



United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

August 6, 2007
DO-07-024

MEMORANDUM

TO: Designated Agency Ethics Officials

FROM: Robert I. Cusick
Director

SUBJECT: New OLC Opinion on the Emoluments Clause and Service on
Advisory Boards

The Office of Legal Counsel (OLC) at the Department of Justice has just posted a recent opinion on its web page providing further guidance on the applicability of the Emoluments Clause of the United States Constitution to service on advisory boards. The Emoluments Clause, Article I, § 9, clause 8 of the Constitution, prohibits persons who "hold offices of profit or trust" in the Federal Government from having any position in or receiving any payment from a foreign government, except with the consent of Congress. OLC has now opined in *Re: Application of the Emoluments Clause to a Member of the Federal Bureau of Investigation Director's Advisory Board* (June 15, 2007) available at http://www.usdoj.gov/olc/2007/fbi_advisory_board_opinion_061507.pdf that where members of an advisory board are given access to classified information solely to help them perform their advisory function, this access alone does not constitute a delegation of Governmental, sovereign authority that would result in their advisory board service falling under the restrictions of the Emoluments Clause. This OLC opinion clarifies the issue of access to classified information that was left open in the earlier OLC opinion of *Re: Application of the Emoluments Clause to a Member of the President's Council on Bioethics* (March 9, 2005) available at http://www.usdoj.gov/olc/2005/050309_emoluments_clause.pdf.