

MRB ANNUAL ETHICS TRAINING

GREGORY MILLER, ATTORNEY ADVISOR

FMCSA ETHICS PROGRAM

FMCSAETHICS@DOT.GOV



OVERVIEW

- Special Government Employees
- Financial Disclosure
- Conflict of Interest and the Appearance of a Conflict of Interest
- Representation Ban
- Lobbying
- Political Activities
- Gifts
- Fundraising
- Expert Testimony
- Teaching, Speaking and Writing
- Post-Government Employment



SPECIAL GOVERNMENT EMPLOYEES

- Expert/Consultant Appointments
- Personal Service Contractors
- **Members of boards**, commissions, advisory committees (FACA and non-FACA) who exercise own individual best judgment on Government's behalf
- Other forms of “employment” – IPA appointments if service < 130 days/year.



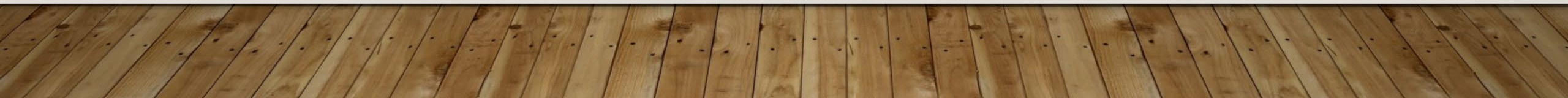
FINANCIAL DISCLOSURE

- Primary employment.
- Other current employment (such as consulting).
- Previous employment within the last 12 months.
- Being considered for employment.
- Formal or informal reemployment arrangement.
- Ownership of securities.
- Any office, governing board membership, or relevant committee chairpersonship. (Ordinary membership in a professional society or association is not considered an office.)
- Received and retained an honorarium or award within the last 12 months.
- Imputed interests.



CONFLICTS OF INTEREST

Employees are prohibited from participating in official matters that would have a direct and predictable effect on their own financial interests or those imputed to the employee.

- Spouse, minor child or partner.
 - An organization in which they are serving as officer, director, trustee, partner or employee.
 - A person or organization with which they are negotiating for prospective employment.
- 

YOUR EXCEPTION



An SGE serving on a FACA-regulated advisory committee may participate in any matter of general applicability where the disqualifying financial interest arises from

- his/her non-Federal employment;
- his/her non-Federal prospective employment.

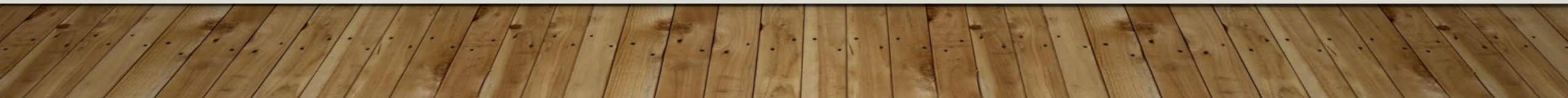


APPEARANCE CONSIDERATIONS

1. “Covered relationship?” and
 2. Would the circumstances cause a reasonable person with knowledge of the relevant facts to question your impartiality in the matter?
- A person with whom the employee has a business, contractual or other financial relationship other than a routine consumer transaction.
 - A person who is a member of the employee’s household, or relative with whom the employee has a close personal relationship.



APPEARANCE CONSIDERATIONS

- A person for whom the employee's spouse, parent, or dependent child is serving or seeks to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, employee.
 - A person for whom the employee has within the last year served as officer, trustee, general partner, attorney, agent, consultant, contractor, or employee.
 - An organization in which the employee is an active participant.
- 



SGE EXCEPTIONS TO REPRESENTATION BAN

SGEs are prohibited from these representational activities only when they concern matters involving specific parties (1) which are pending in the SGE's agency or (2) in which the SGE participated (as a government employee or SGE).

SGEs are not prohibited when the particular matter is of general applicability, such as broad policies, rulemaking proceedings, and legislation, which do not involve specific parties.





LOBBYING

Direct Lobbying

- Personal
- Officer, Professional Association
- Representing MRB

Grass Roots Lobbying



POLITICAL ACTIVITIES

Not while on duty – the period of any day in which the SGE is actually performing Government business

- MRB meets 8:00 am - 3:00 pm
- Can attend a political fundraiser at 5:00 pm
- Can even solicit political contributions from the attendees



PROHIBITED POLITICAL ACTIVITIES

Engaging in political activity while on duty:

- In any room or building occupied in the conduct of government business;
- Wearing official insignia identifying the office or position of the employee; or
- Using official authority or influence to interfere with or affect the result of an election.
- May not solicit political contributions from the general public.
- May not engage in campaign-related activity if running for a partisan political office
- May not solicit or discourage the political activity of any person who has business before the Board



PROHIBITION ON GIFTS

- prohibited from soliciting or accepting gifts from certain prohibited sources or given because of their position
- prohibited from giving certain gifts to official superiors and accepting gifts from employees receiving less pay



EXCEPTION TO THE GIFT RULE

SGEs may accept gifts

Resulting from the employee's outside business or employment activities when it is clear that such benefits are based on the outside business or employment activities and have not been offered or enhanced because of the employee's official status.



EMOLUMENTS CLAUSE ISSUES FOR SGES

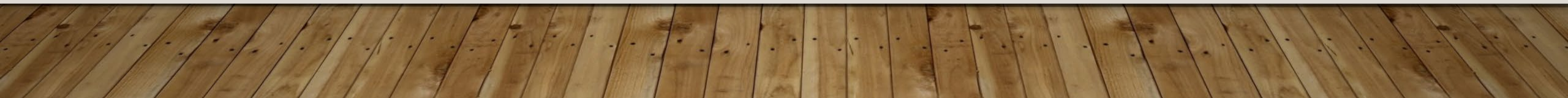
No Title of Nobility shall be granted by the United States: and no Person holding any Office of Profit or Trust under them, shall, without the Consent of Congress, accept of any present, emolument, Office, or Title of any kind whatever from any King, Prince, or foreign State.

United States Constitution Art. I, § 9, Cl. 8.



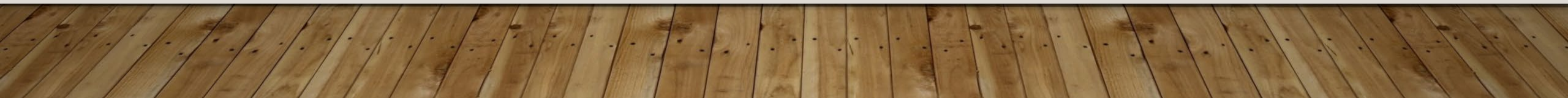


PRESENT, EMOLUMENT

- Anything of value
 - Awards and Decorations
 - Educational scholarships
 - Travel
 - Indirect payments
 - Salary, honoraria, or other form of compensation
 - Grants, contracts
- 



OFFICE/TITLE

- Any position or title from a foreign state, whether compensated or not
 - Positions that predate appointment are not a problem as long as no service required during federal appointment
 - Titles that are honorary in nature and/or activity having no “durational quality” are permissible e.g., honorary faculty appointment for a one-time lecture, or honorary title that has no associated duties or responsibilities
- 



KING, PRINCE, OR FOREIGN STATE

- Foreign diplomatic, military, and political arms, including any subdivision such as State or local government
- International organizations of which the United States is NOT a member
- Corporations wholly owned and controlled by the foreign government
- Foreign public universities
- Any entity acting at the behest of or based upon the influence of a government



FOREIGN GIFTS AND DECORATIONS ACT

Congressional consent for an employee to accept:

- Medals, badges, awards, orders of merit from chivalric codes;
- Tangible **gifts** valued at amounts up to \$415 from a foreign government; or
- gifts exceeding \$415 consisting of:
 1. travel expenses for travel originating and taking place entirely outside of the United States (not applicable to official travel);
 2. educational scholarships; and
 3. medical treatment.



FUNDRAISING

Prohibited only from personally soliciting persons whose interests may be affected substantially by the performance or nonperformance of the SGEs' official duties.



EXPERT WITNESS

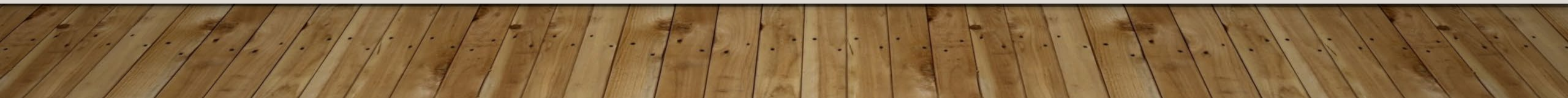
Ban on serving as an expert witness, with or without compensation, other than on behalf of the United States, in any proceeding before a Federal court or agency in which the United States is a party or has a direct and substantial interest. **Applies only**

1. if the SGE actually participated officially in the same proceeding or in the particular matter that is the subject of the proceeding; and
2. it is a proceeding in which the Department is a party or has a direct and substantial interest.



TEACHING, SPEAKING, AND WRITING

Prohibited from receiving outside compensation for teaching, speaking, or writing that relates to their official duties, but only when

- invitation extended primarily because of the SGEs' official position rather than expertise on the subject matter;
 - when the invitation or offer of compensation was extended by someone with interests that may be affected substantially by the SGEs' official duties; or
 - when the information conveyed through the activity draws substantially on nonpublic information obtained through the SGEs' Government service.
- 



POST-GOVERNMENT EMPLOYMENT

Former SGEs may not make contact with the intent to influence a federal employee on behalf of another concerning a particular matter involving specific parties in which the SGEs participated personally and substantially for the lifetime of that particular matter

QUESTIONS?

Points of Contact:

FMCSAethics@dot.gov

Or

Arlene McCarthy or Greg Miller

Office of the Chief Counsel, General Law

Arlene McCarthy P: 202-366-2013 or Greg Miller M: (202) 253-2305