

Standards of Ethical Conduct Continued

You may not accept **gifts** offered as a result of your advisory committee membership.

In many circumstances, you may not participate as an **expert witness** with any matter or proceeding that you work on as an SGE.

Impartiality: You are prohibited from participating in a specific party matter where a reasonable person would question your impartiality—for example, conducting a review of a grant application submitted by your mentor or someone with whom you have a close relationship—unless authorized by an agency designee to participate.

Misuse of Position—Use of Public Office for Private Gain: This includes the misuse of nonpublic information, government property, and official time. You may not use your position to imply that the Committee endorses your private activities or refer to your Government position for your own private gain.

Lobbying: In their official capacities or as a group, committee members are prohibited from engaging in any activity which directly or indirectly encourages or directs any person or organization to lobby one or more members of Congress. You may appear for the purpose of informing or educating the public about a particular policy and you may communicate with members of Congress at their request.

Political Activities (Hatch Act): *While on Government duty* (unlike the other rules which always apply during your time of appointment), you may not engage in partisan political activities, run for political office in a partisan election, or solicit contributions from the public. For more information on political activity restrictions, please see the Office of Special Counsel website at www.osc.gov.

Ethics for SGEs: Your Responsibilities as a Government Employee

- ➔ Complete the OGE-450 Financial Disclosure Report and submit it for review. You should not attend meetings or participate in committee business until this form is submitted and reviewed.
- ➔ Complete the HHS-697 Foreign Activities Questionnaire and submit it for review.
- ➔ If conflicts of interest are identified, work with committee managers and ethics officials to resolve them.
- ➔ Complete a financial disclosure report on a yearly basis.
- ➔ Complete initial ethics orientation and yearly ethics training—you should have a basic knowledge of the Standards of Ethical Conduct and the Conflict of Interest Statutes
- ➔ Monitor changes in your circumstances that might create new conflicts.
- ➔ Be sure to contact your Designated Federal Official (DFO) or ethics officials with any questions.

This brochure only provides a brief overview of the ethics rules, which contain many complexities. The aim is to alert you to broad areas of concern. For more detailed information, contact an ethics official and refer to the document “Ethics Rules for Advisory Committee Members and Other SGEs,” prepared by the OGC Ethics Division and available from your DFO.

Overview of the Ethics Rules for Special Government Employees Serving on Advisory Committees



**Ethics Division
Office of the General Counsel
Department of Health
and Human Services**

Ethics Rules for SGEs

As a special Government employee (SGE), you are a Federal Government employee. As such, you are covered by the executive branch ethics rules, although in a somewhat less restrictive manner than regular Government employees.

The Criminal Conflict of Interest Statutes

18 U.S.C. §§ 203, 205, 207, 208

Financial Conflicts: You are prohibited from participating personally and substantially in **any particular matter** that directly and predictably affects your own financial interests or the financial interests of certain other persons or organizations: your spouse, minor child, general partner, and outside organizations with which you serve as an officer, director, trustee, or employee, or with which you are negotiating for or have an arrangement for future employment.

If your duties would require you to participate in any particular matter that affects your financial interests, you have a conflict of interest which you will have to resolve. Of most concern are **specific party matters**, but you might also be

What is a Specific Party Matter? Specific party matters include contracts, grants, requests for rulings, litigation, or investigations, or other actions that involve deliberation, decision, or action affecting the legal rights of identified parties in a specific proceeding or an isolatable transaction or sets of transactions.

prohibited from involvement in **Particular Matters of General Applicability**.

What is a Particular Matter of General Applicability? A matter focused on the interests of an identifiable class of persons or entities but that does not involve specific parties. For example, recommendations of regulations, policies or standards that affect an industry, group of manufacturers, or health care providers.

There is another category of matters that does not create the types of conflicts that are of concern: **Broad matters of national policy** that don't focus on a specific industry.

Exceptions: SGEs can participate in **particular matters of general applicability** where the disqualifying interest that creates the conflict arises solely **from the SGE's non-federal employment** provided that the matter will have no distinct effect on the employee or employer other than as part of a class (but other financial interests in the employer, such as the ownership of stock, are not covered by the exception).

There are **automatic exemptions** when the financial interests are (1) broadly diversified investment funds, (2) publicly traded securities of \$15,000 or less, (3) publicly traded securities of \$25,000 or less if the matter is a general policy matter and the total value of all investments in the affected industry sector is not more than \$50,000 or (4) employment in one campus of a multi-campus state university if the matter affects only another campus.

Resolving Financial Conflicts:

Recusal / Disqualification: Do not work on the matter creating the conflict and isolate yourself from the committee's work on this matter.

Divestiture: Sell or otherwise dispose of the financial interest that is creating the conflict.

Waiver: Get written approval from a senior official to continue with your work for the committee despite the conflict. Waivers can be granted where there is a pressing need for a particular individual's services on the committee and this outweighs the potential for conflict of interest. Specific criteria must be met. This is considered a "general waiver" in that it **only allows participation in matters that affect all institutions, or types of institutions, similarly**.

Concurrent Representation: While you are serving, there are **representational restrictions** on contacting the Government on behalf of another—for example, as an agent or attorney—with intent to influence on a specific party matter that you are working on as an SGE.

Post-Employment Representation: You cannot "switch sides" in the private sector and represent back to the Government concerning the same specific party matter—the same contract or grant, for example, that you worked on as an SGE. (Remember also the restrictions resulting from employment negotiations that are covered by the financial conflict statute.)

Standards of Ethical Conduct

5 CFR Part 2635

You are prohibited from receiving compensation for **teaching, speaking, and writing** about your Government duties or about any topic if the invitation to teach, speak, or write comes from a person substantially affected by the matters on which you work as an SGE. However, you may teach courses about general topics requiring multiple presentations.