

Seeking & Post-Government Employment: Practical Considerations for Transition

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Program Management

- Managing Recusals and Opinions by Employee
 - Recusals in email for seeking.
 - STOCK Act recusal for negotiating SES/Schedule Cs (i.e., 278 filers).
 - Email accomplishes recusal requirement under STOCK Act. There are varying practices.
- Memos – Summary of rules and regulations for seeking and PGE
 - Agency-specific.
 - Senior and non-senior.
 - Consult with agencies that have resources (e.g., DoD memos for senior and non-senior employees).
 - Gives employee the opportunity to review the rules again after discussion, and to have for reference.
- Advice Log for Seeking Employment, PGE counseling, and Exit Briefs
 - See handout, based on DoD model.
 - List employee name, grade, filing status, title/office, contact info, written opinion (y/n), summary/status/special issues.
 - Evidence that employee sought counseling.
- Exit Brief Checklist (“Departing Employee Counseling Interview Checklist”)
 - See handout.
 - Major topics to cover – 207, 208, 203, Pledge (departing service), Pledge (going to another federal position), contact info.
 - Creates process for exit counseling.
 - Enables other attorneys to help during surge periods, as the law and all important topics are covered.

Training

- Annual
 - Move to summer (instead of fall) and focus content on seeking/PGE
- Special Sessions in 2016
 - Target audiences (SES, political)
 - Agency-wide
 - Cover Pledge issues in-depth

Preparation for Training/Substantive Issues

WHILE ON BOARD – SEEKING EMPLOYMENT

18 U.S.C. 208 and particular matters of general applicability

5 C.F.R. 2635/Subpart F – seeking employment rules (updates forthcoming summer of 2016)

Procurement Integrity Act

AFTER THEY LEAVE – POST-GOVERNMENT EMPLOYMENT

18 U.S.C. 207 and specific party matters – after they leave

5 C.F.R. 2641 and post government employment

Agency Components for 207(c)? See Appendix B to Part 2641

Base pay for **Senior Employees** is \$160,111.50 in 2016. One year cooling off period under 207(c), unless subject to Ethics Pledge, in which case two year cooling period.

Very Senior Employees (Executive Level I and Level II for EOP Employees) two year cooling off under 207(d), with or without Ethics Pledge, plus certain other employees they may not contact for that time period. Also subject to 207(f).

207 & ABA Model Rule 1.11 and D.C. Bar Rule 1.11 – no behind the scene representation

BOTH WHILE ON BOARD AND AFTER THEY LEAVE

18 U.S.C. 203 and no sharing of compensation earned representing party against USG while in government service.

STOCK Act

- Mandatory recusal form for negotiating
- Applies to 278 Filers
- Within three days of “negotiating” --
 - “Negotiation” begins with an employee enters into a discussion or communication with another person/entity, or such person’s agent or intermediary, that is mutually conducted with a view toward reaching an agreement regarding possible employment or compensation with that person. The term is not limited to discussions or specific terms and conditions of employment in a specific position. 5 C.F.R. 2635.603(b)(1)(i).
- Once you start going back and forth, file a recusal.
- Prudent to seek counseling and recuse early, in writing.

Pledge

- Two Year Cooling Off under 207(c).
 - Cancellation of E.O. by next President?
- Revolving Door Ban for Appointees going to Lobby
 - Cannot lobby President or VP.
 - Cannot lobby EOP officers or employees.
 - Cannot lobby SESers or General/Flag Officers (O-7/one star and above).
 - Cannot lobby employee serving in a confidential, policy-determining, policy-making, or policy-advocating character as described.
 - See list.

Contact Information

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