

**Office of Government Ethics**

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**Letter to a Designated Agency Ethics Official  
dated July 28, 1999**

Your letter of July 7, 1999, requested advice from this Office concerning the use of an employee's official title in connection with private service on the board of directors of a nonprofit organization, where that organization has been approved for participation in the Combined Federal Campaign (CFC). For the reasons indicated below, we find no basis in the ethics rules governing executive branch employees for special treatment when an employee serves on the board of a CFC participant. The rule remains that an employee may not use or permit the use of his official title for the private gain of an outside organization, including one qualified as a CFC participant.

By way of background, a fundamental principle of Executive Order 12674 (Principles of Ethical Conduct for Government Officers and Employees) is that employees shall not use public office for private gain. As indicated in the preamble to the proposed rule on the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Conduct) at 56 *Fed. Reg.* 33788 of July 23, 1991, and consistent with long-standing interpretation, that precept is not limited to instances in which gain accrues to the employee personally. Thus, the Standards of Conduct at 5 C.F.R. § 2635.702 also prohibit, among other things, an employee's use of his public office (Government position, title, or any authority associated with public office) for the private gain of persons with whom he is affiliated in a nongovernmental capacity, including nonprofit organizations of which he is an officer or member. That section encompasses even the appearance of using public office for private gain, as specified at section 2635.702(b): an employee may not use or permit the use of his public office in a manner that could reasonably be construed to imply Government sanction or endorsement.

Your letter relates that an employee would like to include his Government title and agency along with his name in the letterhead of an organization which he serves privately as a

director. You have suggested that the organization's approval by the Office of Personnel Management for acceptance of donations collected from Federal employees through the annual CFC gives it an official sanction or endorsement which might justify the use to some degree of an employee's public office in its behalf. We disagree. Literally hundreds of nonprofit organizations have been approved for CFC participation. Screening these organizations to ensure that they meet the eligibility criteria at 5 C.F.R. part 950 (public accountability requirements, verification of tax-exempt charitable status, and similar qualifications) serves a specific purpose of protecting the integrity of the CFC program and its annual solicitation of Government employee donations in the workplace. In no way does it constitute a general endorsement by the Government of any organization or its specific programs or regular fundraising efforts.

Your letter also suggests that any private gain resulting from the use of public office by including one's official title in an organization's letterhead could be characterized as de minimis or insignificant and, therefore, unobjectionable. We do not agree that such gain can be characterized as de minimis. In any event, the scope of the restriction under the Standards of Conduct is not limited by the degree of gain. Further, you note that it is common practice for organizations to include a director's job title and place of employment in its letterhead listing, and that the other directors in this instance may be so identified. The Standards of Conduct, however, contain no relief in that regard, and instead specifically encompass even the appearance of impropriety, as noted above. It is generally recognized that Government employees are held to higher ethical requirements than the private sector, so what may be acceptable for others is of little moment.

Finally, your letter suggests that encouragement for volunteerism by the present and prior Administrations might legitimize deviations from the ethical restrictions on employees in this instance. Laudable as the altruism of volunteer work may be, such outside activities must coexist with the high ethical standards set for executive branch employees. We are not aware of any indication by the current or prior Administrations that the goals of volunteerism were intended to override the ethical principles in Executive Order 12674.

In sum, there is no exception to the ethical standard at 5 C.F.R. § 2635.702 that would authorize an employee to use or

permit the use of his official position, title, or other authority associated with public office in connection with private service on the board of directors of a nonprofit or other outside organization, even where that entity has qualified for participation in CFC.

Sincerely,

Stephen D. Potts  
Director