

Office of Government Ethics

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Letter to a Former Federal Employee dated December 22, 1992

This is in reply to your letter of December 4, 1992, in which you asked whether 18 U.S.C. § 207(c) would bar a former "Senior" Employee of [an agency] from appearing as private counsel before [a board of the agency]. While I did not find that the issue presented required issuance of a formal advisory opinion, the following discussion is responsive to your question.

By virtue of 18 U.S.C. § 207(c), a former Senior Employee is prohibited for one year from contacting his former agency for the purpose of influencing official action. More specifically, this representational bar applies to communications to or appearances before current employees of any department or agency in which the individual formerly served in any capacity during the one-year period prior to his termination from senior service.

The representational bar will ordinarily extend to the whole of the former agency or department. However, as explained in 5 C.F.R. § 2641.201(e)(1), eligible former Senior Employees may engage in representational activities before a component of their former department or agency if that component has been designated by the Director of the Office of Government Ethics (OGE) pursuant to 18 U.S.C. § 207(h) as a distinct and separate agency or bureau within that department or agency. Section 207(h) states that the Director shall make such designations "by rule." The procedure for designating departmental and agency components is published at 5 C.F.R. § 2641.201(e)(3). A current list of component designations is set forth in Appendix B to 5 C.F.R. Part 2641. [Your former agency] does not appear on that list since no component of [the agency] has thus far been designated by OGE as "distinct and separate."

Since the [board of the agency] is a part of [the agency] and has not been designated by OGE as a component of the agency for purposes of section 207(c), the one-year representational bar extends to the whole of [the agency].

Sincerely,

Stephen D. Potts

Director