



VENABLE

57th Annual Workshop on Transportation Law

ETHICS SESSION: WELCOME TO PRIVATE PRACTICE--LEGAL ETHICS AND YOUR POST-GOVERNMENT CAREER

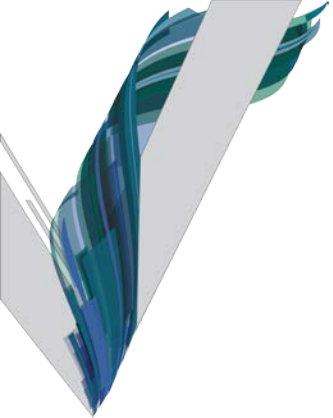
July 17, 2018; 7:30-8:00 AM

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OBJECTIVES

- Outline major statutory, policy and ethics rules concerning post-government employment
- Prepare you to counsel colleagues/clients
- Prepare you to consider your personal ethical obligations along your career path



Purposes of Restrictions

- Avoid foreseeable conflicts of interest
- Prevent perception of uncontrolled “revolving door”
- Balance ethics concerns with preserving an individual’s employment options AND to prevent disincentives to public service



Political Policies

Executive Order 13770

- Executive branch employees' pledge
- FIVE-year ban on lobbying activities post-employment (compare to previous Administration Executive Order 13490)
- Ban on lobbying on behalf of any foreign government
- Enforcement of EO policies?
- Direct contacts v. “behind the scenes” counsel?



Seeking Employment

18 U.S.C. § 208

- Recusal
- Definition of “seeking employment”
- Should recusal be documented in writing?
- Special rules in procurement context

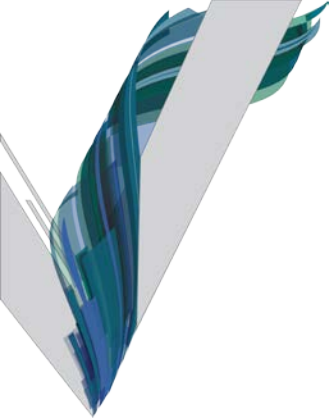


Primary Statutory Provision

18 U.S.C. § 207 – many key terms

- “Personal and substantial” participation
- “Particular matter for which employee had official responsibility”
- “Senior/Very Senior Employee”

Definitions and type of employee dictate time restrictions for lobbying appearances



ABA Model Rules of Professional Conduct

Model Rule 1.11



How does all this work in practice?

- Always consult and disclose
- From employee perspective, much greater flexibility than apparent from various prohibitions
- Conflicts analysis/protections can avoid problems



Assorted Helpful Resources and Links

- Post-Government Employment, U.S. OFFICE OF GOV. ETHICS, <https://www.oge.gov/web/oge.nsf/Post-Government%20Employment> (last visited July 11, 2018).
- Judith Kaleta, Guidance on Seeking or Negotiating for Employment and Post-Government Employment Restrictions, U.S. DEPT. OF TRANSP. (Apr. 27, 2016), https://cms.dot.gov/sites/dot.gov/files/docs/Post%20Employment%20Guidance%202016%20%28final%204-27-16%29_0.pdf
- Post-Government Employment Ethics Counselor's Deskbook (Mar. 2017), http://ogc.osd.mil/defense_ethics/resource_library/deskbook/pgse_restrictions_and_procurement_integrity.pdf.
- Standards and Ethical Conduct for Employees of the Executive Branch; Amendments to the Seeking Other Employment Rules, [81 Fed. Reg. 8008](#) (Feb. 17, 2016).
- Robert Burton et al., *Trump's Ethics Executive Order More Concerned with Post-Government Employment Activities*, GOV. CONTRACTS LEGAL F. (Jan. 30, 2017), <https://www.governmentcontractslegalforum.com/2017/01/articles/ethics-compliance/blog-title-trumps-ethics-executive-order-concerned-post-government-employment-activities/>.