



Job Search Remedies: A Quick Reference Guide*

Employee Options

| Type of Action | Determination | Format |
|--|---|--|
| Recusal | Recusal is necessary to avoid an actual or apparent conflict of interest with a prospective employer or a person with whom the employee has an arrangement concerning prospective employment. <i>See</i> 5 CFR § 2635.604(a). | In writing when: <ul style="list-style-type: none"> ▶ required by 5 CFR part 2634 (evidence of compliance with ethics agreement with OGE) ▶ requested by agency ethics official ▶ requested by person responsible for employee's assignment ▶ employee elects to put in writing Appropriate oral or written notification made to supervisor and/or coworkers |
| Administrative Action: Including Reassignment/ Annual Leave/ Leave without Pay | The employee's action in seeking employment with a particular person will require disqualification from matters so central or critical to the employee's job that his ability to perform his duties would be materially impaired. Known as Agency Determination of Substantial Conflict. <i>See</i> 5 CFR § 2635.604(d). | See applicable agency personnel rules and policies |
| Defer Job Search | The recusals required by the individual's job search – especially a lengthy search – could result in serious inefficiencies or gaps in the policy process. In such cases, there may be no practical alternative but to defer the job search until after the official leaves Government service or until a brief recusal period near the end of Government service. Usually for high-level officials who have significant responsibilities for an entire agency or a major program within an agency. | None specified |

* This reference guide is only a summary. When giving advice, always consult the complete set of laws, rules, and opinions that apply to the particular situation.

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Agency Options

| Type of Action | Authority | Determination | Format |
|---|-----------------------|---|---|
| Impartiality Authorization | Agency Designee | <p>The Government's interests in the employee's participation outweigh the concern that a reasonable person may question the integrity of the agency's programs and operations in light of all relevant circumstances. <i>See</i> 5 CFR § 2635.605(b).</p> <ul style="list-style-type: none"> • Can only be used for seeking activities prior to negotiations. • Cannot be used to remedy activities prohibited by 18 U.S.C. § 208. | <p>In writing:</p> <ul style="list-style-type: none"> ▶ at agency designee's discretion or ▶ when requested by employee |
| 18 USC § 208(b)(1) Waiver* | Appointing Official | <p>The employee's financial interest in the matter(s) is not so substantial as to be deemed likely to affect the integrity of the employee's services. <i>See</i> 5 CFR § 2640.301.</p> | In writing |
| 18 USC § 208(b)(3) Waiver* | Appointing Official | <p>The need for the individual's services outweighs the potential for a conflict of interest created by the otherwise disqualifying financial interest (only for special Government employees serving on or under consideration for appointment to advisory committees). <i>See</i> 5 CFR § 2640.302.</p> | In writing |
| Recusal When an Offer Was Rejected or Not Made After Negotiations | Agency Designee | <p>The concern that a reasonable person may question the integrity of the agency's decision-making process outweighs the Government's interest in the employee's participation in the particular matter. Determination is based on a consideration of all the relevant factors. <i>See</i> 5 CFR § 2635.606(b).</p> | None specified |
| Prosecution | Department of Justice | <p>Your agency is required to refer information about a criminal violation to the Department of Justice (DOJ). In most agencies, the Inspector General (IG) or other investigative arm of your agency makes the referral. Only DOJ may decide whether to pursue criminal charges. <i>See</i> 28 U.S.C. § 535.</p> | |

* RARE FOR NEGOTIATIONS. For all § 208 waivers, agencies must consult with OGE (where practicable). For all § 208 waivers for Senate-confirmed appointees, agencies must also consult with the Office of the Counsel to the President.