



United States
Office of Government Ethics
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July 15, 2002
DO-02-018

MEMORANDUM

TO: Designated Agency Ethics Officials

FROM: Amy L. Comstock
Director

SUBJECT: 18 U.S.C. § 205 Advice and Counseling

Several non-Governmental groups recently have expressed concern to the Office of Government Ethics that 18 U.S.C. § 205 has been interpreted by some agencies to prevent Federal employees from holding office in, or otherwise participating in the affairs of outside organizations, even in the absence of any representational activities by the employees on behalf of the organizations. Although no specific instance of this advice has been brought to our attention, the fact that several organizations raised the concern prompts us to issue this memorandum to emphasize that Section 205 should rarely prevent a Federal employee from serving with an outside organization where no representational activities are anticipated.

Section 205, in essence, prohibits an employee from serving as agent or attorney before the Government on behalf of another person. An employee does not act as agent or attorney before the Government in the absence of communication with, and intent to influence, the Government. Section 205 is not implicated by an employee's service as an officer or otherwise with an outside organization, in the absence of such representational activity. This is true even where the other persons in the organization have contact with the employee's agency.

Of course, other provisions of the conflict of interest statutes and the Standards of Ethical Conduct may also be relevant to a given fact situation. Ethics officials should continue to analyze any outside activity questions under those provisions as well.

We would appreciate your taking whatever steps are necessary to see that the correct interpretation of Section 205 is understood by employees at your agency.