

From: [Gordon, Wayne](#)
To: [Baker, Shalanda](#)
Cc: [Baker, Shalanda](#)
Subject: Initial ethics advice for Non-Career SES appointee
Date: Tuesday, February 9, 2021 8:17:00 AM
Attachments: [SeniorEmployeeNewEntrantNCareerRestrictionsForm_2021.doc](#)
[Hatch Act Summary.pdf](#)
[NOTIFICATION form.docx](#)
[SYN OF G-H-203-205-208 .doc](#)
[Recusal Statement for Shalanda H. Baker 9 February 2021.doc](#)

Ms. Baker,

I have reviewed the Public Financial Disclosure Report that you recently submitted in connection with your new position at the Department of Energy. This e-mail is intended to provide you with information and call to your attention certain conflict-of-interest provisions applicable to you in your new position. Please read it in its entirety and contact me if you have any questions. There are two attached documents which you need to sign and return to me.

Participation Restrictions

Section 208, title 18, United States Code, prohibits you from participating personally and substantially, as a Government employee, in any particular matter in which, to your knowledge, a financial interest is held by you, or your spouse, minor child, general partner, or organization in which you are serving as officer, director, trustee, general partner, or employee, or any person or organization with whom you are negotiating or have any arrangement concerning prospective employment. This participation prohibition not only covers such items as contracts, grants, cooperative agreements, and claims, but also includes legislation and policy-making that is focused upon the interests of specific persons, or a discrete and identifiable class of persons. This prohibition is not on having a specific financial interest, but rather on the work that you may perform. Accordingly, you should be careful to avoid participation, as a Government employee, in any particular matter that would have a direct and predictable effect upon Northeastern University or any other entity in which you have a financial interest within the meaning of section 208, for as long as you hold such interest.

Further, section 2635.502 of the Standards of Ethical Conduct for Employees of the Executive Branch at title 5 provides that where you know that a person with whom you have a “covered relationship” is or represents a party to a particular matter involving specific parties, and where you determine that the circumstances would cause a reasonable person with knowledge of the relevant facts to question your impartiality in the matter, you should not participate in the matter unless you have informed your immediate supervisor of the appearance problem and received authorization to participate in the matter. For purposes of this restriction, a “covered relationship” includes:

- (i) A person, other than a prospective employer, with whom you have or seek a business, contractual or other financial relationship that involves other than a routine consumer transaction;
- (ii) A person who is a member of your household, or who is a relative with whom you have a close personal relationship;
- (iii) A person for whom your spouse, parent or dependent child is, to your knowledge, serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee;
- (iv) Any person for whom you have, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or
- (v) An organization, other than a political party in which you are an active participant.

Accordingly, you should seek the advice of this office prior to participating in any particular matter in which the Initiative for Energy Justice, Clean Energy Group, The Solutions Project, or Solstice Solar is a party or represents a party, and should seek the advice of this office prior to participating in any such matter.

In addition, President Biden issued an Executive Order on January 20, 2021 (the Biden Ethics Pledge) that expands this “covered relationship” restriction to include all former employers and former clients for whom you personally provided services within a two year period prior to your appointment for a period of two years after your appointment. Therefore, for two years after your appointment you cannot participate in any particular matter involving specific parties, including regulations and contracts, related to your former employer or former clients, including the Initiative for Energy Justice, Clean Energy Group, The Solutions Project, or Solstice Solar.

Senior Employee Post Employment Restrictions

As a “senior” employee (an individual compensated at a rate of pay in excess of \$172,395 in 2021) you are subject to the following post-employment restrictions: For one year after termination from service in a “senior” position, you may not:

- (1) knowingly make, with the intent to influence, any communication to or appearance before an employee of DOE, if that communication or appearance is made on behalf of any other person (except the United States), in connection with any matter concerning which you seek official action by the DOE employee; and
- (2) knowingly aid, advise, or make representations on behalf of a foreign entity, with the intent to influence a decision of an employee of a department or agency, including Members of Congress and their staffs, in carrying out your official duties.

The Attorney General is authorized to enjoin any violation of this criminal statute. The penalties for violating these restrictions include criminal penalties not to exceed five years in prison and/or fines not to exceed \$50,000 for each violation or the amount of compensation which you received for the prohibited conduct, whichever is greater. **Please review and sign the attached Non-Career Senior Employee Acknowledgement Form and send it back to me.**

Also, I have drafted a recusal statement for you to sign. This document recognizes your continued financial interest in Northeastern University, your agreement to resign from the various positions that you held prior to employment with the Department of Energy, (b) (6)

Please review and sign the attached Recusal Statement and send it back to me.

Outside Activity Restrictions

There are many statutory and regulatory restrictions applicable to outside activities. Before engaging in any outside employment (including volunteer work where you are providing professional services or serving on a board of directors) you must obtain written approval of your immediate supervisor, and this office. 5 C.F.R. § 3301.103. Further, with limited exceptions, you are prohibited from receiving compensation from any source other than the Government for teaching, speaking, or writing that relates to your official duties.

Ethics laws prohibit you from engaging in outside employment or any other outside activity that conflicts with your official duties. An activity conflicts with your official duties if it is prohibited by statute or it would require your disqualification from matters so central or critical to the performance of your official duties that your ability to perform the duties of your position would be materially impaired. These rules also prohibit you from using public office for your own personal gain or the private gain of friends, relatives, persons, or other entities with whom you are affiliated in a

non-governmental capacity, and from using official time other than in an honest effort to perform official duties.

Further, there are criminal statutes that restrict Federal government employees from engaging in certain activities with regard to the Government. In general, 18 U.S.C. §§ 203 and 205, prohibit Federal employees from representing, with or without compensation, any party other than the United States with respect to a certain matter involving specific parties before the Executive or Judicial branches of Government in which the United States is a party or has an interest.

Representational services include written or oral communications and appearances made on behalf of someone else with the intent to influence or persuade the Government.

Misuse of Position

Regulations exist providing for the proper use of official time and authority, and of information and resources to which you have access resulting from your role as a Federal employee. 5 C.F.R. §§ 2635.701 - 2635.705. These regulations bar the use of public office for private gain. This broad ban prohibits the following: use of your title, position, or authority for your own private gain, or the private gain of friends, relatives, clients, or anyone with whom you are affiliated in a non-Governmental capacity (including nonprofit organizations in which you serve as an officer, member, employee, or persons with whom you have or seek an employment or business relationship); use of your title, position, or authority to coerce or induce another person to provide any benefit to yourself or any person identified above; use of any non-public information to further your private interests or those of another, or disclosing confidential or non-public information without authorization; and use of Government property and time for unauthorized purposes.

Gifts

As a Federal employee, you may not accept gifts from a prohibited source or gifts offered because of your official position as a DOE employee. A prohibited source is considered an entity who does business with the Department, is affected by the work of the Department, or has an interest in the work of the Department. There are certain exceptions to this rule. For example, small food items, that are less than a meal, such as coffee, are not considered a gift. In addition, the Biden Ethics Pledge prohibits you from accepting gifts from registered lobbyists or lobbying organizations during your service as an appointee. There are very few exceptions to this additional restriction. You should contact this office before accepting a gift from a prohibited source or one that is offered because of your official position.

Political Activity Restrictions

The Hatch Act on Political Activity (Hatch Act) limits the political activities of Federal employees. 5 U.S.C. §§ 7321-7326. Generally, Department employees are permitted to participate in partisan political activities. However, as a Federal employee, you are prohibited from engaging in political activity while on duty; on government-paid travel; in any room or building occupied in the conduct of government business; wearing a uniform or official insignia identifying the office or position of the employee; or using any vehicle owned or leased by the government. Further, you may not solicit, accept, or receive political campaign contributions on behalf of a political candidate or political party. You also cannot use Government computers, phones, and similar equipment for partisan political activity. Please contact this office for more detailed advice before engaging in partisan political activity.

Periodic Transaction Report (OGE Form 278T)

A periodic transaction report is only required to be submitted to report the purchase, sale, or exchange of stocks, bonds, options or futures (if the amount of the transaction is greater than

\$1,000) by you, your spouse or dependent children. These reports must be filed: (A) within 45 days of the transaction, or (B) within 30 days of the date you learn of the transaction, whichever occurs earlier. There is a \$200 late filing fee on these reports. The periodic transaction report is not required to be submitted to report the purchase, sale, or exchange of mutual funds, real property, or deposit accounts. Periodic Transaction Reports must be filed using Integrity. Employees who have previously used OMB MAX should use their MAX user ID and password. On the Integrity landing page, <https://integrity.gov>, click "Login to Integrity." Click "Submit" and you should see a filer "My Tasks" dashboard. To start a 278-T, scroll down to the "My Tools" area and click on "278-T." That will display the report tool with brief instructions in a new window where you can enter your information and submit your report.

This email provided a general overview of the conflict of interest statutes and regulations that apply to you as an employee at the Department of Energy. Please remain alert for any potential conflicts that may arise and do not hesitate to contact this office at standardsconduct@hq.doe.gov with any questions related to these restrictions.

Wayne P. Gordon

Attorney-Advisor

Office of the General Counsel for Ethics and Personnel Law

202-586-1519

Non-Career “Senior” Employee Acknowledgment

Effective January 2004, a new performance-based pay system for the Senior Executive Service (SES) was established and, consequently amended 18 U.S.C. 207(c) to establish a new standard for “senior” employees. For 2021, a "senior" employee is an individual compensated at a rate equal to or greater than \$172,395 or 86.5% of the rate for level II of the Executive Schedule. As an employee entering a non-career “senior” position, I understand that the following restrictions apply to my current and future activities:

Post Employment Restrictions: For one year after termination from service in a "senior" position, I may not (1) knowingly make, with the intent to influence, any communication to or appearance before an employee of DOE, if that communication or appearance is made on behalf of any other person (except the United States), in connection with any matter concerning which I seek official action by the DOE employee; and (2) knowingly aid, advise, or make representations on behalf of a foreign entity, with the intent to influence a decision of an employee of a department or agency, including Members of Congress and their staffs, in carrying out his or her official duties. I also understand the Attorney General is authorized to enjoin any violation of this criminal statute. Furthermore, I understand violation of these restrictions include criminal penalties not to exceed five years in prison and/or fines not to exceed \$60,517 for each violation or the amount of compensation which is received for the prohibited conduct, whichever is greater.

Outside Income and Outside Activities Restrictions: Title V of the Ethics in Government Act of 1978, as amended, contains restrictions on my outside activities. Specifically, I may not in any calendar year have outside earned income in excess of 15 percent of the annual rate of basic pay for Level II of the Executive Schedule (EX-II), currently the cap for 2021 is \$29,595 (will be prorated for partial year service). In addition, I may not:

- receive compensation for affiliating with or being employed by an entity that provides professional services involving a fiduciary relationship;
- permit my name to be used by any entity that provides professional services involving a fiduciary relationship;
- receive compensation for practicing a profession that involves a fiduciary relationship;
- serve for compensation as an officer or member of the board of any entity; or
- receive compensation for teaching, speaking or writing without the prior approval of the Department.

Further, Department regulations require that, before engaging in any outside employment, whether or not for compensation, I must obtain the written approval of my immediate supervisor and ethics counsel (5 C.F.R. 3301.103). If I am currently engaged in an outside activity or plan to engage in any outside activities, I understand I must consult ethics counsel for further guidance and acknowledge that guidance is available in the Office of the Assistant General Counsel for Ethics and Personnel Law, at 202-586-1522.

Signature of Employee

Date

Printed Name of Employee

cc: Susan F. Beard, Designated Agency Ethics Official
Deputy General Counsel for Agency Operations



The Secretary of Energy
Washington, DC 20585

August 4, 2004

MEMORANDUM FOR ALL DEPARTMENT OF ENERGY EMPLOYEES

FROM:

SUSAN F. BEARD *Susan F. Beard*
DESIGNATED AGENCY ETHICS OFFICIAL

SUBJECT:

Restrictions on Political Activities

The Hatch Act restricts the political activities of Executive Branch employees, and the Office of General Counsel routinely distributes periodic advice about these restrictions. This memorandum addresses frequently asked questions concerning political activity restrictions. The penalty for violation of the Hatch Act can include loss of Federal employment.

Please remember that DOE employees should not provide any non-public information to any person or entity outside the Department without authorization. This restriction applies to all campaign organizations and political parties.

QUESTION: What types of activities are generally prohibited by the Hatch Act?

ANSWER: Every employee is prohibited from:

- ✘ Using official authority for the purpose of interfering with or affecting the result of an election;
- ✘ Coercing an employee to engage in any political activity, including voting or not voting;
- ✘ Seeking to influence, encourage, or discourage the political activity of any person doing business with or affected by the policies of the Department;
- ✘ Using your official title while engaging in an otherwise permissible political activity;
- ✘ Soliciting or accepting financial contributions for a political campaign or party (with one limited exception described below); and
- ✘ Being a partisan candidate for public office (There is a limited exception allowing some employees to run as independent candidates in certain partisan elections. Please seek advice from your ethics counselor if you want more information about this exception).

QUESTION: What types of activities are included in the prohibition on soliciting contributions for partisan campaigns?

ANSWER: Every employee is subject to this prohibition. Prohibited activities include:

- ✘ Requesting or accepting financial contributions for a partisan political party, candidate or campaign;
- ✘ Selling tickets to a fundraising activity of a partisan political party, candidate or campaign;
- ✘ Allowing your name to appear on an invitation to a fundraiser as a sponsor, host, or a point of contact;



- ✘ Hosting a fundraiser at your home (however, your spouse may host such a fundraiser, if he or she is not subject to these restrictions);
- ✘ Allowing your official title to be used in connection with a fundraising activity; and
- ✘ Soliciting, accepting, or receiving uncompensated volunteer services from a subordinate.

There is one exception to the general prohibition on soliciting political contributions for partisan campaigns. You may (unless you are a career member of the Senior Executive Service, a member of a Board of Contract Appeals, or an Administrative Law Judge) solicit financial contributions for a political purpose if both you and the person you are soliciting are members of the same Federal labor organization or Federal employee organization, the contribution is for the political committee of the labor or employee organization of which you both are members, and the person being solicited is not your subordinate. All three of these conditions must exist.

In addition, you may (unless you are a career member of the Senior Executive Service, a member of a Board of Contract Appeals, or an Administrative Law Judge) actively participate in planning, organizing or conducting a fundraising activity of a candidate for partisan political office, a political party, or a partisan political group, provided that you do not solicit or accept contributions. For example, you may stuff envelopes for a partisan political candidate, campaign, or party, including literature that solicits a money contribution, provided that your name or signature does not appear on the solicitation material.

QUESTION: What types of activities are permitted by the Hatch Act?

ANSWER: Every employee may:

- ✓ Register and vote as he or she chooses;
- ✓ Express opinions about candidates and issues;
- ✓ Contribute money to political organizations or candidates;
- ✓ Participate in nonpartisan voter registration drives;
- ✓ Attend political fundraising functions, rallies, and meetings;
- ✓ Sign political petitions;
- ✓ Campaign for or against an issue that is not specifically identified with a political party such as referendum questions, constitutional amendments, or municipal ordinances;
- ✓ Campaign for or against a candidate in a nonpartisan election;
- ✓ Serve as an election official whose duties are nonpartisan by law; and
- ✓ Be an independent candidate in a nonpartisan election for public office.

However, all permissible political activities, including those listed above, are subject to **four limitations**, which prohibit Executive Branch employees from engaging in political activities:

1. while on duty,
2. while in any Federal office or workplace (a room or building in which any Federal employee discharges his duties),
3. while using a Government vehicle, or
4. while wearing an official uniform, badge, or insignia identifying DOE.

Only those employees who are appointed by the President by and with the advice and consent of the Senate (other than the Inspector General) are exempted from these four limitations.

QUESTION: May I volunteer to work for a candidate who is running in a partisan election?

ANSWER: Subject to the above four restrictions, you may (unless you are a career member of the Senior Executive Service, a member of a Board of Contract Appeals, or an Administrative Law Judge) actively participate in a partisan election, including participation in the following activities:

- ✓ Organizing or speaking at political rallies;
- ✓ Participating in partisan voter registration drives;
- ✓ Distributing campaign literature;
- ✓ Working on a phone bank, provided that financial contributions are not solicited;
- ✓ Transporting voters to the polls;
- ✓ Managing a campaign; and
- ✓ Supervising or organizing volunteers.

Again, only those employees who are appointed by the President by and with the advice and consent of the Senate (other than the Inspector General) may participate in political activities while on duty and may hold partisan political meetings or receptions (other than fundraisers) in their conference rooms during normal business hours. However, any refreshments served at such meetings or receptions must not be paid for with appropriated funds.

QUESTION: May I wear a partisan political button or have a partisan bumper sticker on my car?

ANSWER: Partisan political buttons and bumper stickers are treated differently under the regulations. Wearing partisan political buttons is considered participating in a partisan political activity and, thus, is subject to the four limitations (*i.e.*, may not be done while on duty, while in a Federal office or workplace, while using a Government vehicle, or while wearing an official uniform, badge or insignia identifying DOE). However, employees who are appointed by the President by and with the advice and consent of the Senate (other than the Inspector General) are exempted from these four limitations; but nonetheless, should not wear partisan political buttons while performing official duties for the Department.

Under no circumstances should a partisan bumper sticker be placed on a Government vehicle. All employees may have partisan bumper stickers on their own private vehicles while commuting, when the vehicle is parked in a Federal garage or parking space, and when the vehicle is being used on official business if such use is infrequent or occasional. However, partisan bumper stickers on a private vehicle must be covered while the vehicle is being used on official business (*i.e.*, travel for which the employee may be reimbursed) if such use is frequent or recurrent or while the vehicle is clearly identified as being on official business.

QUESTION: May I have partisan political material displayed in my Federal office?

ANSWER: No. You may not display in your office or while you are performing official duties pictures, signs, stickers, or badges associated with a current political campaign or candidate or a political party. You may, however, continue to display photographs of the current President or Vice President (other than those produced by his campaign or party) in such places and ways as you displayed them before the campaign began in March 2003. Also, you may display photographs of past presidents and vice presidents and other political memorabilia from past partisan political campaigns that have no effect on a current campaign.

QUESTION: May I serve as an election official?

ANSWER: In any election, including a partisan election, you may serve as an election judge, clerk, or other official if those duties are nonpartisan by law. You may (unless you are a career member of the Senior Executive Service, a member of a Board of Contract Appeals, or an Administrative Law Judge) serve as a representative of a political party or candidate at a polling place, including serving as a poll watcher, recorder, or challenger. In so serving, you remain subject to the four limitations described above, including the prohibition against wearing a DOE badge or insignia identifying you as a DOE employee.

QUESTION: How may I participate in the activities of a political party?

ANSWER: All employees may, of course, be a member of a political party (or other political group) and may attend its meetings, rallies, caucuses, or conventions, as an observer. Further, unless you are a career member of the Senior Executive Service, a member of a Board of Contract Appeals, or an Administrative Law Judge, you may also actively participate in the functions of a political party or other political group, including performing the following activities:

- ✓ Serving as an officer of or a member of a local, State, or national committee of a political party or club;
- ✓ Organizing or reorganizing a political party or club;
- ✓ Serving as a delegate, alternate, or proxy to a state or national party convention; and
- ✓ Participating fully in and speaking before a nominating caucus, political convention, rally, or other gathering.

However, you should keep in mind that these permitted activities are subject to the four limitations mentioned earlier and the prohibition against soliciting or accepting political contributions.

QUESTION: Where can I get information if I have any questions about restrictions on political activities?

ANSWER: Headquarters personnel may direct questions to the Office of the Assistant General Counsel for General Law (202-586-1522), StandardsofConduct@hq.doe.gov. Field personnel may address questions to their respective field counsel. For additional information on the Hatch Act, you may also visit the following Office of Special Counsel site:
<http://www.osc.gov/hatchact.htm>.

Because the rules regarding official/political travel are complex, employees whose duties include scheduling, advancing, or accompanying a DOE official on official/political travel should contact ethics counsel for guidance whenever travel for a political purpose is contemplated.

**NOTIFICATION OF POST-EMPLOYMENT NEGOTIATION OR
AGREEMENT AND RECUSAL STATEMENT**

Section 17 of the Stop Trading on Congressional Knowledge Act of 2012 (STOCK Act) requires certain employees to file a statement notifying their agency ethics official of any negotiation for or agreement of future employment or compensation with a non-federal entity within three (3) business days after commencement of the negotiation or agreement. Employees who file this notification statement also must file with their agency ethics official a recusal statement whenever there is a conflict of interest or appearance of a conflict of interest with the entity, or obtain a written waiver or an authorization as discussed in 5 C.F.R. § 2635.605.

The original of this notification and recusal is to be filed with the Office of the Assistant General Counsel for General Law (GC-77; FORS 6A-211). Copies must also be provided to the screener and the person to whom the work will be routed. We also strongly recommend notifying your management if they are not the person to whom the work will be routed. Field employees must also file a copy with their local ethics counselor.

Please call the Office of the Assistant General Counsel General Law at (202)586-1522 with any questions.

PRIVACY ACT STATEMENT

Section 17 of the Stop Trading on Congressional Knowledge Act of 2012 requires that certain Executive Branch employees who negotiate for future employment with non-federal entities provide notification of the negotiation and of any required recusal. The primary use of the information on the form is to provide a record of an employee's recusal. Additional disclosures of the information may be to a Federal, state or local law enforcement agency when the Department of Energy becomes aware of a potential violation of civil or criminal law, to a Federal agency when conducting an investigation for employment or security reasons, or to a Federal agency that is reviewing compliance with the provisions of Section 17.

**NOTIFICATION OF POST-EMPLOYMENT NEGOTIATION OR
AGREEMENT**

Name of Employee:

Office:

Title:

Date Negotiation or Agreement Commenced: [Include date and specify if it is a negotiation or an agreement]

Names(s) of Non-Federal Entity or Entities: [Disclose each non-federal entity with which you are negotiating for or have an agreement regarding future employment or compensation]

RECUSAL STATEMENT

For as long as I am negotiating for or have an agreement of employment or compensation with any entity listed above, I will not participate personally and substantially in any particular matter that has a direct and predictable effect on the financial interests of that entity, unless I first obtain a written waiver or an authorization consistent with 5 C.F.R. § 2635.605. I have directed name of screener, to route all matters from which I am recused to name of person who will either perform or reroute the work.

Employee Signature

Date Submitted

SYNOPSIS OF SUBPART G - MISUSE OF POSITION

USE OF PUBLIC OFFICE FOR PRIVATE GAIN. An employee shall not use his public office for his own private gain or for the private gain of friends, relatives or persons with whom he is affiliated in a non-governmental capacity, or for the endorsement of any product, service or enterprise. In particular, an employee shall not use his Government position, title or authority:

In a manner intended to induce another to provide any benefit to himself or to friends, relatives or affiliated persons;

In a manner that could be construed to imply that his agency or the Government sanctions or endorses his personal activities or those of another; or

To endorse any product, service or enterprise except in furtherance of statutory authority to do so, in accordance with agency programs to give recognition for achievement or to document compliance with agency standards or requirements.

USE OF NONPUBLIC INFORMATION. An employee shall not engage in a financial transaction using nonpublic information, or allow the improper use of nonpublic information to further his own private interests or those of another. Information that is "nonpublic" includes information the employee knows or reasonably should know:

Is routinely exempt from disclosure under the Freedom of Information Act or protected from disclosure by statute;

Is designated as confidential by an agency; or

Has not actually been disseminated to the general public and is not authorized to be made available to the public on request.

USE OF GOVERNMENT PROPERTY. An employee has a duty to protect and conserve Government property and to use Government property only for authorized purposes. Authorized purposes are those for which Government property is made available to the public or those purposes authorized in accordance with law or regulation.

USE OF OFFICIAL TIME. Unless authorized in accordance with law or regulation to use such time for other purposes, an employee shall use official time in an honest effort to perform official duties. And, an employee shall not encourage, direct, coerce or request a subordinate to use official time to perform activities other than those required in performance of official duties or those authorized in accordance with law or regulation.

SYNOPSIS OF SUBPART H - OUTSIDE ACTIVITIES

GENERALLY. In addition to the standards set forth in this subpart, an employee's outside employment and other activities must comply with all ethical requirements set forth in subparts A through G of the *Standards of Ethical Conduct for Employees of the Executive Branch* (5 C.F.R. 2635), including the requirement to avoid even the appearance of using public office for private gain. For example, the prohibition against use of Government property for unauthorized purposes would prohibit an employee from using the agency photocopier to reproduce documents for his outside organization.

RESTRICTIONS IMPOSED BY OTHER LAWS. Outside activities frequently raise questions about the following:

The restrictions in 18 U.S.C. 203 and 205 on employees engaging in representational activities before the United States;

The constitutional prohibition against accepting any office, title or compensation from a foreign government; and

The Hatch Act, which prohibits most employees' participation in certain partisan political activities.

PRIOR APPROVAL FOR OUTSIDE ACTIVITIES. As required by supplemental agency regulation, an employee must obtain approval before engaging in outside employment or activities. Special Government employees are **not** subject to this requirement.

CONFLICTING OUTSIDE ACTIVITIES. An employee shall not engage in outside employment or activities prohibited by statute or by supplemental agency regulation, or that would materially impair the ability to perform his official duties requiring his disqualification.

RESTRICTIONS ON RECEIPT OF COMPENSATION. With certain exceptions, Presidential appointees to full-time non-career positions shall not receive any outside earned income for outside employment or other outside activities performed during that appointment. Higher-level non-career employees may not, in any calendar year, receive outside earned income which exceeds 15 percent of the rate of pay for Level II of the Executive Schedule. These non-career employees also are prohibited from receiving any compensation for teaching without prior approval, serving as officers or board members of outside entities, practicing certain professions, or being affiliated with firms or other entities that practice those professions.

SERVICE AS AN EXPERT WITNESS. In the absence of specific authorization, an employee shall not represent anyone other than the United States as an expert witness in any proceeding before a court or agency of the United States if the United States is a party or has a direct and substantial interest. This restriction applies even though no

compensation is received. A less restrictive standard applies to special Government employees.

TEACHING, SPEAKING AND WRITING. An employee shall not receive compensation for teaching, speaking or writing that is related to his official duties.

DEFINITION OF RELATED TO DUTIES. Teaching, speaking or writing is "related to an employee's official duties" if:

The activity is undertaken as part of his official duties;

The invitation to engage in the activity was extended primarily because of his official position;

The invitation or the offer of compensation was extended by a person whose interests may be affected by the employee's official duties;

The information draws substantially on nonpublic information; or

For most employees, the subject of the teaching, speaking or writing deals in significant part with any matter presently assigned to the employee, any matter to which the employee had been assigned in the previous one-year period, or to any ongoing or announced policy, program or operation of his agency. Certain noncareer employees are subject to additional restrictions and special Government employees are subject to less restrictive standards.

EXCEPTION FOR TEACHING. An employee may receive compensation for teaching certain courses, notwithstanding that the subject matter is related to his official duties and notwithstanding that he may have been offered the opportunity because of his official position.

FUNDRAISING. Provided that he does not otherwise violate the Standards of Ethical Conduct, an employee may engage in charitable fundraising activities in a personal capacity if he does not use his official title, position or authority to further that effort or personally solicit funds or other support from subordinates or from anyone known to him to be a prohibited source for purposes of the gift restrictions in subpart B of the *Standards of Ethical Conduct for Employees of the Executive Branch* (5 C.F.R. 2635). A special Government employee, however, may solicit charitable contributions from a prohibited source as long as that person does not have interests affected by the performance of his official duties.

JUST FINANCIAL OBLIGATIONS. Employees shall satisfy in good faith all just financial obligations.

STATUTORY SYNOPSIS
(18 U.S.C. " 203, 205, 208)

The following three criminal statutes place restrictions on Federal employees who engage in outside activities:

Section 203, title 18, United States Code, prohibits you from receiving compensation for representing another in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest or other particular matter in which the United States is a party or has a direct and substantial interest, before any court or any Federal department or agency.

Section 205, title 18, United States Code, prohibits you from:

- X acting as agent or attorney, with or without compensation, in the prosecution of any claim against the United States;
- X receiving any compensation for assistance in the prosecution of any claim against the United States; or
- X acting as agent or attorney, with or without compensation, in connection with any covered matter in which the United States is a party or has a direct and substantial interest. (A "covered matter" includes any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter.)

Section 208, title 18, United States Code, prohibits you from participating personally and substantially, as a Government employee, in any particular matter in which, to your knowledge, a financial interest is held by:

- X you, your spouse, and your minor child;
- X your general partner;
- X any organization in which you are serving as officer, director, trustee, general partner, or employee; or
- X any person or organization with whom you are negotiating or have any arrangement concerning prospective employment.

This participation prohibition not only covers such items as contracts, grants, cooperative agreements, and claims, but also includes legislation and policy-making that is focused upon the interests of specific persons, or a discrete and identifiable class of persons. This prohibition is not on having a specific financial interest, but rather on the work that you may perform as a Federal employee.

RECUSAL AGREEMENT

(b) (5)

(b) (5)