

OFFICE OF GOVERNMENT ETHICS

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**Letter to a Coalition of Employee
Organizations dated June 4, 1998**

This is in response to your letter received in this Office on May 19, 1998. You wrote on behalf of [a] Coalition of Federal Employee Organizations, which you state is made up "predominantly of Federal employees, active or retired." You have requested this Agency's opinion regarding the inclusion of that coalition's name on the letterhead of a separate and larger coalition of organizations.

There is a criminal statute, 18 U.S.C. § 205, which generally bars Federal employees from representing anyone before Federal agencies other than in the proper discharge of official duties. 18 U.S.C. § 205(d)(1)(B) provides, with some limitations, that an employee is not barred from representing before the Government "any cooperative, voluntary, professional, recreational, or similar organization or group not established or operated for profit, if a majority of the organization's or group's members are current officers or employees . . . or their spouses or dependent children." This exception to section 205's prohibition does not extend to certain claims, contracts, grants, agreements and judicial or administrative proceedings.

Implicit in your letter is a concern that, by virtue of an association with an organization that does not meet the membership composition requirements of section 205(d)(1)(B), the members of your organization could be subject to section 205 liability for representational acts on behalf of the larger organization. This is a legitimate concern. But the inclusion of your organization's name on another organization's letterhead would not constitute representational activity by the Federal employee members of your organization even if the other organization made representations to the Government using the letterhead.

Were a particular Federal employee member of your organization more directly associated with the communication of views to the Federal Government on behalf of the larger organization, such as by preparing and signing the letter to the Government, such activity could implicate section 205. Your letter does not propose any such Federal employee participation in representational activities; therefore, this informal opinion is limited to the particular letterhead issue you raised.

I trust this guidance is useful to you.

Sincerely,

Stephen D. Potts
Director