

The Congressional Revolving Door Rules

November 2006

With a congressional election being held next week, Washington may witness another turnover of officials in the legislature, regardless of who wins. Those who employ persons leaving government jobs must cast a careful eye toward rules and regulations that restrict legally permissible contact with previous employers. Congressional restrictions last for one year and can affect a potential employee's utility. A brief discussion of the applicable rules follows.

Rules for Members of Congress

The employment restrictions of former legislative branch members are all one year in duration. The former employee's position is the only distinction that the law makes, with elected officials subject to the ban with the broadest scope. By federal law, all Members of Congress are banned from attempting to influence any Member, officer or employee of Congress, representing or advising a foreign entity or using confidential information obtained through trade and treaty negotiations in any private situation for one year.

Rules for Congressional Staff

As for non-elected congressional employees, only individuals who meet an annual salary threshold of 75% of the basic pay rate of a Member of Congress in any 60-day period during the final year of employment are covered by federal statutory restrictions upon post-employment activities (the 2006 threshold is \$123,900).

The general rules for congressional staffers are as follows:

- A personal staff employee who meets the 75% threshold is banned for one year from seeking official action from his or her former employer and from any of the former employer's current staff members.

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- A committee staff employee is barred for one year from seeking to influence anyone either involved with the specific committee during the last year of employment (including Members of Congress) or with the committee currently regarding any matter, not just those within the committee's jurisdiction.
- A leadership staff employee is restricted for one year from attempting to influence any current member of the chamber's leadership or any current leadership staff member.
- All other legislative employees are restricted for one year from lobbying any current member of the office in which the former employee worked.

Congressional staffers also are subject to certain restrictions related to using confidential information and to representing or aiding foreign governments and foreign political parties.

Additional Senate Rules

In addition to federal law, the Senate imposes rules of its own upon former senators and former Senate employees who become lobbyists. These rules cover *all* former employees, *regardless of salary threshold*—a scope of coverage greater than that of federal law. Former senators may not lobby any current senator or employee of the Senate for one year, while Senate employees may not lobby their former offices or any offices in which they held "substantive responsibilities" for that same period. "Substantive responsibilities" involve assisting with drafting committee bills or with hearings and mark-up, rather than merely monitoring a committee or serving as a liaison for a Member's personal office. Therefore, a personal Senate staff member is not necessarily free to lobby the committees on which his former employing senator sat. Rather, one must look at the staffer's past work and involvement with the committee.

Negotiating with Departing Members and Staffers

Special care must be taken in negotiating future employment with departing Members and staffers. Among other things and according to the ethics committees, it would be improper for a staffer or Member to permit the prospect of future employment to influence their official actions. Moreover, staffers and Members are still subject to bribery and gratuity rules. Finally, negotiations for future employment may make it necessary for a Member to abstain from a vote or other official action that might affect the outside party with which the Member is negotiating. Employment negotiations likewise may trigger abstention or disclosure requirements on the part of a staffer.