



# SELECT COMMITTEE ON ETHICS

## Employment Negotiations and Recusal

Quick Reference

### Highlights

Members, officers, and employees seeking future employment are under a substantial obligation to **avoid not only an actual conflict of interest, but also the appearance of a conflict** between their duties to the Senate and the interests of the prospective employers with whom they are negotiating.

For purposes of Senate Rule 37 (Conflicts of Interest), the Committee defines a **negotiation** as the discussion of the terms and conditions of employment after an offer has been made and the Member, officer, or employee is considering accepting the offer. An **employment arrangement** begins when an offer has been made and accepted.

### Senators

**Employment Involving Lobbying Activities:** Senators shall not negotiate or make an employment arrangement for a job involving lobbying activities **until after their successor has been elected**.

**Other Private Employment:** For any other future private employment, Senators must file a signed public statement with the Secretary of the Senate, Office of Public Records (SH-232) within 3 days of beginning a negotiation or employment arrangement for private employment or compensation. Senators must also recuse themselves whenever there is a conflict of interest, or the appearance of one, with respect to the prospective employer, and disclose such recusal in writing to the Committee.

The *Disclosure by Member of Employment Negotiations and Recusal* form can be found in the Office of Public Records (SH-232) or on the Committee's website, <http://www.ethics.senate.gov>.

### Employees Paid \$126,148 or more

Senate employees paid at an annual rate of \$126,148 or more for CY 2018 must:

- Notify their supervising Senator after engaging in negotiations or employment arrangements with a prospective employer,
- Recuse themselves from **any official matter** involving the prospective employer whenever there is a conflict of interest or the appearance of a conflict of interest, and
- Notify the Committee within 3 days of such notification and recusal by completing the *Non-Public Disclosure by Staff of Employment Negotiations and Recusal*.

### Employees Paid \$130,500 or more

In addition to the notification and recusal requirements applicable to all employees making \$126,148 or more for CY 2018, in accordance with Rule 37.14, employees making \$130,500 or more for CY 2018 must:

- Recuse themselves from **any contact or communication** with their prospective employer on **issues of legislative interest** to the prospective employer, and
- Recuse themselves from **any legislative matter** in which their involvement would create a conflict of interest or the appearance of a conflict of interest.

### Employees Paid Less than \$126,148

The Committee notification and recusal requirements discussed above do not apply to employees making less than \$126,148 (CY 2018). These employees are, however, prohibited from engaging in any conduct that creates a conflict of interest or the appearance of a conflict of interest, including employment-related conduct.

*Please note that this is intended as a quick reference and does not represent or address all applicable authority and guidance on the subject. For more information, consult the relevant laws, rules, and standards of conduct, including the Senate Ethics Manual, or contact the Committee at (202) 224-2981 for advice concerning your specific situation.*

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## Post-Employment Restrictions

Quick Reference

### Senators

**Both federal criminal law and Senate Rules govern a Senator's two-year lobbying ban.** Senators:

- May not communicate with or appear before the entire Senate and the House (Members, officers, and employees) on behalf of a third party seeking official action (18 U.S.C. § 207)
- May not lobby the Senate (Members, officers, and employees) (Rule 37)

**Please be advised that 18 U.S.C. § 207 is enforced by the Department of Justice and the Committee's guidance is advisory only.**

### Officers and Employees Paid \$130,500 or more

**Both federal criminal law and Senate Rules govern the one-year lobbying ban that applies to officers and employees paid \$130,500 or more.** Senate officers and employees:

- May not communicate with or appear before the Senate (Members, officers, and employees) on behalf of third party with the intent to influence an official action (18 U.S.C. § 207)
- May not lobby the Senate (Members, officers, and employees) for one year (Senate Rule 37)

**NOTE:** It is possible for an employee to become subject to post-employment restrictions, including the criminal ban, because of a bonus or temporary pay adjustment.

### All Other Employees

- **Personal Office Staff:** May not lobby their own office for one year.
- **Personal Office Staff with Substantive Committee Responsibilities:** In addition to the personal office staff ban (above), personal office staff with substantive committee responsibilities may not lobby the Members or staff of their relevant committee (including all subcommittees) for one year from the date the staffer last performed services for the committee. Substantive committee responsibilities include assisting in the drafting of the committee bills or assisting at hearings and in mark-up, as opposed to committee monitoring and liaison service for the personal office.
- **Committee Staff:** May not lobby the Members or staff of that committee (including all subcommittees thereof) for one year.
- **Leadership Staff:** May not lobby any Member or staffer of their party's leadership, including the personal staff of their former Senator, for one year.

### Aiding and Abetting

All current Members and staff are prohibited from assisting former Members and staff in violating these laws and rules.

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