ACE Unit 4—Part 2:

Post-Government Employment

**Exercise 4.3—Termination from Government Service**

Team—

Rory Singh-Smith’s last day at AMH will be September 2nd. He’s accepted a position with Mental Health America. Please advise him on everything we need from him and prepare for any meetings we need to schedule with him.

Deborah

Small Group Exercise: Identifying Programmatic and Substantive Issues Relating to Post Employment

In your groups, review Deborah’s email, and identify and discuss:

1. All programmatic matters this email raises. This includes all policy and administrative considerations that flow from the notification of his termination from government service.
2. All substantive legal and regulatory issues and any immediate questions you have for him. You will be collecting more information and advising the employee on his post-employment restrictions in a later exercise.
3. To assist you in your discussion consult LA-16-08 and [LA-22-07](https://www.oge.gov/Web/oge.nsf/Legal%20Docs/7222A0803100EAEF852588FA0069F040/%24FILE/LA-22-07.pdf?open), among others.

Exercise 4.3—Worksheet (Post-Employment)

|  |  |
| --- | --- |
| Programmatic Issues (policy, administrative) | Substantive Legal Issues |
| Questions: | Questions: |

# 4.4--Post-employment Resources to Review

* 1. [Post-employment Curriculum](https://extapps2.oge.gov/Training/OGETraining.nsf/OGECourse.xsp?action=openDocument&documentId=AAF62D211B9AC2F0852585D5004EE442)

# [LA-16-08—Primary Post-Employment Restrictions FAQs](https://extapps2.oge.gov/Training/OGETraining.nsf/xsp/.ibmmodres/domino/OpenAttachment/training/ogetraining.nsf/AAF62D211B9AC2F0852585D5004EE442/Body/LA-16-08.pdf)

* 1. For 207(a)(1), (a)(2) and (c) (PRIORITY)

Record on the worksheet provided (next page):

* + 1. The purpose of each restriction
    2. To whom the restriction applies
    3. The activities that are restricted
    4. The length of the restriction
  1. Additional Restrictions--Ethics Pledge

Read: [Pledge Post Employment Restrictions—LA-22-07](https://www.google.com/search?q=OGE%2BaDVISORY%2Bpost%2Bemployment%2BPledge%2Brestrictions&rlz=1C1GCEA_enUS856US856&oq=OGE%2BaDVISORY%2Bpost%2Bemployment%2BPledge%2Brestrictions&gs_lcrp=EgZjaHJvbWUyBggAEEUYOTIHCAEQABiiBDIHCAIQABiiBDIHCAMQABiiBNIBDTIyOTQ5MTczajBqMTWoAgCwAgA&sourceid=chrome&ie=UTF-8) Complete the worksheet to address the Pledge Restrictions.

TASK 4.4—POST EMPLOYMENT AUTHORITIES

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| PE Restriction | Purpose | Who Covered | Activity Restricted | How Long |
| 18 USC 207 (a)(1) |  |  |  |  |
| 18 USC 207(a)(2) |  |  |  |  |
| 18 USC 207(c) |  |  |  |  |
| 18 USC 207(f) |  |  |  |  |
| Pledge Paragraph 4 |  |  |  |  |
| Pledge Paragraph 5 |  |  |  |  |
| Pledge Paragraph 6 |  |  |  |  |

Exercise 4.5 Collect Information and Begin PE Analysis

Email to Singh-Smith Dr. Singh-Smith—

We understand your last day of service at AMH will be September 2nd. In order to prepare your post-employment briefing and memo, we will need some additional information from you. Once we have this information, we will schedule a time to meet and go over the memo with you.

* + 1. Can you please confirm that your rate of pay in 2024 was equal to or greater than $191,944?
    2. Can you please provide us with a list of any specific party matters you have worked on during your tenure with us?

This would include things such as contracts, grants and cooperative agreements—anything where there are named parties. *It doesn’t have to be exhaustive but at least representative of the types of things you have worked on.*

* + 1. Can you please provide us with a description of the types of duties you expect to perform for your prospective employer?

We are particularly interested in identifying any duties

* + - * that might involve you communicating with the federal government on behalf of your employer, and
      * any that might involve a foreign government. Thanks very much for your assistance with this.

The Ethics Team

Ethics Team—

Please let me know if you need additional information.

1. Can you please confirm that your rate of pay in 2024 was equal to or greater than $191,944? Yes it is.
2. Can you please provide us with a list of any specific party matters you or your staff have worked on during your tenure with us? This would include things such as contracts, grants and cooperative agreements—anything where there are named parties. It doesn’t have to be exhaustive but at least representative of the things you have worked on.

As you know from previous requests for advice, I have been involved in the grants portal project build along with Naomi, as well as tangentially in other information security contracts and audits. I have mostly been involved at the Exec level in discussions among the various Deputy

Directors about grant program policy objectives and budget priorities, as well as ones involving our cooperative agreements with various universities and other organizations.

My staff works directly with our various funding programs mostly on budget and performance measures, which can sometimes involve the disposition of particular grants and agreements.

1. Can you please provide us with a description of the types of duties you expect to perform for your prospective employer? We are particularly interested in identifying any duties that might involve you communicating with the federal government on behalf of your employer, and any that might involve a foreign government.

Below is a list of duties as described to me by MHA. I have already informed them that I may not be able to do all of these things immediately.

None will involve a foreign government.

Exec VP, State and Federal Advocacy, Mental Health America

* Provides expertise on a wide range of topics in behavioral health to local, state and federal policymakers
* Works with national legislator groups as topic expert
* Provides background and is critical spokesperson for MHA with the media
* Provides leadership for grassroots and legislative advocacy across the MHA affiliate network
* Coordinates the efforts of the Regional Policy Council (RPC), which focuses on state-level initiatives for equal access to behavioral health care, a full continuum of treatment and services, criminal justice diversion, and the value of prevention and early intervention

Happy to answer any additional questions. Best,

Rory

Dr. Rory M. Singh-Smith

Deputy Director for Programs Funding Agency on Mental Health



18 U.S.C. 207 Post Employment Analysis Worksheet

Employee Name:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **18 U.S.C. 207(a)(1) and (a)(2)** |  | |  | |
| **1. Did employee’s duties involve any specific party matters?** (*If yes, list them below.)* | **Yes** | | **No**  **No restrictions apply** | |
| **2. List of specific party matters.**  *For each indicate whether the employee either participated personally and substantially in the matter, or (if a supervisor or*  *manager) had the matter pending under his/her official responsibility during the last year of service.* | **Personal and substantial participation** | | **Pending under official responsibility *(during last year)*** | |
|  |  | |  | |
| **3. Identify employee’s post government employment**  (*if known*). |  | | | |
|  |
| **Post employment matters--***For any matters identified indicate whether they are the same particular matters as any listed above. If the same, decide whether any proposed activities would involve a prohibited communication/appearance.* | **Communication Appearance with Intent to Influence** | | **To or Before U.S.** | **On Behalf of 3rd**  **Party** |
| *Same particular matter Yes No*  *1.*  *2.*  *3.* |  | |  |  |
| **4. Is there an exception?** (list activity) | **5 CFR 2641.301** | |  | |
|  | **(a)** | **(b)** | **(e)** | **(f)** |
|  |  |  |  |  |
|  |  |  |  |  |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **18 U.S.C. 207(c)** |  | | |  | | | |
| **1. Is the employee a “senior employee?”** | **Yes** | | | **No**  **207 (c) does not apply** | | | |
| **2. If not a current employee, did the employee terminate service as a senior employee more than**  **one year ago?** | **No longer subject to 207(c)** | | | **Date of termination:** | | | |
| **3. Identify below employee’s post government employment or activities** (*if known*). |  | | | | | | |
| *For each, indicate whether it may involve communicating or appearing, with the intent to influence, to or before an employee of the former agency on behalf of a third party.* | **Communication Appearance with Intent to Influence** | | | **To or Before Former**  **Agency** | | **On Behalf of 3rd**  **Party** | |
| **List of employment/activities:** |  | | |  | |  | |
| **4. Do any Exceptions Apply? (*list activity*)** | **5 CFR 2641.301** | | |  | | | |
|  | **(a)** | **(b)** | **(c)** | **(d)** | **(e)** | **(f)** | **(g)** |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |

Worksheet–[EO 13989 Post Employment Restrictions](https://www.oge.gov/Web/oge.nsf/Legal%20Docs/7222A0803100EAEF852588FA0069F040/%24FILE/LA-22-07.pdf?open)

1. Pledge Paragraph 4—Post-Employment Cooling-Off Period for “Senior” Appointees [Is employee subject to 207(c)?](https://www.oge.gov/web/oge.nsf/0/133E051F19C0FB1885258A9A004F3811/$FILE/LA-24-01%20Effect%20of%20Pay%20Adjustments%20on%20Ethics%20Provisions%20for%20Calendar%20Year%202024.pdf) If yes, restriction applies.
2. Pledge Paragraph 5--Lobbying Restrictions for “Senior” and “Very Senior” Appointees

Will former employee be offering or engaged in “lobbying activities” involving making communications or appearances, or providing material support for such contacts by others, to covered executive branch officials?

1. Pledge Paragraph 6--Lobbying and Foreign Agent Restrictions for All Appointees

Will former employee lobby any covered executive branch official or non-career Senior Executive Service appointee, or engage in any activity on behalf of any foreign government or foreign political party which, would require registration under the Foreign Agents Registration Act?

# Task 4.6—Prepare Post Employment Advice

1. Each participant should prepare prospective post-employment written advice for Rory
2. Use the BFLACO template to deliver the advice
3. Advice should be submitted via [ACE assignments survey](https://www.surveymonkey.com/r/P8PMRG5) by start of class on August 28
4. Using the PE authority chart you created, prioritize the order in which each authority (207 and the Pledge) will be discussed in the advice—e.g. most likely to be an issue to least likely to be an issue.
5. There are seven separate provisions to discuss—consider combining like with like in your discussion.