

ethics

COMPASS



Ethics Announcements • Hot Topics • Trainings • Updates • Tidbits, Tips & More

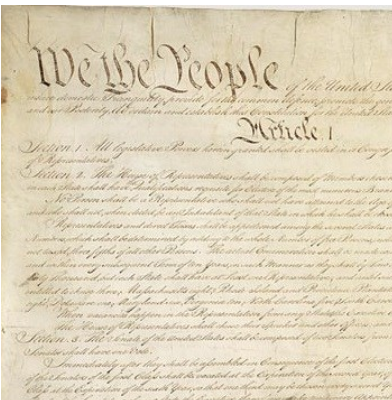
Ethics in the News

WHAT ARE EMOLUMENTS, ANYWAY?

All Federal civil servants take an oath in which they affirm that they will support and defend the Constitution and “bear true faith and allegiance to the same.” Numerous laws exist to help ensure that Federal employees remain faithful and true to the Constitution. Of these, the Emoluments Clause is of particular importance because it is enshrined in the Constitution itself, rather than in a statute passed by Congress.

The Emoluments Clause states that “no Person holding any Office of Profit or Trust [in the Federal Government] shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.” In short, Federal employees cannot accept a

gift, job, or title from a foreign government—whether national, state, or local—without the consent of Congress. Many entities that you may not typi-



cally think of as foreign governments are, in fact, considered foreign governments for purposes of the Emoluments Clause. This includes certain state-owned enterprises and some foreign universities. Re-

gardless of the source of payment, the purpose of the Emoluments Clause is the same—to prevent foreign governments from wielding undue influence over Government employees.

Congress exercised its authority to authorize certain payments and gifts from foreign governments by passing the Foreign Gifts and Decorations Act, which allows employees to personally accept gifts of “minimal value”—currently \$390 dollars—offered by a foreign government. When an employee is offered a gift valued over \$390, the employee may accept the gift on behalf of the Government if refusal would likely cause offense or embarrassment. Outside of these exceptions, an employee generally may not accept a title or anything of value from a foreign government.

APRIL REMINDERS

- **FEB. 15** was the deadline to file a Form 450 Confidential Financial Disclosure Report; if you have not filed your report, please do so **immediately!**
- New employees have **3 months** to complete ethics training
- Form 278 Filers must file transaction reports within **30 DAYS** of the sale or purchase of securities
- Form 278 Filers must file written notice within **3 DAYS** of beginning non-Federal employment negotiations

An Ethics Poem

Can I start a business? Can I practice law?
Can I troubleshoot computer programs if they have a flaw?
Well, consistent with the ethics rules, you can do them all,
As long as you engage in them outside this hallowed hall.
And as long as you comply with every other prohibition:
Don't use Government resources or your Federal position.
Don't allow a conflict with your duties or your mission.
If you have a doubt, please ask; it will not be an imposition.

Ethics Spotlight: OUTSIDE ACTIVITIES

The basic principle behind the rules on outside activities is to avoid divided loyalties. If you engage in activities outside your Government position (and don't we all!), you could be presented with a situation in which you must weigh your duty to a non-Federal organization against your duty to the U.S. Government. To avoid this predicament, and to ensure public trust, the Federal ethics rules are here to help!

So, what *can* you do outside of work? Employment

and other activities outside the Government are permitted, provided they are not prohibited by law (see the Emoluments Clause above) and do not trigger your disqualification from important duties. This means that you must disqualify yourself from working on any agency matter that would affect the financial interests of your outside employer, an organization in which you are an officer or director, or in which a client, former employer, or organization in which

you are active is a party or represents a party. Sound easy enough? Unfortunately, any good rule has exceptions, and depending upon your position in the Federal government, you may be subject to further limitations. There are additional restrictions on teaching, speaking, and writing, as well as limits on outside income, work involving a fiduciary relationship, and practicing law. Your situation may be more complex. It is always best to consult the Ethics Division about an outside activity you are considering. But we encourage them—just as the ethics rules are here to help, so are we!

Ask Ethicina

Dear Ethicina,

My friend just started a new tax preparation business (R&H Cube) and asked me to finally use my accounting degree and work for her part-time. I am tempted (it will help pay for that dream trip I planned to Antarctica) but read somewhere that Federal employees can't "represent" anyone before Federal agencies. Does that mean I can't file a client's tax form with the IRS?

Sincerely,
Penguin Fan

It looks like someone was paying attention in Ethics class—but no gold star. You are correct that there is a law barring Federal employees from contacting Federal agencies (including the IRS) on behalf of clients (and anyone else) but such prohibited "representation" concerns communications to influence Government action. Filing a tax form as a tax preparer is allowed because it is considered as only providing information to the Government. If a dispute arises, however, you cannot be the one to argue on behalf of a client's position. I know these rules are confusing—that's why ethics attorneys were invented. — E (P.S. You might want your friend to check with a trademark attorney; I think she was being a little too clever by half in naming her company.)



Critic's Corner: *The West Wing*



The Emoluments Clause, the subject of this month's feature article, featured heavily in season 6, episode 7 of NBC's acclaimed political drama *The West Wing*. President Bartlet accepts a flag associated with the Taiwanese independence movement from a Taiwanese official. In order to avoid an incident with a Chinese political delegation, the President must return the flag to the Taiwanese. However, because the gift was of substantial value, the Foreign Gifts and Dec-

orations Act (FGDA) states that President Bartlet technically accepted the flag on behalf of the United States. Therefore, the only way for him to personally obtain and return the flag would be to pay the Government the flag's fair market value—approximately \$20,000-\$30,000. A sharp-eyed ethics attorney in the White House Counsel's office came to the rescue by noting that the FGDA does not apply to gifts that may adversely affect the foreign relations of the United States. Because accepting the flag clearly did harm foreign relations, it was improper to accept the gift and President Bartlet was able to return it without having to pay a substantial sum of money.

OFFICE OF THE MONTH: **GENERAL LAW DIVISION**

Money, money, money—to learn how to spend it, when to spend it, and on what to spend it, you can go to the General Law Division of OGC/ADTRAX. Nick Kornegay—recently appointed as Chief of the Division—and his team advise on appropriations and budget issues. But as the name of the Division implies, that's not all they do. They handle all those legal problems that don't seem to fit anywhere else—MOUs (Memoranda of Understanding), trademarks and copyrights for Commerce, and travel and conference questions. GenLaw is the place to go when you have a legal issue involving money, public-private relationships, and protection of the Government's resources. To learn more, visit the General Law Division website: GenLaw.

Ethics questions?

Contact the Ethics Attorney of the Day:
EthicsDivision@doc.gov or 202-482-5384



Lyric the Bunny scheduled this springtime photo shoot entirely on personal time.

Pets of the Month

ETHICAL ANIMALS

This diligently ethical animal lives with
**Stephanie Dyer, Program Specialist in
the Ethics Law & Programs Division.**

We want to see your pets!

Please submit photos of your
pet's adorably bad behavior by
emailing us here.



Lyric happily accepted grass, flowers,
and alfalfa valued at \$20 or less.