



Office of the
Senate Ethics Officer
Bureau du
conseiller sénatorial
en éthique

GUIDELINE ON OUTSIDE ACTIVITIES (Section 5 of the Code)

Senators come from a wide range of backgrounds, professions and walks of life. Senators may continue to be involved in outside activities, including holding positions in various organizations, continuing to practise their professions, and carrying on their businesses, as long as they do so in accordance with the *Ethics and Conflict of Interest Code for Senators* (the Code).

The purpose of this guideline is to assist senators and others in better understanding what is acceptable and what is prohibited in this regard under the Code.¹

Compliance with this Guideline does not mean that a senator has necessarily respected their obligations under the Code nor does non-compliance with this Guideline mean that a senator has necessarily breached the Code. Senators are encouraged to contact the Senate Ethics Officer for opinions or advice on their particular circumstances.

What is the rule?

The general rule² is that senators may participate in any outside activities as long as they are able to comply with the principles of the Code and fulfill their obligations under it.

¹ This Guideline is published by the Senate Ethics Officer (SEO) and was first approved by the Standing Committee on Ethics and Conflict of Interest for Senators under section 43 of the Code on December 15, 2022 and last modified on December 15, 2022.

It is intended to provide general information about senators' obligations under the Code. It is not a binding opinion on the SEO as the facts related to a senator may vary. Senators may contact the SEO for confidential advice about their individual circumstances at (613) 947-3566 or by email at cse-seo@sen.parl.gc.ca.

² 5. *Senators who are not ministers of the Crown may participate in any outside activities, including the following, as long they are able to comply with the principles of the Code and fulfill their obligations under it:*

- (a) engaging in employment or in the practice of a profession;
- (b) carrying on a business;

To whom does the rule apply?

This rule applies to all senators who are not ministers of the Crown.

What are outside activities and are they acceptable under the Code?

Though the Code refers to the term “outside activities” in section 5, it does not provide a definition for it. In general, however, this concept refers to activities that are outside a senator’s official duties and functions. For this reason, when a senator is considering becoming involved in any activity, it is important to determine whether the activity is being undertaken by a senator *in their capacity as a senator* or whether it is undertaken *in their capacity as an individual*. The Senate Ethics Officer -- not senators -- determine whether an activity is considered an “outside activity” within the meaning of section 5 of the Code.

Section 5 of the Code lists a number of “outside activities”, including engaging in employment outside the Senate or continuing to practice a profession -- for example, as a lawyer, a doctor, a teacher, or an accountant. Carrying on a business is also listed under section 5, as well as sitting on boards of directors and advisory boards of for-profit and not-for-profit organizations. These are permissible as long as senators are also able to comply with the Code’s principles and obligations.

The list of outside activities under section 5 is not exhaustive. In other words, not all outside activities that are permissible under the Code are explicitly mentioned. For example, some senators are patrons in organizations and, while this outside activity is not explicitly mentioned under section 5 of the Code, it is a permissible activity as long as senators are also able to comply with the principles of the Code and their obligations under it.

Could there be situations in which senators are involved in an outside activity in their capacity as senators?

This would be an unlikely situation. In fact, there are only two circumstances in which senators may be involved in an outside activity *in their capacity as senators* without violating a principle or an obligation under the Code.

First, a senator may be involved in an outside activity *in their capacity as a senator* if the Senate officially sanctions the activity. This may occur in only one of three ways: (1) by resolution of the Senate as a whole; (2) by decision of the Standing Senate Committee on Internal Economy, Budgets and Administration

(c) being a director or officer in a corporation, association, trade union or not-for-profit organization; and

(d) being a partner in a partnership.

under the *Parliament of Canada Act*; or (3) by a committee of the Senate where it is empowered to make such a decision by the rules and policies of the Senate. Again, this is unlikely to occur. The decision of a group or caucus – or of certain senators – to participate in an activity does not make it officially sanctioned by the Senate.

Second, a senator may be involved in an outside activity *in their capacity as a senator* when the activity is mandated by legislation and the legislation explicitly provides for one or more senators to be involved.

Are there situations in which senators are involved with associations or organizations in their capacity as senators and where that activity is not an outside activity under the Code?

Yes. Senators who are members of:

- (1) any of the eight multilateral associations³ and any of the five bilateral associations,⁴ which are fully funded by the Joint-Inter Parliamentary Council and so are fully funded by Parliament; and
- (2) one of the four interparliamentary groups officially recognized by the Parliament of Canada,⁵

are engaged in their parliamentary functions when involved in activities sanctioned by the above-noted entities. In such cases, the activities are not considered to be outside activities under section 5 of the Code and do not need to be disclosed under paragraph 28(1)(c) of the Code.

³ The eight multilateral associations are as follows: Canada-Africa Parliamentary Association, Canada-Europe Parliamentary Association, Canadian NATO Parliamentary Association, Canadian Branch of the Assemblée parlementaire de la Francophonie, Canadian Branch of the Commonwealth Parliamentary Association, Canadian Section of ParlAmericas, Canadian Delegation to the Organization for Security and Co-operation in Europe Parliamentary Assembly, and Canadian Group of the Inter-Parliamentary Union.

⁴ The five bilateral associations are as follows: Canada-China Legislative Association, Canada-France Inter-Parliamentary Association, Canada-Japan Inter-Parliamentary Group, Canada-United States Inter-Parliamentary Group, and Canada-United Kingdom Inter-Parliamentary Association.

⁵ The four interparliamentary groups recognized by Parliament are as follows: Canada-Germany Interparliamentary Group; Canada-Ireland Interparliamentary Group; Canada-Israel Interparliamentary Group; and Canada-Italy Interparliamentary Group.

However, membership in any “Friendship Groups”, whether they are listed on the website of Parliamentary Diplomacy Canada ⁶ or not -- is considered an outside activity under section 5 and should be disclosed to the Senate Ethics Officer pursuant to paragraph 28(1)(c) of the Code. This is because they are not recognized by Parliament, nor do they receive funding from Parliament, and they may receive funding or support from outside sources. While senators would be permitted to identify themselves as “senators” in relation to their membership in these groups, the activities they carry out as members of these groups are subject to all the rules and principles of the Code. It should be noted that these Friendship Groups are to be distinguished from other associations and organizations whether for profit or not. Moreover, the simple inclusion of the word “Friendship” in an organization’s name does not mean that it constitutes a “Friendship Group” as it is meant here in this context.

With respect to membership by senators in other associations and organizations involving other parliamentarians, whether national or international or otherwise, the capacity in which senators participate in these activities and any restrictions in terms of what they may or may not do in this regard depends upon a number of factors. For example, one consideration is the composition of the membership. Is the organization comprised entirely of parliamentarians, or does it include both parliamentarians as well as private sector individuals and entities? A further consideration is the source of funding for the organization. Does the organization receive funding or benefits from outside sources and what is the identity of these outside sources in order to determine the nature of their interests in the organization? Membership in any such organization would, however, be considered an outside activity and would have to be disclosed to the Senate Ethics Officer, pursuant to paragraph 28(1)(c) of the Code.

Senators who are considering becoming involved in associations or organizations involving other parliamentarians should consult the Senate Ethics Officer as to whether they may be identified as a senator in this context and what restrictions would apply in respect of their participation in order to remain in compliance with the rules of conduct in the Code and its principles. It should also be noted that associations and organizations involving other parliamentarians are to be distinguished from other associations and organizations whether for profit or not.

⁶ For a list of the Friendship Groups identified on the website of Parliamentary Diplomacy Canada, visit: www.parl.ca/diplomacy/en.

It is also important to note that sponsored travel involving some of the above associations may need to be reported under section 18 of the Code; for example, travel by any friendship groups must be reported under this provision if the travel is paid by an outside source.

What does it mean to “comply with the principles of the Code”?

This means that senators must not only comply with their obligations, i.e., the rules of conduct under the Code, but also with the principles of the Code, which are set out in section 2.

The principles of the Code are distinguishable from the obligations (or the rules of conduct), which are found in sections 7.1 to 34. The principles are broader in nature and concern general standards for good behaviour whereas the obligations or rules of conduct are more specific in nature and in terms of the conduct that is either prohibited or expected of a senator.

The primary principle that is engaged in the context of outside activities is that senators must arrange their private affairs, which include outside activities, to avoid real or apparent conflicts of interests.⁷

This means that senators must maintain a clear separation between their public duties and responsibilities as senators and their private outside activities in order to avoid real and apparent conflicts. The line between a senator’s role and their outside activities must be clearly delineated. Even a perception that senators are acting *in their capacity as senators* in a private matter or are involved in an outside organization in their capacity as senators or are somehow representing the Senate within the organization, would raise issues under this principle. In other words, though there may not be a real conflict, a perception of a conflict is sufficient to result in a failure to comply with this principle; there need not be a breach of a rule of conduct.

Another important principle requires that senators give precedence to their parliamentary duties and functions over any other duty or outside activity. This means that senators who are involved in an outside activity and are unable to give priority to their Senate duties and functions as a result have failed to comply with this principle.

⁷ 2. (2) *Given that service in Parliament is a public trust, the Senate recognizes and declares that Senators are expected*

...

(c) *to arrange their private affairs so that foreseeable real or apparent conflicts of interest may be prevented from arising, but if such a conflict does arise, to resolve it in a way that protects the public interest.*

What happens if a senator does not comply with the principles of the Code?

The Code is clear: A senator who is not able to carry on an outside activity while simultaneously adhering to the principles of the Code must refrain from being involved in that activity. The public interest must prevail over any private interest. For example, if a senator is a member of a board of directors of a for-profit or a not-for-profit organization but is not able to comply with the principles of the Code by maintaining a clear separation between the activity in question and their role as a senator, they must resign from that board.

If a senator refuses to resign their position within the organization, they may be subject to the Code's enforcement process due to a possible breach of sections 7.1 and 7.2.

What does it mean for senators “to fulfil their obligations under the Code”?

This means that, in carrying out any outside activity, senators must also be able to comply with all the rules of conduct under the Code.

Section 9 of the Code⁸ is one such provision of which senators must be mindful. It prohibits them from using or attempting to use their Senate position to influence the decision of another person in order to further their own private interests, those of their family members, or to improperly further another person's or entity's private interests. This is a critical consideration for all outside activities.

An example of a violation of section 9 would be where a senator engages in fundraising on behalf of an organization, particularly if a senator is also a member of that organization as part of an outside activity.

Section 9 also prohibits senators from using or attempting to use their position of senator to influence government officials to provide financial assistance or contracts to an organization, and this is particularly problematic where they are also privately associated with the organization.

Section 10 concerns insider information. Senators are not permitted to use, or attempt to use, information that they obtain that is generally not available to the public to further their own, their family members, or to improperly further someone else's private interests. Conveying or attempting to convey such information is also prohibited.

⁸ 9. A Senator shall not use or attempt to use his or her position as a Senator to influence a decision of another person so as to further the Senator's private interests or those of a family member, or to improperly further another person's or entity's private interests.

What happens if a senator does not comply with an obligation under the Code?

The Code is clear: A senator who is not able to carry on an outside activity while simultaneously complying with their obligations under the Code must refrain from being involved in that activity. The public interest must prevail over any private interest.

In addition, a senator who fails to comply with an obligation may be subject to the enforcement procedures of the Code.

In practice, what are some examples of issues under the Code concerning outside activities?

These are only a few examples. They may or may not be applicable to a senator's case depending on its facts.

- [Is it acceptable for a senator to be featured on the website of an organization if the senator holds a position within it?](#)

Yes, senators who hold a position within an outside organization may be featured on the website of the organization, but the website should not use the title of senator or reference the senator's Senate committee work or Senate work, including in the senator's biography on the website. It should also not provide links to the senator's Senate websites. However, the website may refer to a senator as "Honourable" and it may refer to the fact of the senator's appointment to the Senate in the biography of the senator without providing further details (i.e., "The Honorable x was also appointed to the Senate on x date." or "The Honourable x is a member of the Senate."). Senators are required to maintain a clear separation between their public and private activities and to avoid any overlap between the two. As such, they cannot use their position as senators, including their title of senator, in the pursuit of a personal outside activity because doing so creates the perception that it is the senator holding the position, rather than the private individual.

- [Is it acceptable for the website of an organization with which a senator is associated to provide a link to the Senate website of the senator or to any other Senate social media account belonging to the senator?](#)

No, the website of an organization with which a senator is associated should not provide any links to the senator's Senate website or any other Senate social media account belonging to the senator.

- [Is it acceptable for the Senate website or any other Senate social media account of a senator to provide any links to the senator's outside activities?](#)

No, the senator's Senate website and other Senate social media accounts should not provide any links to the senator's outside activities, for example, there should be no link to the website of a not-for-profit or a for-profit organization with which the senator is privately associated. However, senators may make a reference to their past and current outside activities in their biography on their Senate website.

- Is it acceptable for senators to use their Senate staff and Senate resources in relation to their position within an outside organization?

No, senators must not use their Senate staff and Senate resources in any way in relation to their position within an outside organization. Additional restrictions in this regard may also be found in other Senate policies and governance instruments outside the ambit of the Code.

- Is it acceptable for a senator who holds a position within an outside organization to make representations on its behalf for the solicitation of funds or for government assistance or contracts?

No, senators who hold positions within outside organizations may not, on behalf of the organization, make representations to others including corporations, and governments – whether municipal, provincial, territorial, or federal --, for the solicitation of funds or for government assistance or contracts. This would be an improper furthering of the private interests of the organization, contrary to section 9 of the Code.

- Is it acceptable for a senator who holds a position within an outside organization to promote the organization (in terms of its work and not in terms of soliciting financial aid) in the Senate or in a Senate committee?

No, senators who hold positions within outside organizations may not promote the organization with which they are associated in the context of their Senate role, for example, in the Senate Chamber and in Senate committees. If, however, neither they nor their family members, were associated with the organization, its promotion in the Senate or in a Senate committee (though not financially) would be permissible.

- Is it acceptable for a senator to be involved, in their capacity as a senator, in an organization that is created under a statute that explicitly authorizes senators to be appointed to a position within it?

Yes, it is acceptable for a senator to accept such a position in their capacity as a senator and to use their title of senator and their position in this context.

- Is it acceptable for a senator who sits on the board of directors of an organization to be featured as a senator on the website of the organization where that organization is established under a statute and the statute explicitly provides that senators may be appointed on its board of directors?

Yes, it is acceptable for senators to sit on this board and be featured on the website of the organization in their capacity as senators, i.e. using their Senate title and making reference to their Senate work.

- Is it acceptable for a senator to be involved in their capacity as a senator in an organization where the Government of Canada explicitly requests that a senator become involved in the organization?

Yes, it is acceptable for senators to be involved in organizations in their capacity as senators where the Government of Canada requests that they do so given that they represent the Government in this context. Moreover, they may use their Senate title and position in this respect.

- Does a senator who holds a position within a parliamentary association that is entirely funded by Parliament have to disclose that position as an outside activity?

No, a senator who holds a position within any parliamentary association that is entirely funded by Parliament need not disclose that position under the Code since it is not considered an outside activity under section 5.

- Does a senator who holds a position within a friendship group have to disclose such a position as an outside activity?

Yes, a senator who holds a position within a friendship group, including any such group listed on the website of Parliamentary Diplomacy Canada, must disclose the position to the Senate Ethics Officer because positions within these groups are considered outside activities within the meaning of section 5 of the Code.

- What should a senator do if the senator has an interest in an organization that may be affected by a matter before the Senate or one of its committees?

Senators must do three things in this situation. First, they must make a declaration of a private interest in the Senate or in a Senate committee, as the case may be, where their association with the organization may be affected in some way by a matter before the Senate or a committee of the Senate of which they are a member. Second, they must also recuse

themselves from any deliberations on the matter both in the Senate and in any committee of the Senate. Third, they may not vote on the matter.⁹

- A senator is employed by a corporation. Can the senator hold meetings related to their position as a senator in the offices the corporation?

No, holding meetings related to the position of senator in the offices of an outside employer would be a breach of the principles of the Code. This would be a failure to maintain a clear separation between a senator's public affairs and their private affairs, and it would create a perception of a conflict of interest.

- During a Senate committee's proceedings on a matter it is studying, it hears from witnesses who are officials of an organization. Some time after, the organization invites a senator who is a member of that committee and was involved in the hearings to be a member of its board of directors. Can the senator accept the invitation?

No, the senator cannot accept the invitation because it would create a perception of a breach of section 9. This is because the senator could appear to have used their Senate position to influence the decision of the organization to provide them with a seat on its board of directors. It could also be a real breach of section 9, rather than just a perception, depending upon the facts.

- A senator is invited to be an honorary patron of a non-profit organization and to participate in a fundraising activity. Can the senator accept the invitation? The senator argues that it should be allowed since the fundraiser is for a good cause.

No, the senator may not accept this invitation. Though a senator may be an honorary patron of a not-for-profit organization, they may not participate in a fundraising activity because this would lead to the perception that the senator is using the position of senator in order to influence others to donate to the cause, contrary to paragraph 2(2)(c) of the Code. It could also be a real breach of section 9 rather than just a perception, depending upon the facts.

- A senator has accepted an invitation to be a member of the board of directors of a for-profit corporation. The corporation proudly displays the picture and biography of the senator with an extensive description of the senator's membership on Senate committees and the senator's Senate work on its website. Is this an issue under the Code?

⁹ See sections 12, 13 and 14 of the Code.

Yes, it is an issue under the Code. Though senators who hold positions within outside organizations may be featured on the websites of the organizations, the websites should not refer to the senator's work in the Senate and in Senate committees. In addition, it should not provide links to the senator's Senate websites or any Senate social media belonging to the senator. However, the website may refer to a senator as "Honourable" and the biography of the senator may also refer to the fact of the appointment of the senator to the Senate without including more details (i.e., "The Honorable x was appointed to the Senate on x date."). Senators are required to maintain a clear separation between their public and private activities and to avoid any overlap between the two. As such, they cannot use their position as senators, including their title of senator, in the pursuit of a personal outside activity.

- A senator is on the advisory board of a non-profit organization. The non-profit organization pays the costs of a trip abroad for the senator to attend a conference. The senator argues that they are attending the conference in their capacity as a senator. Does this raise issues under the Code?

Yes, this raises an issue under the Code. In accepting the sponsored travel in their capacity as a senator, they would be mixing their public and private affairs thereby violating a principle of the Code. This is because they are associated in a private capacity with the organization that is paying for the trip. As such, they would be using their position of senator in relation to a private, outside activity. Senators are required to maintain a clear separation between their public and private activities and to avoid any overlap between the two. This situation could also result in a breach of the prohibition on gifts and other benefits in the Code since the senator would be accepting a benefit, i.e. paid expenses for a trip, by a private organization with which the senator is privately associated, yet the benefit is conferred on the senator because they are a senator and in their capacity as a senator and not because they are associated with the organization. This results in a perception that the organization is paying the senator, and the senator is accepting this payment, to use the weight and prestige of their Senate office in order to advance the agenda of the organization at the conference, contrary to subsection 17(1) of the Code.

- A senator is an honorary patron of an organization. The organization will be affected by a Bill before the Senate. What should the senator do?

The senator should do three things. First, the senator should make a declaration of a private interest in relation to the Bill at the first opportunity, in accordance with the provisions of the Code. Second, the senator should also refrain from participating in any proceedings concerning the matter. Third, the senator should refrain from voting.

- Can a senator, who is a doctor, continue to practice medicine after their appointment to the Senate?

Yes, senators are permitted to have outside activities, including practising a profession, as long as they are able to comply with rules and principles of the Code. One of the principles requires that senators maintain a clear separation between their public and private affairs and that the line between the two not be blurred. In practice, this means that senators who engage in outside activities -- including practising a profession -- may use neither their title of senator, their position, Senate resources, nor the weight and influence of their Senate office in relation to the outside activity.

- Can a senator who is a doctor, lawyer or a member of another profession be on the executive of a national or provincial professional association?

Yes, a senator who is a member of a profession may be on the executive of a national or provincial association of the profession but, in order to comply with the Code, they may not make representations to any level of government on behalf of the association. Moreover, they must make a declaration of a private interest if a matter before the Senate or a Senate committee might affect the interests of the association. They must also recuse themselves from any proceedings in the Senate and committees on these matters and they may not vote on these issues. Moreover, they may not use their title of senator, their position, their Senate resources, and the weight and influence of their Senate office in relation to this outside activity.

- What should senators do if an organization within which they hold a position features them on their website by referring to them in their Senate capacity and provides a detailed account of their Senate work?

In such a case, senators should contact the organization and ask that all such references be removed from the website in order to ensure compliance with the Code, with the exception of a reference in the biography of the senator to the fact of their appointment to the Senate without further details (i.e., "The Honorable x is a member of the Senate."). The reason for this is that references to their Senate position and role in this instance would blur the line between a senator's public and private affairs thereby violating a principle of the Code. Senators are required to maintain a clear separation between their public and private activities and to avoid any overlap between the two. Moreover, they cannot use their position as senators, including their title of senator, in the pursuit of a personal outside activity.

Do senators have to disclose an outside activity?

Yes, senators must disclose their outside activities to the Senate Ethics Officer within 30 days of the commencement of the new activity and 30 days after the

end of it. They must do so by filing a Statement of Material Change, a form which is found on the Office's website at the following address: <https://seo-cse.sencanada.ca/media/5r5njjth/statement-of-material-change.pdf>. These forms are made public in the Public Registry on the Office website.

What should senators do if they are uncertain about whether an outside activity or a situation related to an outside activity violates a principle of the Code or a rule of conduct?

Senators should contact the Office of the Senate Ethics Officer for advice at (613) 947-3566 or by email at cse-seo@sen.parl.gc.ca.

Related guidelines

None.