


# U.S. SENATE SELECT COMMITTEE ON ETHICS

## CODE OF OFFICIAL CONDUCT TRAINING



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

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### U.S. Senate Code of Official Conduct Training

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**U.S. SENATE SELECT COMMITTEE ON ETHICS**  
WHAT WE'LL COVER

Introduction to the Committee

- i. Gifts (Rule 35)
- ii. Conflicts of Interest (Rule 36, Rule 37)
- iii. Financial Disclosure (Rule 34)
- iv. Unofficial Office Accounts (Rule 38)
- v. Integrity of Official Resources; Franking (Rule 39, Rule 40)
- vi. Campaign Activity (Rule 41)
- vii. Constituent Service (Rule 43)

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**U.S. SENATE SELECT COMMITTEE ON ETHICS**  
INTRODUCTION TO THE COMMITTEE

- The Ethics Committee is the Senate's self-disciplinary body
- Derives from constitutional power – "Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member" (Art. I, § 5)
- Committee formed in 1964, with first Code of Conduct passed in 1968

Intro	Gifts	Conflicts of Interest	Financial Disclosure	Unofficial Office Accounts	Official Resources	Campaign Activity	Constituent Service
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# U.S. SENATE SELECT COMMITTEE ON ETHICS

## CODE OF OFFICIAL CONDUCT TRAINING



### U.S. SENATE SELECT COMMITTEE ON ETHICS

INTRODUCTION TO THE COMMITTEE

- The Committee is uniquely bipartisan – 3 Members from each party, with all action by either Chair/Vice Chair acting jointly, or with the vote of at least 4 Members (always at least one from each party)

**Chairman**  
**James Lankford**  
Oklahoma



**Vice Chairman**  
**Christopher A. Coons**  
Delaware



**James E. Risch**  
Idaho



**Deb Fischer**  
Nebraska



**Brian Schatz**  
Hawaii



**Jeanne Shaheen**  
New Hampshire



Intro	Gifts	Conflicts of Interest	Financial Disclosure	Unofficial Office Accounts	Official Resources	Campaign Activity	Constituent Service
-------	-------	-----------------------	----------------------	----------------------------	--------------------	-------------------	---------------------

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### U.S. SENATE SELECT COMMITTEE ON ETHICS

INTRODUCTION TO THE COMMITTEE

- Committee has three main functions:
  - Advice and Training
  - Financial Disclosure
  - Investigations/Enforcement
- Nonpartisan Committee staff are always available to take your questions!

Phone: (202) 224-2981  
Email: mailbox\_office@ethics.senate.gov

Intro	Gifts	Conflicts of Interest	Financial Disclosure	Unofficial Office Accounts	Official Resources	Campaign Activity	Constituent Service
-------	-------	-----------------------	----------------------	----------------------------	--------------------	-------------------	---------------------

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### U.S. SENATE SELECT COMMITTEE ON ETHICS

#### The Gifts Rule

Key Principles:

- Accepting gifts is generally prohibited unless an exception applies. Call Ethics if you aren't sure whether an exception applies.
- The exceptions are targeted toward gifts that don't give the appearance that the gift is an attempt to influence the performance of official duties. Considerations include:
  - Value.** \$4 cup of coffee vs \$400 iPad.
  - Giver.** Lobbyist? Other individual with official business? Friend? Relative?
  - Purpose.** Tour of energy facility in state vs trip to Disneyland.

Intro	Gifts	Conflicts of Interest	Financial Disclosure	Unofficial Office Accounts	Official Resources	Campaign Activity	Constituent Service
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# U.S. SENATE SELECT COMMITTEE ON ETHICS

## CODE OF OFFICIAL CONDUCT TRAINING



### U.S. SENATE SELECT COMMITTEE ON ETHICS

GIFTS – BASELINE RULE

- Senate Rule 35 – Members, officers, and employees may not accept any gift unless an exception to the Gifts Rule applies
- The term "gift" is broadly defined and includes anything of value
  - Not just cash or tangible items, but also provision or reimbursement of travel expenses, free attendance at events, discounts, etc.
- Applies 24/7, not just when you are on official time
- Applies to gifts your family members receive if the gift is given because of your Senate position, and with your knowledge and acquiescence

Intro	Gifts	Conflicts of Interest	Financial Disclosure	Unofficial Office Accounts	Official Resources	Campaign Activity	Constituent Service
-------	-------	-----------------------	----------------------	----------------------------	--------------------	-------------------	---------------------

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### U.S. SENATE SELECT COMMITTEE ON ETHICS

GIFTS – BASELINE RULE

- Contains more than 20 exceptions that allow you to accept certain gifts
- Complete list of exceptions available on Committee's website; see *also* Quick Reference Guide under Publications & Resources
- If you aren't certain whether an exception applies, contact the Committee for guidance

Intro	Gifts	Conflicts of Interest	Financial Disclosure	Unofficial Office Accounts	Official Resources	Campaign Activity	Constituent Service
-------	-------	-----------------------	----------------------	----------------------------	--------------------	-------------------	---------------------

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### U.S. SENATE SELECT COMMITTEE ON ETHICS

EXCEPTIONS – LOW VALUE GIFTS

- Gifts 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
  - \$100 annual limit from each source
  - No cash or cash equivalents
  - No "buy-downs"
- Items of little intrinsic value, regardless of source
  - Baseball cap, t-shirt, or non-food items valued at \$10 or less
  - Gifts valued at \$10 or less do not count toward the \$100 annual limit, but be cautious about the appearance of accepting repeated gifts from a single source

Intro	Gifts	Conflicts of Interest	Financial Disclosure	Unofficial Office Accounts	Official Resources	Campaign Activity	Constituent Service
-------	-------	-----------------------	----------------------	----------------------------	--------------------	-------------------	---------------------

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# U.S. SENATE SELECT COMMITTEE ON ETHICS

## CODE OF OFFICIAL CONDUCT TRAINING



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

EXCEPTIONS – PERSONAL RELATIONS

- Gifts from relatives
  - Includes fiancés and in-laws
  
- Gifts from personal friends
  - Must get written approval from the Committee for gifts over \$250
  - Must weigh several factors to ensure the gift is given because of personal friendship, not Senate position
  
- Wedding waiver – File form with Ethics to receive blanket waiver for wedding gifts

Intro
Gifts
Coeffices of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

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

EXCEPTIONS – GOVERNMENT SOURCES

- 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 paid for by any unit of government
  - Federal, state, or local
  - Includes federally recognized Native American Tribes and public universities

Intro
Gifts
Coeffices of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

---

---

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

EXCEPTIONS – OUTSIDE ACTIVITIES

- 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 nonprofit)
  - Spouse's activity (e.g., +1 to spouse's company's holiday party)
  
- Opportunities and benefits offered to all members of a class unrelated to Senate employment
  - Benefits available to all government employees
  - Rewards program at a bank, open to all customers

Intro
Gifts
Coeffices of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

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## CODE OF OFFICIAL CONDUCT TRAINING



### U.S. SENATE SELECT COMMITTEE ON ETHICS

EXCEPTIONS – FOR THE BENEFIT OF THE OFFICE

- 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
  - Can also accept loan of home state artwork or furniture
  
- Informational materials
  - Must be from the publisher, author, or producer
  - Must be delivered to the Senate office

Intro
Gifts
Coefflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

---

---

---

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### U.S. SENATE SELECT COMMITTEE ON ETHICS

EXCEPTIONS – FOREIGN GOVERNMENTS

- Gifts from foreign governments are prohibited, regardless of Gifts Rule exceptions, except where Congress consents by statute (U.S. Constitution Art. I, § 9, cl. 8)
  
- Foreign Gifts and Decorations Act (FGDA) (5 U.S.C. § 7342) – May accept gifts of "minimal value" (\$100 or less)
  - If over \$100, must deposit the gift with the Secretary of the Senate and must report it to the Committee within 60 days of receipt
  
- Travel paid for by foreign governments:
  - FGDA – Travel expenses taking place entirely outside the US
  - MECEA – Exchange programs approved by US State Department

Intro
Gifts
Coefflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

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### U.S. SENATE SELECT COMMITTEE ON ETHICS

EXCEPTIONS – FREE ATTENDANCE TO EVENTS

- "Reception exception" – Event where only item of value is food and beverage of nominal value offered other than as part of a meal
  
- Widely Attended Events
  - Related to official duties, attended by 25 people from outside Congress, open to a wide group
  - Can't be entertainment or substantially recreational
  
- 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 an event unless they fall into a Gifts Rule exception

Intro
Gifts
Coefflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

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## CODE OF OFFICIAL CONDUCT TRAINING



### U.S. SENATE SELECT COMMITTEE ON ETHICS

PRIVATELY SPONSORED TRAVEL

- Travel outside the duty station paid for by a private entity ("privately sponsored travel") is governed by regulations passed pursuant to the Honest Leadership and Open Government Act (2007)
- Must receive prior written approval to accept privately sponsored travel
- 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

Intro	Gifts	Conflicts of Interest	Financial Disclosure	Unofficial Office Accounts	Official Resources	Campaign Activity	Constituent Service
-------	-------	-----------------------	----------------------	----------------------------	--------------------	-------------------	---------------------

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### U.S. SENATE SELECT COMMITTEE ON ETHICS

CRIMINAL BRIBERY AND ILLEGAL GRATUITY

- 18 U.S.C. § 201 –**
  - Bribery – "... directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value . . . in return for . . . being influenced in the performance of any official act"
  - Gratuity – "... directly or indirectly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally for or because of any official act performed or to be performed"
- Refuse any gift that is offered in connection with an official action, no matter how small the gift or action, even if a Gifts Rule exception would otherwise apply!!!

Intro	Gifts	Conflicts of Interest	Financial Disclosure	Unofficial Office Accounts	Official Resources	Campaign Activity	Constituent Service
-------	-------	-----------------------	----------------------	----------------------------	--------------------	-------------------	---------------------

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### U.S. SENATE SELECT COMMITTEE ON ETHICS

SOLICITATION OF GIFTS

- 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

Intro	Gifts	Conflicts of Interest	Financial Disclosure	Unofficial Office Accounts	Official Resources	Campaign Activity	Constituent Service
-------	-------	-----------------------	----------------------	----------------------------	--------------------	-------------------	---------------------

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# U.S. SENATE SELECT COMMITTEE ON ETHICS

## CODE OF OFFICIAL CONDUCT TRAINING



**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

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

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

**Conflicts of Interest**

Key Principles:

- At all times, in all things, avoid any conflict of interest or appearance of conflict of interest—the appearance that official action is motivated by personal gain or outside interests
  
- Four topics:
  - Rules prohibiting use of Senate position for personal gain
  - Rules governing outside positions
  - Insider trading and financial holdings
  - Seeking future employment and “cooling off” period

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

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

**PROHIBITION ON USING OFFICIAL POSITION FOR PERSONAL GAIN**

- 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
  
- ❖ *Avoid any appearance of “cashing in” on official position or that you have a personal financial stake in the outcome of your official duties*

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

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# U.S. SENATE SELECT COMMITTEE ON ETHICS

## CODE OF OFFICIAL CONDUCT TRAINING



### U.S. SENATE SELECT COMMITTEE ON ETHICS

#### 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

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

---

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### U.S. SENATE SELECT COMMITTEE ON ETHICS

#### OUTSIDE POSITIONS – OUTSIDE EARNED INCOME

- Outside earned income limit of \$33,285 (CY 2025) only for staff whose Senate rate of pay is \$150,160 (CY 2025) or more
  - Limit applies to "earned income" – compensation for personal services actually rendered – not investment income
  - Limit is for all outside sources combined, not per job
  - Senate "rate of pay" may be different than gross pay
 

*Example:* A staffer who works half-time (50%) and earns an annual gross salary of \$80,000 has a *rate of pay* of \$160,000 (\$80,000 x 2)
- No limit on outside income for other staff, but ensure all outside activities are done on personal time and without Senate resources

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

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### U.S. SENATE SELECT COMMITTEE ON ETHICS

#### OUTSIDE POSITIONS – PROFESSIONAL SERVICES

- Senate Rule 37.5 – Restriction on "professional services" positions
- Professional services are those that involve a duty to an outside entity or client, such as:
  - Law
  - Medicine
  - Engineering
  - Architecture
  - Real estate
  - Insurance
  - Consulting
  - Other positions involving a fiduciary duty

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

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# U.S. SENATE SELECT COMMITTEE ON ETHICS

## CODE OF OFFICIAL CONDUCT TRAINING



### U.S. SENATE SELECT COMMITTEE ON ETHICS

OUTSIDE POSITIONS – PROFESSIONAL SERVICES

- **Below threshold (\$150,160 for CY 2025):**
  - May not affiliate for the purpose of providing professional services for compensation, but may practice a profession as a solo practitioner
  - May not permit name to be used by entities providing professional services for compensation
  
- **At or above threshold (\$150,160 for CY 2025):**
  - May not provide professional services for compensation, regardless of affiliation with a firm
  - May not receive compensation for affiliation or employment with professional services entity, regardless of whether you provide professional services

Intro	Gifts	Conflicts of Interest	Financial Disclosure	Unofficial Office Accounts	Official Resources	Campaign Activity	Constituent Service
-------	-------	-----------------------	----------------------	----------------------------	--------------------	-------------------	---------------------

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### U.S. SENATE SELECT COMMITTEE ON ETHICS

OUTSIDE POSITIONS – PROFESSIONAL SERVICES

- Pro bono professional services are not barred by Rule 37.5 so long as no entity receives payment for the services (e.g., a doctor may provide uncompensated medical care at a free clinic)

Intro	Gifts	Conflicts of Interest	Financial Disclosure	Unofficial Office Accounts	Official Resources	Campaign Activity	Constituent Service
-------	-------	-----------------------	----------------------	----------------------------	--------------------	-------------------	---------------------

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### U.S. SENATE SELECT COMMITTEE ON ETHICS

OUTSIDE POSITIONS – OFFICER AND BOARD POSITIONS

- **Senate Rule 37.6:**
  - May not serve as an officer or member of the board of any publicly-held or publicly-regulated company
    - Exception for unpaid board member for § 501(c)(3)
  - If Senate rate of pay at or above threshold (\$150,160), may not be compensated board member for any entity
  
- For any officer or board position, regardless of type, must ensure no:
  - **Subject matter conflict** –The work of the organization overlaps with your Senate duties
  - **Federal funding conflict** –The organization receives federal funding

Intro	Gifts	Conflicts of Interest	Financial Disclosure	Unofficial Office Accounts	Official Resources	Campaign Activity	Constituent Service
-------	-------	-----------------------	----------------------	----------------------------	--------------------	-------------------	---------------------

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## CODE OF OFFICIAL CONDUCT TRAINING



### U.S. SENATE SELECT COMMITTEE ON ETHICS

OUTSIDE POSITIONS – HONORARIA

- Senate Rule 36; 5 U.S.C. § 13143 – May not accept payment for a speech, appearance, or article
  - Does not apply to editing, as opposed to writing
  - Does not apply to advance/royalties for a book, or a chapter to be published as part of a book
  - Does not apply to writings or performances where the artistic, musical, or athletic talent of the individual is the reason for the payment, rather than the person's status as a Member or employee of the Senate
  - Does not apply to qualified individuals conducting worship services or religious ceremonies

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

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### U.S. SENATE SELECT COMMITTEE ON ETHICS

OUTSIDE POSITIONS – HONORARIA

- Donations in lieu of honoraria:
  - Must go to a § 501(c)(3) charity
  - Capped at \$2,000
  - Can't be a charity from which you or an immediate family member draws any financial benefit
  - Can't take a personal tax deduction
  - Public reporting requirements

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

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### U.S. SENATE SELECT COMMITTEE ON ETHICS

OUTSIDE POSITIONS – TEACHING

- Senate Rule 37.5(b) – If Senate rate of pay is at or above the threshold (\$150,160 for CY 2025), must receive prior written approval for teaching positions
- For employees paid below the 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

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

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## CODE OF OFFICIAL CONDUCT TRAINING



### U.S. SENATE SELECT COMMITTEE ON ETHICS

OUTSIDE POSITIONS – GOVERNMENT-RELATED POSITIONS

- Other positions with federal government generally prohibited (dual compensation statute)
- Outside positions with state or local government, including elected positions, generally permitted, but subject to all conflicts rules (seek guidance from the Committee)
- Criminal statutes prohibit representing others in matters before the U.S. government where the U.S. government is a party or has interest
  - 18 U.S.C. § 205 – May not act as an agent or attorney
  - 18 U.S.C. § 203 – May not demand, seek, receive, accept, or agree to receive or accept any compensation for any representational services rendered by you or by another

Intro	Gifts	Conflicts of Interest	Financial Disclosure	Unofficial Office Accounts	Official Resources	Campaign Activity	Constituent Service
-------	-------	-----------------------	----------------------	----------------------------	--------------------	-------------------	---------------------

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### U.S. SENATE SELECT COMMITTEE ON ETHICS

CONFLICTS FROM SPOUSE/FAMILY MEMBER EMPLOYMENT

- For **Members**, Senate Rule 37.11 prohibits lobbying contact by a spouse or family member who is a registered lobbyist or is employed or retained by an entity that has lobbyists
- For **staff**, no rules apply to spouse's or other family member's employment—you are the one who works for the Senate, not them!
- But your spouse's and family members' employment may limit what **you** can or should work on in the Senate (e.g., Senate Rule 37.1, no using official position for personal gain)
  - When in doubt, notify your office and/or contact the Committee for guidance

Intro	Gifts	Conflicts of Interest	Financial Disclosure	Unofficial Office Accounts	Official Resources	Campaign Activity	Constituent Service
-------	-------	-----------------------	----------------------	----------------------------	--------------------	-------------------	---------------------

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### U.S. SENATE SELECT COMMITTEE ON ETHICS

INSIDER TRADING AND FINANCIAL CONFLICTS

- The primary check on financial conflicts is public reporting (next section – Financial Disclosure)
- Other rules and laws may apply to specific holdings or actions:
  - Senate Rule 37.7 – Committee staff must divest of any substantial holdings which may be directly affected by the actions of the employing committee
  - Insider trading law – the purchase or sale of a security on the basis of material nonpublic information in breach of a duty of trust or confidence (never trade on information acquired in the course of official duties)
  - STOCK Act – Members and staff whose Senate rate of pay is above the threshold (\$150,160 for CY 2025) generally can't participate in IPOs
  - At all times, protect against conflicts or the appearance of conflicts

Intro	Gifts	Conflicts of Interest	Financial Disclosure	Unofficial Office Accounts	Official Resources	Campaign Activity	Constituent Service
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# U.S. SENATE SELECT COMMITTEE ON ETHICS

## CODE OF OFFICIAL CONDUCT TRAINING

 **U.S. SENATE SELECT COMMITTEE ON ETHICS**  
FUTURE EMPLOYMENT

Under the rules, three phases:

- Job search
- "Negotiations"
- Post-employment

Intro   Gifts   Conflicts of Interest   Financial Disclosure   Unofficial Office Accounts   Official Resources   Campaign Activity   Constituent Service

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 **U.S. SENATE SELECT COMMITTEE ON ETHICS**  
FUTURE EMPLOYMENT – JOB SEARCH

- Widest discretion, and fewest limitations, during the initial job search
- No use of Senate resources, including time and office space
- No tie between official action and promise of future employment
- At all times, avoid conflicts of interest and the appearance of conflicts of interest

Intro   Gifts   Conflicts of Interest   Financial Disclosure   Unofficial Office Accounts   Official Resources   Campaign Activity   Constituent Service

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 **U.S. SENATE SELECT COMMITTEE ON ETHICS**  
FUTURE EMPLOYMENT – NEGOTIATIONS

- Restrictions intensify when you enter a "negotiation" or "employment arrangement"
  - 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
- Once you reach either of these, must notify supervising Senator and recuse as needed from official work that involves the prospective employer
  - For staff paid at rate at or above \$130,500, nonpublic form to Ethics
  - If Member, public disclosures and additional restrictions

Intro   Gifts   Conflicts of Interest   Financial Disclosure   Unofficial Office Accounts   Official Resources   Campaign Activity   Constituent Service

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# U.S. SENATE SELECT COMMITTEE ON ETHICS

## CODE OF OFFICIAL CONDUCT TRAINING



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

FUTURE EMPLOYMENT – POST-EMPLOYMENT

- After Senate service, everyone is subject to some form of “cooling off” period (restrictions on communications back to the Senate)
- Members – Two-year ban, Congress-wide
- Senior staff (\$130,500 or more) – One-year ban, Senate-wide
- Other staff – One-year ban, only if you are a lobbyist or are retained/employed by an entity that has lobbyists, only on the office(s) you worked for

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

---

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

FUTURE EMPLOYMENT – POST-EMPLOYMENT

- All three bans apply only to “communications to,” “appearances before,” or “lobbying.” No ban on behind-the-scenes work.
- All three bans apply only to attempts to influence official action. Social contact is OK.
- Special rules apply to aiding or advising foreign government entities. Contact the Committee for further guidance.
- Bonuses paid in the year prior to departing the Senate may upgrade you to the broader ban. Secretary of the Senate publishes a list of all staff who leave who are subject to the bigger ban.

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

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

Financial Disclosure

Key Principles:

- All Members and certain staff must file public reports describing financial holdings and related information (assets, income sources, etc.)
- The purpose is public monitoring and deterrence of conflicts of interest
- The Committee has an online portal ([efd.senate.gov](http://efd.senate.gov)) and numerous resources for filers, and staff are available to walk you through your reports
- For purposes of this training, know whether you are a filer and if so, when you have to file

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

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# U.S. SENATE SELECT COMMITTEE ON ETHICS

## CODE OF OFFICIAL CONDUCT TRAINING



### U.S. SENATE SELECT COMMITTEE ON ETHICS

FINANCIAL DISCLOSURE – WHO MUST FILE

- The following individuals must file Financial Disclosure Reports:
  - Members and officers
  - Candidates
  - Employees paid at a rate of \$150,160 (CY 2025) or more
  - Fellows, detailees, and interns paid above the threshold, regardless of whether they already file with their home agency
  - Political Fund Designees, regardless of salary
- The Committee does not always receive timely information about salary adjustments. It is your responsibility to know if you must file.

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Conduct of Service

---

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### U.S. SENATE SELECT COMMITTEE ON ETHICS

FINANCIAL DISCLOSURE – WHAT YOU MUST FILE

- New Filer Report:** Due within 30 days of assuming the filing position (can be new hire date or date of pay raise)
- Annual Reports:** Due annually, no later than May 15<sup>th</sup>
- Termination Report:** Due within 30 days of leaving the filing position, including when leaving Senate employment
- Periodic Transaction Reports:** Due no later than 45 days after qualifying transactions of more than \$1,000

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Conduct of Service

---

---

---

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### U.S. SENATE SELECT COMMITTEE ON ETHICS

FINANCIAL DISCLOSURE – LATE REPORTS AND PENALTIES

- May request an extension of up to 90 days for any report other than a PTR, but extension request must be received before the deadline
- Reports filed more than 30 days late are subject to a mandatory \$200 penalty
- Can request a waiver through eFD (Committee will generally grant 1 waiver per filer)
- Penalty and waiver information is nonpublic

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Conduct of Service

---

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# U.S. SENATE SELECT COMMITTEE ON ETHICS

## CODE OF OFFICIAL CONDUCT TRAINING

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

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### Unofficial Office Accounts

Key Principles:

- Senate work = Senate pays
- Can't accept supplementation from outside sources

Intro   Gifts   Conflicts of Interest   Financial Disclosure   Unofficial Office Accounts   Official Resources   Campaign Activity   Constituent Service

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

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### UNOFFICIAL OFFICE ACCOUNTS – BASELINE PROHIBITION

- Senate Rule 38 – Private donations of cash, goods, or services may not be used to support official activities
  - Includes most co-sponsored 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

Intro   Gifts   Conflicts of Interest   Financial Disclosure   Unofficial Office Accounts   Official Resources   Campaign Activity   Constituent Service

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

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### UNOFFICIAL OFFICE ACCOUNTS – EXCEPTIONS

- The following are not prohibited:
  - "Free exchange of ideas and information" (Interpretative Ruling 443)
    - Members may seek and accept advice on legislative issues from outside organizations
    - Outside organizations may provide ideas, information, memoranda, research, legislative language, etc.
    - Senate office may not "exercise direction and control" over an outside organization to do Senate work
  - Privately-sponsored travel
  - Co-sponsored constituent service events
  - Internship/fellowship programs "primarily for the educational benefit" of the intern or fellow

Intro   Gifts   Conflicts of Interest   Financial Disclosure   Unofficial Office Accounts   Official Resources   Campaign Activity   Constituent Service

---

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---

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# U.S. SENATE SELECT COMMITTEE ON ETHICS

## CODE OF OFFICIAL CONDUCT TRAINING



### U.S. SENATE SELECT COMMITTEE ON ETHICS

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#### Official Resources/Franking

Key Principles:

- Senate pays = Senate work (complement of Rule 38)
- Protect against any appearance that official (taxpayer funded!) resources are being used for a personal purpose, a campaign purpose, or to do the work of an outside person or entity
- Use of the mailing frank subject to specific Regulations

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

---

---

---

---

---

---

---


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### U.S. SENATE SELECT COMMITTEE ON ETHICS

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#### OFFICIAL RESOURCES – GENERAL PRINCIPLES

- 31 U.S.C. § 1301 – “Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law”
  - Interpreted as broad requirement that official resources be used only for official purposes
- Committee on Rules & Administration has specific regulations for many official resources (e.g., office budget, official travel reimbursement, official websites and other internet resources, office equipment, office space)
- Senators generally have discretion on setting the agenda (“official purposes”) within their own office
  - But beware any appearance of personal purpose, campaign purpose, or doing the work of an outside individual or entity

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

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---

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### U.S. SENATE SELECT COMMITTEE ON ETHICS

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#### OFFICIAL RESOURCES – GENERAL PRINCIPLES

- Areas where issues may arise:
  - Personal services (tasks related to Member’s outside activities or personal life)
  - Anything campaign-related (see Campaign Activity section for more detail)
  - Promotion/endorsement of outside entities
    - Distributing outside entity’s fact sheet or other materials
    - Linking to outside entity’s website
    - Referring constituents to a non-governmental entity that provides a service

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

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# U.S. SENATE SELECT COMMITTEE ON ETHICS

## CODE OF OFFICIAL CONDUCT TRAINING



**U.S. SENATE SELECT COMMITTEE ON ETHICS**  
OFFICIAL RESOURCES – 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
- Use of the frank governed by statute and accompanying Regulations (39 U.S.C. §§ 3201-3220)

Intro	Gifts	Conflicts of Interest	Financial Disclosure	Unofficial Office Accounts	Official Resources	Campaign Activity	Constituent Service
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**U.S. SENATE SELECT COMMITTEE ON ETHICS**  
OFFICIAL RESOURCES – FRANKING

- Standards similar to general standards on official resources
  - 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))
  - Loan of the frank to an outside group is prohibited (39 U.S.C. § 3215)
  - 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

Intro	Gifts	Conflicts of Interest	Financial Disclosure	Unofficial Office Accounts	Official Resources	Campaign Activity	Constituent Service
-------	-------	-----------------------	----------------------	----------------------------	--------------------	-------------------	---------------------

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**U.S. SENATE SELECT COMMITTEE ON ETHICS**  
OFFICIAL RESOURCES – FRANKING

- Numerous specific types of mail have clear yes/no answers in the Franking Regulations or Committee Interpretative Rulings
- Consult the Committee’s franking Quick Reference Guide, available on the Committee’s website

Intro	Gifts	Conflicts of Interest	Financial Disclosure	Unofficial Office Accounts	Official Resources	Campaign Activity	Constituent Service
-------	-------	-----------------------	----------------------	----------------------------	--------------------	-------------------	---------------------

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# U.S. SENATE SELECT COMMITTEE ON ETHICS

## CODE OF OFFICIAL CONDUCT TRAINING



### U.S. SENATE SELECT COMMITTEE ON ETHICS

OFFICIAL RESOURCES – MASS MAILINGS

- Additional restrictions on “mass mailings” – 500 or more substantially identical pieces of mail within one session of Congress, regardless of whether the pieces are mailed at the same time
  - Size and number of pages
  - Number of times a Member’s name may appear
  - Size and content of photos
  - Moratorium period close to elections
- Committee staff are available to review draft mass mailings before sending

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

---

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---

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### U.S. SENATE SELECT COMMITTEE ON ETHICS

Campaign Activity

**Key Principles:**

- Absolute separation between campaign activity and official activity
- Participating in outside campaign activity:
  - No official resources
  - No contributions to supervising Senator
  - No handling federal campaign funds
- While in official capacity:
  - Preserve separation
  - Refer campaign matters to the campaign

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

---

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### U.S. SENATE SELECT COMMITTEE ON ETHICS

OUTSIDE CAMPAIGN ACTIVITY – WORKING FOR A CAMPAIGN

- No absolute bar on performing paid or unpaid campaign work, provided:
  - Service is voluntary, not a condition of your Senate employment
  - You receive obtain approval from your supervising Senator (just like any other outside activity)
  - Service is on your own time, not using any official resources
  - Senate pay for Senate work – office cannot subsidize campaign by keeping you on payroll (and must reduce your pay if you reduce your official hours to accommodate additional campaign work)
  - FD filers only – campaign income counts toward the outside earned income limit (\$150,160 for CY 2025)

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

---

---

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---

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# U.S. SENATE SELECT COMMITTEE ON ETHICS

## CODE OF OFFICIAL CONDUCT TRAINING



**U.S. SENATE SELECT COMMITTEE ON ETHICS**  
OUTSIDE CAMPAIGN ACTIVITY – OFFICIAL RESOURCES

- Interpret "official resources" as broadly as possible
  - Senate space (e.g., Dirksen cafeteria)
  - Senate equipment (e.g., Senate phone)
  - Staff time while "on the clock"
  - Senate title (e.g., "Legislative Assistant, Senator X")
  - Senate work product

Intro
Gifts
Coeffices of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

---

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**U.S. SENATE SELECT COMMITTEE ON ETHICS**  
OUTSIDE CAMPAIGN ACTIVITY – CONTRIBUTIONS

- 18 U.S.C. § 603 – no contributions to your employing Senator
- Includes:
  - "Outlays," other than for personal travel expenses
  - Contributions made by relatives from a joint account or jointly owned asset (e.g., spouse writing a check from a jointly owned bank account)
- Does not include:
  - Volunteering for the campaign
  - Contributing to a multi-candidate committee or PAC (e.g., DSCC or NRSC), as long as not earmarked for your employing Senator

Intro
Gifts
Coeffices of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

---

---

---

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---


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**U.S. SENATE SELECT COMMITTEE ON ETHICS**  
OUTSIDE CAMPAIGN ACTIVITY – RULE 41

- Senate Rule 41 – Cannot receive, solicit, be a custodian of, or distribute any federal campaign funds
- No
  - Any solicitation (including posts or re-posts on personal social media)
  - Hosting a fundraiser
- Yes
  - Handling funds for state or local campaigns, as long as none of the funds are going to a candidate for federal office
  - Attending/participating in fundraisers without receiving, soliciting, being custodian of, or distributing

Intro
Gifts
Coeffices of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

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# U.S. SENATE SELECT COMMITTEE ON ETHICS

## CODE OF OFFICIAL CONDUCT TRAINING



**U.S. SENATE SELECT COMMITTEE ON ETHICS**  
OUTSIDE CAMPAIGN ACTIVITY – RULE 41

- Narrow and limited exception to Rule 41 for Political Fund Designees (PFDs)
  - Up to 3 in each personal office
  - Designated in writing to Committee
  - Must file certain Financial Disclosure Reports, regardless of salary
  
- PFDs are not subject to Rule 41 as to campaign funds 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

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

---

---

---

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**U.S. SENATE SELECT COMMITTEE ON ETHICS**  
INTERACTIONS WITH SENATE OFFICE – MISDIRECTED MATERIALS

- **Contributions:** 18 U.S.C. § 607 – No soliciting or receiving federal, state or local campaign contributions in a federal building
  - 7-day safe harbor for unsolicited contributions
  - Never accept a contribution connected to specific official action
  
- **Correspondence:** For misdirected campaign calls, letters, or emails, 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)

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

---

---

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**U.S. SENATE SELECT COMMITTEE ON ETHICS**  
INTERACTIONS WITH SENATE OFFICE – LIMITED OVERLAP

- Official work may involve the campaign side when necessary to achieve the official purpose (not for a campaign purpose)
  
- Official scheduling team can work with campaign to coordinate schedule (but may not schedule campaign activities on official time)
  
- Official press staff may answer campaign questions incidental to an official briefing or interview (but may not function as the campaign press shop or otherwise engage in proactive campaign activity)
  
- Senate office may provide a copy of public material to the campaign (but campaign may not reissue materials prepared by the Senate office)

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

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# U.S. SENATE SELECT COMMITTEE ON ETHICS

## CODE OF OFFICIAL CONDUCT TRAINING



### U.S. SENATE SELECT COMMITTEE ON ETHICS

INTERACTIONS WITH SENATE OFFICE – MIXED TRAVEL

- Mixed purpose travel is permissible, but if travel involves 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
- Each event on the trip must be official or campaign, one or the other – never wear both “hats” at the same time

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

---

---

---

---

---

---

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### U.S. SENATE SELECT COMMITTEE ON ETHICS

INTERACTIONS WITH SENATE OFFICE – MORATORIA

- 60 days prior to a primary or general election in which your Senator is a candidate, the following activities are prohibited:
  - Sending mass mailings
  - Using official funds for certain travel expenses
  - Using Senate television or recording studios
  - Using official funds to maintain a mobile office
  - Sending unsolicited mass email
  - Certain use of official social media and internet
- Moratoria other than mass mailings within jurisdiction of Committee on Rules & Administration (see biannual Dear Colleague)

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

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### U.S. SENATE SELECT COMMITTEE ON ETHICS

CONSTITUENT SERVICE

#### Constituent Service

Key Principles:

- “Petition[ing] the government for a redress of grievances” is a constitutional right, and responding to such inquiries is an appropriate exercise of the representational function of each Member of Congress, as well as an important function of congressional oversight
- Nevertheless, each case is unique on its facts, and you must consider a wide range of possible issues on a case-by-case basis

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

---

---

---

---

---

---

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# U.S. SENATE SELECT COMMITTEE ON ETHICS

## CODE OF OFFICIAL CONDUCT TRAINING



**U.S. SENATE SELECT COMMITTEE ON ETHICS**  
CONSTITUENT SERVICE – RULE 43

- Senate Rule 43.1, 43.2 – “ a Member . . . has the right to assist petitioners before executive and independent government officials”; “may communicate with . . . government official or agency on any matter to—
  - (a) request information or a status report;
  - (b) urge prompt consideration;
  - (c) arrange for interviews or appointments;
  - (d) express judgments;
  - (e) call for reconsideration of an administrative response . . .
  - (f) perform any other service of a similar nature . . .”
  
- No rule outright prohibits intervention with a non-government entity, but note Rule 43 lists only “government official or agency”

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

---

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**U.S. SENATE SELECT COMMITTEE ON ETHICS**  
CONSTITUENT SERVICE – RULE 43

- Rule 43.3 – 43.6:
  - Impermissible to provide or deny constituent services on the basis of campaign contributions, partisan affiliation, or connection to Member’s personal interests
  - All factual representations in Member’s name must be accurate (vet your casework before intervening!)

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

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**U.S. SENATE SELECT COMMITTEE ON ETHICS**  
CONSTITUENT SERVICE – OTHER CONSIDERATIONS

- Keating Report (1991) – Be sensitive to other possible appearance of impropriety. Before intervening, consider:
  - Type of proceeding – is the agency performing a “quasi-judicial, adjudicative or enforcement function”? are there *ex parte* rules?
    - Best practice – contact congressional liaison in advance of intervention
  - Manner and degree of intervention – “direct or implied suggestion of either favoritism or reprisal”? “does the action or pattern of action deviate from [the] Senator’s normal conduct”?
  - Constituent you are assisting – contributor? personal friend?
  - Merits of the constituent’s case

Intro
Gifts
Conflicts of Interest
Financial Disclosure
Unofficial Office Accounts
Official Resources
Campaign Activity
Constituent Service

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# U.S. SENATE SELECT COMMITTEE ON ETHICS

## CODE OF OFFICIAL CONDUCT TRAINING



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

WRAP UP – 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

Committee guidance is confidential

Intro	Gifts	Conflicts of Interest	Financial Disclosure	Unofficial Office Accounts	Official Resources	Campaign Activity	Constituent Service
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