

Office of Government Ethics

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**Letter to a Designated Agency Ethics
Official dated October 30, 2002**

This is in response to your letter of August 30, 2002, which asked for our guidance as to whether an Administrative Law Judge (ALJ) is permitted to use the title of Judge or ALJ on his or her personal stationery or in his or her personal activity.

Two sections of the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Conduct) are applicable to your question. 5 C.F.R. § 2635.702 provides:

(a) An employee shall not use or permit the use of his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.

(b) Except as otherwise provided in this part, an employee shall not use or permit the use of his Government position or title or any authority associated with his public office in a manner that could reasonably be construed to imply that his agency or the Government sanctions or endorses his personal activities or those of another.

. . .

(e) Nothing in this section prohibits an employee who is ordinarily addressed using a general term of address, such as 'The Honorable', or a rank, such as a military or ambassadorial rank, from using that term of address or rank in connection with a personal activity.

5 C.F.R. § 2635.807(b) provides:

An employee who is engaged in teaching, speaking or writing as outside employment or as an outside activity

shall not use or permit the use of his official title or position to identify him in connection with his teaching, speaking or writing activity

. . . .

(3) An employee who is ordinarily addressed using a general term of address, such as 'The Honorable,' or a rank, such as a military or ambassadorial rank, may use or permit the use of that term of address or rank in connection with his teaching, speaking or writing.

Whether or not an employee is using his or her title in a manner that is inconsistent with either of these provisions is, of course, going to depend on the facts of each case. For example, if an employee used his official title in a personal letter to his sister, it would not violate these provisions. However, if an employee were to use his title in a letter to a local police department challenging a traffic ticket, it might well appear that the employee was using his public office for private gain. Consequently, we cannot give advice that would cover all possible scenarios. Because of this inability to predict all possible circumstances, we advised in a 1994 letter to an ALJ at your agency, that he should not use the title U.S. Administrative Law Judge on his personal stationery. We also advised that the title "Administrative Law Judge" did not fit into the exception in 5 C.F.R. § 2635.702(e) which allowed the use of customary forms of address, such as "the Honorable."

In a March 29, 2001 letter to another ALJ at your agency, OGE noted that an employee was generally not allowed to use his or her official title in connection with outside writing activity or fundraising. However, the letter stated that it was our view that the term "Judge" was a general term of address comparable to "the Honorable," which we understood to be generally used by ALJs. Therefore, we advised that an ALJ was not prohibited from using the title "Judge" or "Judge and Mrs." in his personal correspondence.

Both of these opinions continue to reflect the view of OGE. Use of the titles "Administrative Law Judge," or "U.S. Administrative Law Judge" are references to the employee's official position rather than forms of address. Use of such titles on personal stationery could, in some circumstances, be a violation of the Standards of Conduct noted above. In contrast, we understand that it is common for ALJs to be referred to by the honorific "Judge." Therefore, the use of the form of address "Judge" may be used in connection with an ALJ's personal activities or on his or her personal letterhead.

We hope that this information is helpful to you. If you have further questions relating to this matter, feel free to contact my Office.

Sincerely,

Marilyn L. Glynn
General Counsel