



NATIONAL COMMISSION ON FORENSIC SCIENCE

ETHICS OVERVIEW

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Cynthia Shaw
Janice Rodgers
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
- **Public service is a public trust.**

SPECIAL GOVERNMENT EMPLOYEES



- You are an “SGE.”
- You are expected to provide your “independent judgment” or “individual best judgment.”
- You provide important, but limited, services to the government.
- The federal ethics rules apply to you.



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...



- SGE status is directly related to the number of days the employee is expected to work in the coming year. As an SGE, you are expected to work 130 days or less. The application of some 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.

SERVICE IN TWO+ AGENCIES



- SGE status is based on the number of expected days to be served (130 or less) in the prospective one-year period.
 - If serving in more than one agency, the number of expected days to be served in the one-year period in both agencies must be aggregated, using a one-year period beginning on the earliest date served in either agency.
- For certain conflict-of-interest statutes, where the prohibition applies based on days already served (e.g., 60 days) in the preceding 1-year period, the days are counted and applied separately for each agency to determine if certain actions such as recusal, are required.

ETHICS RULES



- Conflicts of Interest
 - Outside Activities
 - Political Activity
 - Nepotism
 - Gifts
 - Seeking Employment
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- Why? Ethics rules inspire and preserve confidence in the operations of government. They promote the public's trust.

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

- A conflict may arise from your 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 know what you own.
- Remedies: Recuse and call us. A waiver may be necessary.

Personal Conflicts of Interest



- Working on a particular matter that affects a **member of your household** or that involves someone with whom you have a **close personal relationship** may violate the impartiality (personal conflict of interest) rules.
- Working on a particular matter that involves other persons or organizations with whom you are involved with may cause people to question your impartiality.
- Remedies: Recuse and call us. An 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



For Example...

A NCFS member has been asked to write an op-ed piece in a newspaper commenting on forensic science issues. May she do this?

- Yes, so long as she includes a disclaimer that says she is speaking for herself and not on behalf of the NCFS.
- If a short bio is included, her participation in the NCFS can be included, but only as one of several items.

Outside Activities...



- You may not represent someone other than yourself before the Federal Government (18 USC 203 & 205).
 - Not in connection with any NCFS matters with parties
 - Not before DOJ officials after you have served 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, con't.



- 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: Assistance or favors that employees provide to relatives within a certain degree of closeness.

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).
 - *Official Position* – federal employee, DOJ employee, NCFS member.



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.
- Recuse and call us.

Call us!



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