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U.S. SENATE SELECT COMMITTEE ON ETHICS
CODE OF OFFICIAL CONDUCT TRAINING

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GIFTS
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The U.S. Constitution prohibits acceptance of gifts from foreign governments except where Congress has consented (Art. I, § 9, cl. 8).

Under the Foreign Gifts and Decorations Act (5 U.S.C. § 7342), Congress has consented to accepting certain gifts of “minimal value.” The Senate defines “minimal value” as $100 or less.

- If $100 or less, may accept and keep.
- If over $100, may accept, but must deposit the gift with the Secretary of the Senate and must report it to the Committee within 60 days of receipt.

Free attendance at certain types of events is permissible:
- Receptions.
- Food and beverages of nominal value, not a meal.
- Widely Attended Events:
  - Officially-related, 25 people from outside Congress, and open to a wide group.
  - Entertainment or substantially recreational events are excluded.
- Charity events.
- Campaign events.
- Constituent events:
  - In home state: 5 or more constituents, no lobbyists.
  - May not accept other items of value (e.g., gift bags) offered at event unless they fall into a Gifts Rule exception.

Gifts of multiple items are generally aggregated for purposes of determining value. However, if a gift is naturally divisible, a Member or staffer may be able to accept part of the gift and return or pay for the remainder.

- Example: If a staffer is offered two tickets valued at $40 each from an entity that does not employ lobbyists, he/she may accept one and return the other.
- Similarly, a package delivered to a Senate office is considered a single gift to the Senator, valued at the combined fair market value of its contents, unless items are specifically marked for individual staffers.
**U.S. SENATE SELECT COMMITTEE ON ETHICS**  
**CODE OF OFFICIAL CONDUCT TRAINING**  

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**U.S. SENATE SELECT COMMITTEE ON ETHICS**  
**HANDLING IMPERMISSIBLE GIFTS**

- **Refuse or return** impermissible gifts
  - May use the frank to return
  - Perishable gifts (e.g., flowers, food) may be discarded or donated to charity if impracticable to return

- **Or pay fair market value**
  - Use face value for tickets to sporting or entertainment events
  - If no face value, you must generally use the highest ticket price for the event
  - Flights on private planes have a specific valuation method assigned by federal law

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**U.S. SENATE SELECT COMMITTEE ON ETHICS**  
**Bribes and Illegal Gratuities**

- **Refuse** any gift that is offered in connection with an official action taken or being sought

- Such a gift may constitute a bribe or illegal gratuity under federal criminal law (18 U.S.C. § 201)

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**U.S. SENATE SELECT COMMITTEE ON ETHICS**  
**Solicitation**

- As a general rule, you **may not** solicit anything of value (5 U.S.C. § 7353)
  - You **may** solicit for a charitable organization (501(c)(3)) if the solicitation is made in your personal capacity
    - Must be done on your own time
    - May not use any official resources
    - May not imply any Senate endorsement or involvement
    - May not target lobbyists or foreign agents

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3/26/2021
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**FOREIGN GOVERNMENT TRAVEL**

- Mutual Educational and Cultural Exchange Act (MECEA) (22 U.S.C. § 2451 et seq.)
  - Must be approved by the State Department
  - Must be disclosed on Financial Disclosure Report
- Foreign Gifts and Decorations Act (FGDA) (5 U.S.C. § 7342)
  - Must be reported to the Committee on an FGDA form within 30 days of the travel

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**CONFLICTS OF INTEREST**

- Senate Rule 37.1 – No receiving compensation or any other benefit from influence improperly exerted from your Senate position
- Senate Rule 37.4 – No using Senate position to aid legislation where a principal purpose is to further the pecuniary interest of you, your immediate family, or a limited class of persons or entities of which you or your immediate family members are a part
- Senate Rule 37.7 – Committee staff paid at a rate of $25,000 or more and employed for more than 90 days must divest of any substantial holdings which may be directly affected by the actions of the employing committee

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**GENERAL PRINCIPLES – NO "CASHING IN"**

- Senate Rule 37.1 – No receiving compensation or any other benefit from influence improperly exerted from your Senate position
- Senate Rule 37.4 – No using Senate position to aid legislation where a principal purpose is to further the pecuniary interest of you, your immediate family, or a limited class of persons or entities of which you or your immediate family members are a part
- Senate Rule 37.7 – Committee staff paid at a rate of $25,000 or more and employed for more than 90 days must divest of any substantial holdings which may be directly affected by the actions of the employing committee
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U.S. SENATE SELECT COMMITTEE ON ETHICS
CODE OF OFFICIAL CONDUCT TRAINING

GENERAL PRINCIPLES – OUTSIDE POSITIONS

• Senate Rule 37.2 – Must refrain from any outside activity that could create a conflict or even the appearance of a conflict with your official duties
  • May not engage in an outside activity that is inconsistent or in conflict with the conscientious performance of your official duties

• Senate Rule 37.3 – Must get your supervising Senator’s approval to engage in any outside activity
  • Must report the outside activity to your supervising Senator at the start of the activity and each year thereafter on May 15th

SPECIFIC ACTIVITIES – OUTSIDE INCOME

• Members, officers, and employees paid at a rate of $132,552 (CY 2021) or more are subject to an outside earned income limit of $29,595 (CY 2021)
  • May not earn more than this limit from all outside sources combined
  • “Rate of pay” may be different than gross pay
    • Example: A staffer who works half-time (50%) and earns an annual gross salary of $70,000 is earning a rate of pay of $140,000 ($70,000 x 2)

SPECIFIC ACTIVITIES – PROFESSIONAL SERVICES

• Senate Rule 37.5 – All Members, officers, and employees paid at a rate of $25,000 or more and employed for more than 90 days in a calendar year are subject to “professional services” restrictions
  • Professional services involve a duty to an outside entity or client, and include:
    • Law
    • Medicine
    • Engineering
    • Architecture
    • Real estate
    • Insurance
    • Consulting
    • Any other position involving a fiduciary duty
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In matters in which the U.S. is a party or has an interest, you may not:

- Act as an agent or attorney (18 U.S.C. § 205)
- Demand, seek, receive, accept, or agree to receive or accept any compensation for any representational services rendered by you or by another (18 U.S.C. § 203)

For outside positions with the federal government or a state or local government, both elected and non-elected, contact the Committee for guidance.

Senate Rule 37.11 – Generally, must avoid any lobbying contact with a Member’s spouse or family member who is a registered lobbyist or is employed or retained by an entity that employs or retains registered lobbyists.

For other questions regarding spouse or immediate family member activities, contact the Committee for guidance.

Insider trading laws make illegal the purchase or sale of a security on the basis of material nonpublic information in breach of a duty of trust or confidence.

The STOCK Act affirmed that Members and employees of Congress owe “a duty arising from a relationship of trust and confidence to the Congress, the United States Government, and the citizens of the United States with respect to material, nonpublic information derived from such person’s position.”
**U.S. Senate Select Committee on Ethics**  
**Code of Official Conduct Training**

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**INSIDER TRADING – TIPPING**

- Insider trading laws also prohibit “tipping”
- “Tipping” is giving material, nonpublic information in violation of a duty of trust or confidence to another person who trades on the information
- Both the “tipper” and the “tippee” can be liable for violations

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**INSIDER TRADING – IPOs**

- Members, officers, and employees paid at a rate above $132,552 for CY 2021 are prohibited from participating in an Initial Public Offering (“IPO”) that is not generally available to the public
- Most IPOs are not generally available to the public

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**FUTURE EMPLOYMENT**

- Members, officers, and employees are generally permitted to seek future employment while still employed by the Senate, provided:
  - No use of Senate resources, including time and office space
  - No tie between official action and promise of future employment
  - Members, officers, and employees paid at a rate of $132,552 (CY 2021) or more must make appropriate disclosures on their Financial Disclosure Reports

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• Members may not:
  • Communicate with or appear before any Member, officer, or employee of the House, Senate, or other legislative office, on behalf of a third party, seeking official action, for two years (18 U.S.C. § 207)
  • Lobby the Senate for two years (Senate Rule 37.8)

• Officers and employees paid at a rate of $130,500 (CY 2021) or more for 60 days or more in the preceding year may not:
  • Communicate with or appear before any Member, officer, or employee of the Senate, on behalf of a third party, seeking official action, for one year (18 U.S.C. § 207)
  • Lobby the Senate for one year (Senate Rule 37.9)
  • Salary “look back” is one year from when you leave the Senate, not the calendar year
  • A bonus may subject you to these restrictions

• Employees paid at a rate below $130,500 (CY 2021) (Senate Rule 37.9):
  • Personal office staff may not lobby their office for one year
  • Committee staff may not lobby the Members or staff of that committee, including all subcommittees thereof, for one year
  • Ban applies to all Members who were on the Committee at the time the staff member left the Senate and to Members who join the Committee during the one-year ban period
  • Personal office staff with substantive committee responsibilities:
    • May not lobby their personal office for one year
    • May not lobby the committee Members and staff for one year from the date the staffer last performed services for the committee
  • Leadership staff may not lobby any Member or staff of the leadership of the same party (including the personal staff of the leadership Member employing the staffer) for one year
Post-Employment – Aiding Former Staff

- May not aid former Members, officers, or employees in violating the post-employment restrictions
  - No “informational request” exception
  - No exception for action the office would have taken anyway
- Handling prohibited contacts:
  - Consult the Secretary of the Senate’s list to see if individual is subject to the federal criminal law ban
    - https://www.senate.gov/legislative/lobbyngdisc.htm
  - Contact the Committee for guidance
  - Refer the individual to the Committee for guidance

Financial Disclosure

- Financial disclosure is a mechanism for monitoring and deterring conflicts of interest
- Financial disclosure is required by federal law and Senate Rule (Ethics in Government Act; STOCK ACT; Senate Rule 34)
- All filers must obtain an eFD account
- The Committee’s website has detailed information about:
  - Who must file
  - What information must be disclosed
  - When reports must be filed
  - How to obtain an eFD account

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WHO MUST FILE?

- The following individuals must file Financial Disclosure Reports:
  - Members and officers
  - Candidates
  - Employees paid at a rate of $132,552 (CY 2021) or more
    - Fellows, detailers, and interns are required to file with the Senate if the salary they receive from an outside organization meets this threshold, even if they already file with their home agency
  - Political Fund Designees, regardless of salary
  - It is your responsibility to know if you must file

WHAT/WHEN THEY MUST FILE

- Filers must file the following reports at the following times:
  - New Filer Report: Due within 30 days of assuming the filing position
    - Current staff may become filers due to a pay raise
    - Political Fund Designees (PFDs) do not need to file New Filer Reports
    - Candidates and most Senators file "Candidate Reports" instead of New Filer Reports
  - Annual Reports: Due annually, no later than May 15th
  - Termination Report: Due within 30 days of leaving the filing position, including when leaving Senate employment
    - Filers may request extensions of up to 90 days via eFD
    - Late reports are subject to a mandatory $200 penalty

ADDITIONAL REQUIREMENTS:

- Additionally, at the time transactions occur, most financial disclosure filers must file Periodic Transaction Reports (PTRs) for transactions in excess of $1,000 of certain assets
  - The PTR requirement applies to the purchase, sale, and exchange of:
    - Stocks
    - Bonds
    - Commodity futures
    - Other securities
  - But does not apply to:
    - Real property
    - U.S. Treasury securities
    - Excepted Investment Funds (EIFs), such as mutual funds and exchange traded funds (ETFs)
PTR Due Dates

- PTRs must be filed no later than 30 days after receiving notification of the transaction, but in no case later than 45 days after such transaction.
  - Notification occurs when a filer receives a written communication that a transaction has occurred (e.g., an email from a financial advisor or a monthly account statement).
  - The filing deadline applies regardless of whether you are, in fact, notified of a transaction.
- To avoid penalties, ensure you receive and review financial information on at least a monthly basis.
- The law does not allow extensions for PTRs.
- Late reports are subject to a mandatory $200 penalty.

Prohibition of Unofficial Office Accounts

- Senate Rule 38 – Private donations of cash, goods, or services may not be used to support official activities.
  - Includes co-sponsoring events with outside groups.
- Generally, official expenses may only be paid using:
  - Appropriated funds.
  - Senator’s personal funds.
  - Senator’s excess principal campaign funds.
- Excess principal campaign funds may not be used for Committee expenses, employee salaries, office space/furniture, office equipment and associated IT services (other than dual-purpose cell phones), or franked mail.

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EXCEPTIONS TO THE PROHIBITION

• Free exchange of information
  • Members may seek and accept advice on legislative issues from outside organizations
  • Outside organizations may provide ideas, information, memoranda, research, and legislative language to the Member as long as it is unsolicited
  • Senate office may not direct or control an outside organization to do Senate work
• Privately-sponsored travel
• Co-sponsored constituent service events

CAMPAIGN ACTIVITY

• Senate resources may not be used for campaign activity (31 U.S.C. § 1301)
• Senate resources include:
  • Senate space (e.g., Dirksen cafeteria)
  • Senate equipment (e.g., Senate mobile device)
  • Senate staff time
  • Senate title (e.g., "Legislative Assistant, Senator X")
  • Senate work product

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The frank is a facsimile of the Member’s signature in the corner of an envelope that takes the place of a stamp and authorizes sending official material through the domestic mail without prepayment of postage.

Each Member is personally responsible for ensuring that his or her office’s use of the frank complies with federal law, Senate Rules, and Committee regulations and rulings.

The remedy for misuse of the frank includes restitution from the Member’s personal funds.

Generally, the frank may only be used to mail materials that concern “the official business, activities, and duties of the Congress” (39 U.S.C. § 3210(a)).

The frank may not be used for personal or campaign related mail.

No mail matter that is not independently frankable may be inserted into a franked envelope.

Lending the frank to an outside group is prohibited (39 U.S.C. § 3215).

Communication with any individual or government agency regarding programs, decisions, or any other related matters of public concern or public service, including Congressional actions.

Federal regulations or federal publications containing general information.

The Congressional Record (in whole or in part).

Official newsletters and press releases.

Public service materials created exclusively with appropriated funds.

Questionnaires seeking public opinion.

Non-partisan voter registration or election information.

Mail between the D.C. office and home state offices.

Mail to other Members of Congress and other legislators.

Biographical material or pictures in federal publications or in response to a direct request.

Congratulations on a public distinction.
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