
Summary of Post-Employment Restrictions

April 2019

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the General Counsel

Ethics Division



Current employees who have begun seeking or negotiating for subsequent non-federal employment must immediately recuse from participation in any official matter that involves the prospective employer as an identified party, such as a grant, contract, application, audit, investigation, or lawsuit. The recusal also must extend to any particular matter of general applicability that affects the discrete industry, economic sector, or other defined class of organizations in which the prospective employer operates, such as a legislative initiative, regulatory proposal, or policy determination that affects the prospective employer as a member of such class. See 5 CFR Part 2635, Subpart F. OGE 278e filers must notify an agency ethics official within three business days after beginning any negotiation for subsequent employment or compensation with a non-federal entity.

Former employees are subject to the provisions described below. Former government attorneys and public officials with a law license are subject to additional post-employment restrictions under State Rules of Professional Conduct. Political appointees are subject to additional Ethics Pledge requirements under E.O. 13770. OGE 278e filers are required to submit a termination Public Financial Disclosure Report within 30 days after departure. Certain exceptions, not discussed in this document, may apply in limited circumstances. Contact your Deputy Ethics Counselor or the OGC Ethics Division at (202) 690-7258 for further information.

Restrictions Applicable to All Employees

18 US Code 207(a)(1) Permanent Ban on "Switching Sides." Former employees are subject to a lifetime ban on communicating to or appearing before the Government on behalf of their new employer or anyone else regarding specific party matters in which they participated personally and substantially during their entire government service.

18 US Code 207(a)(2) Two-Year Official Responsibility Provision. For two years after leaving federal employment, former employees cannot make representational communications to or appearances before the Government regarding specific party matters that were pending under their official responsibility during their last year of government service.

18 US Code 207(b) One-Year Ban on Trade or Treaty Negotiation Activities. Former employees who participated in ongoing trade or treaty negotiations on behalf of the United States within the year preceding their departure cannot, for one year, represent, aid, or advise anyone based on information exempt from disclosure to which the employees had access.

18 US Code 203 Compensation Limitation. Former employees who join a law, accounting, or government relations firm cannot share in any bonus, profit sharing, or similar compensation derived from fees earned by the employee's new firm or partnership for representational services before the Government that were rendered during the former employee's period of government service.

41 US Code 2102 Disclosure of Procurement Information. Former employees cannot knowingly disclose contractor bid or proposal information or source selection information to anyone not authorized to receive such information.

41 US Code 2104 One-Year Ban on Contractor Compensation. Employees who worked on a contract in excess of \$10 million cannot accept compensation from that contractor within one year after the employee: (1) served as the procuring contracting officer, source selection authority or evaluation board member, or chief of a financial or technical evaluation team; (2) served as a program manager, deputy program manager, or administrative contracting officer; or (3) personally made certain decisions such as awarding a contract, subcontract, modification, task or delivery order, establishing overhead, issuing payment, or settling a claim.

45 CFR Part 2 Testimony and Production of Documents in Proceedings where the United States is Not a Party. Former employees cannot provide testimony or produce documents in a federal, state, local, or tribal judicial or administrative proceeding (or a state, local, or tribal legislative hearing) concerning information acquired during the course of their official duties or because of their former government position, unless authorized by the head of their respective OPDIV or, if a former employee of OS, the ASA. This requirement applies to requested or subpoenaed oral statements before a court or an adjudicative or investigatory body, as well as statements made in depositions, interrogatories, declarations, affidavits, or other formal participation.

Restrictions Applicable Only to "Senior Employees"*

Executive Levels II through V; Uniformed Service Pay Grades O-7 or above; SES and Employees in other Pay Systems with an Annual Rate of Basic Pay (Excluding Locality-Based Adjustments) at or above \$166,340

18 US Code 207(c) One-Year "Cooling-Off" Period. Former employees cannot, for one year after completing service in a "senior" position, knowingly make, with the intent to influence, any communication to or appearance before any officer or employee of their former agency on behalf of anyone seeking official action. Except for Senate confirmed Presidential appointees, who are prohibited from contacting the entire Department, "former agency" means the OPDIV where the employee worked (or OS, if employed in a STAFFDIV).

and for certain contacts made on behalf of international organizations or political campaign organizations.

18 US Code 207(f) One-Year Foreign Entity Provision. Former employees cannot, for one year after completing service in a "senior" position, knowingly represent, aid, or advise a foreign government or foreign political party with the intent to influence any officer or employee of the United States.

The restrictions in 18 US Code 207(c) and the Ethics Pledge do not apply to acts done in carrying out official duties as an employee of and on behalf of: (1) a state or local government; (2) a college or university; or (3) a non-profit hospital or medical research organization. Other exceptions may apply for certain types of testimony, uncompensated statements based on special knowledge, and scientific or technological information,

***NOTE: Employees paid pursuant to Executive Schedule Level I, and other employees whose base salary is set at exactly the salary level for Executive Level I at any time during their final two years of service, are "very senior employees," and are subject to an additional 2-year restriction that precludes representational contact with ANY HHS employee, as well as with ANY Presidential appointee paid pursuant to the Executive Schedule at any federal agency.**
