

Federal Advisory Committees and the Ethics Rules: An Overview



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Presenter:

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WHAT IS AN ADVISORY COMMITTEE?

Committee, board, panel, or other similar group –

- Established by statute or established or utilized by either the President or an agency official
- For the purpose of obtaining advice or recommendations on "issues or policies within the scope of an agency official's responsibilities"

ADVISORY COMMITTEES

- Committee Charter established with mission and duties
- Fair and balanced Committee Membership
- Designated Federal Official (DFO)
- Open meetings, noticed in Federal Register
- Charter expires after 2 years, unless provided otherwise

ADVISORY COMMITTEE MEMBERS

- Designation of members as either:
 1. Regular Government Employees,
 2. Special Government Employees,
or
 3. Representatives.

A REGULAR GOVERNMENT EMPLOYEE:

- Full-time or permanent part-time employee
- Paid a Federal salary
- **Subject to Federal employee ethics laws and rules**
- **May submit an ethics Financial Disclosure Report (depending upon position)**

A SPECIAL GOVERNMENT EMPLOYEE (“SGE”):

- Performs temporary duties
- On a full-time or part-time basis
- With or without compensation
- Not to exceed 130 days for all Federal service during a 365-day period (**part of a day counts as full day**)
- **Usually a Subject Matter Expert**
 - **“I” Statements (“I believe, in my expert opinion”)**
- **Subject to Federal employee ethics laws and rules**

A “REPRESENTATIVE” :

- Not a Federal employee
- Only represents specific interest or group (e.g. industry, consumers, labor)
- “We” statements (“We farmers believe...“)
- Represents a “particular bias”

SGE ETHICS REQUIREMENTS

- Must submit a Financial Disclosure Report to the Office of Ethics
- Report is Reviewed for Conflicts of Interest
- SGE Should Promptly Notify DFO about Ethics Issues
- Must Receive Annual Ethics Training

IF SGE, THEN CONFLICTS RESTRICTIONS APPLY (Part 1)

- Prohibited from accepting anything in return for being influenced in performing official duties.
- This includes gifts, job offers, gifts offered to spouse or dependent children.

IF SGE, THEN CONFLICTS RESTRICTIONS APPLY (Part 2)

- Prohibited from participating personally and substantially in particular matters affecting their financial interests or interests of certain others (such as outside employers) or potential employers with whom they are negotiating for employment. (18 U.S.C. 208
The Conflicts of Interest Ban)

IF SGE, THEN CONFLICTS RESTRICTIONS APPLY (Part 2)

- If you discover you have a potential conflict of interest, you must:
 - Notify your DFO and Chair immediately
 - Not work on matters in which you have a financial interest -- or an “imputed” interest – until you discuss with the Office of Ethics
 - Implement a recusal, if determined to be necessary

Note: This is a Criminal Statute.

IF SGE, THEN CONFLICTS RESTRICTIONS APPLY (Part 3)

Post-Employment Restrictions (18 U.S.C. 207):

- Prohibition on representations back to the Executive Branch on the SAME particular matters involving specific parties while serving the Government
- Prohibited for two years from representing on such matters under their supervision during last year of service
- Other restrictions may apply

STANDARDS OF CONDUCT RESTRICTIONS OF NOTE TO SGEs

- No gifts from prohibited sources for service.
- No participation in particular matters affecting “covered relationships.”
- No unauthorized disclosure of nonpublic information.
- No honorary degrees without prior ethics approval.
- No fundraising from persons whose interests they can substantially affect in official duties.

STANDARDS OF CONDUCT RESTRICTIONS OF NOTE TO SGEs

- No unauthorized use of title or position for private personal use or endorsement of third party.
- No compensation for outside teaching, speaking or writing related to official duties – BUT, no restriction on teaching regular university courses.
- Cannot be an expert witness (except for US) before a Federal court or agency, if US is a party or has an interest in litigation.
- Restrictions on Political Activities (the Hatch Act) apply to SGEs on those days they are officially serving.

Questions?

Contact the USDA Office of Ethics

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