



Ethics  
for  
Special Government Employees  
Serving on  
Outer Continental Shelf  
Scientific Committee

# Service on OCS Scientific Committee

- Appointed as Special Government Employee (SGE)
- Defined at 18 U.S.C. 202(a)
  - Anyone who is retained, designated, appointed, or employed to perform temporary duties, with or without compensation, for a period not to exceed 130 days out of any 365 days
  - Includes advisory committees

# Summary of SGE Ethics Rules

- Ethics Principles:
  - Public service is a public trust
  - May not have conflicting financial interests
  - May not improperly use non-public information
  - Avoid even the appearance of impropriety
- Status as SGE
  - Equivalent to being an insider
  - Subject to most civil service ethics rules
  - Subject to post-employment restrictions

# Applicable Criminal Laws

- **18 U.S.C. § 201 Bribery/Gratuities**

Prohibits public officials from accepting bribes or gratuities to *influence their Government actions*

- **18 U.S.C. § 203 Representation of Others for Compensation**

Prohibits *compensation* for representational activities involving *particular matters involving specific parties* in which the *United States is a party* or has a *direct and substantial interest*.

- **18 U.S.C. § 205 Representation of Others with/without Compensation**

Prohibits an employee from certain involvement in a claim against the United States or *representing another before the Government in particular matters involving specific parties*.

- **18 U.S.C. § 207 Post-employment Restrictions**

Imposes restrictions on an employee's activities after leaving the committee. Contact the Ethics Office if you are considering a job or activity that relates to your prior committee work.

- **18 U.S.C. § 208 Conflicting Financial Interests**

Prohibits employees from participating in certain Government matters affecting *their own financial interests* or the interests of *certain persons* with whom they have ties outside the Government.

- **18 U.S.C. § 209 Supplementation of Salary**

Prohibits employees from being *paid* by someone other than the United States for certain activities such as speaking, writing, or teaching **because of committee service**.



# Particular Matter

- Deliberations, decisions, or actions that are focused upon the interests of the following:
  - Specific persons or entities (e.g.: contract, grant, agreement)
  - Identifiable class of persons or entities (e.g.: industry)
- NOT focused on:
  - Broad policy options or considerations



# Financial Conflicts

## 18 U.S.C. 208

- Prohibits involvement in a particular matter in which the SGE, employer, or spouse or dependent child has a financial interest:
  - An SGE is disqualified
  - from participating personally and substantially
  - in any particular matter in which
  - the SGE, or anyone whose interests are imputed to the SGE, has a financial interest,
  - if the particular matter will have a direct and predictable effect on that interest.

# BOEM-Specific Restrictions

- BOEM employees, including SGEs, may not acquire or hold any direct or indirect financial interest in Federal lands or resources administered or controlled by the Department of the Interior.
- If an employee has a financial interest (e.g.: stock) in a corporation which holds Federal leases or which holds any other type of interest in resources administered or controlled by the Department of the Interior, the employee is considered to have a financial interest which is prohibited by regulation.
- BOEM employees and their spouses and their minor children are prohibited from acquiring or retaining any claim, permit, lease, small tract entries, or other rights that are granted by the Department of the Interior in Federal lands.
- Some exceptions for *de minimus* interests.

# Imputed Interests

- Spouse
- Minor Child
- General Business Partner
- Organization which the individual serves as officer, director, trustee, general partner or employee
- Person or organization with which the employee is negotiating or has an arrangement for prospective employment



# Financial Interests

- Stocks
- Bonds
- Employment (fewer restrictions for SGEs)
- Consulting arrangements/expert testimony
- Grants, contracts
- Interests through ownership, partnership, LLC
- Outside teaching, speaking, writing fees

# Financial Disclosure

- 2 types:
  - Public (SF-278)
  - Confidential (OGE-450)—what you'll file annually
- Purpose: Identify potential conflicts of interest to preserve integrity of committee's work
- Required for all SGEs unless written waiver

# Conflict of Interest

- What should you do?
  - Recuse yourself
  - Inform your committee chair/agency liaison
  - Seek advice from ethics office
    - Some regulatory exemptions for *de minimus* interests
    - Waivers (rarely) granted by agency in special circumstances

# Representational Conflicts

## 18 U.S.C 203 & 205

- Prohibits representational activities before the Government
- Applies to SGEs only when:
  - Matter involves parties (e.g., contracts)
  - SGE was personally and substantially involved in the particular matter as part of Government service, or
  - SGE served more than 60 days in the previous 365 days, and matter is pending before the same agency

# Post-Employment Restrictions

## 18 U.S.C. 207

- Permanently prohibits a former employee
- from making, with intent to influence, any communication to the United States,
- on behalf of any other person
- in connection with a particular matter in which the United States is a party or has a substantial interest,
- if the employee was personally and substantially involved in the matter.

# Post-Employment Restrictions

- 2-year prohibition on representing others in connection with the same particular matter involving specific parties pending under the former SGE's official responsibility during the last year of committee service
- 1-year prohibition on representing, aiding, or advising others about certain ongoing trade or treaty negotiations based on non-public information

# Standards of Conduct

- Gift Rules
  - Anything of Monetary Value
  - Prohibited Sources
  - Official Position
- Exceptions/Exclusions
  - Outside business activities
  - Personal relationships
  - \$20/\$50 rule

# Impartiality

- Must maintain impartiality (be mindful of appearances). Sometimes, excusing yourself from part of a meeting may be the prudent thing to do.
- Cannot represent 2 entities at the same time and maintain impartiality.
- Apply “Washington Post/CNN” test.
- When in doubt, recuse yourself.
- Seek ethics advice.



# Questions

- When do the government ethics rules apply to me? All the time.
- Do the rules apply if I don't get paid? Yes.
- What should I do if my employment/financial situation changes dramatically such that it might affect my committee service? Call the Ethics Office.
- Other questions?

# Additional Guidance

- Ethics Training for SGEs

[http://education.oge.gov/training/module\\_files/ogesge\\_wbt\\_07/10.html](http://education.oge.gov/training/module_files/ogesge_wbt_07/10.html)

- Thumbnail Summary of Ethics and the SGE

<http://www.usoge.gov/Topics/Selected-Employee-Categories/Special-Government-Employees/>

- Guide for FACA Members Serving as SGEs

[http://www.usoge.gov/Education/Education-Resources-for-Federal-Employees/To-Serve-With-Honor--A-Guide-on-the-Ethics-Rules-that-Apply-to-Advisory-Committee-Members-Serving-as-Special-Government-Employees-\(2008\)](http://www.usoge.gov/Education/Education-Resources-for-Federal-Employees/To-Serve-With-Honor--A-Guide-on-the-Ethics-Rules-that-Apply-to-Advisory-Committee-Members-Serving-as-Special-Government-Employees-(2008))

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