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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

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

AGGREGATION

- 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

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

**CODE OF OFFICIAL CONDUCT TRAINING**

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**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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**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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**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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CODE OF OFFICIAL CONDUCT TRAINING

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

PRIVATELY-Sponsored TRAVEL

- 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

PRE-APPROVAL EXCEPTIONS
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U.S. Senate Select Committee on Ethics
Code of Official Conduct Training

SPECIFIC ACTIVITIES – PROFESSIONAL SERVICES

- Members, officers, and employees paid at a rate below the threshold ($131,239 for CY 2020):
  - May not affiliate for the purpose of providing professional services for compensation, but may practice a profession as a solo practitioner
  - May not permit their names to be used by outside entities providing professional services for compensation

- Members, officers, and employees paid at a rate at or above the threshold ($131,239 for CY 2020) are subject to the following additional restrictions:
  - May not provide professional services for compensation, regardless of affiliation with a firm
  - 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
  - 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)

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:
  - X 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)

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• 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 Senate duties
  • The organization receives federal funding

**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

**SPECIFIC ACTIVITIES – TEACHING**

• Senate Rule 37.5(b) – Members, officers, and employees paid at a rate of $131,239 (CY 2020) 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

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**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.

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**SPECIFIC ACTIVITIES – Spouse & Family Member Lobbying**

- 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.

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**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.”
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

Insider Trading – IPOs

- Members, officers, and employees paid at a rate above $131,239 for CY 2020 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

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 $131,239 (CY 2020) or more must make appropriate disclosures on their Financial Disclosure Reports
### 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.

### Future Employment – Members

- Members must file a signed public statement with the Secretary of the Senate within 3 business days after the commencement of negotiations or arrangements 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)).

### Future Employment – Staff

- Senate employees paid at a rate of $130,500 (CY 2020) or more must:
  - Notify the Committee in writing within 3 business days after the commencement of negotiations or arrangements for private employment or compensation.
  - Recuse themselves from all official matters involving any prospective private employer whenever there is a conflict of interest or the appearance of a conflict.

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• 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

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
WHO MUST FILE?

- The following individuals must file Financial Disclosure Reports:
  - Members and officers
  - Candidates
  - Employees paid at a rate of $131,239 (CY 2020) 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

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

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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• 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

• 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

• 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
• 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

• 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)

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

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<td>GENERAL CASEWORK RULES</td>
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<td>• Senators have broad discretion in assisting constituents</td>
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<td>• <em>May</em> request information, urge prompt consideration, arrange interviews or appointments, express judgments, call for reconsideration, or request a status report</td>
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<td>• <em>May not</em> provide special treatment or access for supporters, contributors, or friends</td>
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<td>• <em>May not</em> violate a rule of the relevant outside entity (e.g., <em>ex parte</em> communications)</td>
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<td>• <em>May not</em> intervene if an agency is engaged in an on-going enforcement, investigative, or other quasi-judicial proceeding</td>
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<tr>
<td>• Communications between Senators and constituents are considered confidential</td>
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<td>CONGRESSIONAL LIAISONS</td>
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<td>• In assessing whether contacting an executive or independent agency is permissible, the Senate office should always contact the congressional liaison to:</td>
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<tr>
<td>• Determine whether there are restrictions on outside communications regarding the matter at issue</td>
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<td>• Determine the appropriate point of contact</td>
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<td>• Keep records of communications with liaisons</td>
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