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| Applicable Authority | Analysis, Key Questions, Additional Information |
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| <p><u>18 USC 203</u> <u>Compensation for representational services before the US</u></p> <p> 203 likely an issue</p> <p> 203 is a risk</p> <p> 203 not likely an issue</p> | <p> 203 not likely an issue</p> <p>For 203 to be implicated, compensation must be for the provision of representational services before the US in connection with matters in which the US is a party or has a direct and substantial interest.</p> |
| <p><u>18 USC 205</u> <u>Representation on behalf of 3rd party before US</u></p> <p> 205 likely an issue</p> <p> 205 is a risk</p> <p> 205 not likely an issue</p> | <p> 205 likely an issue</p> <p>Employee may not act as an agent for or otherwise represent the Association before the US (not only NOAA but any federal department, agency, court...etc.). A few examples of activities that might be prohibited by 205:</p> <ul style="list-style-type: none"> • Making oral or written requests on behalf of the Association for federal funding or other material support; • Soliciting the participation or attendance of federal personnel at Association events; • Representing the Association in meetings with federal employees. |
| <p><u>18 USC 208</u> <u>Conflicting Financial Interest</u></p> <p> 208 likely an issue</p> <p> 208 is a risk</p> <p> 208 not likely an issue</p> | <p> 208 likely an issue</p> <p>The financial interests of the Association will be imputed to the employee by virtue of her service as Councilor, which is the legal equivalent of service as a Director. The employee must refrain from participating in her official capacity in any particular government matters that would affect the financial interests of the Association. Such matters could include, for example, decisions or recommendations regarding:</p> <ul style="list-style-type: none"> • Federal employee participation in or attendance at Association events; • Grants or other federal funding or material support for the Association; • Cooperative research or other agreements with the Association. |

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| <p><u>18 USC 209</u> <u>Supplementation of Salary</u></p> <p> .209 likely an issue</p> <p> .209 is a risk</p> <p> .209 not likely an issue</p> | <p> .209 not likely an issue</p> <p>The only compensation employee will receive is travel-related benefits. These reimbursements must be customary or contractual benefits owed equally to all Councilors of the Association in consideration of their service as Councilors and without distinction as to federal employment.</p> <p>Employee should not accept travel-related expenses from the Association for any activities, including teaching, speaking or writing that she undertakes in her official federal capacity on behalf of NOAA unless authorized by NOAA under an appropriate authority.</p> |
| <p><u>5 CFR 2635.201-205</u> <u>Gifts from Outside Sources</u></p> <p> Gifts likely an issue</p> <p> Gifts are a risk</p> <p> Gifts not likely an issue</p> | <p> Gifts are a risk</p> <p>Employee may not solicit or accept gifts from a prohibited source or given because of the employee’s official position.</p> <p>Possible prohibited sources include:</p> <ul style="list-style-type: none"> • The Association itself • Individual and institutional members of the Association • Affiliated academic and other institutions • Corporate and other sponsors <p>Caution when relying upon the gift exception at 5 CFR 2635.204(e). It <u>must be clear</u> than any benefits being offered are based upon the position with the Association and its activities and are not being offered or enhanced because of the employee’s official position.</p> |
| <p><u>5 CFR 2635.502</u> <u>Impartiality</u></p> <p> .502 likely an issue</p> <p> .502 is a risk</p> <p> .502 not likely an issue</p> | <p> .502 likely an issue</p> <p>Employee will have a “covered relationship” with the Association by virtue of her position as Councilor. Her imputed financial interest in the Association under 18 USC 208 will require her recusal from official particular matters that would affect the financial interest of the Association. She should likewise recuse herself from or seek an authorization before participating in any particular matters where the Association is a party or represents a party even if they do not have a financial interest in the matter.</p> <p>After she terminates service as Councilor, she will continue to have a “covered relationship” with the Association for at least one year, unless she becomes an “active participant” in which case she will have a “covered relationship for the duration of her participation.</p> |

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| <p><u>5 CFR 2635.702-705</u> <u>Misuse of Position</u></p> <p> .702 likely an issue</p> <p> .702 is a risk</p> <p> .702 not likely an issue</p> | <p> .702 is a risk</p> <p>Employee may not use her public office for her own private gain or for that of the Association or its affiliates. This includes:</p> <ul style="list-style-type: none"> • Misusing her official position to provide benefits or preferential treatment to the Association or its affiliates; • Misusing her title or authority to give the appearance of official sanction or endorsement of a) her personal activities for the Association, or b) the Association and its activities; • Inappropriately disclosing or using nonpublic information for the benefit of the Association; • Misusing her own or other employees' official time in connection with her Association-related activities. |
| <p><u>5 CFR 2635.802</u> <u>Conflicting Outside Activities</u></p> | <p>If 208 and/or .502 analyses result in  then .802 should be considered.</p> |
| <p><u>5 CFR 2635.807</u> <u>Teaching, Speaking and Writing</u></p> <p> .807 likely an issue</p> <p> .807 is a risk</p> <p> .807 not likely an issue</p> | <p> .807 is a risk</p> <p>Employee generally may not accept “compensation” for teaching, speaking, or writing that relates to her official duties.</p> <p>However, for purposes of 5 CFR 2635.807(a)(2)(iii) “...travel expenses consisting of transportation, lodgings or meals incurred in connection with the teaching, speaking or writing” are excluded from the definition of compensation for employees who are not “covered non-career employees” as that is defined in 5 CFR 2636.303(a).</p> <p>As noted above in the discussion of 18 USC 209 and in the Note to Paragraph (a)(2)(iii), independent of 2635.807(a), other authorities such as 18 USC 209 may limit or entirely preclude an employee’s acceptance of travel expenses.</p> <p>As also discussed above in Misuse of Position, employee may not inappropriately make reference to her official position when engaging in personal capacity teaching, speaking or writing.</p> |
| <p><u>5 CFR 2635.808</u> <u>Fundraising Activities</u></p> <p> .808 likely an issue</p> <p> .808 is a risk</p> <p> .808 not likely an issue</p> | <p> .808 is a risk</p> <p>Employee may engage in personal capacity “fundraising,” as that is defined in 5 CFR 2635.808(a), on behalf of the Association provided she does not:</p> <ul style="list-style-type: none"> • Personally solicit funds or other support from a subordinate or from a prohibited source; or • Use or permit the use of her official title, position or any authority associated with her public office to further the fundraising effort. <p>Given her imputed financial interest under 18 USC 208, employee may not, absent a waiver, participate in any official fundraising activities that would benefit the Association or deliver an official speech at an Association fundraising event.</p> |

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