

Resources on Pandemic Related Ethics Issues (Prohibitions on Certain Representational Activities)

This is the fifth in a series of resource compilations that address ethics issues agencies may face when responding to COVID-19, and/or managing the disruptions caused by the pandemic. Provided below are resources related to prohibitions on certain representational activities.

OGE Advisories:

- **01x1: Employee's Proposed Outside Employment Prosecuting Patent Applications for Private Clients.** 18 U.S.C. §§ 203 and 205 prohibit an employee from acting as a compensated agent for private clients in prosecuting patent applications before the Patent and Trademark Office of the Department of Commerce. This advisory provides a useful framework for evaluating 18 USC §§ 203 and 205 issues.
[https://www.oge.gov/web/oge.nsf/Legal%20Advisories/91B23DA651FCE0ED85257E96005FBEA6/\\$FILE/f903036ffb8243258bb85504bbbe84dc3.pdf?open](https://www.oge.gov/web/oge.nsf/Legal%20Advisories/91B23DA651FCE0ED85257E96005FBEA6/$FILE/f903036ffb8243258bb85504bbbe84dc3.pdf?open)
- **04x12: Elements of 18 U.S.C. § 205(a)(2).** OGE offered guidance about 18 U.S.C. § 205(a)(2) to assist a DC Assistant General Counsel with the interpretation of 18 U.S.C. § 205(b)(2). 18 U.S.C. § 205(a)(2) requires that an employee's activity be representational, before a specified entity, and in relation to a covered matter in which the U.S. is a party or has a direct and substantial interest. [https://www.oge.gov/web/oge.nsf/Legal%20Advisories/DE92D6DA529858DD85257E96005FBD0B/\\$FILE/c63bd44b3cc7471d85da86416b9cf7763.pdf?open](https://www.oge.gov/web/oge.nsf/Legal%20Advisories/DE92D6DA529858DD85257E96005FBD0B/$FILE/c63bd44b3cc7471d85da86416b9cf7763.pdf?open)
- **LA-12-09: Scope of the Exception for Representation of a Parent or Child before the Government under 18 U.S.C. § 205(e).** This Legal Advisory clarifies that the exception at 18 U.S.C. § 205(e) for representation of persons with whom an employee has a personal relationship before the Government in connection with most matters may permit representation of an employee's stepparent or stepchild when the relationship is one that invokes certain family responsibilities.
[https://www.oge.gov/web/oge.nsf/Legal%20Advisories/4E6E0CFDACC5E1E85257E96005FBEF5/\\$FILE/12-09.pdf?open](https://www.oge.gov/web/oge.nsf/Legal%20Advisories/4E6E0CFDACC5E1E85257E96005FBEF5/$FILE/12-09.pdf?open)

OGE Classes and Training Materials:

- **18 USC 203: Receipt of Compensation for Representational Services.** In this 1 hour broadcast, Monica Ashar from OGE's Ethics Law and Policy Branch discussed 18 U.S.C. § 203, which prohibits compensation for certain representational activities. This session presented an overview of the elements, as well as provided examples that illustrate the nuances of the prohibition. The session also explained how the prohibition applies not only to current employees, but also to those who are entering government service and leaving government service. <https://extapps2.oge.gov/Training/OGETraining.nsf/OGECourse.xsp?action=openDocument&documentId=E85A8CD1E8E755C28525825D0056A621>
- **18 USC 205(a)(2): From Doctrine to Implementation.** In this one hour distance learning event OGE staff discussed the elements of 18 U.S.C. § 205(a)(2) and provided specific examples to help participants understand the nuances of the prohibition. <https://extapps2.oge.gov/Training/OGETraining.nsf/OGECourse.xsp?action=openDocument&documentId=EFBD50A8A428FE568525825D00552DE8>

- **18 USC 205(a)(2): Flow Chart.** This flow chart can assist you in determining whether the elements of 18 USC section 205(a)(2) are met. <https://extapps2.oge.gov/Training/OGETraining.nsf/OGECourse.xsp?action=openDocument&documentId=D8176CC4DF744A548525826500608A2E>