



## U.S. Office of Government Ethics Seeking and Post-Employment Employee Crossword Puzzle Answers

### Across

3. Looking for a job outside the government? Read the \_\_\_\_\_ employment part of the Standards of Conduct first

Read the seeking employment section of the Standards of Conduct before you starting looking for a job outside the government. This section lets you know whether or not you can continue to work on your government assignments while you look for a job. If you are not careful, you can break the rules and the law. So, it is wise to know the rules before you begin your job search. Of course, your ethics official is always there to help you understand the rules.

5 C.F.R. § 2635.601 states:

[The seeking employment] subpart contains a disqualification requirement that applies to employees when seeking employment with persons whose financial interests would be directly and predictably affected by particular matters in which the employees participate personally and substantially. Specifically, it addresses the requirement of 18 U.S.C. 208(a) that an employee disqualify himself from participation in any particular matter that will have a direct and predictable effect on the financial interests of a person “with whom he is negotiating or has any arrangement concerning prospective employment.”... Beyond this statutory requirement, [the seeking employment subpart] also addresses the issues of lack of impartiality that require disqualification from particular matters affecting the financial interests of a prospective employer when an employee's actions in seeking employment fall short of actual employment negotiations.

5. You are seeking employment even if you \_\_\_ discussions until you finish the project that affects a potential employer

Sometimes a person you affect in your government job may ask if you would consider a job with his company. Perhaps you are auditing or regulating that company. Even if you postpone discussions – say that you would like to talk about possible employment after you finish the audit – you are seeking employment. You may not continue work on the audit unless and until your ethics official provides authorization.

5 C.F.R. § 2635.603(b)(3) states:

For the purposes of the [seeking employment] definition, a response that defers discussions into the foreseeable future does not constitute rejection of an unsolicited employment overture, proposal, or resume nor rejection of a prospective employment possibility.

7. The length of post-employment restrictions may be \_\_\_\_\_, two years, or one year, depending on what you worked on while with the government

The length of post-employment restrictions depends upon how you were involved in certain kinds of matters – like contracts, grants, or lawsuits – while you worked for the government. If you were personally and substantially involved in the matter, then the restriction is permanent. If you merely supervised others who did the actual work, then the restriction lasts for two years from the date you leave Government service. The two-year restriction does not apply unless you supervised the matter during your last year of Federal service. If you worked on certain trade or treaty negotiations during your last year of Government service and had access to certain restricted information, you should contact your agency ethics official because you may be barred for one year from aiding or advising anyone (other than the United States) concerning those negotiations.

U.S. Office of Government Ethics' Post-Employment Summary states:

[18 U.S.C. § 207(a)(1)] is a lifetime restriction that commences upon an employee's termination from Government service. The target of this provision is the former employee who participates in a matter while employed by the Government and who later "switches sides" by representing another person on the same matter before the United States. The restriction is measured by the duration of the matter in which the former employee participated. The restriction does not apply unless a former employee communicates to or makes an appearance before the United States on behalf of some other person.

**10. Requesting this does not mean you are seeking employment: 2 words**

When you ask for a job application, you have not begun seeking employment. So the rules do not apply yet. However, depending on the circumstances and the type of prospective employer, sending out the completed job application or a resume could trigger the seeking employment rules. Make it your business to understand the legal consequences of job hunting and job discussions. Consult with your ethics official before you begin your job search and immediately when you receive unsolicited offers or inquiries from a prospective employer who has a financial interest in matters that cross your desk.

5 C.F.R. § 2635.603(b)(1)(ii)-(iii) states:

...However, the employee has not begun seeking employment if that communication was:

- (A) For the sole purpose of requesting a job application; or
- (B) For the purpose of submitting a resume or other employment proposal to a person affected by the performance or nonperformance of the employee's duties only as part of an industry or other discrete class. The employee will be considered to have begun seeking employment upon receipt of any response indicating an interest in employment discussions; or
- (iii) Made a response other than rejection to an unsolicited communication from any person, or such person's agent or intermediary, regarding possible employment with that person.

**11.** Generally, if your project could affect a prospective employer, then you may need to stop \_\_\_\_\_ on that project

If your project could affect a prospective employer, then you may need to stop working on that project before you begin making any contacts with him. Talk with an ethics official before you look for a job, whether full or part-time. He or she can steer you clear of ethics issues in your job hunting.

5 C.F.R. § 2635.604(a) states:

*Obligation to disqualify.* Unless the employee's participation is authorized in accordance with § 2635.605 (see below), the employee shall not participate personally and substantially in a particular matter that, to his knowledge, has a direct and predictable effect on the financial interests of a prospective employer with whom he is seeking employment...Disqualification is accomplished by not participating in the particular matter.

5 C.F.R. § 2635.605 states:

**Waiver or authorization permitting participation while seeking employment.**

(a) *Waiver.* Where, as defined in Sec. 2635.603(b)(1)(i), an employee is engaged in discussions that constitute employment negotiations for purposes of 18 U.S.C. 208(a), the employee may participate personally and substantially in a particular matter that has a direct and predictable effect on the financial interests of a prospective employer only after receiving a written waiver issued under the authority of 18 U.S.C. 208(b)(1) or (b)(3). These waivers are described in Sec. 2635.402(d). See also subpart C of part 2640 of this chapter. For certain employees, a regulatory exemption under the authority of 18 U.S.C. 208(b)(2) may also apply (see subpart B of part 2640 of this chapter).

(b) *Authorization by agency designee.* Where an employee is seeking employment within the meaning of Sec. 2635.603(b)(1) (ii) or (iii), a reasonable person would be likely to question his impartiality if he were to participate personally and substantially in a particular matter that has a direct and predictable effect on the financial interests of any

such prospective employer. The employee may participate in such matters only where the agency designee has authorized his participation in accordance with the standards set forth in Sec. 2635.502(d).

**12.** Unless your job duties affect the \_\_\_\_\_ interests of a prospective employer, the seeking employment rules do not apply

If you cannot affect the financial interests of your prospective employer, you do not have to worry about the seeking employment rules. They do not apply. The rules come into play when you want to work for someone that you affect by the job you do for the government. However, you may have some other restrictions if you are involved in certain procurement matters. These restrictions are outside the authority of the U.S. Office of Government Ethics.

5 C.F.R. § 2635.602 states:

...An employee who is seeking employment with a person whose financial interests are not affected directly and predictably by particular matters in which he participates personally and substantially has no obligation under [the Seeking Employment] subpart. An employee may, however, be subject to other statutes which impose requirements on employment contacts or discussions, such as 41 U.S.C. 423(c), applicable to agency officials involved in certain procurement matters.

## **Down**

**1.** Your government \_\_\_\_\_ are a primary factor in determining when post-employment rules restrict your communications to and appearances before the government

The post-employment law applies to all employees after they leave the government. The restrictions you face depend on your duties – what you work on or are responsible for when you work with the government. There are also other factors, such as your grade level and whether you worked with foreign governments. Don't forget, certain employees face additional restrictions that are covered by rules and statutes outside the authority of the U.S. Office of Government Ethics.

5 C.F.R. § 2637.201(a) states:

*Basic Prohibition of 18 U.S.C. 207(a).* No former Government employee, after terminating Government employment, shall knowingly act, as agent or attorney for, or otherwise represent any other person in any formal or informal appearance before, or with the intent to influence, make any oral or written communication on behalf of any other person (1) to the United States, (2) in connection with any particular Government matter involving a specific party, (3) in which matter such employee participated personally and substantially as a Government employee.

2. The post-employment law places restrictions on \_\_\_\_\_ government employees

Former employees are covered by post-employment restrictions. The law protects the government from employees who would use their prior experience and affiliations to influence current government business.

5 C.F.R. § 2637.101(c) states:

These [post-employment] regulations bar certain acts by former Government employees which may reasonably give the appearance of making unfair use of prior Government employment and affiliations

4. A common misconception about the post-employment law is that it restricts which \_\_\_\_\_ you work for

Generally the post-employment law does not restrict which employer you work for after leaving the government. It may, however, restrict the kinds of things that you do for your new employer. The restrictions depend on what you worked on or were responsible for when you were with the government. Your ethics official can provide specific guidance on these restrictions. You should contact him or her to be sure you perform the duties for your new employer in a lawful manner.

U.S. Office of Government Ethics' Post-Employment Summary states:

None of the [post-employment] provisions bar any individual, regardless of rank or position, from accepting employment with any private or public employer after Government service. Section 207 only prohibits individuals from engaging in certain activities on behalf of persons or entities other than the United States, whether or not done for compensation.

6. When you have not heard back in \_\_\_\_\_ months after sending a job application, you are no longer seeking employment

Two months is the cutoff time if you have not received any interest in your application or resume. You are no longer seeking employment.

5 C.F.R. § 2635.603(b)(2) states:

An employee is no longer seeking employment when:

- (i) The employee or the prospective employer rejects the possibility of employment and all discussions of possible employment have terminated; or
- (ii) Two months have transpired after the employee's dispatch of an unsolicited resume or employment proposal, provided the employee has received no indication of interest in employment discussions from the prospective employer.

**8. Successful job hunting may lead to post- \_\_\_\_\_ restrictions**

Successful job hunting may trigger post-employment restrictions. It may also trigger a conflict of interest when you start negotiating for a job. Because it is easy to cross the line into criminal behavior, you should ask your ethics official for advice before you begin job hunting. Your ethics official can guide you through the seeking employment rules and the conflict of interest statutes to protect you throughout the job search process.

5 C.F.R. § 2635.602(a)(2) states:

*Post-employment restrictions.* An employee who is contemplating employment to be undertaken following the termination of his Federal employment should consult an agency ethics official to obtain advice regarding any post-employment restrictions that may be applicable.

**9. Representing \_\_\_\_\_ before the government after leaving government employment is generally ok**

In general, you are not barred by the post-employment law from trying to influence any federal agency or court on behalf of yourself. However, it makes a difference if you are acting on behalf of your own corporation or consulting firm. You should consult your agency's ethics official for guidance both while you are looking for a job and after you leave the government.

U.S. Office of Government Ethics' Post-Employment Summary states:

The [18 U.S.C. § 207(a)(1)] provision does not prohibit a former employee from representing himself (as distinguished from a corporation or consulting firm) before the United States. Moreover, a former employee is not prohibited from acting on behalf of the United States (or the Congress). Thus, even though an individual may once have worked on a matter while employed by the Government, he will not, while subsequently reemployed by the Government, be barred from communicating with any employee of the United States concerning that matter if he does so as part of his official duties.