



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

Alleged Violations of Ethics Pledge by a Senior DOI Political Employee

This is a revised version of the report prepared for public release.

I. EXECUTIVE SUMMARY

We investigated allegations that a then senior political employee of the U.S. Department of the Interior (DOI) did not comply with his Federal ethics pledge under Executive Order No. 13770 when he communicated with a former employer during the required 2-year recusal period following the political employee's Federal appointment in the fall of 2017.

We identified a number of interactions between the senior political employee and representatives of the former employer—namely, three phone calls and multiple email exchanges, one in-person meeting, and one presentation at an event hosted by the former employer. While some of these interactions with the former employer (email, phone, and in-person meeting) may have been relatively minor in nature, we found that the senior political employee nonetheless did not comply with the ethics pledge because those interactions occurred during the mandatory 2-year recusal period. In contrast, we found that, under the circumstances, a presentation made by the senior political employee at an event hosted by the former employer was permissible under the ethics pledge because the senior employee attended in his official capacity.

In making these findings, we note that the senior political employee told us he initially did not understand that his unpaid, volunteer position with an entity related to an organization (the former employer described above) was itself considered former employment under the ethics pledge. In fact, the organization itself as well as the related entity are considered a “former employer” under the pledge. After it was alleged that the senior political employee violated ethics rules in his interactions with the former employer, the Departmental Ethics Office (DEO) provided the senior political employee with written guidance about communications with former employers and specifically found that the organization in question qualified as a former employer under the ethics pledge. In its written guidance, the DEO acknowledged that the senior political employee had not received specific written or verbal guidance from the DEO identifying the organization as a “former employer” for purposes of the ethics pledge. We found no further communications between the senior political employee and representatives of the organization after the senior political employee received this guidance.

We provided our report to the Chief of Staff for the Office of the Secretary for any action deemed appropriate.

II. RESULTS OF INVESTIGATION

We investigated alleged ethics violations by a senior political employee of the U.S. Department of the Interior (DOI). As a political appointee, he signed a Federal ethics pledge prohibiting him from participating in “any particular matter involving specific parties” directly and substantially related to a former employer for 2 years following his Federal appointment in the fall of 2017. It was alleged that the senior political employee communicated with a former employer during that time.

A. Facts

1. *The Senior Political Employee's Former Employment and Ethics Training as a DOI Employee*

Until 2017, the senior political employee held an unpaid, volunteer position with an entity related to an organization. The senior political employee considered the entity to be separate from the organization.¹ The senior political employee told us that he represented another previous employer (distinct from the organization being described) in his volunteer interactions with the organization, which included meetings at annual conferences.

The senior political employee became a DOI employee in the fall of 2017. According to training records from the Departmental Ethics Office (DEO), the senior political employee received initial ethics training from an ethics official on his second day. This training provided general guidance on the Federal ethics pledge and ethics regulations, including relationships covered under the pledge; regulations, rules, and restrictions concerning Federal employees' receipt of gifts; and restrictions against Federal employees contacting their former employers.² The senior political employee signed the ethics pledge on the day he received training. Neither the initial ethics training records provided by the DEO nor the ethics pledge defined "former employer."

2. *The Senior Political Employee's Communications With Representatives of the Former Employer*

i. *Email and Telephone Contacts*

We found records indicating the senior political employee had three phone calls and multiple email exchanges with four different representatives of the organization that was his former employer (described above) between late 2017 and late 2018, as detailed in the below timeline.

| Date | Communication |
|--|---|
| Fall 2017: The senior political employee emailed employees of the former employer | The senior political employee emailed an employee of the organization and copied another employee at the same organization, stating that he was looking "forward to working closely with you all going forward." In a followup email, the employee copied on the original email proposed a meeting with the senior political employee, but the meeting was ultimately canceled. |

¹ Throughout this report, we generally use the term "organization" to refer to the two associated entities together. In a few places in the text, we mention the entities separately to distinguish between them as needed.

² A senior DEO official told us that the DEO could not confirm the specific training document used when the senior political employee was onboarded. She did, however, provide us the Political Appointee Initial Ethics Training that she said was provided to non-PAS (Presidential appointments with Senate confirmation) positions in the month prior to the senior political employee's appointment. Another senior DEO official told us that the training document was consistent with the type of ethics training the senior political employee should have received.

| Date | Communication |
|---|--|
| Fall 2017: The senior political employee responded to an email from a consultant to the former employer | A consultant for the organization emailed the senior political employee. On the following day, the senior political employee responded that he would give the consultant a phone call. |
| Late fall 2017: The senior political employee exchanged emails with the consultant | The consultant requested a “brief call” with the senior political employee, who apologized for “dropping the ball earlier.” |
| Winter 2017: The senior political employee emailed the consultant | The senior political employee emailed the consultant that he was free for a phone call. |
| Winter 2017: The senior political employee had a phone call with the consultant | The senior political employee told us that he had an “introductory phone call” with the consultant. After he reviewed his official DOI calendar, the senior political employee confirmed that the call likely occurred on this date. |
| Spring 2018: The senior political employee had a phone call with the former employer | Per his official DOI calendar, the senior political employee had a call with the organization. After he reviewed the calendar entry, the senior political employee told us that he assumed the call was with a specific employee of the organization (the employee to whom the next timeline entry refers), but he could not specifically remember. |
| Fall 2018: The senior political employee introduced a special assistant and an employee of the former employer to each other during a phone call | The senior political employee told us that he spoke to an employee of the organization to introduce a new special assistant. The senior political employee said that it was an “introductory phone call” during which he explained the special assistant’s role at the DOI. The senior political employee thought the call occurred in summer 2018, but after he reviewed his official DOI calendar, he said that the call likely took place on this date. |

ii. *The Senior Political Employee’s Presentation at an Event Hosted by the Former Employer*

We found that the senior political employee represented the DOI at an event hosted by the former employer in 2018. The senior political employee said that the event was a “high-level discussion of the agency’s top priorities. And they [the former employer] talked to [two other Federal Government agencies] and me.”

An employee at the organization told us that she organized the event, which included briefings from the two other Federal Government agencies and the DOI. The employee noted that the event was not a fundraiser and there was no admission fee. She confirmed that the senior political employee provided the DOI briefing. She explained that the organization had asked the senior political employee to provide a briefing on certain policy topics. An executive of the organization told us that he attended a roundtable meeting with the senior political employee and others at the event. He stated further that the senior political employee discussed DOI policy issues with the attendees.

iii. The Senior Political Employee's In-Person Meeting With an Employee of the Former Employer

We found that the senior political employee and the previously mentioned special assistant met in person with the previously mentioned executive of the organization in late fall 2018. When we asked the senior political employee about the entry in his calendar for that date, he told us that was the day he introduced the special assistant to the executive. The senior political employee told us that during that meeting he talked to the executive about the special assistant's role at the DOI.

The executive of the organization told us that the special assistant had requested the meeting as "just an introduction meeting" that the senior political employee facilitated. According to the executive, they discussed various initiatives of the organization. The executive explained that it was a "very high-level . . . meet and greet" and noted that there was no followup to that meeting.

3. The Senior Political Employee Recalled Asking the DEO About His Interactions With the Former Employer

The senior political employee told us that he talked to DEO Director Scott de la Vega in 2018 after he learned that it had been alleged that he violated ethics rules by meeting with representatives of the organization. The senior political employee said he stopped de la Vega in a hallway and asked, "Do we have any problem?" According to the senior political employee, de la Vega asked if the senior political employee had worked for the organization. The senior political employee said he told de la Vega, "No. . . . I volunteer[ed]." According to the senior political employee, de la Vega responded, "You don't have a problem." The senior political employee also recalled that de la Vega said that it was "nothing to worry about." When asked if the senior political employee described the organization, its related entity, or his work there to de la Vega, the senior political employee responded that he may have but that he could not recall. The senior political employee said that, after talking to de la Vega, he thought that he was "good to go." When asked if he would have felt comfortable talking to the organization after that discussion with de la Vega, the senior political employee said, "Yeah, yeah. . . . 100 percent."

De la Vega told us that he could not recall a specific discussion with the senior political employee about the possible violation of ethics rules, nor did he have any records documenting a discussion. He said, however, that he and the senior political employee "have had many conversations . . . over the course of the time that we had worked together. And I recall him being a rather very conscientious fellow, [and] someone who seemed to have a fair degree of

integrity.” When asked if it was possible that he provided the senior political employee informal advice based on the senior political employee’s description of his employment with the organization, de la Vega said it was possible. De la Vega said that he had no reason to question the senior political employee’s recounting of the conversation.

4. The Senior Political Employee’s Discussions With DOI Ethics Officials About His Obligations Under the Ethics Pledge

The senior political employee told us that he did not recall signing the ethics pledge as part of his initial ethics training in the fall of 2017. The senior political employee believed he had “some general kind of broad training” when he onboarded. Regarding former employers, he told us that he recalled the guidance as “essentially, don’t communicate with former employers about specific issues.”

In addition, the senior political employee told us that he did not recall receiving “specific training” or “verbal or written guidance on my situation at all” when he onboarded. He noted that he may have had other general ethics training, but said, “I definitely didn’t get into . . . my issue with [the organization] in any sort of way, no. . . . Even in the memo [a 2019 guidance memorandum from de la Vega, described below], it says that they [the DEO] didn’t provide me any guidance on that at all.”

The senior political employee told us that after he learned about the alleged ethics issues, he went to de la Vega “close to immediately” and said, “I need some clarity on this. . . . I feel like I had no clue on it.” He also told us that he said to de la Vega, “I feel like I wanna go through everything to make sure that . . . there’s nothing that I’m missing here.” The senior political employee said he was under the impression that only the other previous employer (not the organization or its related entity) was considered a former employer for purposes of the ethics pledge.

The senior political employee said that de la Vega then conducted a formal review and determined that the organization qualified as a former employer according to ethics rules. He said, “At no point in time . . . did they ever give me any indication that [the organization] was a former employer in any way whatsoever. And if they did, I wouldn’t have had any phone calls [with the organization].” The senior political employee reiterated that he never considered the organization a former employer.

The senior political employee told us that, after the allegation of possible ethics violations, he had “numerous conversations” with de la Vega in the hallway, “to set up another ethics meeting for myself and each member of my team to go over any sort of specific recusals we may have and get additional guidance on any kind of ethics issue that [any] member of my team could have.” The senior political employee estimated that he had two or three hallway discussions with de la Vega about the possible ethics issues.

The senior political employee told us that, in spring 2019, he asked a DEO attorney-advisor and a senior DEO official for specific guidance about his recusals. A few weeks later, the senior DEO official emailed the senior political employee the draft memorandum regarding de la

Vega's discussion with the senior political employee about the alleged violation of ethics rules. On that same day, the senior DEO official and the senior political employee exchanged emails regarding the draft memorandum language.

The final version of the DEO memorandum explained that both the organization and the entity were legally related, that the organization and its related entity were together considered a "former employer" of the senior political employee's for purposes of the ethics pledge, and that the senior political employee could not participate personally and substantially in any particular matter involving specific parties that was directly related to his former employers or clients until fall 2019. The memorandum noted, however, that prior to this memorandum, the senior political employee "did not receive specific written or verbal guidance identifying [the organization] as a 'former employer' for purposes of the Ethics Pledge."

We found no evidence that the senior political employee and representatives of the organization communicated in the timeframe between the senior political employee's receipt of the DEO memorandum and his departure from the DOI in 2019.

B. Analysis

We determined that the senior political employee's interactions with the organization implicated the Federal ethics pledge he signed in fall 2017. Paragraph 6 of the Federal ethics pledge under Executive Order No. 13770 states, "I will not for a period of 2 years after the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts."

1. The Senior Political Employee Did Not Understand That the Organization Was Considered a Former Employer Under the Ethics Pledge

As discussed above, the senior political employee received initial ethics training during his first week at the DOI. The senior political employee said he understood from that training that he could not communicate with the employer he worked for prior to his volunteer work for the organization. He said, however, that he never considered the organization to be a former employer because he was a volunteer and his position was unpaid. The senior political employee also stated that, before the allegation of a possible ethics violation, he did not recall any specific training from ethics staff, either verbal or written, that addressed his situation. We found that it was not until after the senior political employee learned it had been alleged that he violated ethics rules that he sought formal ethics guidance from de la Vega regarding his relationship with the organization.

2. The Senior Political Employee Nonetheless Did Not Comply With His Ethics Pledge in Phone Calls, Email Exchanges, and an In-Person Meeting With Representatives of the Organization

As summarized below, we conclude that various exchanges between the senior political employee and representatives of the organization were inconsistent with the terms of his ethics

pledge. However, we also conclude that all of these communications—telephone calls and emails with representatives of the organization and one in-person meeting—occurred before the senior political employee received the DEO’s 2019 ethics guidance alerting him that the organization was considered a “former employer” for purposes of his ethics obligations. We identified no similar communications after he received the ethics guidance.

i. Three Phone Calls and Multiple Email Exchanges Between Fall 2017 and Fall 2018 With Representatives of the Organization Were Not Consistent With the Senior Political Employee’s Ethics Pledge

As previously stated, Executive Order No. 13770 prohibits DOI appointees from contacting their former employers for a period of 2 years from the date of their appointment to their Federal position.³ An Office of Government Ethics (OGE) memorandum, DO-09-011, explains that, in order to determine whether an appointee’s activities concern any particular matters involving specific parties, ethics officials must follow the longstanding interpretation of the term “particular matter involving specific parties” from 5 C.F.R. § 2641.201(h). Notably, the OGE memorandum states that the ethics pledge itself expands the scope of the phrase to include “any meeting or other communication with a former employer or former client relating to the performance of the appointee’s official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties.”⁴ The OGE memorandum states that meetings need not “be open to every comer, but should include a multiplicity of parties.” The memorandum continues, “The purpose of this expansion of the traditional definition is to address concerns that former employers and clients may appear to have privileged access, which they may exploit to influence an appointee out of the public view.”

In sum, under the standard articulated in the OGE memorandum, the ethics pledge prohibits any meeting or other communication with a former employer relating to the performance of the appointee’s official duties, regardless of whether the interactions amount to the longstanding definition of a particular matter under Federal regulations. The OGE memorandum also creates a two-part test for exceptions to the ethics pledge’s ban on an appointee communicating with a former employer or client. An appointee may communicate with a former employer or client if the communication is (1) “about a particular matter of general applicability” and (2) “made at a meeting or other event at which participation is open to all interested parties”; this second part may be satisfied if the meeting includes a “multiplicity of parties.”⁵

³ Based on our independent legal analysis, we agree with the conclusion in the 2019 DEO memorandum that the organization is considered the senior political employee’s former employer for purposes of the ethics pledge.

⁴ The term “particular matter involving specific parties” is used in Federal regulations governing personal and business relationships (5 C.F.R. § 2635.502) and further clarified in OGE memorandum DO-06-029. For the purposes of 5 C.F.R. § 2635.502, a particular matter involving specific parties “typically involves a specific proceeding affecting the legal rights of the parties, or an isolatable transaction or related set of transactions between identified parties” (5 C.F.R. § 2640.102(l)). OGE memorandum DO-06-029 clarifies that examples of particular matters involving specific parties for purposes of the regulations include only “contracts, grants, licenses,” and other similar specific actions taken with regard to, or on behalf of, a party—a narrower interpretation of the term than that used for analysis under the Federal ethics pledge. Therefore, an action might not violate 5 C.F.R. § 2635.502 because it does not meet the regulation’s definition of a “particular matter involving specific parties” but could still violate the Federal ethics pledge.

⁵ OGE memorandum DO-09-011 states, “An appointee may participate in communications and meetings with a former employer or client about these particular or non-particular matters if the meeting or event is open to all interested parties.” The memorandum acknowledges, though, that because meeting spaces are typically limited and because time and other practical

The evidence confirms that the senior political employee's three phone calls and multiple email exchanges with representatives of the organization constituted communications with a former employer relating to the performance of his official duties. While these communications may appear to be minor in nature, they were prohibited under the ethics pledge because they did not satisfy the second part of the two-part exception articulated in the OGE memorandum: they were not made at a meeting or other event at which participation was open to all interested parties. Moreover, we found no evidence that the senior political employee sought or obtained a waiver from an ethics official prior to these communications.

Based on the above analysis, we concluded that the senior political employee's phone and email communications with the organization were not consistent with his obligations under the ethics pledge.

ii. The Senior Political Employee's In-Person Meeting With an Executive of the Organization Was Inconsistent With His Ethics Pledge

Using the same analysis as above, we considered whether the senior political employee's meeting with the executive of the organization was inconsistent with the senior political employee's obligations under paragraph 6 of the ethics pledge. Because the meeting was not open to "all interested parties" or a "multiplicity of parties," the meeting did not satisfy the two-part exception articulated in the OGE memorandum. We therefore concluded that the senior political employee's meeting with the executive was not consistent with his obligations under the ethics pledge.

3. The Senior Political Employee's Presentation in His Official Capacity at an Event Hosted by the Organization Did Not Contradict His Ethics Pledge

We also reviewed whether the senior political employee's presentation in his official capacity at a 2018 event hosted by the organization was consistent with his obligations under the ethics pledge.

According to the OGE, "the Pledge is not intended to prohibit an appointee from participating in an official speech unless the speech would have a demonstrable financial effect on the former employer or client."⁶ The OGE has further explained that, in its experience, "usually the sponsor of an event will have a financial interest in an official speech only if an admission fee is charged, the event is a fundraiser, or the event is some kind of business development activity (such as a seminar for current or prospective clients)."⁷

considerations also may constrain the size of meetings, "common sense" demands that reasonable limits be placed on what it means to be "open to all interested parties." That is, such meetings do not have to be "open to every comer."

⁶ OGE memorandum DO-09-020 states, "Where the decision to give an official speech actually would affect the financial interests of the sponsor, the concerns under the pledge about special access are relevant. Thus, if the former employer or client charges an admission fee or organizes the event for the purpose of fundraising or business development, the appointee will be barred from giving an official speech, absent a waiver."

⁷ See OGE memorandum DO-09-020 at 2.

The organization was the sponsor of the event, which was organized to allow senior officials of the organization “to engage in meetings with high-ranking officials” from two other Federal Government agencies and the DOI to “gain a nuanced understanding of each agency’s policy priorities.”

We do not believe that this event had a “demonstrable financial effect” on the organization such that it would fall within the scope of the ethics pledge. The organization charged no fees and engaged in no fundraising at the event. Accordingly, we conclude that the senior political employee’s presentation in his official capacity at the event was consistent with his obligations under the ethics pledge.⁸

C. Conclusion

We concluded that the senior political employee’s telephone calls, email communications, and one in-person meeting with representatives of the organization did not comply with the requirements of his ethics pledge. In contrast, we concluded that the senior political employee’s presentation in his official capacity at an event hosted by the organization did not contradict his obligations under the ethics pledge and existing OGE guidance. In making these findings, we note that the senior political employee’s telephone and email communications with his former employer appear to have been minor in nature, and that, at the time of these communications, the senior political employee told us he did not understand that his unpaid, volunteer position at the organization was considered former employment. Additionally, the DEO acknowledged in its 2019 ethics guidance that the senior political employee did not receive specific written or verbal guidance from the DEO identifying the organization as a “former employer” for purposes of the ethics pledge prior to that date. Finally, we found no further communications between the senior political employee and representatives of the organization after the DEO provided the senior political employee with written guidance about communicating with former employers.

III. SUBJECT

A former senior DOI political employee.

IV. DISPOSITION

We provided our report to the Chief of Staff for the Office of the Secretary for any action deemed appropriate.

⁸ We also considered whether the senior political employee’s conduct was contrary to 5 C.F.R. § 2635.502. The evidence established that, at the time of the senior political employee’s presentation at the 2018 event, he did not know that the organization was considered a former employer or that he had a covered relationship with the organization. Because § 2635.502 requires an employee to have knowledge of these facts, we determined that § 2635.502 was not directly implicated in this case.

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