

Holdover Bush Appointees Required to Abide by Obama Executive Order on Ethics or Be Terminated

May 2009

As reported in the March issue of *Election Law News*, President Obama signed an Executive Order immediately upon assuming office that imposed numerous ethical restrictions on all full-time, non-career appointees appointed after January 20, 2009, whether appointed by the president, vice president, an agency head or otherwise. The ethical restrictions require appointees to sign a pledge in which they agree to restrict, among other things, their acceptance of gifts and certain post-government employment.

On April 28, the Office of Government Ethics formally applied the terms of the Executive Order to "appointees temporarily holding over from the previous Administration." The Office of Government Ethics explained that it "previously advised that holdover appointees would be given a 100-day grace period before being required to sign the pledge." The 100-day grace period ended April 29. The Office of Government Ethics concluded: "Persons who are not prepared to sign the pledge should transition out within 30-days, by May 29th."

As an aside, the terms of the Executive Order can only apply to holdover appointees who serve at the pleasure of the Administration. The Executive Order cannot apply to holdover appointees serving terms pursuant to federal statute, like, for example, commissioners of certain independent regulatory agencies. The only possible exception would be appointees whose statutory terms have expired and are serving until they are replaced by the Administration.

Please note that the contours of the Executive Order continue to

Authors

Caleb P. Burns
Partner
202.719.7451
cburns@wiley.law

Robert L. Walker
Of Counsel, Deputy General Counsel
202.719.7585
rlwalker@wiley.law

evolve. We will provide additional updates in future issues of *Election Law News*.