



# Ethics Briefing for PROGRESS Act Negotiated Rulemaking Committee

August 29, 2022

U.S. Department of the Interior  
Departmental Ethics Office (DEO)

# Representative vs. Employee

- Representative

- Voice of group with financial interest or stake in the matter
- Ethics statutes and regulations do not apply
- Charter language governs

- Employee

- Independent judgment on behalf of the Government – no financial interest in the matter
- Ethics statutes and regulations apply

# Federal Employees: General Ethics Principles

- ✓ Place loyalty to the Constitution, laws, and ethical principles above private gain.
- ✓ Act impartially to all groups, persons, and organizations.
- ✓ Give an honest effort in the performance of your duties.
- ✓ Protect and conserve Federal property.
- ✓ Disclose waste, fraud, abuse, and corruption to appropriate authorities.
- ✓ Fulfill in good faith your obligations as a citizen, and pay your Federal, State, and local taxes.
- ✓ Comply with all laws providing equal opportunity to all persons, regardless of their race, color, religion, sex, national origin, age, or handicap.

# Federal Employees: Our Limitations

- × Holding financial interests that conflict with official responsibilities.
- × Using nonpublic information to benefit yourself or anyone else.
- × Soliciting or accepting gifts from anyone doing business with, seeking action from, or regulated by DOI (unless permitted by an exception).
- × Making unauthorized commitments that bind the Government.
- × Using public office for private gain.
- × Engaging in outside employment or activities that conflict with official responsibilities.
- × Taking actions that give the appearance that they are illegal or unethical.

# Financial Conflicts of Interest: 18 U.S.C. § 208

Employees cannot work on Government matters that would affect their financial interests.

Limits include:

- No personal and substantial participation
- Particular matters
- Direct and predictable effect on financial interests
- Interests of employee and those imputed to the employee

# Impartiality: 5 C.F.R. § 2635.502

Avoid participating in specific party matters when:

- Someone with whom the employee has a **covered relationship** is a party or represents a party, OR
- The matter would have an effect upon the financial interest of a household member, AND
- A reasonable person with knowledge of the relevant facts would question the employee's impartiality.

Catch-All Provision: Applies when a “covered relationship” may not be present, but the employee's participation might still raise questions regarding his or her impartiality.

# Misuse of Position: 5 C.F.R. §§ 2635.702-705

Employees are prohibited from **using** their **public office** for **private gain**.

## Using

- Coerce or induce benefits
- Imply official sanction of private activities
- Endorse private enterprises or activities

## Public Office

- Official title
- Email
- Position
- Authority

## Private Gain

- Employee
- Relative
- Persons with whom you affiliate personally

# The Gift Rules: 5 C.F.R. § 2635, Subparts B & C

Unless an **exclusion or exception** applies, a Federal employee may not:

- Solicit or accept gifts from prohibited sources or given because of his/her official position
- Give a gift to an official supervisor or someone that makes more pay
- Accept a gift from an employee who receives less pay



# Hatch Act - Prohibited Activities

## Employees cannot:

Engage in political activity while on duty, in Federal building, wearing uniform/insignia or using Federal vehicle

Solicit, accept, or receive donations or contributions for partisan political candidate/party/group

Run as candidate in partisan political election

# Social Media

- Employees' social media accounts cannot appear to be official DOI accounts
  - Listing role with the Committee and Government employment is okay if that information is not more prominent than other biographical details
- Do not post any non-public information
- Do not engage in or support any partisan fundraising



# Ethics Considerations for Representatives: Charter Language

“Non-Federal members of the Committee and subcommittee(s) are not subject to Federal ethics statutes and regulations. However, these non-Federal Committee or subcommittee members may not participate in any Committee or subcommittee deliberations or votes relating to a specific party matter before the Department or its bureaus or offices including a lease, license, permit, contract, grant, claim, agreement, or litigation in which the member or the entity the member represents has a direct financial interest.”

# Ethics Considerations for Representatives: Specific Party Matters

In addition to charter examples, specific party matters also include:

- Applications
- Enforcement actions
- Requests for ruling or other determination
- Controversies
- Charges
- Accusations
- Arrests
- Investigations

# Ethics Considerations for Representatives: What is Not a Specific Party Matter

Particular matters of general applicability affecting the interests of a discrete and identifiable class of persons:

- Regulatory rulemakings
- Legislation
- Policy matters

# Ethics Considerations for Representatives: Financial Interest

Financial interest - yours or the entity you represent:

- Financial instruments or investments (i.e., stocks, bonds, mutual funds, or real property)
- Any salary, indebtedness, job offer, or any similar interest that may be affected by the matter.

# Ethics Considerations for Representatives: Direct Effect on the Financial Interest

## What is a Direct Effect

- Close causal link between action on the matter and expected effect on financial interest
- Effect need not be immediate

## What is Not a Direct Effect

- Chain of causation attenuated or effect contingent upon events that are speculative or independent of, and unrelated to, the matter
- Effect on interest only a consequence of action's effect on general economy

## Ethics Considerations for Representatives: Only Advisory Committee Duties are Restricted

- You may act, outside of Committee duties, on behalf of yourself or others, in a specific party matter before the DOI that affects your financial interests or the entity that you represent.
- You cannot act, as part of your Committee duties, on that specific party matter.



# Ethics Considerations for Representatives: Application to the Committee's Work

If, while performing your duties for the Committee, you are asked to participate in a specific party matter before the DOI that would affect your financial interest or the financial interest of the entity you represent:

- Notify the Departmental Ethics Office (DEO) immediately; and
- Take no action on that matter unless advised to do so by the DEO.

# Additional Ethics Considerations for Representatives

- Observe general Government ethics principles and avoid:
  - Misuse of Government logos/seals, property, and other resources
  - Don't share non-public information
  - The appearance that you are using Government access for the benefit of yourself or others
- Keep Committee business separate from your non-Government work or positions
- Be mindful of Federal records, anti-lobbying, and FOIA rules

# QUESTIONS?

If you have questions about the ethics rules or need assistance, please contact the DEO:



1849 C Street NW, MS 5311  
Washington DC 20240



202-208-7960 (main office line)



[DOI\\_Ethics@sol.doi.gov](mailto:DOI_Ethics@sol.doi.gov) (general inquiries)



**Website:** [www.doi.gov/ethics](http://www.doi.gov/ethics)  
**Mobile App:** Search for “DOI Ethics” in App Store or  
Google Play