

Proposed Executive Branch Legal Expense Fund Regulation

May 2022

On April 21, 2022, the U.S. Office of Government Ethics (OGE) published a proposed rule governing legal expense funds for Executive branch employees. The proposed rule would govern both an Executive branch employee's acceptance of payments for legal expenses through a legal expense fund and an employee's acceptance of pro bono legal services. These new standards would apply to funds created or pro bono services accepted "for a matter arising in connection with the employee's official position, the employee's prior position on a campaign of a candidate for President or Vice President, or the employee's prior position on a Presidential Transition Team." (See proposed "Legal Expense Fund Regulation" at <https://www.govinfo.gov/content/pkg/FR-2022-04-21/pdf/2022-08130.pdf>.)

By way of background and explanation for the proposed rule, OGE has stated:

There is currently no statutory or regulatory framework for establishing a legal expense fund in the executive branch, which has created concerns regarding the appearance of corruption in the creation and operation of legal expense funds for the benefit of executive branch employees. The proposed regulation will more clearly spell out who is a prohibited donor, establish donation caps, and require transparency in the form of quarterly, publicly available reports.

To implement the new rule, OGE is also proposing related and conforming amendments to relevant portions of the Standards of Conduct governing the solicitation and acceptance of gifts and of the Executive Branch Financial Disclosure regulations.

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OGE's deadline for receipt of written comments on the proposed rule is June 21, 2022.