



# **NATIONAL COMMISSION ON FORENSIC SCIENCE**

## **ETHICS OVERVIEW**

**August 10, 2015**

Janice Rodgers  
Cynthia Shaw  
Departmental Ethics Office  
Department of Justice  
202-514-8196

# WELCOME!



- CONGRATULATIONS on becoming a member of the government's advisory team
- Membership brings ethical obligations
- **Ethics rules inspire and preserve confidence in the operations of government. They promote the public's trust.**

# SPECIAL GOVERNMENT EMPLOYEES



- The SGE category was created to apply a set of conflict of interest rules to a group of individuals providing important, but limited, services to the government
- SGEs are Federal employees for purposes of the ethics rules
- SGEs are expected to provide their “independent judgment” or “individual best judgment”

# SGE v. REPRESENTATIVE



- A representative is NOT a government employee
- A representative is NOT subject to the government's ethics rules
- A representative offers the view of a specific interest group; *e.g.*, a segment of industry, consumers
- A representative, by definition, brings a particular bias. He or she is speaking on behalf of his represented organization, and so is not expected to provide disinterested advice

# Counting Days...



- Remember, SGE status is directly related to the number of days the employee is expected to work in the coming year, AND, the application of certain ethics rules depends on how many days an SGE has actually worked in the current one-year period.
- Any day, or part of a day, in which you perform substantive work, or spend substantial time on Commission matters, counts as a “day” of work.

# CONFLICTS OF INTEREST



- Conflicts may be financial or personal
- *Appearance* of a conflict of interest also may need to be remedied
- Others' interests may be imputed to you

# FINANCIAL CONFLICTS OF INTEREST



- Financial holdings or other interests that relate to the work of the National Commission on Forensic Science
- Generally, SGEs may not work on a Commission matter that will affect his own, his spouse's, or his employer's, financial interest
- Financial Disclosure Reports (Confidential)
  - Due every year
  - It is imperative to have knowledge of what you own
- Remedies

# PERSONAL CONFLICTS OF INTEREST



- Participation in matters with parties where a close associate is a party or represents a party, e.g., spouse or child's employer, member of your household, a recent former employer or client
- Other matters that may raise a question for a reasonable person about impartiality
- Recusal or authorization may be necessary



# Outside Activities

- **You may not engage in any outside employment or activity that conflicts with your official duties.**
- An activity conflicts with your official duties if:
  - it violates a statute or regulation, or
  - would require you to be disqualified from matters so central or critical to performing your duties that your ability to perform your official duties would be materially impaired.
- You also may not use your public office for private gain.



# Outside Activities...

- Teaching, Speaking & Writing
  - No compensation if related to NCFS matters
  - Not on behalf of NCFS except as authorized
  - Use of title or position
  
- Service as Expert Witness



# Outside Activities...

- Representations (personal) before the Federal Government. 18 USC 203 & 205
  - Not in connection with any NCFS matters with parties
  - Not to DOJ officials after serving 60 days
  - No sharing in fees earned by others in same matters
  - Matters of general applicability allowed
- Misuse of Position
  - Letters of recommendation

# Hatch Act



- The Hatch Act restricts government employee participation in *partisan political activity*, defined as:
  - *Active participation*
  - *Activity directed toward the success or failure of a political party, candidate for partisan office, or partisan group*
- Some employees are “further restricted” and face more constraints on their political activity.
- Most employees are “less restricted” and may be politically active, with some important exceptions, off the job.

# Hatch Act, cont'd.



- No use of official authority or title, no solicitation, receipt or acceptance of political contributions, no partisan political activity when on duty, in government space, or using government equipment
  
- Special rule for SGEs:
  - Certain prohibitions are in effect only while you are in a duty status

# Nepotism



- Nepotism: Favoritism granted to relatives regardless of merit.

First, the **nepotism statute** provides:

A public official may not appoint, employ, promote, or advance a relative, or advocate any of these actions, on behalf of a relative, to a position in the official's agency.

“Advocating” for the hire, promotion, etc., of a relative is interpreted broadly; even forwarding a resume of a relative could be a violation; advocating to any person in DOJ for a relative is prohibited.

# Gifts from Outside Sources



General Rule - You may not accept a gift from a *prohibited source* or a gift that is given to you based on your *official position*

- *Prohibited Source* – one who is doing business, seeking to do business or is regulated by the Department (for example, contractors), etc.
- *Official Position* – federal employee, DOJ employee, NCFS member, etc.

# Gifts from Outside Sources...



- **Exceptions:**
- Personal relationship is basis of gift
- Gift based on outside business relationship
- Widely available discount (i.e. discount for all federal employees)
- Gift's face value or fair market value is less than \$20 and totals no more than \$50 from one source in one year
- Gift has little intrinsic value (greeting cards, plaques)
- Light refreshments not part of a meal (coffee, donuts)

# Gifts Between Employees



- **Gifts may not be given to supervisors, and may not be accepted from subordinates, except:**
- De minimis (\$10 or less) on occasions such as birthdays and holidays, when gifts are traditionally exchanged; no group gifts
- On infrequent, special occasions of personal significance, or when the employment relationship terminates, gifts with no set \$ limit, but which are appropriate to the occasion, may be given/accepted

# Seeking Employment



- **An employee may not seek or negotiate for future employment with a person whose financial interests may be affected by a particular matter in which the employee is participating personally and substantially.**
- **Recusal or waiver is required.**