


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








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

 SELECT COMMITTEE ON ETHICS


GIFTS RULE

- **Senate Rule 35** – Members, officers, and employees *may not* accept any gift unless an exception to the Gifts Rule applies
- Applies 24 hours a day, 7 days a week
- Applies to gifts your family members receive *if* the gift is given because of your Senate position, and with your knowledge and acquiescence
- Contains more than 20 exceptions that allow you to accept certain gifts

 SELECT COMMITTEE ON ETHICS

WHAT IS A GIFT?


- The term "gift" is *broadly* defined and includes *anything of value*
 - Cash or cash equivalents
 - Tangible items
 - Transportation, lodging, and meals
 - Attendance at events
 - Discounts
 - Loans
 - Forbearance
 - Any other items of monetary value

 SELECT COMMITTEE ON ETHICS

PERMISSIBLE GIFTS – UNDER \$50

- Members, officers, and employees *may accept* a gift valued at *less than \$50* if the gift is *not from a lobbyist or foreign agent*, or an entity that employs or retains a lobbyist or foreign agent
 - No cash or cash equivalents
 - No "buy-downs"
- Gifts accepted under this exception are subject to a less-than-\$100 annual limit from each source
 - Gifts valued under \$10 do not count toward the annual limit, but be mindful of the spirit of the Gifts Rule


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

 SELECT COMMITTEE ON ETHICS
PERMISSIBLE GIFTS – CERTAIN SOURCES


- Gifts from relatives
 - Includes fiancés and in-laws
- Gifts from other Members, officers, and employees
 - But no gifts to supervisor or employing Senator

(5 U.S.C. § 7351)

 - *Exception:* Voluntary gifts given on traditional gift-giving occasions (e.g., marriage, retirement, holiday)
- Gifts from personal friends
 - Must weigh several factors to ensure the gift is given because of personal friendship, not Senate position
 - Must get written approval from the Committee for gifts over \$250

 SELECT COMMITTEE ON ETHICS
PERMISSIBLE GIFTS – CERTAIN SOURCES


- Gifts paid for by a federal, state, or local government
 - Includes federally recognized Native American Tribes and public universities
- Benefits resulting from outside activities
 - Prospective employment
 - E.g., flight or lodging for job interview
 - Outside position
 - E.g., free tickets offered to all volunteers for a non-profit
 - Spouse's activity
 - E.g., +1 to spouse's company's holiday party

 SELECT COMMITTEE ON ETHICS
PERMISSIBLE GIFTS – FOREIGN GOVERNMENTS

- 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


U.S. SENATE SELECT COMMITTEE ON ETHICS

CODE OF OFFICIAL CONDUCT TRAINING

 SELECT COMMITTEE ON ETHICS

PERMISSIBLE GIFTS – CERTAIN TYPES

- Items of little intrinsic value
 - *E.g.*, baseball cap, t-shirt, or non-food items valued at less than \$10
- Home state products for display or distribution to visitors to the Senate office
 - Must be provided by home state producer, manufacturer, or distributor
 - Must be provided in a quantity intended for distribution
 - May include a loan of home state artwork or furniture
- Informational materials
 - Must be from the publisher, author, or producer
 - Must be delivered to the Senate office

 SELECT COMMITTEE ON ETHICS

AGGREGATION

- Generally, 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
- 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

 SELECT COMMITTEE ON ETHICS


GIFTS – ATTENDANCE AT EVENTS

- 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
 - *Excluded:* Entertainment or substantially recreational events
 - 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


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

 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

 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**)

 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

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



SELECT COMMITTEE ON ETHICS



TRAVEL



SELECT COMMITTEE ON ETHICS

PRIVATELY-SPONSORED TRAVEL

- Must obtain written pre-approval from the Committee *for each and every traveler*
- Must submit requests for approval at least 30 days before the start date of the trip
- Must file post-travel disclosure within 30 days of the last day of the trip
- There are significant restrictions on accepting travel expenses from private entities that retain or employ lobbyists or foreign agents
- Forms, checklists, and guidance are available on our website—www.ethics.senate.gov



SELECT COMMITTEE ON ETHICS

PRE-APPROVAL EXCEPTIONS

- Committee pre-approval is not required for travel paid for by:
 - Senate
 - Federal, state, or local government entities
 - Campaign committees
 - Foreign governments pursuant to MECEA and FGDA


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

 SELECT COMMITTEE ON ETHICS
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

 SELECT COMMITTEE ON ETHICS


CONFLICTS OF INTEREST

 SELECT COMMITTEE ON ETHICS
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

U.S. SENATE SELECT COMMITTEE ON ETHICS


CODE OF OFFICIAL CONDUCT TRAINING

 **SELECT COMMITTEE ON ETHICS**
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

 **SELECT COMMITTEE ON ETHICS**
GENERAL PRINCIPLES – OUTSIDE INCOME


- Members, officers, and employees paid at a rate of \$126,148 (CY 2018) or more are subject to an outside earned income limit of \$28,050 (CY 2018)
 - 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 \$65,000 is earning a rate of pay of \$130,000 (\$65,000 x 2)

 **SELECT COMMITTEE ON ETHICS**
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

U.S. SENATE SELECT COMMITTEE ON ETHICS


CODE OF OFFICIAL CONDUCT TRAINING

 **SELECT COMMITTEE ON ETHICS**
SPECIFIC ACTIVITIES – PROFESSIONAL SERVICES

- Members, officers, and employees paid at a rate of \$25,000 or more and employed for more than 90 days in a calendar year:
 - May not affiliate for the purpose of providing professional services for compensation
 - Employees paid at a rate below \$126,148 (CY 2018) *may* practice a profession during off hours, if not affiliated (e.g., practicing law as a solo practitioner)
- May not permit their names to be used by outside entities providing professional services for compensation


 **SELECT COMMITTEE ON ETHICS**
SPECIFIC ACTIVITIES – PROFESSIONAL SERVICES

- Members, officers, and employees paid at a rate of \$126,148 (CY 2018) or more are subject to the following additional restrictions:
 - May not provide professional services for compensation
 - But may provide professional services if uncompensated and no entity receives payment for your services (e.g., a doctor may provide uncompensated medical care at a free clinic)
 - May not receive compensation for affiliation or employment, *in any capacity*, with a firm, partnership, association, corporation, or other entity which provides professional services involving a fiduciary relationship

 **SELECT COMMITTEE ON ETHICS**
SPECIFIC ACTIVITIES – BOARDS


- **Senate Rule 37.6** – Generally, Members, officers, and employees paid at a rate of \$25,000 or more and employed for more than 90 days in a calendar year:
 - ✗ **MAY NOT**
 - Serve as an officer or member of the board of any publicly-held or publicly-regulated company
 - ✓ **MAY**
 - Serve as an uncompensated officer or board member of:
 - Organizations that are tax-exempt under § 501(c)(3)
 - Organizations that are principally available to Members, officers, and employees of the Senate and their families (e.g., Senate Credit Union)

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

 SELECT COMMITTEE ON ETHICS


SPECIFIC ACTIVITIES – BOARDS

- Board member and officer positions that involve a fiduciary duty are subject to heightened scrutiny under **Senate Rules 37.2 and 37.3**
- Generally, you may not serve as a board member or officer if:
 - The work of the organization overlaps with your duties with the Senate
 - The organization receives federal funding

 SELECT COMMITTEE ON ETHICS

SPECIFIC ACTIVITIES – HONORARIA

- Members, officers, and employees *may not accept payment* for a speech, appearance, or article (other than a book) (**Senate Rule 36; 5 U.S.C. App. § 501**)
- In lieu of honoraria, a donation of up to \$2,000 may be made directly to a § 501(c)(3) charity, subject to the following limitations:
 - You may not direct the donation to a charity from which you or an immediate family member draws any financial benefit
 - You may not take a personal tax deduction
 - You must report donations made by a lobbyist or foreign agent to the Secretary of the Senate within 30 days
 - You must report the donation on your Financial Disclosure Report

 SELECT COMMITTEE ON ETHICS


SPECIFIC ACTIVITIES – TEACHING

- **Senate Rule 37.5(b)** – Members, officers, and employees paid at a rate of \$126,148 (CY 2018) or more may not teach for compensation without *prior written approval from the Committee*
- For employees paid below this threshold, Committee approval is not required, but, as with all outside activities:
 - Must get supervising Senator's permission
 - Must ensure no violation of honoraria ban
 - May not use Senate resources


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

 **SELECT COMMITTEE ON ETHICS**
SPECIFIC ACTIVITIES –
POSITIONS INVOLVING GOVERNMENT ENTITIES

- 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


 **SELECT COMMITTEE ON ETHICS**
SPECIFIC ACTIVITIES –
SPOUSE & FAMILY MEMBER LOBBYING

- **Senate Rule 37.11(a)** – A Member *must prohibit any lobbying contact* between his/her staff and his/her spouse or immediate family member who is a registered lobbyist or is employed by an entity that retains or employs a lobbyist
- **Senate Rule 37.11(b)** – Members and staff *may not have any lobbying contact* with any spouse of a Member who is a lobbyist or is employed or retained by a lobbyist
 - This prohibition does not apply to a spouse who was a lobbyist at least one year prior to the Member's most recent election or at least one year prior to their marriage (**Senate Rule 37.11(c)**)
 - However, a spouse engaging in lobbying contact under this exception *may create the appearance* of a conflict of interest
- For other questions regarding spouse or immediate family member activities, contact the Committee for guidance


 **SELECT COMMITTEE ON ETHICS**
INSIDER TRADING – DUTY OF TRUST

- 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

 **SELECT COMMITTEE ON ETHICS**
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


 **SELECT COMMITTEE ON ETHICS**
INSIDER TRADING – IPOs

- Members, officers, and employees paid at a rate above \$126,148 for CY 2018 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


 **SELECT COMMITTEE ON ETHICS**
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 \$126,148 (CY 2018) or more must make appropriate disclosures on their Financial Disclosure Reports


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

 SELECT COMMITTEE ON ETHICS
FUTURE EMPLOYMENT – MEMBERS

- Members must file a signed public statement with the Secretary of the Senate within 3 business days of entering into a negotiation or arrangement for private employment or compensation (**Senate Rule 37.14(a)**)
- Members required to file this public statement must also:
 - Recuse themselves whenever there is a conflict of interest or the appearance of a conflict with respect to the prospective employer
 - Notify the Committee in writing of such recusal
- For future employment involving lobbying, Members must wait until after their successor is elected to enter negotiations or employment arrangements (**Senate Rule 37.14(b)**)

 SELECT COMMITTEE ON ETHICS
FUTURE EMPLOYMENT – STAFF

- Senate employees paid at a rate of \$126,148 (CY 2018) or more:
 - Must notify the Committee in writing within 3 days after entering into a negotiation or arrangement for future employment or compensation with a private entity
 - Must recuse themselves from all official matters involving any prospective private employer whenever there is a conflict of interest or the appearance of a conflict (**STOCK ACT**)
- In addition, senior staff (employees paid at a rate of \$130,500 (CY 2018) or more):
 - Must recuse themselves from all legislative matters that create a conflict of interest or the appearance of a conflict (**STOCK ACT; Senate Rule 37.14(c)**)

 SELECT COMMITTEE ON ETHICS
FUTURE EMPLOYMENT – DEFINITIONS

- A “negotiation” is the discussion of terms and conditions of employment after an offer has been made and the Member, officer, or employee is considering accepting
- An “employment arrangement” begins when an offer has been made and accepted

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

 SELECT COMMITTEE ON ETHICS


POST-EMPLOYMENT – MEMBERS

- 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**)

 SELECT COMMITTEE ON ETHICS

POST-EMPLOYMENT – SENIOR STAFF

- Officers and employees paid at a rate of \$130,500 (CY 2018) 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

 SELECT COMMITTEE ON ETHICS

POST-EMPLOYMENT – ALL OTHER STAFF

- Employees paid at a rate below \$130,500 (CY 2018) (**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

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


 SELECT COMMITTEE ON ETHICS
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/lobbyingdisc.htm>
 - Contact the Committee for guidance
 - Refer the individual to the Committee for guidance

 SELECT COMMITTEE ON ETHICS




FINANCIAL DISCLOSURE

 SELECT COMMITTEE ON ETHICS
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

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

 **SELECT COMMITTEE ON ETHICS**


WHO MUST FILE?

- The following individuals must file Financial Disclosure Reports:
 - Candidates
 - Members and officers
 - Employees paid at a rate of \$126,148 (CY 2018) or more
 - Fellows, detailees, 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

 **SELECT COMMITTEE ON ETHICS**

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

 **SELECT COMMITTEE ON ETHICS**

PERIODIC TRANSACTION REPORTS (PTRs)

- 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)

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


 SELECT COMMITTEE ON ETHICS

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

 SELECT COMMITTEE ON ETHICS

PROHIBITION OF UNOFFICIAL OFFICE ACCOUNTS

 SELECT COMMITTEE ON ETHICS

PROHIBITION OF UNOFFICIAL OFFICE ACCOUNTS


- **Senate Rule 38** – Restricts the types of funds that may be used for official expenses
- Private donations of cash, goods, or services may not be used to support official activities
 - Prohibition includes co-sponsoring events with outside groups

U.S. SENATE SELECT COMMITTEE ON ETHICS


CODE OF OFFICIAL CONDUCT TRAINING

 **SELECT COMMITTEE ON ETHICS**
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

 **SELECT COMMITTEE ON ETHICS**
PERMISSIBLE FUNDING SOURCES FOR OFFICIAL EXPENSES

- Generally, official expenses may only be paid using:
 - Appropriated funds
 - Senator's personal funds
 - Senator's excess principal campaign funds
 - Subject to a number of restrictions

 **SELECT COMMITTEE ON ETHICS**
RESTRICTIONS ON USE OF EXCESS PRINCIPAL CAMPAIGN FUNDS

- Excess principal campaign funds *may not* be used for:
 - Committee expenses
 - Expenses specified in **2 U.S.C. § 503(d)**, including:
 - Employee salaries
 - Office space and furniture
 - Office equipment and any associated IT services
 - Franked mail
- Excess principal campaign funds may be used for dual-purpose handheld communication devices (e.g., cell phones, tablets)
 - If excess principal campaign funds are used to purchase such a device, they must be used to maintain it

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

**CAMPAIGN
ACTIVITY**

**RESTRICTIONS ON SENATE STAFF –
CAMPAIGN WORK**


- Officers and employees may perform paid or unpaid campaign work as follows:
 - Must be voluntary, not a condition of your Senate employment
 - Must obtain approval of your supervising Senator
 - Must be done on your own time
 - No using any official Senate resources
 - Senate may not subsidize campaign by keeping you on payroll
- Campaign income counts toward the outside earned income limit

**RESTRICTIONS ON SENATE STAFF –
CAMPAIGN CONTRIBUTIONS**


- Federal law prohibits making a contribution to your employing Senator (**18 U.S.C. § 603**)
- The prohibition includes:
 - An "outlay," other than for personal travel expenses
 - Contributions made by your relatives from a joint account or jointly owned asset (e.g., your spouse writing a check from a jointly owned bank account)
- The prohibition does not include:
 - Volunteering for the campaign
 - Contributing to a multi-candidate committee or PAC (e.g., DSCC or NRSC), even though some of the proceeds may eventually go to your employing Senator
 - But you *may not* specifically earmark any contribution for your employing Senator

U.S. SENATE SELECT COMMITTEE ON ETHICS


CODE OF OFFICIAL CONDUCT TRAINING

 **SELECT COMMITTEE ON ETHICS**
**RESTRICTIONS ON SENATE STAFF –
HANDLING CAMPAIGN FUNDS**

- Officers and most employees *may not handle* (solicit, receive, be the custodian of, or distribute) *any federal campaign funds* (**Senate Rule 41**)
 - Unique to the Senate
- Officers and employees *may*, however, assist with and attend federal campaign fundraisers, provided their role does not involve handling campaign funds
 - Hosting a fundraiser is deemed to involve handling campaign funds and is therefore prohibited
- This prohibition does not apply to state and local campaign funds


 **SELECT COMMITTEE ON ETHICS**
**RESTRICTIONS ON SENATE STAFF –
EXCEPTION FOR PFDs**

- Each Senator may designate up to 3 Political Fund Designees (PFDs) on his or her personal office staff
 - PFDs must have a salary of at least \$10,000
 - At least 1 PFD must be in the DC office
 - PFDs must file certain Financial Disclosure Reports, regardless of salary
- With the permission of their supervising Senator, PFDs *may* handle campaign funds from the following:
 - Campaign committee of employing Senator
 - Campaign committee established and controlled by a Senator or group of Senators (e.g., DSCC and NRSC)
 - State or local committee of a national party


 **SELECT COMMITTEE ON ETHICS**
**RESTRICTIONS ON THE SENATE OFFICE –
GENERAL PRINCIPLES**

- 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


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

 **SELECT COMMITTEE ON ETHICS**
**RESTRICTIONS ON THE SENATE OFFICE –
MISDIRECTED MATERIALS**

- **Contributions:** No soliciting or receiving federal, state or local campaign contributions in a federal building **(18 U.S.C. § 607)**
 - 7-day safe harbor for unsolicited contributions
- **Never** accept a contribution connected to official action **(18 U.S.C. § 201)**
- **Correspondence:** For misdirected campaign calls, letters, or emails, you may either:
 - Forward the inquiry to the campaign office for action; or
 - Provide the campaign phone number and address to the individual seeking information
 - May not provide link to campaign website (**Internet Usage Policy**)

 **SELECT COMMITTEE ON ETHICS**
**RESTRICTIONS ON THE SENATE OFFICE –
LIMITED OVERLAP**

- The following types of limited overlap between the Senate office and the campaign are permissible:
 - Official and campaign schedulers may coordinate
 - Official scheduler may not schedule campaign activities (e.g., RSVP to campaign events, book campaign travel)
 - Official communications staff may answer a few incidental campaign questions raised in an official briefing or interview
 - Senate office may not act as the campaign press operation
 - Senate office may provide a copy of public material to the campaign
 - Campaign may not reissue materials prepared by the Senate office

 **SELECT COMMITTEE ON ETHICS**
**RESTRICTIONS ON THE SENATE OFFICE –
MIXED PURPOSE MATTERS**

- For calls, letters, and emails related to both campaign and official matters, you may respond to the official portion of the inquiry and forward or redirect the campaign portion
- For travel involving both campaign and official events, you must pro rate all expenses to accurately reflect the purpose of the trip
 - Contact the Rules Committee for questions about reimbursable travel expenses
 - Contact the FEC for questions about expenditures of campaign funds


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

 SELECT COMMITTEE ON ETHICS
**RESTRICTIONS ON THE SENATE OFFICE –
MORATORIA**

- 60 days prior to a primary or general election the following activities are prohibited:
 - Using official funds for certain travel expenses
 - Using Senate television or recording studios
 - Using official funds to maintain a mobile office
 - Sending mass mailings
 - Sending unsolicited mass email
 - Certain use of official social media and internet
- No moratorium for primary election if it is uncontested and there is *no legal possibility* for a write-in candidate
- Contact Rules Committee for additional guidance


 SELECT COMMITTEE ON ETHICS

**CONSTITUENT
SERVICES**

 SELECT COMMITTEE ON ETHICS
GENERAL CASEWORK RULES

- Senators have broad discretion in assisting constituents
 - *May* request information, urge prompt consideration, arrange interviews or appointments, express judgments, call for reconsideration, or request a status report
 - *May not* provide special treatment or access for supporters, contributors, or friends
 - *May not* violate a rule of the relevant outside entity (e.g., *ex parte* communications)
 - *May not* intervene if an agency is engaged in an on-going enforcement, investigative, or other quasi-judicial proceeding
- Communications between Senators and constituents are considered confidential


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

 SELECT COMMITTEE ON ETHICS
CONGRESSIONAL LIAISONS

- In assessing whether contacting an executive or independent agency is permissible, the Senate office should always contact the congressional liaison to:
 - Determine whether there are restrictions on outside communications regarding the matter at issue
 - Determine the appropriate point of contact
- Keep records of communications with liaisons


 SELECT COMMITTEE ON ETHICS

FRANKING

 SELECT COMMITTEE ON ETHICS
FRANKING


- 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*

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

 SELECT COMMITTEE ON ETHICS


STANDARDS OF FRANKABILITY

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

 SELECT COMMITTEE ON ETHICS

FRANKABLE MAIL


- 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

 SELECT COMMITTEE ON ETHICS

NONFRANKABLE MAIL


- Solicitations for political support or financial assistance
- Mail containing certain partisan references
- Condolence letters sent to the public
- Holiday greetings, except for an incidental reference in otherwise frankable mail
- Messages about a Senator’s family activities, other than in connection with official duties
- Messages to a Member on a personal rather than official basis
- Personal mail
- Congratulations on a personal distinction

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

 SELECT COMMITTEE ON ETHICS

PUBLIC/PERSONAL DISTINCTIONS

- **Public Distinctions**
 - Recent naturalization as an American citizen
 - Receipt of a high school diploma by a senior citizen through an adult education program
 - Enlistment or re-enlistment in the Armed Forces or acceptance into a U.S military service academy
 - Promotion of an Eagle Scout, a VFW Commander, or an American Legion Commander
 - Directorship of a state museum
 - Election or appointment to public office
- **Personal Distinctions**
 - Birth, marriage, or anniversary
 - Graduation from high school or college, or selection as class valedictorian
 - Graduation in the top 10% of a class
 - Promotion in a business
 - Establishment a new business
 - Registration to vote
 - Receipt of an award from a local organization
 - Mention in an article in a trade association journal or newspaper

 SELECT COMMITTEE ON ETHICS

MASS MAILING

- A mass mailing is *500 or more substantially similar pieces of mail within one session of Congress*, regardless of whether the pieces are mailed at the same time
 - *Does not include:* mail in direct response; mail to other Members of Congress; mail to federal, state, or local officials; press releases; town meeting notices; federal publications or items provided to all Senators or made available for purchase with official funds for distribution; mail in response to a signed petition; and electronic communications
- *Must* be franked
- Subject to special restrictions on the size and number of pages, the number of times a Member's name may appear, and the size and content of photos
- Subject to the 60 day moratorium period

 SELECT COMMITTEE ON ETHICS

CONTACT THE COMMITTEE

**If you have any questions,
please contact the Committee**

(202) 224-2981 (main) (202) 224-7416 (fax)

mailbox_office@ethics.senate.gov (email)

Committee guidance is confidential
