

## Summary of Ethics Pledge for Political Appointees Executive Order No. 13989

Under the Ethics Pledge, political appointees commit to:

- not, for the duration of their service as an appointee, accept gifts from registered lobbyists or lobbying organizations (subject to a very limited number of exceptions)
- not, for two years from the date of appointment, participate in any particular matter involving specific parties in which a former employer<sup>1</sup> or client<sup>2</sup> is or represents a party, if the appointee served that employer or client during the two years prior to the appointment
  - this includes any meeting or other communication with a former employer or client relating to the appointee's official duties, unless the communication applies to a particular matter of general applicability (there are no specific parties to the matter) and participation in the meeting or other event is open to all interested parties (five or more stakeholders are in attendance)
- not, if the appointee was a registered lobbyist or registered foreign agent during the two-year period prior to the date of appointment, participate in any particular matter on which they lobbied or engaged in foreign agent activity during the two years prior to appointment, participate in the specific issue area<sup>3</sup> in which that particular matter falls, or seek or accept employment with any executive agency<sup>4</sup> with respect to which they lobbied or engaged in foreign agent activity, for a period of two years after the date of appointment
- abide by the senior employee post-employment restriction in 18 USC § 207(c), to the extent that they are covered by that restriction, for a period of two years following the end of their

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<sup>1</sup> "Former employer" is any person for whom the appointee has within the 2 years prior to the date of their appointment served as an employee, officer, director, trustee, or general partner, except that "former employer" does not include any executive agency or other entity of the Federal Government, State or local government, the District of Columbia, Native American tribe, any United States territory or possession, or any international organization in which the United States is a member state.

<sup>2</sup> "Former client" is any person for whom the appointee served personally as agent, attorney, or consultant within the 2 years prior to the date of their appointment but excluding instances where the service provided was limited to speeches or similar appearances. It does not include clients of the appointee's former employer to whom the appointee did not personally provide services.

<sup>3</sup> The term "specific issues area" means a "particular matter of general applicability." For example, an appointee was a lobbyist during the two-year period before they entered Government. In that capacity, they lobbied their agency against a proposed regulation focused on a specific industry. Their lobbying was limited to a specific section of the regulation affecting their client. Their recusal obligation as an appointee is not limited to the section of the regulation on which they lobbied, nor is it limited to the application of the regulation to their former client. Instead, they must recuse for two years from development and implementation of the entire regulation, subsequent interpretation of the regulation, and application of the regulation in individual cases.

<sup>4</sup> "Executive agency" shall include each "executive agency" as defined by section 105 of title 5, United States Code, and shall include the Executive Office of the President; provided, however, that "executive agency" shall include the United States Postal Service and Postal Regulatory Commission, but shall exclude the Government Accountability Office.

appointment and will also abide by these same restrictions with respect to communicating with senior White House staff<sup>5</sup>

- not, upon leaving Government service and to the extent they are a senior employee or very senior employee covered by the post-employment restrictions under 18 USC § 207(c) and 18 USC § 207(d), respectively, provide behind-the-scenes support that materially assists<sup>6</sup> others in making lobbying contacts, for a period of one year following the end of the appointment
- not, upon leaving Government service, engage in lobbying activities<sup>7</sup> or engage in any activity on behalf of a foreign government or foreign political party with respect to any covered executive branch official<sup>8</sup> or any non-career Senior Executive Service appointee for the remainder of the Biden Administration
- not, either before or after entering Government service, accept any salary, other cash payment or non-cash benefit in lieu of such cash payment, from a former employer the eligibility for and payment of which is limited to individuals accepting a position in the United States Government
- agree that any hiring or other employment decisions will be based on the candidate's qualifications, competence, and experience

Please note that Ethics Pledge compliance requires close factual and legal review and we encourage appointees to consult with the Departmental Ethics Office for guidance tailored to their particular circumstances.

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<sup>5</sup> "Senior White House staff" means any person appointed by the President to a position under sections 105(a)(2)(A) or (B) of title 3, United States Code, or by the Vice President to a position under sections 106(a)(1)(A) or (B) of title 3.

<sup>6</sup> "Materially assist" means to provide substantive assistance but does not include providing background or general education on a matter of law or policy based upon an individual's subject matter expertise, nor any conduct or assistance permitted under section 207(j) of title 18, United States Code.

<sup>7</sup> "Lobbying activities" has the same meaning as that term has in the Lobbying Disclosure Act, except that the term does not include communicating or appearing with regard to: a judicial proceeding; a criminal or civil law enforcement inquiry, investigation, or proceeding; or any agency process for rulemaking, adjudication, or licensing, as defined in and governed by the Administrative Procedures Act, as amended. For purposes of this portion of Executive Order 13989, "lobbying activities" are deemed to be carried out with respect to an agency only to the extent that they involve: (a) any oral or written communications to a covered executive branch official of that agency, or (b) efforts that are intended, at the time of performance, to support a covered lobbying contact to a covered executive branch official of that agency.

<sup>8</sup> For the purposes of Executive Order 13989, "covered executive branch official" means: the President; the Vice President; any official in the Executive Office of the President; any Executive Schedule official (EL I-V); any uniformed officer at pay grade 0-7 or above, and any Schedule C employee, 2 U.S.C. § 1602(3).