

## Summary of Your Obligations under the Ethics Pledge (Pledge)<sup>1</sup>

### 1. Who must sign the Pledge?

- a. All full-time political appointees must sign the Ethics Pledge, as a condition of employment.
- b. “Appointee” *includes* the following personnel:
  - i. All full-time, non-career Presidential appointees;
  - ii. Non-career Senior Executive Service (SES) appointees; and
  - iii. Non-career appointees, excepted from the competitive service by reason of being of a confidential or policymaking character (e.g., Schedule C, politically appointed term SES or equivalent).
- c. This *excludes* the following personnel:
  - i. Career officials temporarily acting in the absence of an appointee to a non-career position;
  - ii. Special Government Employees;
  - iii. Uniformed service commissioned officers; and
  - iv. Certain Schedule C appointees who have no policymaking role and who have been properly exempted from filing a public financial disclosure report (e.g., chauffeurs and private secretaries).

### 2. What are the restrictions of the Pledge?

- a. **Lobbyist Gift Ban:** You may not accept *gifts* from *registered lobbyists* or *lobbying organizations* for the duration of your Government appointment.
  - i. “Registered lobbyist” is any individual registered with the Clerk of the House of Representatives and the Secretary of the Senate. Generally, this will not include media organizations or not-for-profit entities exempt from taxation under 26 U.S.C. § 501(c)(3).
  - ii. “Lobbying organization” is any entity that employs at least one in-house lobbyist on its own behalf. This includes the major defense contractors.
  - iii. “Gifts” are most items of value; examples are free attendance at dinners and other meals, receptions, sporting events, and similar widely-attended gatherings. This includes a gift which is solicited or accepted indirectly, with your knowledge (e.g. by your parents, siblings, spouse, children, dependent relative, member of your household, or a person or an organization that you specifically designate).
  - iv. Exclusions from this definition of gifts include, but are not limited to:
    1. Modest refreshments (e.g., coffee & donuts)

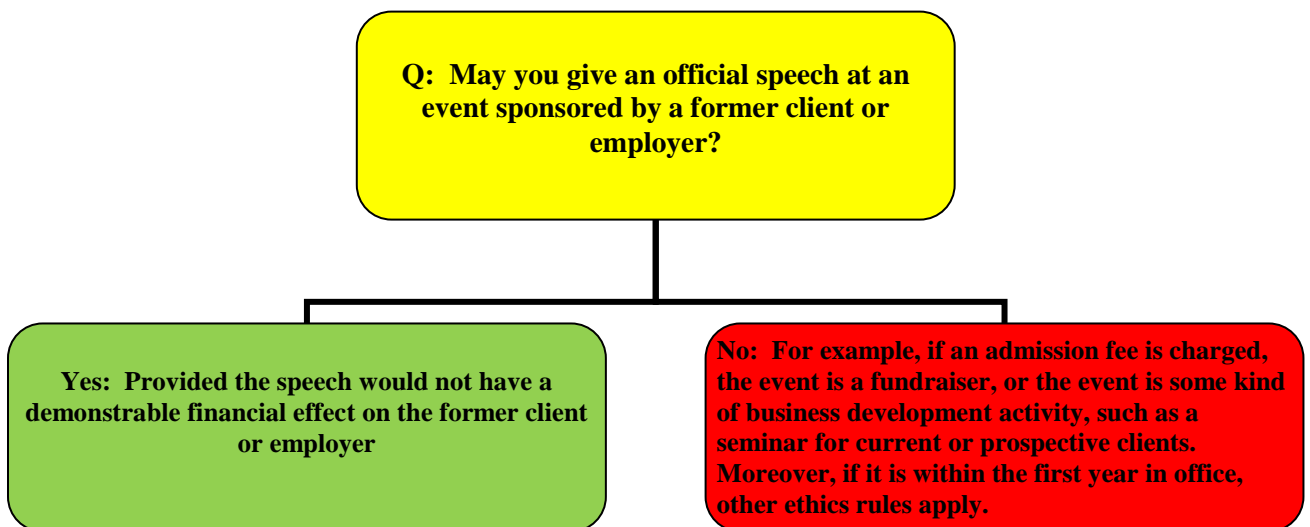
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<sup>1</sup> January 28, 2017. Executive Order 13770.

2. Items of little intrinsic value (e.g., greeting card, plaque) intended solely for presentation
  3. Benefits available to all Government employees or all uniformed military personnel.
  4. Meals offered to Federal employees on the day they provide an official speech
- v. The **only** gift exceptions applicable to the Ethics Pledge are:
1. Gifts based on a personal relationship;
  2. Certain discounts and similar benefits;
  3. Gifts resulting from a spouse's business or employment;
  4. Customary gifts/gratuities provided by a prospective employer;
  5. Gifts to the President or Vice President;
  6. Gifts authorized by an OGE-approved agency supplemental regulation; and
  7. Gifts accepted under specific statutory authority or agency regulation.

NOTE: Other exceptions to the Government's regulatory ethics prohibition on gifts are not exceptions to this Pledge restriction. For example, you 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, you may not accept a registered lobbyist's invitation of free attendance to a "widely-attended gathering."

- b. Revolving Door Ban for Incoming Appointees:** For two (2) years from date of appointment, you may not *participate* in any *particular matter involving a specific party* that is directly and substantially related to your *former employer* or *former clients*, including regulations and contracts.
- i. This does not include performing perfunctory or administrative duties, or social interactions with your former employers or clients.
  - ii. "Particular matter involving a specific party" is defined as a specific proceeding affecting a party's rights, or a discrete transaction between identified parties. For example, a specific contract, license, enforcement action, court case, administrative adjudication, or decision would qualify as a particular matter involving a specific party. It also includes **any meeting or communication with the former employer or client that relates to the performance of the official's duties, unless** the matter to be discussed is a broad matter of general applicability and the meeting is open to all interested parties. **This can get complicated, so it is important to consult with your ethics counselor.**



- iii. “Former employer” is defined as any person for whom the appointee served as an employee, officer, director, trustee, or general partner within the two (2) years prior to date of appointment.
- iv. “Former client” is defined as any person or organization you served personally as an agent, attorney, or consultant within the two (2) years prior to date of appointment. This excludes limited services like speeches or similar appearances.
- v. “Participate” means personally and substantially (e.g., decide, approve, or recommend).

- c. **Revolving Door Ban for Incoming Lobbyists:** If you served as a *registered lobbyist* within the two (2) years prior to appointment, for the two (2) years after appointment, you may not:
- i. Participate in any *particular matter* on which you *lobbied* within the two (2) years before your date of appointment; or
  - ii. Participate in the specific issue area in which that particular matter falls.
  - iii. A *specific issue area* means a “particular matter of general applicability.” An example would be lobbying a government agency, prior to entering government service, on a proposed regulation focused on a specific industry. Even if the lobbying was limited to a specific section of the regulation, the recusal is for the entire regulation and not just the one section lobbied for the client.
  - iv. “Lobby” means to act as a registered lobbyist.
  - v. “Particular matter” encompasses matters that involve deliberation, decision, or action, that focus on the interests of specific people or a discrete and identifiable class of people.

- d. Revolving Door Ban for Outgoing Officials<sup>2</sup>:** For five (5) years after terminating Federal service at an agency, you cannot engage in lobbying activities with respect to that agency.
- i.** “Lobbying Activities” are lobbying contacts and any efforts in support of such contacts, including preparation or planning activities, research, and other background work that is intended, at the time of its preparation, for use in contacts, and coordination with the lobbying activities of others. This ban is limited to representations made to “covered officials” within your former agency, and not, in the case of DoD, all agency officials.
  - ii.** For Presidentially Appointed, Senate-confirmed officials regardless of pay, this restriction applies to covered officials within the entire Department of Defense.
  - iii.** For all other officials, (at DoD, non-career appointees or Schedule C appointees, unless they do not file a public financial disclosure report), the ban applies only to your former DoD component(s); it does not restrict communications to other designated DoD components or other Executive Branch agencies.
  - iv.** For example, as a former covered official at OSD (but not Senate-confirmed official), you are prohibited from engaging in lobbying activities directed toward covered officials in OSD, which includes all organizations not designated by the Office of Government Ethics regulations as separate components, including the COCOMS and many Defense agencies, for five (5) years after leaving DoD. You could, however, engage in lobbying activities directed toward covered officials at a Military Department (e.g. Department of the Navy), the National Security Agency, or any other designated component.
  - v.** “Covered officials” are:
    - 1.** The President;
    - 2.** The Vice President;
    - 3.** Any officer or employee, or any other individual functioning in the capacity of such an officer or employee, in the Executive Office of the President;
    - 4.** Any officer or employee serving in a position in level I, II, III, IV, or V of the Executive Schedule, as designated by statute or Executive order;
    - 5.** Any member of the uniformed services whose pay grade is at or above O–7 under section 201 of title 37; and
    - 6.** Any officer or employee serving in a position of a confidential, policy-determining, policy-making, or policy-advocating character

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<sup>2</sup> Note there are other post-Government employment restrictions that apply. Consult with your ethics official to determine applicability.

described in section 7511(b)(2)(B) of title 5. See E.O. 13770, sec. 2(c); 2 U.S.C. § 1602(3).

- e. **Lobbying Ban for Outgoing Appointees:** Once you leave Federal service, you may not engage in lobbying activities with respect to any “covered officials” and non-career SES throughout the Executive Branch for the remainder of the Administration.
  - f. **Representing Foreign Governments:** Once you leave Federal service, you may not engage in any activity on behalf of a foreign government, or foreign political party, which would require you to register under the Foreign Agents Registration Act of 1938. Information on registration and enforcement can be found at <https://www.fara.gov/>.
  - g. **Merit-Based Hiring:** You must make all employment decisions, including hiring, based on a candidate’s competence, experience, and qualifications.
3. **Is a waiver available for any of the Pledge restrictions?**
- a. The President, or his designee, may grant to any person a waiver of any restrictions contained in the Pledge.
  - b. Please contact your agency ethics official or the DoD Standards of Conduct Office at (703) 695-3422 or [osd.soco@mail.mil](mailto:osd.soco@mail.mil) with any questions or concerns.