

# ETHICS GUIDE: HOW TO KEEP OUT OF TROUBLE

SOL GUIDANCE, OFFICE OF LEGAL COUNSEL, UNITED STATES DEPARTMENT OF LABOR

This handout contains a summary of the rules set forth in conflict of interest statutes and the Standards of Ethical Conduct for Employees of the Executive Branch. *See* 5 C.F.R. Part 2635. It also covers several related matters that may arise during your employment at the Department of Labor (Department or DOL). The purpose of this summary is to familiarize Department employees with their ethics requirements, highlight potential pitfalls, and alert employees to when additional advice from the Ethics office would be useful. **This document is not an independent regulation and does not supersede any of the legal authorities described herein.** Some of the links contained in this email reference internal DOL documents. Please contact the [SOL Webmaster](#) to request any linked documents that are inaccessible.

The legal bases for the ethics requirements described in this guide include:

- statutory requirements,
- government-wide regulations,
- Executive Orders, and
- Department of Labor internal regulations and policies.

All employees can access the statutes, regulations, Executive Orders, and Department policies online and should be familiar with their provisions. **Violations of statutory requirements can lead to removal from federal office and/or criminal penalties, such as fines and imprisonment.**

There are several ways for you to ensure that you are fully aware of your ethical responsibilities.

Shortly after starting federal employment, all employees must:

- Review the Office of Government Ethics (OGE) regulations, and
- Receive initial ethics training.
  - Most employees receive ethics training as part of their orientation to the Department.

Employees required to file a public financial disclosure report must:

- Attend a “live” ethics briefing annually.

Employees required to file a confidential financial disclosure report must:

- Attend an “interactive” ethics briefing every year (e.g. a pre-recorded Learning Link training accompanied by a quiz).

NOTE: Your personnel office or agency ethics contact will notify employees as to whether they are required to file a public or confidential financial disclosure report.

The resolution of many ethics issues depends on the specific facts involved. Therefore, you are encouraged to seek advice from the Ethics office when an ethics issue arises and to ask questions whenever you have any concerns about ethics-related matters. *See* the “Ethics Contacts” section of this document for Ethics staff contact information.

## Principals of Ethical Conduct and Employee Obligations

The Standards for Ethical Conduct for Employees of the Executive Branch are based on the following fundamental principles of ethical service set forth in 5 C.F.R. § 2635.101(b):

- Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain.
- Employees shall not hold financial interests that conflict with the conscientious performance of duty.
- Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.
- An employee shall not, except pursuant to such reasonable exceptions as are provided by regulation, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee’s agency, or whose interests may be substantially affected by the performance or nonperformance of the employee’s duties.
- Employees shall put forth honest effort in the performance of their duties.
- Employees shall make no unauthorized commitments or promises of any kind purporting to bind the Government.
- Employees shall not use public office for private gain.
- Employees shall act impartially and not give preferential treatment to any private organization or individual.
- Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.
- Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.
- Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.
- Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those -- such as Federal, State, or local taxes -- that are imposed by law.
- Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or disability.<sup>1</sup>

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<sup>1</sup> These regulations have not been updated since their enactment. Subsequent court cases and executive orders have determined that these equal opportunity protections include sexual orientation and gender identity. We expect all employees to adhere to all laws and regulations, even if not explicitly named here. *See, e.g. Bostock v. Clayton County, Georgia*, 140 S.Ct. 1731 (2020); *U.S. v. Windsor*, 133 S. Ct. 2675 (2013); Exec. Order 13087.

- Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards promulgated pursuant to Executive Order.

Additionally, several positions within DOL have specific responsibilities under the Federal ethics rules at 5 C.F.R. § 2638.102-107, including:

- **all employees** who are charged to make ethical conduct the hallmark of government service;
- **all supervisors** who have heightened responsibilities and must serve as models for subordinates, ensure that subordinates are aware of their ethical obligations, and work with ethics officials to resolve conflicts of interest and enforce government ethics laws and regulations;
- human resource officials;
- Inspectors General; and
- agency heads.

## Financial Conflicts of Interest

Federal employees may not participate in an official capacity in any matter that would have a direct and predictable effect on their financial interests. This rule applies to any matter involving deliberation, decision, or action that is focused on the interests of specific parties or on a discrete and identifiable class of entities. Generally, if you have such interests, you must disqualify yourself from participating in the matter unless an exemption applies or a waiver is granted. This is a criminal statute. *See* 18 U.S.C. § 208.

### Financial Interests of Relatives and Business Associates

The financial interests of certain other persons are considered so intertwined with your own that they are attributed to you for purposes of the rule forbidding you from participating in matters affecting your financial interests.

These persons include:

- your spouse;
- minor children;
- general partners;
- non-Federal employers;
- prospective employers (including persons with whom you are negotiating for employment); and
- groups and organizations of which you are an officer, director, or trustee.

### Remedies

Generally, the following remedies are used to address such conflicts:

- **Disqualification**—you disqualify yourself from working in an official capacity on the matter.
- **Divestiture**—where a financial interest would cause you to disqualify from central official

responsibilities, you sell, or otherwise divest yourself of the interest (you should always consult with the Ethics Office prior to divesting of an interest).

- **Resignation**—you resign from the outside position when it poses such a conflict.

## Exemptions

Under 5 C.F.R. §§ 2640.201-202, disqualification is not necessary if the financial interest is:

- held in a broadly diversified mutual fund (a fund which, according to the fund’s prospectus, does not concentrate its investments in a particular industry sector or geographic area);
- held in a sector mutual fund (i.e., a fund investing in a specific industry sector) and (1) the affected holding is not invested in the sector in which the fund concentrates; or (2) the aggregate market value of the disqualifying interest in all sector mutual funds (including those of persons whose interests are imputed to the employee) does not exceed \$50,000;
- a publicly-traded stock or bond holding of \$15,000 or less (unless the matter involves specific parties and holdings in all affected parties total more than \$15,000);
- a publicly-traded security or long term Federal or municipal security in an entity that is not a party to the matter, but may be affected by the matter, and the aggregate market value of the holdings does not exceed \$25,000; or
- a publicly-traded stock or bond holding of \$25,000 or less if the matter at issue is a general policy matter and the total value of investments in the entities likely to be affected by the policy is \$50,000 or less.

## Waivers

There are limited circumstances in which the disqualification requirement may be waived, thereby allowing you to participate in matters affecting your financial interests. The waivers must be prepared by the Counsel for Ethics and approved by the head of your agency or bureau.

## Appearance of Bias

In addition to the statutory restrictions above, federal employees are prohibited from participating in matters in which certain persons with whom they have close ties (“**covered relationships**”) are parties or are representing parties, if, under a reasonable person standard, participation would cause an appearance of loss of impartiality.

The key test for determining if participation in a particular matter creates the appearance of loss of impartiality is whether, in your judgment, a reasonable person with knowledge of the relevant facts would question your impartiality in the matter. *See* 5 C.F.R. § 2635.502.

Persons with whom you have a “covered relationship” include:

- persons with whom you are seeking business;
- members of your household;
- close relatives;
- employers and clients (and prospective employers and clients) of your parents, dependent children, and spouse;

- former non-Federal employers and clients (generally for a one-year period, or for a two-year period if you received an extraordinary payment from the former employer); and
- organizations (other than political parties) in which you are an active participant.

## Waivers

When the needs of the Government outweigh appearance concerns, special authorization to participate in the matter may be available. The Counsel for Ethics must evaluate whether a waiver is appropriate and can assist in the preparation of the necessary documentation in such cases.

## Gifts

### Personal Gifts from Non-Federal Sources

Federal employees may not accept gifts given to them because of their Government position or from prohibited sources.

Federal employees may not accept gifts from a person or organization that:

- has a contract, a grant, or other business with DOL or is seeking such business;
- is regulated by DOL; or
- has interests that may be affected by the performance or nonperformance of the employee's official duties.

Gifts to your spouse or minor children are considered gifts to you in most circumstances. *See* 5 C.F.R. § 2635.203(f), *see also* 5 U.S.C. § 7342(a)(1)(G).

Employees should avoid the appearance of favoritism or impropriety. Therefore, even when acceptance of a gift may be permitted by one of the exceptions listed above, an employee should refuse the gift if it would lead to questions of the employee's integrity or impartiality. *See* 5 C.F.R. § 2635.201(b). Several factors should be considered when making this determination including:

- the gift value;
- the timing;
- the interests of the giver; and
- whether disproportionate access is involved.

### Exceptions Regarding Personal Gifts

Under 5 C.F.R. §§ 2635.203-204, there are a number of exceptions to the no-gifts rule, including, but not limited to the following:

- gifts of \$20 value or less (other than cash) up to \$50 per year from the same source;
- gifts based on a personal relationship (such as from a relative or friend);
- free attendance and meals at an event where the employee is officially presenting;
- invitations to widely attended events (if the Ethics office approves and the employee's supervisor provides a written determination finding that the agency interest in the employee's attendance outweighs the appearance that the employee may be improperly

- influenced);
- items of little intrinsic value (such as cards, plaques, or trophies);
- discounts available to a broad range of persons;
- awards and honorary degrees (in specified circumstances);
- meals, lodging, transportation, and other benefits offered because of an outside business relationship or outside employment (or because of the employee's spouse's business or employment);
- business meals overseas (if a foreign national is present) up to the *per diem* for the city; and
- gifts from a foreign government of \$415 or less (gifts of greater value may be accepted, but become property of the Government; this dollar threshold is adjusted by regulation every three years).

Employees should contact the Ethics office if they have any questions about whether to accept a gift from a non-Federal source.

### Gifts Between Employees

Employees may not offer a gift to a supervisor or accept a gift from a subordinate except under the following circumstances:

- a gift on a special, infrequent occasion (such as a wedding, the birth or adoption of a child, retirement, or recovery from a serious illness);
- items of \$10 or less given occasionally;
- food shared in the office;
- personal hospitality at one's home; or
- a gift to a host.

See 5 C.F.R. §§ 2635.302, 304.

### Bribes and Salary Supplementation

Employees may not receive anything of value from a non-Federal source for taking action or failing to take action in your Government position. Employees may not accept payment for performing their official duties from a source other than the Government. See 18 U.S.C. §§ 201 and 209.

## Travel

Travel and related expenses associated with the exercise of an employee's official duties should be paid for with appropriated funds. However, in certain limited and exceptional circumstances, an agency head or the Deputy Secretary may allow an employee to accept a non-Federal organization's unsolicited offer to pay for the Federal employee's travel-related expenses incident to attendance at a training or meeting.

A non-Federal source means any person or entity other than the Government of the United States. The Department of Labor limits acceptance of offers to pay employee expenses to certain non-Federal sources. Approval may only be given to accept expenses from:

- non-profit and tax-exempt organizations with either the 501(c)(1) or 501(c)(3) designation;
- domestic (state or local) or foreign government entities; or
- a foreign entity, only if deemed lawful and appropriate by the Secretary on a case-by-case basis.

See 5 U.S.C. § 4111; 31 U.S.C. § 1353; 5 C.F.R. § 410.502; 41 C.F.R. Part 304-1; and [DLMS 2 Chapter 1700](#)).

Agency heads may not approve acceptance of these expenses where approval would create the appearance of favoritism or undue influence or if it would be otherwise unethical or improper to do so.

Employees may not solicit non-Federal sources to pay for travel-related expenses. If a non-Federal source offers to pay expenses, official approval must be given in advance of the trip. Accordingly, any such request for acceptance of expenses should be made well in advance of the travel. Offers of official travel expenses accepted by Federal employees are reported on the [Office of Government Ethics' website](#) bi-annually.

### For-profit Policy

The Department has a longstanding [policy](#) prohibiting official participation in functions sponsored solely by a for-profit entity. The policy serves to avoid any appearance of preferential treatment for or special access by for-profit entities. Some events fall outside the scope of the policy, and there is a process by which an individual can request an exception from the Deputy Secretary. If you have any questions regarding the policy, please contact the Ethics office.

## Non-Federal Employment and Outside Activities

While it is not necessarily prohibited for Federal employees to engage in outside employment, there are certain restrictions on outside employment based on the circumstance or type of work.

Department employees **may not** engage in outside employment or any other outside activity that conflicts with their Government responsibilities. This restriction includes:

- employment that requires disqualification from significant duties; and
- activities that create an appearance that the employee is using their public office for private gain.

In addition, the Emoluments Clause in the Constitution prohibits Department employees from working for a foreign government.

Some DOL agencies may have their own, additional rules governing outside activities. It is important to check with your agency and the Ethics office before participating in an outside activity. See 5 C.F.R. § 2635.802.

## Outside Practice of Law

There are special rules for attorneys in the Office of the Solicitor who may be thinking of engaging in the practice of law, whether for pay, or *pro bono*. Some *pro bono* activities may be allowed, as long as the individual or organization seeking *pro bono* services does not have business before the Department of Labor and the activity does not include representation before a Federal agency or Court. For those outside of the Office of the Solicitor, a case-by-case determination is needed. If you are an attorney, you should consult both your applicable bar rules as well as the Ethics office before engaging in the outside practice of law.

The Ethics office has developed a more comprehensive handout on the rules governing *pro bono* activity, available on LaborNet.

## Teaching, Speaking, and Writing

Generally, employees may teach courses that are part of the regularly-established curriculum at accredited colleges, universities, and other educational institutions if such activity will not interfere with the performance of official duties. However, there may be restrictions on receiving payments for other types of teaching, speaking, or writing that relates to the employee's official duties. *See* 5 C.F.R. § 2635.807.

The Ethics office has developed a more comprehensive handout on the rules governing speaking and writing, available on LaborNet.

## Honoraria

Generally, employees may accept honoraria in connection with outside speaking engagements and other activities, provided the activity is unrelated to the employee's official responsibilities.

# Special Rules for PAS and Other Non-Career Senior Officials

## Presidential appointed, Senate-confirmed (PAS) and Presidential appointee (PA) positions:

A Presidential appointee to a full-time, non-career position may not receive any outside earned income for outside employment or any other outside activity performed during their tenure in that office. *See* 5 C.F.R. 2636.306; Executive Order 12674, § 102 (1989), as amended by Executive Order 12731 (1990).

## Non-career senior officials:

Non-career officials occupying a position classified above GS-15 of the General Schedule, e.g., non-career SES, may not receive outside earned income that exceeds 15% of the annual rate of basic pay for level II of the Executive Schedule in a calendar year. **For calendar year 2022, that amount is \$29,895.**

In addition, non-career senior officials **may not** receive compensation for:

- practicing a profession that involves a fiduciary relationship;

- affiliating with or being employed to perform professional duties by a firm, partnership, association, corporation, or other entity that provides professional services involving a fiduciary relationship;
- serving as an officer or member of the board of directors of any association, corporation, or other entity.

NOTE: Non-career SES employees may not permit their name to be used by any of the foregoing entities after entering government service. *See* 5 C.F.R. §§ 2636.301 et seq.

## Political Activities

Under the Hatch Act, federal employees may not engage in partisan political activities during duty hours, while using Government resources (such as government-issued equipment), or while on Government premises (unless you are a PAS official). However, most employees may actively engage in a wide range of partisan political activities outside of the workplace during non-duty hours. However, employees may **never** solicit or receive campaign contributions, host a political fundraiser, or run for office in a partisan political election (except as an independent candidate in certain localities). *See generally* 5 C.F.R. Part 734.

The Ethics office has developed a more comprehensive handout on the rules governing political activity, available on LaborNet. You may contact the Ethics office with any questions about political activity or refer to the U.S. Office of Special Counsel, which has exclusive jurisdiction to investigate alleged Hatch Act violations. You can find these resources on the [U.S. Office of Special Counsel website](#).

## Lobbying the Government

Federal employees **may not** contact any Federal agency or Federal court on behalf of others to influence Government action, unless authorized as part of their official duties. *See* 18 U.S.C. §§ 203 and 205. These rules apply regardless of whether an individual reveals their status as a Federal employee.

Please note that this law can cause particular trouble for individuals when they join or leave Federal service, because it prohibits you from receiving legal fees, partnership shares, bonuses, or other forms of compensation that are derived from representational services of others in matters before the executive branch or courts. It may require you to give up a financial interest in an ongoing contingency fee case where the United States has an interest, or it may require your former/future firm to segregate their funds. Please contact the Ethics office if you think this may apply to you. *See* 18 U.S.C. § 203.

### Exceptions

You may represent the following parties before Federal entities if you clear the representation with the Ethics office and you do not accept compensation:

- your parents;
- your spouse;

- your children;
- an estate or trust; and
- other Federal employees (in some personnel disputes, provided that such representation does not conflict with official responsibilities). *See* 18 U.S.C. §§ 203(d) and 205(e).

You may also represent professional, recreational, and similar groups before the Government if:

- the majority of the organization’s members are Federal employees or their spouses or dependents;
- the matter does not involve claims against the Government, proceedings in which the organization is an adversarial party, or that would result in financial benefits to the organization from the Government; and
- there is no compensation for services.

Contact the Counsel for Ethics if you need to obtain approval to represent others before the Government. *See* 18 U.S.C. § 205(d).

### The Anti-Lobbying Act

Federal law prohibits any appropriated funds from being used for “grassroots” lobbying activities. *See* 18 U.S.C. § 1913. In addition, an appropriations rider prohibits use of DOL funds for publicity or propaganda purposes designed to support or defeat legislation before Congress.

These laws permit agencies to inform Congress of the Administration’s position on matters before Congress and otherwise respond to oversight requests. Additionally, the Department is not prohibited from informing the public about pending legislation affecting the Department or even expressing the Department’s view on pending legislation. The laws prohibit the Department from engaging in or promoting grassroots lobbying. For example, the Department may not contact outside individuals or organizations for the purpose of encouraging them to contact legislators to advocate views on legislative matters or use official resources to assist a private lobbying effort. If you have detailed questions on the Anti-Lobbying Act, you should consult the Office of the Solicitor, [Office of Management and Administrative Legal Services Division](#).

## Misuse of Government Position and Resources

You may only use Government resources for official, authorized Government activities. This includes Government equipment, supplies, services, and the time of Government personnel. *See* 5 C.F.R. §§ 2635.701-705.

### Use of Official Title

Your official title may not be used in connection with non-Government activities. You are prohibited from using public office for your own private gain or the private gain of another. *See* 5 C.F.R. § 2635.702. Therefore, you may **not endorse** any product, service, organization, or enterprise in your official capacity.

For example, if you serve as an honorary co-chair of a charitable event, you may not do so in your official capacity, and you must be listed on the invitation or program by name only, or preceded by

the term “Honorable,” if appropriate.

## Nonpublic Information

Information learned as part of federal employment may not be used for private activities, unless it is information readily available to the public at large. Restrictions on personal use apply to nonpublic data, economic analyses, private personnel information, census data, and other nonpublic information. The improper disclosure of certain information (privacy, trade secrets, national security) is subject to criminal penalties. *See* 5 C.F.R. § 2635.703.

## Government Office Equipment, Internet, and E-mail Services

Department policy allows personal use of Government office equipment (computers, facsimile, photocopiers, telephones, etc.), and the Internet and e-mail during duty hours on a limited basis (infrequent and short duration) if it does not interfere with the performance of official duties or office operations. Please check with your agency as they may have a separate policy prohibiting such use.

However, federal employees may not use Government office equipment, the Internet, or e-mail **at any time** to engage in the following:

- the operation of a commercial business or profit-making venture;
- partisan political activities;
- prohibited lobbying activities;
- any use that results in an additional expense to the Government;
- prohibited conduct;
- any use involving sexually explicit material;
- any activity that would discredit the Department; or
- any action that would violate a statute or regulation.

Because this limited use is considered a privilege, employees have no inherent right or entitlement to use DOL office equipment for personal use. In addition, DOL employees do not have a right or expectation of privacy while using any Government office equipment at any time, including accessing the Internet and using e-mail. *See* [DLMS 7, Chapter 900](#).

## Co-Sponsorship with Outside Organizations

A frequent question that arises is whether the Department may co-sponsor conferences and other events with non-Governmental entities. However meritorious these events or organizations may be, Department employees must be very cautious about lending the Department’s name or seal to such an event or entity and should consult with the Ethics office to make sure the relationship does not violate any law or policy. In addition, because such arrangements generally raise other issues aside from ethics considerations, such as appropriations and Federal Advisory Committee Act issues, employees and agencies should consult with appropriate contacts in the Office of the Solicitor.

## Fundraising

Federal employees may not engage in fundraising in an official capacity unless such action is

specifically authorized, as in the case of the Combined Federal Campaign.

You may engage in fundraising (other than partisan political fundraising) in your personal capacity so long as it is not done during duty hours and involves no official resources, including email. Also, you may not allow your official title to be used in connection with private fundraising activities. Finally, you may not personally solicit from people or organizations you know to be regulated by or are seeking action from your DOL component or that may have an interest in matters that can be affected by your official duties. *See* 5 C.F.R. § 2635.808.

The Ethics office has developed a more comprehensive on the rules governing fundraising, available on LaborNet.

## Social Media

The Federal Ethics rules apply to social media use, in both your personal and official capacities. The Ethics office has developed a more comprehensive handout on the rules governing social media activities, available on LaborNet. The [U.S. Office of Special Counsel website](#) also has resources related to social media and the Hatch Act.

## Restrictions on Seeking Employment

Federal employees may enter into discussions or agreements regarding future employment with anyone.

However, once an employment search begins you **must disqualify** yourself from participating as a Federal employee on any matter likely to affect an entity that you have contacted, or that has contacted you, regarding future employment. This restriction applies whether the contact is direct or through an intermediary, such as a headhunter. Your disqualification must continue until:

- you leave Federal service;
  - either you or the prospective employer rejects future employment; or
  - two months have passed since you sent an unsolicited notice of interest in employment.
- See* 5 C.F.R. § 2635.602.

Non-career employees must provide notice to the Counsel for Ethics of any engagement in the employment process with a non-Federal entity. The template to provide notice is provided in your monthly STOCK Act e-mail reminders.

### Special Rule for Procurement Officials

If you are participating in a procurement above the simplified acquisition threshold (\$150,000), you must report prospective employment contacts to your supervisor and the Counsel for Ethics in writing. *See* 41 U.S.C. § 423(c).

### Post-Employment Restrictions

After leaving Federal service, employees are **permanently** barred from representing others before Federal agencies or courts concerning particular matters involving specific parties (such as

contracts, licenses, litigation, and investigations) if they participated in the particular matter personally and substantially while with the Federal Government.

Employees will also be barred for **two years** from representing others concerning specific party matters that were pending under their official responsibility during their last year of Government service, such as matters on which a subordinate worked, even though they did not participate personally and substantially. *See* 18 U.S.C. § 207.

Federal employees are also barred from disclosing nonpublic information regarding certain ongoing trade or treaty negotiations.

The prohibition on “representational activities” includes:

- attending meetings;
- writing letters;
- making telephone calls; and
- engaging in other communications to Government officials with the intent to influence Government action.

Former employees are not barred from participating behind-the-scenes or from requesting publicly available information.

### Rule for Senior Employees

Senior Employees have an additional bar on contact with their former agency. If you are a senior employee, you will be barred for one year from contacting your former agency or from representing or assisting in representing a foreign government or foreign political party in matters involving the United States Government. The term “senior employee” includes employees whose salary is set by the Executive Schedule or whose rate of basic pay exceeds 86.5 percent of the rate for level II of the Executive Schedule (EL II). For calendar year 2022, that amount is \$176,201 prior to locality adjustment.

### Rule for Procurement Officials

Procurement officials may not accept compensation from the contractor on a contract valued at over \$10 million for one year after they have served either as a procurement official on the procurement, as a program manager, or as an administrative contracting officer on that contract. *See* 41 U.S.C. § 423(d).

### Exceptions

There are some exceptions to the post-employment restrictions for all employees, including

- testifying in court; and
- representing international organizations.

There is also an exception for senior employees when they represent state and local governments, institutions of higher learning, or hospital or medical research organizations.

The Ethics office has developed a more comprehensive guidance further explaining the rules regarding post-employment restrictions, available on LaborNet. Please reach out to the Ethics office for further advice.

## Financial Disclosure

### Public Filers

High-level officials in the Executive Branch are required to report certain financial interests publicly to ensure that every citizen can have confidence in the integrity of the Federal Government. These forms are available to the public upon request.

The following people are required to file Public Financial Disclosure Reports (OGE 278e forms):

- Presidential appointed-Senate Confirmed employees (PAS officials),
- Presidential Appointees (PA officials),
- career and non-career members of the Senior Executive Service (SES),
- all schedule C employees, and
- administrative law judges.

Public filers also must report transactions involving securities and will receive a monthly notice concerning this obligation.

### Confidential Filers

Other employees whose performance of federal duties could have a significant impact on the interests of members of the public are required to file Confidential Financial Disclosure Reports (OGE Form 450). These forms are, except in very limited circumstances, exempt from public disclosure.

### Disclosure Report Guidance

Public and Confidential Financial Disclosure Reports are collected upon entry into a position for which such reports are required, annually thereafter, and upon termination from federal service. If you are required to file such a report, please keep in mind that the information you disclose is used to provide advice to you in order to ensure that you do not inadvertently engage in prohibited activities. In order to provide this advice (and to certify that the report includes all necessary information), it is important that the information you provide be as complete as possible. *See generally*, 5 C.F.R. Part 2634.

Please be sure to include the following information when completing disclosure reports:

- the full name of any mutual fund (not just the generic name of the company managing the fund);
- specific holdings in any pension funds, trusts, or investment accounts;
- a short description of the activities or industry sector of any privately-held company or limited partnership; and
- assets and sources of income of your spouse.

For advice about financial disclosure matters, contact the Ethics Program Manager, Marilyn Brown, at (202) 693-5510.

## Executive Order Ethics Pledge for Appointees

On January 20, 2021, President Biden issued the Executive Order on Ethic Commitments by Executive Branch Personnel. One of the requirements under the Executive Order is that appointees of his Administration sign an Ethics Pledge confirming a commitment to abide by the provisions the President has set forth in the Order.

These requirements are in addition to those set forth in the ethics laws and regulations described earlier in this Guide.

Non-career appointees (including PAS officials, PA officials, non-career SES employees, and Schedule C employees) at the Department of Labor, with few exceptions, must sign the Ethics Pledge and are subject to its provisions.

Generally, under the Executive Order, appointees must commit to:

- not accept gifts from registered lobbyists or lobbying organizations (subject only to a limited number of exceptions provided in the OGE Standards of Ethical Conduct, as well as other exceptions that OGE may authorize in the future for situations that do not implicate the purpose of the gift ban);
- not accept any salary or other cash payment (or non-cash benefit in lieu of cash) from a former employer, which is only provided to individuals accepting a position in the United States Government;
- disqualify themselves for two years after appointment from participation in any particular matter involving specific parties that is directly and substantially related to their former employer or client;
- disqualify themselves for two years after appointment from participation in any particular matter on which they lobbied or engaged in registrable activity under the Foreign Agents Registration Act (FARA), 22 U.S.C. § 611 et seq., if the lobbying or registrable activity occurred within the two years prior to the appointment;
- disqualify themselves for two years after appointment from participation in the specific issue area in which they lobbied or engaged in registrable activity on a particular matter within the two years prior to the appointment;
- not seek or accept employment with any executive agency they lobbied, or engaged in registrable activity with respect to, within the two years prior to the appointment;
- not engage in activity on behalf of any foreign government or foreign political party that would require registration under FARA for two years after departure from Federal service;
- not lobby any covered executive branch official (as described in the Lobbying Disclosure Act) or any non-career SES appointee for the remainder of the Administration or for two years following the appointee's departure from federal service;
- agree that if they are Senior and Very Senior employees subject to 18 U.S.C. 207(c) and 207(d), they will not "materially assist" others in making communications or appearances

that they would be prohibited from undertaking on their own behalf for one year following the appointee's departure from federal service; and not hold themselves out as available to engage in lobbying activities in support of any such communications or appearances or otherwise engage in any such lobbying activities for a period of one year following the appointee's departure from federal service;

- commit to ethical choices of post-Government employment that do not raise the appearance that the employee used Government service for private gain, including by using confidential information and relationships established in federal employment for the benefit of future clients; and
- agree that any hiring or other employment decisions they make will be based on the candidate's qualifications, competence, and experience;

The Executive Order also provides for enforcement of the Pledge through civil action by the Attorney General. Moreover, the Order provides for agency debarment proceedings against former appointees found to have violated the Pledge, pursuant to debarment procedures established by each agency in consultation with OGE.

### Gifts from Lobbyists

As mentioned above, the Ethics Pledge prohibits appointees from accepting gifts from registered lobbyists or lobbying organizations for the duration of their service as an appointee. In order to provide more certainty to appointees, this prohibition covers only gifts received from a lobbyist or lobbying organization that actually has filed a registration with the Secretary of the Senate and the Clerk of the House of Representatives. The registration lists are available via searchable registrant databases on [House](#) and [Senate](#) websites.

OGE Guidance on this issue emphasizes that the phrase "registered lobbyist or lobbying organization" includes any "organization filing a registration," not just lobbying firms. In particular, the ban includes any organization that registers because it employs at least one in-house lobbyist on its own behalf. The ban applies without regard to whether the particular lobbyist or organization has any dealings with the appointee's own agency.

"Gifts" are most items of value; examples include free attendance at events where meals are served; receptions; sporting events; and similar widely attended gatherings. This definition of "gifts" does not include, for example:

- modest refreshments (e.g., coffee & donuts);
- items of little intrinsic value (e.g., greeting card, plaque) intended solely for presentation; and
- benefits available to all Government employees or all uniformed military personnel.

Individuals who sign the Ethics Pledge may accept **only** the following gifts:

- gifts based on a personal relationship;
- discounts and similar benefits;

- gifts resulting from a spouse's business or employment;
- customary gifts/gratuities provided by a prospective employer;
- gifts authorized by an OGE-approved agency supplemental regulation; and
- gifts accepted under specific statutory authority.

NOTE: Other exceptions to the regulatory prohibition on gifts are not exceptions to this Pledge restriction. For example, appointees may not accept a gift from a registered lobbyist such as a lunch even if the value of the lunch was equal to or less than \$20. Similarly, an appointee may not attend a widely attended reception or other gathering sponsored by a registered lobbying organization or when the invitation comes from a registered lobbyist.

## Ethics Contacts

### **Designated Agency Ethics Official:**

Seema Nanda, Solicitor of Labor

### **Alternate Designated Agency Ethics Official:**

Peter J. Constantine, Associate Solicitor for Legal Counsel, at [Constantine.Peter.J@dol.gov](mailto:Constantine.Peter.J@dol.gov) or (202) 693-5505

### **Office of Legal Counsel**

For advice about ethics laws and regulations and restrictions on political activities and lobbying, please contact:

- Peter Constantine, Associate Solicitor for Legal Counsel, at [Constantine.Peter.J@dol.gov](mailto:Constantine.Peter.J@dol.gov) or (202) 693-5505
- Sabrina Gray, Counsel for Ethics, at [Gray.Sabrina.A@dol.gov](mailto:Gray.Sabrina.A@dol.gov) or (202) 674-4896
- Vanessa Myers, Senior Ethics Attorney, at [Myers.Vanessa.J@dol.gov](mailto:Myers.Vanessa.J@dol.gov) or (202) 693-5702
- LaShanda Whaley, Ethics Attorney, at [Whaley.LaShanda.R@dol.gov](mailto:Whaley.LaShanda.R@dol.gov) or (202) 693-5489

For Financial Disclosure questions, please contact:

- Marilyn Brown, Ethics Program Manager, at [Brown.Marilynn@dol.gov](mailto:Brown.Marilynn@dol.gov) or (202) 693-5510.

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