

PROGRAM BASICS

	Executive Branch	Legislative Branch	Judicial Branch
Basic Authorities	<p>Ethics in Government Act</p> <ul style="list-style-type: none"> • Criminal Statutes: 18 U.S.C. §§ 201, 203, 205, 207–209 • Financial Disclosure: 5 U.S.C. app. §§ 101–111, 501–505 <p>Standards of Conduct Regulations</p> <ul style="list-style-type: none"> • 5 C.F.R. pt. 2635 (created by Executive Order 12731 on Oct. 17, 1990) 	<p>Ethics in Government Act</p> <ul style="list-style-type: none"> • Criminal Statutes: 18 U.S.C. §§ 201, 203, 205, 207 • Financial Disclosure: 5 U.S.C. app. §§ 101–111, 501–505 <p>Senate Code of Official Conduct</p> <ul style="list-style-type: none"> • Enforced by the Senate Select Committee on Ethics, last updated in 2008 <p>House Ethics Manual</p> <ul style="list-style-type: none"> • Created by the House Committee on Standards of Official Conduct, last updated in 2008 <p>House Code of Conduct (Rule 23)</p>	<p>Ethics in Government Act</p> <ul style="list-style-type: none"> • Criminal Statutes: 18 U.S.C. §§ 201, 203, 205, 211, 285, 287, 508, 641. • Financial Disclosure: 5 U.S.C. app. §§ 101–111, 501–505 <p>Statutes Specifically Applicable to Judges</p> <ul style="list-style-type: none"> • Disqualification or Recusal: 28 U.S.C. §§ 144, 455 <p>Statutes Specifically Applicable to Court Employees</p> <ul style="list-style-type: none"> • Criminal Statutes: 18 U.S.C. §§ 153–154, 645–647 <p>Code of Conduct for United States Judges</p> <ul style="list-style-type: none"> • Adopted by the Judicial Conference of the United States on Apr. 5, 1973 <p>Code of Conduct for Judicial Employees</p> <ul style="list-style-type: none"> • Adopted by the Judicial Conference of the United States on Sept. 19, 1985
Ethics Bodies and Officials	<p>Office of Government Ethics</p> <p>Department of Justice Public Integrity Section (also have jurisdiction over Legislative and Judicial Branch)</p> <p>Agency Ethics Officials</p>	<p>House of Representative:</p> <ul style="list-style-type: none"> • Office of Congressional Ethics • House Committee on Ethics <p>Senate:</p> <ul style="list-style-type: none"> • Senate Select Committee on Ethics 	<p>Chief Judge of each Circuit Court</p> <p>Judicial Council of each Circuit Court</p> <p>Judicial Conference of the United States</p> <ul style="list-style-type: none"> • Committee on Judicial Conduct and Disability <p>Administrative Office of United States Courts</p> <p>Federal Judicial Center</p>
Employees Covered	<p>Criminal conflict of interest statutes and standards of conduct promulgated by OGE cover all executive branch employees. Individual agencies may provide supplementary regulations to address specific agency concerns.</p>	<p>Criminal statutes, rules, and standards promulgated by the respective House and Senate ethics committees apply to Members of Congress, administrative officials, and legislative employees.</p>	<p>The Code of Conduct for Judicial Employees covers all employees of the judicial branch except Justices; judges; and employees of the U.S. Supreme Court, the Administrative Office of the U.S. Courts, the Federal Judicial Center, and the federal public defender.</p> <p>The Code of Conduct for U.S. Judges covers circuit judges, district judges, Court of International Trade judges, Court of Federal Claims judges, bankruptcy judges, and magistrate judges. The Tax Court, Court of Appeals for Veterans Claims, and Court of Appeals for the Armed Forces have adopted the Code.</p>

PROGRAM BASICS, *cont'd*

<p>Detailees, Volunteers & Interns</p>	<p>OGE provides a rotational program that permits members of the ethics community to work part- or full-time for OGE, as well as to allow OGE employees to rotate to other agencies. Detailees are still considered an employee of the individual's home agency and are still subject to the executive branch ethics codes.</p> <p>OGE has both paid and unpaid interns. Paid interns are treated as federal employees for the purposes of ethics rules. Unpaid interns are not.</p>	<p>Congressional offices can have both paid or unpaid interns. Paid interns must comply with all laws, rules and standards applicable to the chamber's employees. Any individuals providing Senate service must adhere to the Code of Official Conduct.</p> <p>The House and Senate permit volunteers so long as the voluntary service is of significant educational benefit and does not supplant the normal and regular duties of paid employees.</p> <p>The House and Senate do not permit volunteers or interns whose services primarily benefit the Member rather than the individual, as the House and Senate prohibit in-kind donation of services.</p> <p>The House and Senate permit executive branch detailees. The House provides that they remain executive branch employees for most purposes, including ethics rules, except that post-employment restrictions for their legislative and executive positions apply. The Senate requires that detailees follow the Senate and executive branch ethics rules during their detail and post-employment government restrictions apply to both their legislative and executive positions.</p>	<p>NOT SURE IF ETHICS RULES APPLY TO INTERNS</p> <p>Federal courts can have volunteer interns or externs. Nonemployees are not covered by the Code of Conduct for Judicial Employees but appointing authorities may impose the Code or similar standards on such nonemployees.</p> <p>Employees who occupy positions with functions and responsibilities similar to positions identified in the Code should be guided by the standards for that position, even if the title differs.</p>
<p>Training</p>	<p>OGE provides ethics training aimed at educating both new and experienced ethics officials on a range of issues concerning ethical standards, criminal conflict of interest statutes, and financial disclosure.</p>	<p>The House and Senate ethics committees provide live and online training. New Congressional employees must complete training within 60 days of commencing employment. Senators are also required to complete ethics training. House staff must complete annual ethics training thereafter.</p>	<p>The Federal Judicial Center, created by Congress in 1967, conducts training for new federal judges within the first few months of their appointments to the bench. Included in those trainings is a unit on judicial ethics. The Federal Judicial Center also provides training for judicial clerks and employees.</p>
<p>Main Function</p>	<p>OGE sets the ethics policy for the executive branch, promulgates ethics regulations, reviews agency ethics programs, develops training programs, trains ethics officials, and oversees the financial disclosure system.</p>	<p>The House and Senate ethics committees set rules for their respective chambers, recommend actions to enforce standards, investigate potential violations of laws or rules, process financial disclosures, render advisory opinions, and consider gift rule waivers.</p>	<p>Like the executive branch, the judicial branch's ethics program is decentralized. The Federal Judicial Center provides training; the chief judges and judicial councils of each circuit, the Judicial Conference, the U.S. Congress, and the U.S. Department of Justice enforce standards; and the Judicial Conference promulgates standards above and beyond the statutory floor.</p>

PROGRAM BASICS, cont'd

<p>Safe Harbor</p>	<p>An executive branch employee who acts in good faith reliance on advice obtained from an ethics official concerning standards of conduct is exempt from disciplinary action based on that action.</p> <p>The Department of Justice may take good faith reliance on the advice of an agency ethics official into account when making prosecution decisions.</p> <p>This treatment of good faith reliance also extends to the Procurement and Integrity Act regarding participation in a contract exceeding \$10 million.</p>	<p>Under 5 U.S.C. § 106(b)(7), the House and Senate ethics committees are authorized to render advisory opinions interpreting the financial disclosure provisions of EIGA for any person under their jurisdiction. An individual who acts in good faith in accordance with a written advisory opinion shall not be subject to sanction under EIGA.</p>	<p>Under 5 U.S.C. § 106(b)(7), the Judicial Conference of the United States is authorized to render advisory opinions interpreting the financial disclosure provisions of EIGA for any person under its jurisdiction. An individual who acts in good faith accordance with a written advisory opinion shall not be subject to sanction under EIGA.</p>
<p>Does 18 U.S.C. § 1001 Apply?</p>	<p align="center">Applies to all executive, legislative, or judicial branch officials and employees.</p> <p align="center">Provides criminal sanctions for covered individuals who knowingly and willfully falsify or conceal issues of material fact, make materially false statements or representations, or make or use any false writing with the knowledge of its falsity.</p>		
<p>Investigation</p>	<p>OGE does not directly investigate infractions of the ethical standards and statutes. This helps ensure the agency has an “open door” on matters it might not receive were it a law enforcement environment.</p> <p>Inspectors General, the Department of Justice, and agency law enforcement investigate infractions of the criminal conflict of interest statutes, while agencies investigate infractions of the standards of conduct.</p>	<p>The House of Representatives has two ethics-related bodies:</p> <ul style="list-style-type: none"> • The Office of Congressional Ethics (OCE) is an independent, nonpartisan entity tasked with reviewing allegations of misconduct by Members and employees. When appropriate, OCE refers matters to the House Ethics Committee. • The House Committee on Ethics (HCE) investigates alleged violations, recommends administrative actions to establish or enforce ethics rules; investigates alleged violations; reports evidence of violations to appropriate federal or state authorities; renders advisory opinions; and considers gift waivers. HCE is charged under the Ethics in Government Act (EIGA), with carrying out duties and responsibilities regarding financial disclosure, and outside employment. <p>The Senate has a single ethics enforcement body:</p> <ul style="list-style-type: none"> • The Senate Select Committee on Ethics (SSCE) receives and investigates allegations of ethics violations; recommends disciplinary actions; recommends changes to Senate ethics rules; and reports violations of law to appropriate federal or state authorities. Under EIGA, the SSEC also functions as the “supervising ethics authority” for financial disclosure and outside employment. 	<p>For judges, the Judicial Councils Reform and Judicial Conduct and Disability act of 1980 created a regime described as “decentralized self-regulation” in which the primary responsibility of enforcement rests with each judicial circuit.</p> <p>A complaint about a judge first goes to the chief judge of the respective circuit, who can (1) dismiss the complaint, (2) close the complaint as already having been addressed, or (3) appoint a special investigative committee comprising the chief judge and equal numbers of circuit and district judges. A dismissal is appealable to the judicial council of the circuit. 28 U.S.C. §§ 351–353.</p> <p>If a complaint proceeds to special committee review either directly from the chief judge or by the judicial council’s reversal of dismissal, the committee investigates, and is empowered to issue subpoenas and hire outside counsel. The committee will issue a report with findings and recommendations, and the circuit council can choose to take action based on the report, dismiss the complaint, or conduct its own investigation. A decision unfavorable to a judge can be appealed to the Judicial Conference of the United States. The circuit counsel can also refer serious findings to the Judicial Conference, which in turn may certify consideration for impeachment to the U.S. House of Representatives. 28 U.S.C. §§ 353–355.</p>

PROGRAM BASICS, *cont'd*

Enforcement	OGE does not directly enforce violations of ethics regulations or statutes. The Department of Justice and those agencies provided enforcement powers under their organic statutes enforce violations of ethics regulations or statutes.	The House and Senate ethics committees recommend administrative actions to enforce ethics rules and can report evidence of violations to appropriate federal or state authorities.	As discussed above, enforcement may be handled by the respective judicial circuit, the Judicial Conference of the United States, or the United States Congress, depending on the severity of the alleged misconduct and whether the judge appeals an enforcement action taken by the judicial circuit to the Judicial Conference.
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GIFTS & TRAVEL

	Executive Branch	Legislative Branch	Judicial Branch
Statutory Rule	<p>Applies equally to executive, legislative, and judicial branch officials and employees.</p> <p>Prohibits officials and employees from soliciting or accepting gifts from those seeking official action from or doing business with the employing entity, or from those whose interests may be substantially affected by the performance or nonperformance of the individual's duties.</p>		
Additional Restrictions	None.	None.	<p>Judges should endeavor to prevent family members from soliciting or accepting gifts inconsistent with the gift rules applicable to judges themselves. Code of Conduct for United States Judges canon 4(D)(4).</p> <p>Judges or employees should not accept a gift if a reasonable person would believe it was offered to influence an official act, nor accept gifts so frequently that a reasonable person would believe that public office is being used for private gain. Guide to Judiciary Policy § 620.45.</p>

GIFTS & TRAVEL, *cont'd*

<p>Exclusions/ Exceptions to General Rules</p>	<p>For executive branch employees, exceptions for:</p> <ul style="list-style-type: none"> • Gifts valued at \$20 or less; • Gifts based on personal friendship; • Discounts and similar benefits; • Awards and honorary degrees; • Gifts resulting from a spouse's business or employment; • Customary gifts/gratuities provided by a prospective employer; • Gifts for political activities consistent with the Hatch Act; • Gifts to the President or Vice President; • Gifts authorized by an OGE-approved agency supplemental regulation; and • Gifts accepted under specific statutory authority <p>See 5 C.F.R. § 2635.204(a)–(e)(1), (e)(3)–(f), (j)–(l).</p>	<p>Gift exceptions recognized by both the House and Senate:</p> <ul style="list-style-type: none"> • Gifts of \$50 or less, totaling no more than \$100 from the same person in one year provided the donor is not a registered lobbyist or registered foreign agent or an entity that employs or retains them; • Gifts from relatives or based on personal friendship; • Gifts from other Members, officers, or employees, or events honoring a Member, officer, or employee; • Items from foreign, federal, state, or local government; • Food or refreshments of a nominal value, not part of a meal; • Widely attended or charity events, or widely available opportunities and benefits; • Certain contributions to legal expense funds or trusts; • Free attendance at campaign, political, or constituent events; • Benefits from outside businesses and other activities; • Awards, prizes, commemorative items; • Items of little intrinsic value or under \$10; • Honorary degrees and noncash public service awards; • “Home state” products; • Books, periodicals, and other informational materials; • Training in the interest of the House or Senate; • Loans; • Items for which a gift rule waiver is granted; • Bequests and inheritances; <p>Other House exceptions:</p> <ul style="list-style-type: none"> • Meal or local travel incident to visiting a business site; • Artwork and other gifts of an unusual nature; <p>Other Senate exceptions:</p> <ul style="list-style-type: none"> • Pensions from former employers; 	<p>For judges and employees, exceptions for:</p> <ul style="list-style-type: none"> • Gifts of \$50 or less, totaling no more than \$100 from the same person in one year; • Books, calendars, or other resources supplied on a complementary basis for office use; • Transportation and meal expenses for a bar-related function, educational activity, or activity devoted to improvement of the law or legal system; • Gifts from relatives or friends for special occasions or if the relative or friend’s interest in a matter would already require the employee to take no official action; • Meals, lodging, transportation, or other customary benefits provided by a bona fide prospective employer, so long as conflicts of interest are avoided; • Reimbursement, relocation, or bar-related expenses paid by a future employer where the employee has obtained employment and so long as conflicts of interest are avoided; and • Gifts resulting from a spouse or other family member’s business or employment if customarily provided and not offered due to the judicial employee’s position.
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GIFTS & TRAVEL, *cont'd*

Lobbyist Gift Ban	Executive Order 13490 requires all full-time, non-career appointees appointed on or after January 20, 2009 to sign an Ethics Pledge. The first paragraph of the pledge prohibits covered appointees from accepting any gifts from a registered lobbyist or lobbying organization for the duration of their tenures as appointees.	A Member, officer, or employee of the House or Senate may not accept a gift from a registered lobbyist, an agent of a foreign principal, or a private entity that retains or employs a registered lobbyist or an agent of a foreign principal, except as permitted by the exceptions to the general gift rule. Senate Code of Official Conduct R. XXXV(1)(b); House Ethics Manual 30.	The Guide to Judiciary Policy does not treat gifts from lobbyists as distinct from other gifts.
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GIFTS & TRAVEL, *cont'd*

<p>Privately Sponsored Travel</p>	<p>Absent congressional consent, an executive branch agency may expend for program purposes only the amount appropriated. Congress has consented to the augmentation of appropriations by means of gift acceptance statutes. There are several statutes that can be used by an agency or its employees to accept gifts of official travel or travel expenses from non-federal sources. These gifts must be accepted in accordance with the terms of the statute and any applicable implementing regulation.</p> <p>In particular, 31 U.S.C. § 1353 is an executive branch-wide authority that permits an agency to accept a payment of "travel, subsistence, and related expenses" from a non-federal sources for an employee's official travel away from the employee's official station to attend a "meeting or similar function." The implementing regulation is published at 41 C.F.R. ch. 304.</p>	<p>Members and staff of the House may accept privately-sponsored travel consistent with the following restrictions:</p> <ul style="list-style-type: none"> • the travel must be in connection with official responsibilities; • travel and lodging sponsored by an entity employing a lobbyist or foreign principal may only last one day (ex. one day of events with one night of sponsored lodging), and a lobbyist may not accompany the individual during any segment of travel; • travel and lodging of up to four days within the United States, if not sponsored by an organization employing a lobbyist; • travel and lodging of up to seven days outside the United States, if not sponsored by an organization employing a lobbyist; <p>Members and staff of the Senate may accept privately-sponsored travel consistent with the following restrictions:</p> <ul style="list-style-type: none"> • the travel must be in connection with official responsibilities; • invitees may not participate in trips planned, organized, arranged, or requested by a lobbyist or foreign agent; • for one-day trips paid for by sponsors that employ or retain lobbyists or foreign agents, a lobbyist or foreign agent may not accompany a Senator, officer, or staff member on any segment of the trip; • travel and lodging of up to three days within the United States and up to seven days outside the United States, if not sponsored by an organization employing a lobbyist or foreign agent. Lobbyists or foreign agents may not accompany a Senate traveler at any point throughout the trip; • prohibited expenses include private or charter airfare, alcoholic beverages, recreational activities, personal expenses, such as telephone calls, entertainment (unless provided to all attendees as an integral part of the event), and first class airfare without written approval of the Ethics Committee. 	<p>The Guide to Judiciary policy includes among its gift exceptions a provision permitting gifts consisting of an invitation and travel expenses, including transportation, lodging, and meals, for the officer or employee and a family member to attend a bar-related function, an educational activity, or an activity devoted to the improvement of the law, the legal system, or the administration of justice. Guide to Judiciary Policy § 620.35(b)(3).</p>
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OUTSIDE EMPLOYMENT & ACTIVITIES

	Executive Branch	Legislative Branch	Judicial Branch
Outside Earned Income Limitations	Appointees who occupy a position with a certain grade or pay threshold are subject to an outside earned income limitation of 15% under 5 U.S.C. app. § 501. The definition excludes positions within the uniformed services and most positions in the foreign service, despite being filled by Presidential appointment.	Members and congressional staff who occupy a position meeting a certain pay threshold ("senior staff") are subject to an outside earned income limitation of 15% under 5 U.S.C. app. § 501.	Like other government employees, judges and judiciary employees who occupy a position meeting a certain pay threshold are subject to an outside earned income limitation of 15% under 5 U.S.C. app. § 501. Justices or judges on senior status (retired from active service) will not have compensation for teaching treated as income for the purposes of the 15% limitation. 5. U.S.C. app. § 502(b).
Outside Earned Income Bans	A Presidential appointee to a full-time noncareer position is subject to an outside earned income ban. 5 C.F.R. § 2635.804. The ban does not apply to appointed positions within the uniformed services, non-PAS foreign service positions, White House positions not normally subject to change in presidential transitions, or White House positions with a rate of pay of less than GS-9, step 1.	None.	None.

OUTSIDE EMPLOYMENT & ACTIVITIES, cont'd

<p>Outside Employment/ Efforts</p>	<p>Senior government officers or employees (those earning GS-15 or above, or 120% of the equivalent) may not:</p> <ul style="list-style-type: none"> • Receive compensation for affiliating with or being employed by a firm, partnership, corporation, or other entity providing professional services involving a fiduciary relationship except medicine; • Permit his name to be used by such a firm, partnership, corporation, etc.; • Receive compensation for practicing a profession that involves a fiduciary relationship, except medicine; • Serve for compensation as officer or member of the board of an association, corporation, etc.; or • Receive compensation for teaching without the prior notification and approval of the appropriate ethics entity. <p>5 U.S.C. app. § 502(a).</p> <p>Other executive branch employees are not generally prohibited from holding outside employment unless it conflicts with official duties.</p> <p>In some cases an agency may need to authorize the employee to engage in outside activities or employment. Agency supplemental regulations may provide for this additional restriction, as well as others.</p> <p>Further, full-time, non-career Presidential appointees are prohibited from receiving any outside earned income .</p>	<p>Members and senior staff (officers or employees earning GS-15 or above, or 120% of the equivalent) may not:</p> <ul style="list-style-type: none"> • Receive compensation for affiliating with or being employed by a firm, partnership, corporation, or other entity providing professional services involving a fiduciary relationship except medicine; • Permit his name to be used by such a firm, partnership, association, corporation, or other entity; • Receive compensation for practicing a profession that involves a fiduciary relationship (the House has an exception for practicing medicine) • Serve for compensation as an officer or member of the board of an association, corporation, or other entity; or • Receive compensation for teaching, without the prior notification and approval of their respective chamber's ethics authority. <p>5 U.S.C. app. § 502(a).</p> <p>The Senate imposes stricter affiliation restrictions. Members and staff paid at a rate in excess of \$25,000 for more than 90 days may not:</p> <ul style="list-style-type: none"> • Affiliate with an outside business for the purpose of providing professional services (e.g., consulting, medical, real estate, insurance, or legal services) for compensation. • Permit his name to be used by an outside business providing professional services for compensation; • Practice a profession for compensation during congressional working hours. 	<p>Judges and judicial employees earning GS-15 or above, or 120% of the equivalent, may not:</p> <ul style="list-style-type: none"> • Receive compensation for affiliating with or being employed by a firm, partnership, corporation, or other entity providing professional services involving a fiduciary relationship except medicine; • Permit his name to be used by such a firm, partnership, corporation, etc.; • Receive compensation for practicing a profession that involves a fiduciary relationship, except medicine; • Serve for compensation as officer or member of the board of an association, corporation, etc.; or • Receive compensation for teaching, without the prior notification and approval of the appropriate ethics entity. <p>A judge may participate as an officer, director, partner, manager, or employee of a business only if the business is closely held and controlled by members of the judge's family. Code of Conduct for United States Judges canon 4(D)(2).</p> <p>Judicial employees shall not engage in the practice of law except to act pro se, perform routine legal work incident to personal affairs of the employee or employee's family members, or provide certain pro bono legal services. Any such work must be done without compensation. Further requirements apply. 18 U.S.C. §§ 203, 205; 28 U.S.C. § 955.</p> <p>A judge should not practice law nor act as a family member's lawyer in any forum. A judge may, however, act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the judge's family. Code of Conduct for United States Judges canon 4(A)(5).</p> <p>No senior judge may affiliate or be employed by a firm, partnership, or other entity involving a fiduciary relationship for compensation; permit the use of his or her name by any such entity; practice a profession involving a fiduciary relationship for compensation; serve on a board for compensation; or receive teaching compensation without approval.</p>
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OUTSIDE EMPLOYMENT & ACTIVITIES, *cont'd*

<p>Political Activity & Hatch Act</p>	<p>The Hatch Act limits certain political activities of most executive branch employees. For example, the law prohibits employees from engaging in political activity while on duty or in the federal workplace. It also prohibits them from soliciting or receiving political contributions. 5 U.S.C. §§ 7321–7326.</p> <p>The U.S. Office of Special Counsel (OSC) enforces the Hatch Act.</p>	<p>House political activity rules:</p> <ul style="list-style-type: none"> • Staff may do campaign work on their own time, but no employee can be compelled to do campaign work • No campaign activities allowed in any congressional office or room. • No use of congressional office resources (including equipment, supplies, or files) for any campaign purpose. • Criminal statute prohibits solicitation and acceptance of political contributions from or in any congressional building. • May not accept any contribution that is linked to any official action, past or prospective • No staff contributions to employing Member's campaign • No staff outlays for employing Member's campaign (other than for employee's own campaign-related travel taking place on employee's own time), even if the employee is promptly reimbursed. <p>Senate political activity rules:</p> <ul style="list-style-type: none"> • Work may be paid or unpaid • Must have supervisor permission • Must be done on one's own time • May not use official resources • Must be done voluntarily; cannot be compelled to do campaign work • No contributions or outlays to one's employing Senator • Regular Senate staff may not receive, solicit, be the custodian of, or distribute campaign funds of any federal candidate, but may help plan and set up fundraisers • A Senator may designate up to three Political Fund Designees (PFDs) who may receive, solicit, be the custodian of, or distribute campaign funds. PFDs must file annual financial disclosure reports regardless of salary. 	<p>Judges should not act as a leader or hold any office in political organizations; make speeches for such organizations or candidates or publicly endorse a candidate for office; solicit funds or make contributions to such organizations or candidates; or attend or purchase a ticket to events sponsored by such organizations or candidates. Further, a judge should resign upon becoming a candidate for office</p> <p>Judicial Employees: The Hatch Act does not apply to judicial employees, but the Code of Conduct for Judicial Employees places Hatch Act-like restrictions on judicial employees, such as using on-duty time or government resources for political causes. In addition:</p> <ul style="list-style-type: none"> • Partisan Political Activity: Under the Code of Conduct for Judicial Employees, judicial employees should generally refrain from partisan political activity and with regard to partisan political organizations or candidates an employee should not act as an organization leader or hold office, make speeches or public endorsements; solicit or contribute funds; or become a candidate for office. • Nonpartisan Political Activity: A member of a judge's personal staff, clerk of court, and certain other employees should refrain from nonpartisan political activity such as campaigning for or publicly endorsing or opposing a nonpartisan political candidate; soliciting or contributing funds; or becoming a candidate. Other employees may engage in nonpartisan political activity only if it does not tend to reflect adversely on the dignity or impartiality of the court or office and does not interfere with duties.
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OUTSIDE EMPLOYMENT & ACTIVITIES, cont'd

<p>Board Positions & Charitable Activities</p>	<p>OGE is issuing a proposed rule amendment that would permit executive branch employees to participate in particular matters affecting the financial interests of nonprofit organizations in which they serve in an official capacity, notwithstanding an employee's imputed financial interest.</p>	<p>House rules prohibit service on any board for compensation, but permit unpaid board service. Highlights of the House Ethics Manual 12.</p> <p>Senate rules prohibit Members, officers, or employees earning over \$25,000 per year to serve on the boards of any publicly held or regulated entity, but generally permit service on boards of nonprofit organizations unless there is a subject-matter or federal funding conflict of interest. Senate Code of Official Conduct R. XXXV(6).</p>	<p>Judicial employees may engage in outside activities and organizations that do not detract from the dignity of the court. If an outside activity concerns the law or legal system, the judicial employee should first consult with the appointing authority to determine if the activities are consistent with the code of conduct.</p> <p>A judge may work with or serve in nonprofit organizations if it is unlikely the organization will be engaged in proceedings before the court. The judge may not, however, give investment advice, even if the judge serves on a body that makes investment decisions. Although a judge may help plan fundraising activities and may solicit funds from family or judges over whom the judge does not have supervisory or appellate authority, the judge should not personally participate in fundraising activities or solicitation of funds.</p>
<p>Honoraria Ban</p>	<p>Although the Ethics Reform Act of 1989 banned acceptance of honoraria by executive branch officers or employees, the Supreme Court struck down the provision as an overbroad incursion into federal employees' free speech rights, but only as it applied to executive branch officers or employees under GS-16. See <i>National Treasury Employees Union v. United States</i>, 513 U.S. 454 (1995) (invalidating 5 U.S.C. app. § 501(b) as it applies to certain executive branch employees).</p> <p>5 C.F.R. § 2635.807 bans employee compensation for teaching, speaking, or writing from outside sources where the activity or work relates to the employee's official duties.</p>	<p>Under 5 U.S.C. app. § 501(b), Members of Congress and legislative officers and employees may not accept honoraria.</p> <p>Honoraria are prohibited for all House Members and any House employees who are paid above the "senior staff" rate. Employees earning below the senior staff rate may accept honoraria unless (1) the subject matter of the appearance or article is directly related to the employee's official duties, (2) the payment is made because of the status as a House employee, or (3) the person making the payment has interests that may be substantially affected by performance or nonperformance of the employee's official duties.</p> <p>Honoraria are prohibited for all Senators, and Senate officers or employees, subject to the exceptions below. The ethics committee does not grant waivers for honoraria.</p>	<p>Under 5 U.S.C. app. § 501(b), federal judges and judicial officers and employees may not accept honoraria.</p>

OUTSIDE EMPLOYMENT & ACTIVITIES, cont'd

<p>Honoraria Ban Exceptions</p>	<p>Notwithstanding the ban on executive branch employees receiving compensation for activities related to their official duties, they may accept compensation for:</p> <ul style="list-style-type: none"> • Teaching a course with multiple presentations at a higher education institution, an elementary or secondary school, or a federal, state, or local government-funded education or training program. <p>5 C.F.R. § 2635.807(a)(3).</p>	<p>House employees paid below the “senior staff” rate can accept an honorarium, unless any one of three conditions is true:</p> <ul style="list-style-type: none"> • The subject matter is directly related to the employee’s official duties; • The payment is made because of the individual’s status with the House; or • The payor has interests before the House that the employee may affect. <p>Highlights of the House Ethics Manual 9. Senate exclusions from the honoraria ban:</p> <ul style="list-style-type: none"> • Writing books (royalties and advances on royalties); (House has a provision prohibiting advances) • Editing; • Writing works of fiction, where the payment is not offered because of the author’s employment status; • Paid engagements to perform or provide entertainment where the artistic, musical, or athletic talent of the individual is the reason for the employment, rather than the person’s Senate status; • Qualified individuals conducting religious ceremonies; • Honoraria donated directly to a nonprofit organization up to \$2,000. (also in House) <p>Overview of the Senate Code of Conduct 7.</p>	<p>Notwithstanding the general prohibition, judges and judicial employees may accept honoraria in the form of:</p> <ul style="list-style-type: none"> • Travel expenses; • Payment for speeches or articles not directly related to the individual’s official duties or because of the individual’s position; • Teaching compensation; • Awards for certain artistic or literary achievement; • Compensation for performance of artistic, athletic, or other skill not related to or because of the individual’s official duties or position; • Compensation for writings more extensive than articles, or fiction, poetry, or other artistic works; • Mementos in connection with an occasion or article, if not money or of commercial value; • Honoraria of under \$2,000 paid on behalf of the individual to a charity consistent with I.R.C. § 170(c), not made to a charity from which the individual or family members directly benefit, and not otherwise prohibited by standards of conduct. <p>Guide to Judiciary Policy § 1020.30(b)(1)–(7).</p>
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FINANCIAL DISCLOSURE

	Executive Branch	Legislative Branch	Judicial Branch
Who Must File?	<p>Public Financial Disclosure: The President; Vice President; Administrative Law Judges; officers or employees whose positions are classified above GS-15; the Director of the OGE; each agency's primary designated agency ethics official; and civilian employees employed in the Executive Office of the President and holding a commission of appointment from the President are required to file public financial disclosure reports and periodic transaction reports (OGE Forms 278 and 278-T).</p> <p>Confidential Financial Disclosure: Certain executive branch employees whose duties involve the exercise of discretion such as contracting, procurement, grants, licensing, and regulating or auditing non-federal entities are required to file confidential financial disclosure reports (OGE Form 450).</p>	<p>Member, Officer, and Employee Financial Disclosure: All Members, those congressional officers and employees earning an amount greater than or equal to 120 percent of GS-15 basic pay, and, for any Member who does not have an employee who meets the 120 percent of GS-15 threshold for filing, at least one principal assistant. 5 U.S.C. app. §§ 101(f)(9)-(10), 109(12)-(13). Candidate Financial Disclosure: Individuals are required to file a Financial Disclosure Statement once they "qualify" as a candidate by raising or spending more than \$5,000 in a campaign for election to the House of Representatives or the Senate. Both the office-seeker's own funds and contributions from third parties count towards the threshold. 5 U.S.C. app. § 101(c).</p> <p>The Senate requires Political Fund Designees, regardless of salary, to file annual and termination financial disclosure reports.</p>	<p>All judges and any judicial employees with a rate of pay equal to or greater than 120 percent of the rate of basic pay payable to GS-15 employees must file financial disclosures under 5 U.S.C. app. § 101.</p>
Purpose	<p>To ensure that the personal holdings of an appointee do not conflict with their official duties.</p>	<p>To ensure that Members, officers, and employees will conduct themselves in a manner that reflects creditably on the Congress, work earnestly for their salary, not seek to profit by virtue of their public office, or permit improper influence.</p>	<p>To ensure that the personal holdings of a judge or judicial employee do not conflict with the court's independence or impartiality.</p>
Public Access?	<p>The public may request access to a finalized SF 278/OGE Form 278 and Ethics Agreements by filing an OGE Form 201 with the Office of Government Ethics.</p>	<p>The STOCK ACT requires that Member and candidate reports be made available on the internet.</p> <p>The Office of the Clerk of the House of Representatives posts PDF versions of reports on its website.. The Secretary of the Senate has a public kiosk that makes financial disclosure reports of the Senate filing community available to the public</p>	<p>A member of the public may request a copy of a report by filing Form AO-010A, Request for Examination of a Report Filed by a Judicial Office or Employee, in writing with the Office of the Committee on Financial Disclosure, part of the Administrative Office of the U.S. Courts. Most reports of federal judges are available on the website of the nonprofit political organization Judicial Watch.</p>

FINANCIAL DISCLOSURE, cont'd

<p>How Financial Conflicts Are Addressed</p>	<p>5 C.F.R. §§ 2635.401–403 contain provisions designed to deal with financial interests that conflict with employees' official duties.</p> <p>Methods of Addressing Conflicts or Potential Conflicts:</p> <ol style="list-style-type: none"> 1. Disqualification of the employee from participating in an official capacity in a matter in which the employee, or the employee's spouse, minor child, employer, or any one of several other specified persons has a financial interest. 2. Selling or giving up the conflicting interest. Employees required to sell financial interests may be eligible to defer the tax consequences divestiture. 3. Obtaining a statutory waiver that will permit the employee to continue to perform specific official duties. 4. Prohibiting certain employee from acquiring or retaining certain financial interests. 	<p>Congress rejected disqualification or divestiture requirements as impracticable and out of sync with legislative duties. Accordingly, public financial disclosure and constituents' knowledge of Members' financial interests is considered as the primary check on financial conflicts of interest.</p> <p>Rarely, the House rule requiring disqualification will apply where a Member has a direct personal financial interest in a matter. Senate Rule XXXVII(4) may also similarly require a rare disqualification due to a financial interest. That rule states that "[n]o Member, officer, or employee shall knowingly use his official position to introduce or aid the progress or passage of legislation, a principal purpose of which is to further only his pecuniary interest, only the pecuniary interest of his immediate family, or only the pecuniary interest of a limited class of persons or enterprises, when he, or his immediate family, or enterprises controlled by them, are members of the affected class."</p> <p>Senate Rule XXXVII(7) requires that a committee employee whose compensation is more than \$25,000 for more than 90 days to sell any "substantial holdings" that may be directly affected by the actions of the employing committee, unless the Ethics Committee, after consulting with the employee's supervisor, permits a written exception.</p>	<p>28 U.S.C. § 455 provides a statutory basis identifying when judges must recuse him or herself from a case. Under § 455(b) a judge must recuse if he or she has any financial interest in a case or matter before the court, <i>however small</i>. Thus, there is no de minimis exception nor can it be waived by the parties. Recusal is also required where the judge's spouse or minor child has a financial interest in the outcome.</p> <p>The Code of Conduct for Judicial Employees counsels employees to avoid conflicts of interest in the performance of their judicial duties. The Code defines conflicts of interest as when an employee might be so personally or financially affected by a matter that a reasonable person with knowledge of the fact would question the employee's impartiality. Employees should contact their appointing authority about a conflict, and the appointing authority should restrict their duties to avoid a conflict or appearance of conflict.</p>
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CRIMINAL CONFLICT OF INTEREST STATUTES

	Executive Branch	Legislative Branch	Judicial Branch
18 U.S.C. § 203	<p>Applies equally to executive, legislative, and judicial branch officials and employees.</p> <p>Prohibits covered individuals from receiving legal fees, partnership shares, bonuses, or any other form of compensation derived from representational services of others in matters before the executive branch or the courts when the United States is a party or has a direct and substantial interest.</p>		
18 U.S.C. § 205	<p>Applies equally to executive, legislative, and judicial branch officials and employees.</p> <p>Prohibits covered individuals from representing anyone other than themselves on any matter before the executive branch or any court if the United States is a party or has an interest.</p>		
18 U.S.C. § 207	Prohibits executive branch employees from engaging in certain activities on behalf of persons or entities post-government employment.	Prohibits former Members of Congress or legislative branch employees from lobbying for official actions by current Members, officers, or employees for a period of one or two years depending on the individual's previous position.	Does not apply to judges or judicial branch employees.
18 USC § 208	Prohibits executive branch officers and employees (except the President or Vice President) from participating personally and substantially in any particular Government matter that will affect the employee's financial interests, or the financial interests of the employee's spouse, minor child, general partner, a person for whom he is negotiating for, or any organization in which he serves as an officer, director, trustee, general partner or employee.	Does not apply to Members of Congress or legislative branch employees	Does not apply to judges, but does apply to judicial branch employees. Although not a criminal statute, there is a check on judges acting on matters in which they or their families have a financial conflicts of interest. Under 28 U.S.C. § 455(b) a judge must recuse if he or she has any financial interest in a case or matter before the court, <i>however small</i> . Thus, there is no de minimis exception nor can it be waived by the parties. Recusal is also required where the judge's spouse or minor child has a financial interest in the outcome.
18 USC § 209	Prohibits executive branch employee from receiving payment from any entity other than the United States government for engaging in their official duties.	Does not apply to Members of Congress or legislative branch employees.	Does not apply to judges or judicial branch employees.







 **SELECT COMMITTEE ON ETHICS**
Organization and Composition
of the Committee

- The bipartisan Committee has six Members
- One Member of the Majority is Chairman, one Member of Minority is Vice-Chairman
- The Chairman and Vice Chairman jointly set the Committee's agenda
- A simple majority - 4 votes - is required to take any disciplinary action
- The Chairman does not have veto power over a vote by a majority of the Members of the Committee
- The Committee's staff are nonpartisan

 **SELECT COMMITTEE ON ETHICS**
Members of the Committee

 Barbara Boxer California Chairman	 Johnny Isakson Georgia Vice Chairman		
 Mark Pryor Arkansas	 Sherrod Brown Ohio	 Pat Roberts Kansas	 James Risch Idaho

 **SELECT COMMITTEE ON ETHICS**
History of the Committee

- Prior to 1964 and the creation of a permanent ethics body, disciplinary actions in the Senate were conducted on an ad hoc or as needed basis
- Congress created the Select Committee on Ethics in 1964
- In 1968, the Senate adopted its first written Code of Conduct, which the Senate has amended and added to over the years



 **SELECT COMMITTEE ON ETHICS**
Mandates/Functions of the Committee


- Investigate complaints
- Provide advice to Senators and staff
- Training mandate



 **SELECT COMMITTEE ON ETHICS**
Investigate Complaints

- Anyone can file a complaint
- All information is confidential
- The Committee has subpoena power to obtain information



 **SELECT COMMITTEE ON ETHICS**
Disciplinary Action

- The Committee can recommend disciplinary action to the Senate
- Formal discipline – expulsion (requires 2/3 vote of the full Senate to expel); reprimand or censure (requires majority vote of full Senate)
 - There is no recourse to the judicial branch if a Member is expelled, because of the separation of powers doctrine
- Informal discipline -- public or private letters of admonition.
 - There is no right of appeal to a full Senate vote or recourse to the judicial branch

 **SELECT COMMITTEE ON ETHICS**
Provide Advice to Senators and Staff

- Advice is usually oral
- Advice may be in writing if factually complex or a new issue
- All advice is confidential



 **SELECT COMMITTEE ON ETHICS**
Training Mandate

- Committee staff presents lectures to incoming Members and staff, as well as refresher briefings
- Committee staff also presents lectures to foreign groups

 **SELECT COMMITTEE ON ETHICS**



GIFTS OVERVIEW

 **SELECT COMMITTEE ON ETHICS**
Gift Rule - Considerations

- **Senate Members and staff may not accept any gift unless its acceptance is permitted by the Gifts Rule (Senate Rule 35)**
- **Applies 24 hours a day/7 days a week**
- **Applies to any gifts you receive, even ones unrelated to your Senate employment**
- **Gifts Rule contains 24 exceptions of gifts that are permissible**



 **SELECT COMMITTEE ON ETHICS**
No Gifts From Lobbyists

Members, officers, and employees of the Senate may not accept any gift from a registered lobbyist or foreign agent, or an entity that employs or retains a lobbyist or foreign agent, unless a specific exception to the Gifts Rule applies



 **SELECT COMMITTEE ON ETHICS**
General Rule

- **If not from a lobbyist or foreign agent, or an entity that employs or retains a lobbyist or foreign agent, Members and staff may accept a gift if:**
 - **Less than \$50 in value**
 - **Subject to less-than-\$100 gift annual limit from each source**
 - **No limit on gifts less than \$10**
 - **But no cash, gift cards, checks, etc.**
 - **"Buy-downs" prohibited**



 **SELECT COMMITTEE ON ETHICS**
Permissible Gifts

- **Gifts from relatives**
 - Includes fiancées and in-laws
- **Gifts from Members and other Senate employee**
 - But no gifts to supervisor or employing Senator except on special occasions
- **Gifts from personal friends**
 - Must meet certain criteria
- **Gifts from foreign governments (\$100 in value or less)**



 **SELECT COMMITTEE ON ETHICS**
Other Permissible Gifts

- **Items of little intrinsic value**
 - Baseball hat, t-shirt, or < \$10 in value
- **Items paid for by a federal, state, or local government**
 - Includes state (public) universities and federally recognized Native American Indian Tribes
- **Benefits resulting from outside activities**
- **“Home State” products**
- **“Informational materials”**



 **SELECT COMMITTEE ON ETHICS**
Attendance at Events

- **“Free attendance” at certain types of events may be accepted under the rule:**
 - receptions (35.1(c)(22))
 - “widely attended events” (35.1(d))
 - charity events (35.1(d)(3))
 - campaign or political events (35.1(c)(2))
 - constituent event (35.1(g)(1))
- **Gift bags permitted only if otherwise acceptable under gift rule**

 **SELECT COMMITTEE ON ETHICS**
Privately-Sponsored Travel

- **Each traveler must obtain prior, written approval from the Senate Ethics Committee**
- **Request must be submitted at least 30 days before the start date of the trip**
- **There are significant restrictions on accepting travel expenses from private entities that *retain or employ* lobbyists or foreign agents**
- **Post-Travel Disclosure must be filed publicly 30 days after the trip**



 **SELECT COMMITTEE ON ETHICS**
STOCK Act

- **Reaffirmed and clarified that Members and all staff are subject to the insider trading restrictions by articulating a duty of "trust and confidence"**
- **Imposed new financial disclosure reporting requirements**
- **Imposed new employment negotiation and recusal requirements**
- **Prohibits participation in IPOs not generally available to the public**
