
Office of Government Ethics

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**Memorandum dated April 2, 1997,
from Stephen D. Potts, Director,
to Designated Agency Ethics Officials
Regarding Issuance of a Memorandum
by the Office of Legal Counsel
on the Application of 18 U.S.C. § 208
to Employee Service on Boards of Directors
of Non-Federal Entities**

On November 19, 1996, the Office of Legal Counsel issued a Memorandum addressing whether 18 U.S.C. § 208 would prohibit Federal Bureau of Investigation (FBI) personnel from serving on the boards of directors of non-Federal nonprofit entities in their official capacities. That office determined that the statutory prohibition does prevent an employee from such service absent explicit statutory authority or a waiver under 18 U.S.C. § 208(b). Additional relief might be obtained through a release of fiduciary obligations by the outside organization if permitted under applicable state law.

The Office of Legal Counsel found that the prohibition in section 208 “extends to *any* official action by a government employee that affects the employee’s financial interests or those of other specified persons or entities, such as an organization for which the employee is a director.” Thus, an FBI employee who performs official duties for the FBI in serving on the board of an outside organization is subject to section 208 with respect to any action the employee takes as a director of the outside organization.