepping outside their official duties to assist private entities or persons in their dealings with the federal government. Because this statute is nuanced, before communicating with or appearing before a Federal court, agency, or tribunal in connection with your outside practice of law activity, contact the Ethics Office so that we can determine whether your activities would violate the statute.*

## Request Approved? Great! Just REMEMBER:

- Representation in other areas of law, such as employment law, may subsequently raise issues that implicate labor law. This would be the case, for example, if your client engages in protected concerted activity as part of a dispute with their employer about terms and conditions of employment.<sup>2</sup> Be aware of this possibility and contact the Ethics Office as needed to ensure you continue to comply with your ethics obligations as a federal employee.
- You must participate in your PERSONAL capacity—this means, for example, you may not use your official title, identify the NLRB as your employer, or hand out NLRB business cards in connection with your outside representation, and you must conduct all business on your OWN TIME, either after duty hours or using annual or other accrued leave, if approved;
- You must use your own RESOURCES—you may not use government-furnished equipment, your NLRB legal research account, or NLRB office space to meet with clients; and
- You must NOT use or disclose non-public/confidential information belonging to the NLRB!

### Who is your Approving Official for the Outside Practice of Law?

- Board Members or their designees for their staffs
- Board Chairman for Administrative Law Judges and their staffs, as well as the Offices of Representation Appeals, Solicitor, and Executive Secretary
- Associate General Counsel for Operations-Management for employees in the Field Offices
- Designated Agency Ethics Official (DAEO) for Headquarters GC-side employees

<sup>1</sup> Please note that pro bono work involves legal services which assist persons of limited means in protecting and promoting their civil and public rights, or otherwise improve the law, legal system, or legal profession. See ABA MODEL RULE OF PROF'L CONDUCT R. 6.1. For more information, please refer to the CAN I PROVIDE PRO BONO LEGAL SERVICES WHILE AT THE NLRB? Job Aid and the Agency's Pro Bono Policy Statement.

<sup>2</sup> If such a situation occurs, you would need to step back from the labor law portion of the representation or the entire case, if it would be difficult to separate the labor law component from the other matters.



# Outside Practice of Law and Pro Bono Services Checklist

## For Submission to Approving Officials and the Ethics Office



Employees are required to receive guidance from the Ethics Office before participating in any outside practice of law activity, including pro bono services that have been preapproved under the NLRB's Pro Bono Program. The guidance discusses limitations imposed by the Standards of Conduct, Criminal Conflict of Interest statutes, the Agency's Supplemental Regulations, and the relevant Rules of Professional Conduct.

### To Begin the Process:

1. Complete all relevant parts of the checklist.

**Part 1** must be completed for all outside practice of law activities, including those that have been pre-approved by the NLRB's Pro Bono Program.

**Part 2** is used for any activities that are not considered pro bono. *If you are filling out the form after selecting a pre-approved pro bono opportunity or one that qualifies as pro bono legal services, skip Part 2.*

**Part 3** is used to communicate with the Ethics Office about the pro bono activity you have selected.

2. Send the checklist to request approval when required and to receive ethics guidance (**See Part 4** for instructions).

*Note that this checklist qualifies as your written request for approval for the outside practice of law under the NLRB Supplemental Regulations. See the ["Can I Practice Law Outside the NLRB?"](#) and ["Can I Provide Pro Bono Legal Services While at the NLRB?"](#) Job Aids.*

Please make sure to answer the applicable questions completely and follow the instructions on page 4 to send this checklist to the Ethics Office and to your approving official if your activity is not preapproved.

**Under the NLRB's Pro Bono Program – Pro bono legal services are those legal services performed without compensation and include, but are not limited to, the provision of legal services to:**

- Persons of limited means or other disadvantaged persons;
- Charitable, religious, civic, community, governmental, health and educational organizations in matters which are designed primarily to address the needs of persons of limited means or other disadvantaged persons, or to further their organizational purpose;
- Individuals, groups or organizations seeking to secure or protect civil rights, civil liberties or public rights; or
- Activities for improving the law, the legal system, or the legal profession.





# Outside Practice of Law and Pro Bono Services Checklist

## For Submission to Approving Officials and the Ethics Office

### Part 1: The Basics – Applicable Information for All Requests to Practice Law Outside of Your NLRB Position

1. Please list any jurisdictions in which you are licensed to practice and indicate whether you are on inactive status in any jurisdiction.

<i>Licensing Jurisdiction</i>	<i>Active Y/N</i>

2. In what jurisdiction(s) will you perform the legal work?

<i>Jurisdiction(s) Where Work will be Performed</i>

3. To whom will you provide legal services? (i.e., family member, close friend, client of a non-profit organization, non-profit organization, private practice firm or employer, etc.)

*If an individual, please provide the name of that individual and describe your relationship to them.*

<i>Name of Individual</i>	<i>Relationship</i>

*If an organization, please provide the name of the organization and, if available, the link to their website.*

<i>Organization</i>	<i>Website URL</i>

4. What is the subject matter of the representation or other activity and what areas of law will it involve?

<i>Subject Matter</i>	<i>Area of Law</i>

5. What is the nature of your representation?

*(i.e., Will you be conducting intake? Representing a client at a hearing? Drafting a demand letter or other legal document? Filing a legal document with a court, tribunal or agency or submitting a legal document to any of those entities?)*

<i>Description of Representational Activities</i>



# Outside Practice of Law and Pro Bono Services Checklist

## For Submission to Approving Officials and the Ethics Office

6. In what court, tribunal, or agency would you file or submit documents and/or appear on behalf of your client?

*(i.e., would you appear or file any documents in municipal court? State court? Federal court? State administrative agency? Federal administrative agency?)*

*Court, Tribunal or Agency*

7. Could a federal agency, federal tribunal, or federal court become involved in the matter in the future? ☐ Yes ☐ No

*If so, how?*

8. Is this a one-time event or an ongoing commitment?

☐ One-Time Event: Please provide the date that the representation will occur \_\_\_\_\_

☐ Ongoing Commitment - Start Date \_\_\_\_\_ End date \_\_\_\_\_

9. Will your work require any time commitments during your regular duty hours? ☐ Yes ☐ No

## Part 2: Information for Outside Practice of Law Requests (Not pro bono work)

***Do not complete Part 2 if you are submitting this form to obtain approval to provide pro bono services. Remember, representing friends and family members, even at no cost, is not considered pro bono work.***

1. Will you be compensated? ☐ Yes ☐ No

If Yes, how much and by whom? \_\_\_\_\_

2. Has your potential employer ever appeared before the NLRB as a party or party representative?

☐ Yes ☐ No If Yes, when? \_\_\_\_\_

3. Has your potential client ever appeared before the NLRB as a party or party representative?

☐ Yes ☐ No If Yes, when? \_\_\_\_\_

4. Go to Part 4

## Part 3: Information for Requests Related to Pro Bono Legal Services

***If you have not already discussed your proposed pro bono activity with a Pro Bono Coordinator, contact the NLRB's Pro Bono program at [probono@nlrb.gov](mailto:probono@nlrb.gov) before submitting this checklist.***

1. Is the Pro Bono representation one of the pre-approved opportunities found on the [NLRB Pro Bono SharePoint page](#)? ☐ Yes ☐ No

**If Yes**, pre-approved, has a Pro Bono Coordinator run a conflicts check for you?

☐ Yes ☐ No If Yes, when? \_\_\_\_\_





# Outside Practice of Law and Pro Bono Services Checklist

## For Submission to Approving Officials and the Ethics Office

### If No, not pre-approved,

2. Has the Pro Bono Coordinator indicated that your proposed activity would meet the requirements of the pro bono program and qualify for de minimis use of agency resources?

☐ Yes ☐ No (If No, complete Part 2 of this checklist.)

### If Yes, qualifies but not pre-approved,

3. Has a Pro Bono Coordinator run a conflicts check for you?

☐ Yes ☐ No If Yes, when? \_\_\_\_\_

4. Go to Part 4

## Part 4: Submit the Checklist:



1. Save this checklist to your laptop.
2. Prepare email message - **Please provide the following information in the Subject of the email based on the type of request:**
  - a. **For requests involving an individual, law firm or organization that is not covered by the NLRB's Pro Bono Program (Part 2)** enter Outside Practice of Law Request - <name of individual or organization>
  - b. **For requests involving pro bono work under the NLRB's Pro Bono Program (Part 3)** enter Pro Bono - <name of individual or organization>
3. Attach your Outside Practice of Law and Pro Bono Services Checklist.
4. Send the checklist:
  - a. **For requests involving an individual, law firm or organization that is not covered by the NLRB's Pro Bono Program (Part 2)** send the checklist to your approving official and the Ethics Office at [ethics@nlrb.gov](mailto:ethics@nlrb.gov).  
**Remember:** This checklist will qualify as your written request to engage in outside employment.
  - b. **For requests involving pro bono work under the NLRB's Pro Bono Program (Part 3)** send the checklist to the Ethics Office at [ethics@nlrb.gov](mailto:ethics@nlrb.gov) and copy the Pro Bono Program at [probono@nlrb.gov](mailto:probono@nlrb.gov).

### Who is your Approving Official for the Outside Practice of Law and Pro Bono Work?

- Board Members or their designees for their staffs
- Board Chairman for Administrative Law Judges and their staffs, as well as the Offices of Representation Appeals, Solicitor, and Executive Secretary
- Associate General Counsel for Operations-Management for employees in the Field Offices
- Designated Agency Ethics Official (DAEO) for Headquarters GC-side employees

**If the Pro Bono Coordinator has indicated that your proposed activity is not pre-approved but would meet the requirements of the pro bono program and qualify for de minimis use of agency resources,**

- Send the checklist to your approving official.
- Copy the Ethics Office at [ethics@nlrb.gov](mailto:ethics@nlrb.gov) and the Pro Bono Program at [probono@nlrb.gov](mailto:probono@nlrb.gov).