

From: (b)(6)
To: Sonfield, Brian; Vetter, Mark
Subject: FW: Requirement to file a termination OGE Form 278e & post-employment briefing--moving to private sector
Date: Thursday, September 21, 2023 5:21:00 PM
Attachments: Integrity Wizard Basics.pdf
termination 278e reporting periods.doc
OGE Post Employment Q&A.PDF
Filer-prepopulate.pdf
Post Employment Nutshell - 5.3.22.pdf
Ethics Contacts--October 2022.pdf

From: (b)(6)
Sent: Thursday, December 15, 2022 12:06 PM
To: Sarin, Natasha <Natasha.Sarin@treasury.gov>
Cc: (b)(6)@treasury.gov; Vetter, Mark <Mark.Vetter@treasury.gov>
Subject: Requirement to file a termination OGE Form 278e & post-employment briefing--moving to private sector

Hi Natasha,

As promised, since you mentioned you are leaving Treasury on December 23, you are required to file a termination public financial disclosure report (OGE Form 278e) within 30 days of departure, unless you are moving to another covered executive branch OGE Form 278e filing position within 30 days. You may want to complete it the day of your departure so that you do not incur the possibility of a \$200 late filing fee that is imposed by statute for reports received more than 30 days after the due date. If you need a filing extension, please let me know prior to the report due date.

****You may file your report up to 2 weeks prior to your departure if you confirm on the report via an endnote or other means that nothing will have changed as of your departure date and/or that you will provide any amended information to us in a timely manner.****

You will e-file your termination report via *Integrity* at www.Integrity.gov. *Integrity* works best with the Google Chrome internet browser. Note that your Treasury user ID will no longer be valid to access Max.gov (*Integrity*) once your Treasury email account is disabled. If you provide us with a personal email address, we can merge your account to keep it active so that you can file your termination report at your convenience. You will need to cover from January 1, 2022 through your termination date in 2022. I have attached a summary on getting started in *Integrity*.

As a former Treasury employee, you will be subject to post-employment restrictions which may affect matters that you can work on in your new position. Please refer to the attached guidance on post employment for a summary—you may forward this guidance to a personal email account. These restrictions are based on a criminal statute. We strongly encourage you to schedule an individual briefing; please contact an [ethics official](#).

Important Reminders:

- Regardless of whether you complete your termination report prior to departure, **provide**

your personal email address to us in case we need to contact you with questions. You will not be able to access Integrity with your Treasury email after your departure.

- Remember to complete a Negotiating for Employment STOCK Act form if you are seeking employment with a private sector entity.
- Contact the Gift Unit if you have any tangible gifts to pick up or process prior to departure.
- List any agreements or arrangements on Part 3 of your termination OGE 278e.

Please let me know if you have any questions. Thank you and best wishes.

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Ethics Program Manager

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Wizard Basics

Walkthrough: Filer

INTEGRITY^{BOV}
Play your part



1. After logging into Integrity, look at the “My Current Reports” section on your “My Tasks” page. Any outstanding reports will be located here. To open an assigned report, click “Start.”
2. Enter and confirm your basic information and click “Next.”
3. Add any federal position you’ve held in the past 12 months. Do not include the position for which you are filing.
4. Add any outside positions you have held during the covered period.
5. Integrity will then ask you about interests and assets related to your outside positions.
6. Next, Integrity will ask about you about your spouse’s employment and related interests, if applicable.
7. Next, Integrity will ask you about other assets that are not related to any outside positions.
8. The next part covers your transactions (*Annual and Termination reports only*). If you have been timely filing Periodic Transaction Reports (PTRs) using Integrity, you can pre-populate this part with PTR data. Add any transactions not covered in a PTR.
9. Next, add your liabilities.
10. Next, add any gifts or reimbursements you have received (*Annual and Termination reports only*).
11. Finally, you will be shown a preview of your report. After you scroll to the bottom, click “Next” if you are ready to submit the report.

The OGE Form 278e – Termination Report

Part	Report Information for the Following Period...	Report Information for the Following Individuals...
1. Filer's Positions Held Outside United States Government	End of Period Covered by Last Report to Term Date	You
2. Filer's Employment Assets & Income and Retirement Accounts	End of Period Covered by Last Report to Term Date	You
3. Filer's Employment Agreements and Arrangements	End of Period Covered by Last Report to Term Date	You
4. Filer's Sources of Compensation Exceeding \$5,000 in a Year	N/A – Leave this Part blank	N/A – Leave this Part blank
5. Spouse's Employment Assets & Income and Retirement Accounts	End of Period Covered by Last Report to Term Date	Your Spouse
6. Other Assets and Income	End of Period Covered by Last Report to Term Date	You, Your Spouse, and Dependent Children
7. Transactions	End of Period Covered by Last Report to Term Date*	You, Your Spouse, and Dependent Children
8. Liabilities	End of Period Covered by Last Report to Term Date	You, Your Spouse, and Dependent Children
9. Gifts and Travel Reimbursements	End of Period Covered by Last Report to Term Date*	You, Your Spouse, and Dependent Children

* Do not include any period when you were not an officer or employee of the United States Government.

UNITED STATES OFFICE OF
GOVERNMENT ETHICS



September 23, 2016
LA-16-08

LEGAL ADVISORY

TO: Designated Agency Ethics Officials

FROM: Walter M. Shaub, Jr.
Director

SUBJECT: Introduction to the Primary Post-Government Employment Restrictions
Applicable to Former Executive Branch Employees

This Legal Advisory provides a plain language discussion for agency ethics officials, departing employees, and former employees on the post-Government employment restrictions, particularly those found in certain provisions of the primary post-Government employment statute applicable to former employees of the executive branch, 18 U.S.C. § 207. OGE's regulations provide more detailed guidance at 5 C.F.R. part 2641.

Readers should be mindful that additional legal authorities not addressed in this Legal Advisory may be applicable to certain individuals. This Legal Advisory provides a general introduction to the primary post-Government employment restrictions under a criminal law applicable to former executive branch employees but does not offer comprehensive guidance on the application of that law to individual circumstances. Departing and former employees should consult their agencies' ethics officials for guidance regarding their individual circumstances.

The post-Government employment restrictions described in Section I of this Legal Advisory apply to all former employees. The additional restrictions described in Section II apply only to certain high-level officials who are referred to as "senior" and "very senior" employees. The responses to Questions 15 and 17 will help you determine if you are a "senior" or "very senior" employee. It is important to recognize that the restrictions applicable to "senior" and "very senior" employees are in addition to the restrictions applicable to all employees. Therefore, "senior" and "very senior" employees should read both Sections I and II of this Legal Advisory.

I. Restrictions Applicable to All Employees

Q1. What is the purpose of the post-Government restrictions under 18 U.S.C. § 207?

The primary source of post-Government employment ethics restrictions is found at 18 U.S.C. § 207. A critical function of section 207 is to prevent former Government employees from leveraging relationships forged during their Government service to assist others in their

dealings with the Government. Some provisions of section 207 also impose limitations on the use of nonpublic information and on behind-the-scenes activities. At the same time, none of the restrictions of section 207 prohibit any former employee, regardless of Government rank or position, from accepting employment with any particular private or public employer. Rather, section 207 prohibits a former employee from providing certain services to, or on behalf of, non-Federal employers or other persons, whether or not done for compensation. In this way, the statute carefully balances various governmental interests, including the Government's interests in both recruiting personnel and guarding against certain acts involving, or appearing to involve, the unfair use of prior Government employment.

Q2. I left Government service to work for a non-Federal employer. What post-Government employment restrictions apply to me?

As mentioned above, the primary source of post-Government employment ethics restrictions is found at 18 U.S.C. § 207. This law, which carries both criminal and civil penalties for violations, is designed to prevent former employees from taking certain actions after leaving the Government that could involve the unfair use of influence and information gained through Government employment. There are two basic restrictions in 18 U.S.C. § 207(a) that are applicable to all former executive branch employees, including former special Government employees. There are further restrictions in 18 U.S.C. § 207 for employees involved in trade or treaty negotiations, as well as the additional restrictions for “senior” and “very senior employees,” discussed below.¹

(a) Lifetime Ban on Matters in Which You Participated

Section 207(a)(1) bars you from making, with the intent to influence, any communication to or appearance before an employee of the United States on behalf of another regarding a “particular matter involving specific parties” in which you participated personally and substantially as a Government employee. This post-Government employment restriction on communications and appearances is permanent and continues for the life of the particular matter.

(b) Two-Year Ban on Matters Under Your Official Responsibility

Section 207(a)(2) bars you from making, with the intent to influence, any communication to or appearance before an employee of the United States on behalf of another regarding a “particular matter involving specific parties” if you were not personally involved in the matter but the matter was pending under your “official responsibility” at any time during your last year of Government service. This post-Government employment restriction on communications and appearances continues for two years after you leave the Government.

(c) Limitations on the Lifetime Ban and the Two-Year Ban

Both the lifetime ban and the two-year ban, which are applicable to all employees, bar certain communications to the Government and certain appearances before the Government, but

¹ A one-page chart describing the post-Government employment restrictions found in 18 U.S.C. § 207 is attached.

they apply only under certain conditions. First, both of these restrictions apply only when the matter is a “particular matter involving specific parties.” Examples of particular matters involving specific parties include contracts, cases, claims, investigations, grants, and other matters focused on identified parties. Second, unlike the restrictions in 18 U.S.C. § 207(b) and (f), which are discussed in response to Questions 4 and 20 below and are applicable only to certain employees, they do not cover behind-the-scenes activities if there is no communication to or appearance before the Government. Third, they are limited to communications to and appearances before any executive branch employee that are made with the “intent to influence,” but you should be aware that “intent to influence” has been interpreted quite broadly. Fourth, they are limited to communications and appearances made on behalf of any other “person,” but you should be aware that the word “person” includes individuals, organizations, companies, state and local governments, and other entities. Finally, both of these restrictions are limited to matters in which the United States is a party or has a direct and substantial interest, but it is probably safest for you to assume that the United States has a direct and substantial interest in any matter that you are considering addressing in a communication to or appearance before the Government.

Q3. Am I prohibited from working for any specific employer?

None of the provisions of 18 U.S.C. § 207 directly bar you from accepting employment with any specific employer after Government service. However, if you are retired from the uniformed services or continue to serve as a member of the reserve component after leaving Government, the Emoluments Clause of the U.S. Constitution (Article I, § 9, cl. 8) places certain restrictions on your ability to accept employment and compensation from foreign governments, including organizations owned or controlled by a foreign government. In addition, the Procurement Integrity Act imposes certain restrictions on sources of compensation if you had certain responsibilities in connection with a contract for more than \$10,000,000. Your agency’s ethics officials can help you determine whether you are covered by these or other authorities restricting your post-Government employment activities.

Q4. May I provide “behind-the-scenes” assistance to another person, such as giving advice or drafting a document, if I avoid communications to and appearances before the Government?

In most cases, the answer is yes. As explained in response to Question 2 above, most of the restrictions under 18 U.S.C. § 207 are limited to appearances and communications. They do not bar you from providing behind-the-scenes assistance to any person or entity. If you provide behind-the-scenes assistance, however, you should not have any communication to the Government attributed to you by another.

An example of one restriction that limits more than only appearances and communications is found in 18 U.S.C. § 207(b). Section 207(b) applies to former employees who worked on certain ongoing trade and treaty negotiations. This restriction applies to you if you participated in a covered trade or treaty negotiation during your last year of Government service and had access to information that would be exempt from release to the public under the Freedom of Information Act. In that case, section 207(b) bars you from representing, or aiding or advising, any other person concerning that trade or treaty negotiation on the basis of that

information. This restriction lasts for one year after your Government service terminated. Additionally, as explained more fully in Question 20, 18 U.S.C. § 207(f) bars former “senior” and “very senior” employees from aiding, assisting, and representing certain foreign entities in an attempt to influence the United States.

Q5. Do the restrictions apply even if I am not getting paid?

Yes. The restrictions under 18 U.S.C. § 207 apply even if you are not receiving compensation for your activities.

Q6. May I represent myself without violating the restrictions under 18 U.S.C. § 207?

Yes, but you should be careful to ensure that you are, in fact, representing only yourself. For example, if you make a communication or appearance regarding a matter in which your new employer has an interest, you could be considered to be representing your employer’s interest as opposed to your own. This is true even if you believe that your communication is consistent with the Government’s interests.

It is important to remember that the legal term “person” can include individuals, organizations, companies, state and local governments, and other entities. This interpretation of the term “person” includes single-member corporations or LLCs that you have created for your own post-Government employment activities. Even if you are the sole owner and employee of that legal entity, it is a separate “person” from you. Thus, for example, if you created a legal entity and that entity has a contract with the Government, you are acting on behalf of the legal entity and not solely on your own behalf. In that case, the restrictions under 18 U.S.C. § 207 apply to your communications to and appearances before the Government in connection with the contract and any other business your legal entity is seeking to do with the Government.

Q7. Do the restrictions under 18 U.S.C. § 207(a) apply to interactions with agencies other than my former agency?

Yes. The restrictions apply to a communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States. The restrictions do not extend to a communication to or appearance before a Member of Congress, a congressional committee, or their staffs.

Q8. When I was in the Government, I worked on a regulation establishing standards for a regulated industry. After leaving Government service, may I submit a comment on this regulation on behalf of my non-Federal employer?

It depends. If you are not a “senior” or “very senior” employee, you may submit a comment on the regulation, even if you submit the comment on behalf of another person, because the regulation is not a “particular matter involving specific parties.” As discussed in response to Question 2, the legal restrictions applicable to you are limited to “particular matters involving specific parties.” A regulation covering an entire industry does not involve specific parties.

In contrast, if you are a “senior” or “very senior” employee, you may not submit a comment on the regulation on behalf of any other person. As explained in Part II of this Legal Advisory, the legal restrictions applicable to “senior” and “very senior” employees are broader in scope. They are not limited to “particular matters involving specific parties.”

Q9. When I was in Government, I helped draft one provision of a contract for my agency. After leaving Government, may I represent the contractor in a dispute over a different provision of the contract that I did not help draft?

No. You may not represent the contractor in the dispute. The contract as a whole is the “particular matter involving specific parties.” A dispute over any part of the contract triggers the lifetime ban under 18 U.S.C. § 207(a)(1). The restriction applies to you, even if you worked on a different provision of the contract. If you are not sure whether the dispute involves the same contract, you should consult your former agency’s ethics officials.

Keep in mind, however, that the restriction applies to this specific contract and not more broadly to the contractor. If a dispute were to arise between your former agency and the contractor in connection with a different contract in which you were not involved, the separate contract would generally be a different “particular matter involving specific parties” than the one in which you participated as a Government employee. As a result, the restriction would not apply to that other contract.

As explained in Part II of this Legal Advisory, if you were a “senior” or “very senior” employee, you are barred for one or two years from any communications to and appearances before your former agency. In that case, whether you could represent the contractor would depend on how much time has passed since you left Government.

Q10. In the last year of my Government service, employees under my supervision handled several grants. I did not personally work on any of the grants. I did not even review or approve them. I left the Government three months ago. May I represent someone before the Government on any of these grants?

No. Section 207(a)(2) imposes a two-year ban in connection with any “particular matter involving specific parties” that was pending under your “official responsibility” during the last year of your Government service. The prohibition under section 207(a)(2) applies even if you did not personally participate in the matter. In this case, the two-year ban applies because: (1) the grants were “pending under your official responsibility” in the last year of your Government service; (2) the grants were particular matters involving specific parties (in this instance, the parties were the “grantees”); and (3) you terminated your Government service less than two years ago. You may not represent anyone to the Government in connection with these grants for the first two years after your Government service ended. (As discussed in response to Question 2, however, both the lifetime ban for matters in which you personally participated and the two-year ban for matters under your “official responsibility” are limited to communications and appearances made on behalf of another person and do not prohibit behind-the-scenes activity.)

Q11. Would I violate the restrictions under 18 U.S.C. § 207 by merely attending a meeting on behalf of another person if I do not speak?

There is a risk that your mere presence at the meeting could violate the restrictions under 18 U.S.C. § 207. The restrictions under section 207 include a ban on appearances before the Government, if made with the intent to influence. Your presence, even without any explicit communication, may in many instances be construed as an attempt to influence the Government. As a practical matter, there is also a realistic possibility that you will be asked a question during or after the meeting. Given the considerable risks associated with attending meetings when you are covered by the restrictions under section 207, it is recommended that you consult an agency ethics official before attending any such meeting.

Q12. I currently work for a Government contractor. My employer has just assigned me to work on a contract in which I was previously involved before leaving the Government. May I direct questions to or share information with employees of the agency regarding that matter?

The lifetime ban under 18 U.S.C. § 207(a)(1) bars you from communications with the intent to influence on behalf of your employer. Communications are permitted if they are not made with the “intent to influence.” As noted in response to Question 2, however, “intent to influence” has been interpreted quite broadly and, depending on the circumstances, can include your discussion of purely factual information, if that information is intended to influence the Government. There is considerable risk that you will cross over this threshold and be deemed to possess the requisite “intent to influence” if you are communicating to agency employees about this contract.

Q13. After leaving to work for a non-Federal employer, may I attend a purely social event at my former agency, such as a celebration for a retiring employee held in the employee’s office suite?

Yes. Section 207 does not prohibit social events or purely social communications to employees of your former agency. It is important for you to be mindful, however, that you could be considered to have made an appearance or communication with the intent to influence in connection with a particular matter if you discuss the matter at the event. The subject of the discussion, rather than the nature of the event, will determine whether section 207 applies.

Q14. Do any additional post-Government employment restrictions apply to me if I was a political appointee and was required to sign the Ethics Pledge under Executive Order 13490?

Yes. Full-time, non-career appointees required to sign the Ethics Pledge under Executive Order 13490 are subject to additional restrictions under the terms of that pledge. You were required to sign the Ethics Pledge if you were a full-time, non-career Presidential or Vice-Presidential appointee, non-career appointee in the Senior Executive Service (or other SES-type system), or appointee to a position that has been excepted from the competitive service by reason

of being of a confidential or policymaking character (Schedule C positions and other positions excepted under comparable criteria) in an executive agency.

Paragraph 5 of the Ethics Pledge prohibits any former appointee who is a registered lobbyist from lobbying any covered executive branch official² or non-career senior Executive Service appointee for the remainder of the Presidential administration in which they signed the Ethics Pledge. This prohibition is in addition to the restrictions found in 18 U.S.C. § 207. As discussed later in this Legal Advisory, former “senior” employees are also covered by paragraph 4 of the Ethics Pledge, which extends the length of a post-Government employment restriction applicable to them under 18 U.S.C. § 207(c).

II. Additional Restrictions Applicable to Senior and Very Senior Employees

The following questions and answers address additional restrictions that apply only to former “senior” and “very senior” employees. These restrictions do not apply to other employees. Former “senior” and “very senior” employees are also subject to the restrictions discussed in Section I above that are applicable to all former employees

Q15. Am I a former “senior” employee?

The term former “senior” employee refers to the following individuals:

- (a) Anyone who occupied a position paid at a rate of basic pay that was equal to or above 86.5% of the pay level for level II of the Executive Schedule. In calendar year 2016, that threshold is \$160,111.50. “Rate of basic pay” does not include locality-based adjustments or additional pay such as bonuses, awards, and various allowances. Note that the determination as to whether you were a “senior” employee is based on the pay level that applied to level II of the Executive Schedule at the time you left senior service.
- (b) A former active duty commissioned officer of the uniformed services who served in a position for which the pay grade was O-7 or above.
- (c) Anyone who occupied a position for which the rate of pay is specified in or fixed according to the Executive Schedule.
- (d) Anyone appointed by the President to a position under 3 U.S.C. § 105(a)(2)(B) or the Vice President to a position under 3 U.S.C. § 106(a)(1)(B) (These appointees hold high-level positions in the Executive Office of the President.)

² Covered executive branch officials include the President, the Vice President, any official in the Executive Office of the President, any Executive Schedule official (EL I-V), any uniformed officer at pay grade 0-7 or above, and any Schedule C employee. *See* Executive Order 13490, § 2(d) (Jan. 21, 2009) (citing 2 U.S.C. § 1602(3)); *see also* OGE DO-10-004, at 4-5 (Feb. 22, 2010).

If you are not sure whether you are a former “senior” employee, you should consult your agency’s ethics officials. OGE’s regulations address the definition of “senior” employee at 5 C.F.R. § 2641.104.

Q16. If I am a former “senior” employee, what additional restrictions apply to me?

In addition to other post-Government employment restrictions discussed in this Legal Advisory, former “senior” employees are subject to a one-year “cooling off” period. If you are a former “senior” employee, section 207(c) bars you from making, with the intent to influence, communications to and appearances before your former agency on behalf of any other person for one year after you ceased to be a “senior” employee.

Although time-limited, this one-year cooling off period for former “senior” employees under section 207(c) applies to a broader range of activities than either the lifetime ban or the two-year ban. (Those two restrictions are discussed in more detail in response to Question 2.) Those restrictions apply only to “particular matters involving specific parties.” The additional restriction under section 207(c) applies to any matter on which you seek official action, including a new matter that was not pending when you were in Government. The concept of a “matter” is very broad. Examples of communications seeking action on official matters include discussing broad policy options and expressing concern about regulatory changes an agency is considering.

This one-year cooling off period applies to communications to and appearances before any agency in which you served within the one-year period prior to your terminating as a “senior” employee. The scope of this restriction includes each and every agency in which you served during that one-year period. Thus, if you were a “ detailee” from one agency to another, the restriction applies to both agencies.

If you were required to sign the Ethics Pledge under Executive Order 13490, paragraph 4 of the pledge extends this cooling-off period to two years from the end of your service as a “senior” employee. You are also subject to an additional requirement under paragraph 5 of the pledge, which is applicable to all pledge signers and is discussed in the response to Question 14 above.

In addition to the one-year cooling off period under section 207(c), section 207(f) bars “senior” employees from engaging in certain activities on behalf of foreign governments or foreign political parties. This additional restriction is discussed in response to Question 20 below.

Q17. Am I a former “very senior” employee?

The term former “very senior” employee refers to the following individuals:

- (a) Anyone who occupied a position in the executive branch at the rate payable for level I of the Executive Schedule (\$205,700 in calendar year 2016) (*e.g.*, Cabinet Members), and employees of the Executive Office of the President who occupied a position paid at the rate payable for level II of the Executive Schedule (\$185,100 in calendar year

2016). Note that the determination as to whether you were a “very senior” employee is based on the pay level for the applicable provision of the Executive Schedule at the time you left very senior service.

- (b) The Vice President and any former employee in the Executive Office of the President (EOP) who was appointed by the President to a position under 3 U.S.C. § 105(a)(2)(A) or by the Vice President to a position under 3 U.S.C. § 106(a)(1)(A).

If you are not sure whether you are a former “very senior” employee, you should consult your agency’s ethics officials. OGE’s regulations address the definition of “very senior” employee at 5 C.F.R. § 2641.104.

Q18. If I am a former “very senior” employee, what additional restrictions apply to me?

In addition to other post-Government employment restrictions discussed in this Legal Advisory, former “very senior” employees are subject to a two-year “cooling off” period. If you are a former “very senior” employee, section 207(d) bars you from making, with the intent to influence, communications to and appearances before the following Government officials on behalf of any other person for a period of two years after you ceased to be a “very senior” employee:

- (a) Any officer or employee of the agency (or agencies) in which you served in a “very senior” position during the one-year period before terminating your “very senior” service.
- (b) Any officer or employee of the Government in an Executive Schedule position, including individuals outside your former agency.

The additional restriction for former “very senior” employees under section 207(d) applies to a broader range of activities than either the lifetime ban or the two-year ban. (Those two restrictions are discussed in more detail in response to Question 2.) Those restrictions apply only to “particular matters involving specific parties.” The additional restriction under section 207(d) applies to any matter on which you seek official action, including a new matter that was not pending when you were in Government. The concept of a “matter” is very broad. Examples of communications seeking action on official matters include discussing broad policy options and expressing concern about regulatory changes an agency is considering.

In addition to the two-year cooling off period under section 207(d), section 207(f) bars “very senior” employees from engaging in certain activities on behalf of foreign governments or foreign political parties. This additional restriction is discussed in response to Question 20 below.

Q19. I was a “senior” or “very senior” employee in an agency that was part of a larger parent agency (e.g., the Department of the Army, for which the parent agency is the Department of Defense). Am I barred from communications and appearances before the parent agency and other sub-agencies (e.g., the Department of the Air Force)?

The answer depends on whether you were a “senior” employee or a “very senior” employee. If you were a “senior” employee, the answer also depends on the pay for your former position.

(a) Former “very senior” employees

For former “very senior” employees, the additional restrictions under section 207(d) always apply to the entire agency, including the parent agency and all components of the agency.

(b) Former “senior” employees whose pay was specified in or fixed according to the Executive Schedule and anyone appointed to the Executive Office of the President under 3 U.S.C. § 105(a)(2)(B) or 3 U.S.C. § 106(a)(1)(B)

For former “senior” employees whose pay was specified in or fixed according to the Executive Schedule and for “senior” officials in the Executive Office of the President, the additional restrictions under section 207(c) always apply to the entire agency, including the parent agency and all components of the agency.

(c) Other former “senior” employees

For other former “senior” employees the additional restrictions under section 207(c), extend to the entire agency in which they served, including the parent agency and all components of the agency, unless OGE has approved separate “agency component” designations for their agencies. All approved separate “agency component” designations are listed in Appendix B to OGE’s regulations at 5 C.F.R. Part 2641. If your agency is included in that list, the designated “agency components” are treated as separate from the parent agency and from one another for purposes of section 207(c). In that case, the additional restrictions for former “senior” employees under section 207(c) apply only to your former agency component, and not to the parent agency or other agency components.

Q20. Do any additional restrictions on former “senior” and “very senior” employees apply to me if I am working with a foreign entity, such as a foreign government or political party?

Yes. For one year from the date you terminate your service as a former “senior” employee or “very senior” employee, section 207(f) bars you from representing, aiding, or assisting a foreign government or foreign political party with the intent to influence any United States employee. It is important to note that this additional restriction under section 207(f) is not limited to communications and appearances; it also prohibits you from working behind-the-scenes to aid or advise any of these foreign entities in attempting to influence the Government.

This restriction continues for a period of one year after you ceased to be a “senior” or “very senior” employee. Additionally, unlike the other provisions of section 207, section 207(f) also prohibits you from representing, aiding, or assisting a foreign government or foreign political party in an attempt to influence any employee of the legislative branch, including Members of Congress.

Q21. Is there an exception to the additional restrictions on former “senior” and “very senior” employees that would allow me to represent a political campaign?

An exception at section 207(j)(7) may permit you to make communications or appearances on behalf of a candidate, the candidate’s committee, a national or state committee, or a political party if you meet the applicable conditions. A member of the Presidential Transition Team who otherwise satisfies the elements of the exception may also continue to communicate on behalf of the President-elect until the inauguration on January 20.

There are several conditions that must be met in order to qualify for this exception. The exception does not apply if you are acting wholly or partly on behalf of any person other than the candidate, committee, or party. The exception does not apply if you work for anyone other than the candidate, committee, or party (unless your employer represents only candidates or certain types of political entities). For this reason, the exception is unavailable to you if you work for a law firm or consulting firm that represents clients other than the types of political entities specified in the statute. Other limitations to this exception also apply. For more information on this exception, contact the Designated Agency Ethics Official for your former agency. In addition, OGE has issued an informal advisory opinion, OGE 08 x 4 (Mar. 26, 2008), that addresses this exception in more detail.

Q22. Do the additional restrictions on former “senior” and “very senior” employees apply to me if I work for a nonprofit organization or state or local government?

In most cases, the answer is yes. These restrictions normally apply without regard to the status of your employer, client, or person on behalf of whom you are acting. The statute does contain some limited exceptions to these additional restrictions for former “senior” and “very senior” employees under section 207(c) and (d), but it is important for you to understand that these exceptions are not always applicable to other restrictions under 18 U.S.C. § 207. Therefore, before you rely on an exception, you must be careful to ensure that it covers all potentially applicable provisions of section 207.

Some of the exceptions apply to employees of certain types of non-Federal employers. For example, one exception covers certain representational activities on behalf of a medical research organization or hospital that has nonprofit status under section 501(c)(3) of the tax code. Another exception covers certain representational activities on behalf of an accredited, degree-granting institution of higher education, as defined in section 101 of the Higher Education Act of 1965. A third exception covers certain representational activities on behalf of a state or local agency. However, these three exceptions apply only if you are an employee, as opposed to a consultant or contractor, of that outside entity. These three exceptions do not permit you to make contacts or appearances that would be barred by the lifetime ban under section 207(a)(1) for

matters in which you were personally involved or the two-year ban under section 207(a)(2) for matters under your official responsibility. Because the requirements for relying on these exceptions are very specific, you should consult your agency's ethics officials before relying on an exception.

Q23. Are there any other exceptions in section 207 to the additional restrictions on former "senior" and "very senior" employees?

Yes, there are additional exceptions in section 207(j) that may apply in very limited situations. Because the requirements for relying on these exceptions are very specific, you should consult your agency's ethics officials before relying on them.

Substantive Post-Employment Prohibitions Applicable to Executive Branch Employees*

18 U.S.C. § 207

Section	Employees	Length of Restriction	Brief Summary
207(a)(1)	All grades and ranks (except enlisted military)	Permanent	No former employee may knowingly make, with the intent to influence, any communication to or appearance before an employee of the U.S. on behalf of any other person (except the U.S.) in connection with a particular matter involving a specific party or parties, in which he participated personally and substantially as an employee, and in which the U.S. is a party or has a direct and substantial interest.
207(a)(2)	All grades and ranks (except enlisted military)	2 years after Government service terminates	No former employee may knowingly make, with the intent to influence, any communication to or appearance before an employee of the U.S. on behalf of any other person (except the U.S.) in connection with a particular matter involving a specific party or parties, in which the U.S. is a party or has a direct and substantial interest, and which such person knows or reasonably should know was actually pending under his official responsibility within the one-year period prior to the termination of his employment with the U.S.
207(b)	All grades and ranks (except enlisted military)	1 year after Government service terminates	No former employee may knowingly represent, aid, or advise on the basis of covered information, any other person (except the U.S.) concerning any ongoing trade or treaty negotiation in which, during his last year of Government service, he participated personally and substantially as an employee.
207(c)	“Senior”	1 year after service in a “senior” position terminates	No former “senior” employee may knowingly make, with the intent to influence, any communication to or appearance before an employee of a department or agency in which he served in any capacity during the one-year period prior to termination from “senior” service, if that communication or appearance is made on behalf of any other person (except the U.S.), in connection with any matter concerning which he seeks official action by that employee.
207(d)	“Very Senior”	2 years after service in a “very senior” position terminates	No former “very senior” employee may knowingly make, with the intent to influence, any communication to or appearance before any individual appointed to an Executive Schedule position or before any employee of a department or agency in which he served as a “very senior” employee during the two-year period prior to termination from Government service, if that communication or appearance is made on behalf of any other person (except the U.S.), in connection with any matter concerning which he seeks official action by that individual or employee.
207(f)	“Senior” “Very Senior”	1 year after service in a “senior” or “very senior” position terminates	No former “senior” employee or former “very senior” employee may knowingly, with the intent to influence a decision of an employee of a department or agency of the U.S. in carrying out his official duties, represent a foreign entity before any department or agency of the U.S. or aid or advise a foreign entity.

* This quick reference guide is only a summary. When giving advice, always consult the complete set of laws, rules, and opinions that apply to the particular situation.

A returning filer who has previously filed a report in *Integrity* may use the earlier report to “pre-populate” a new filing. Prepopulate will copy the data from the prior report into the new one.

1. Log into *Integrity* and find the report that you need to file in the “**My Current Reports**” section of the “**My Tasks**” page:

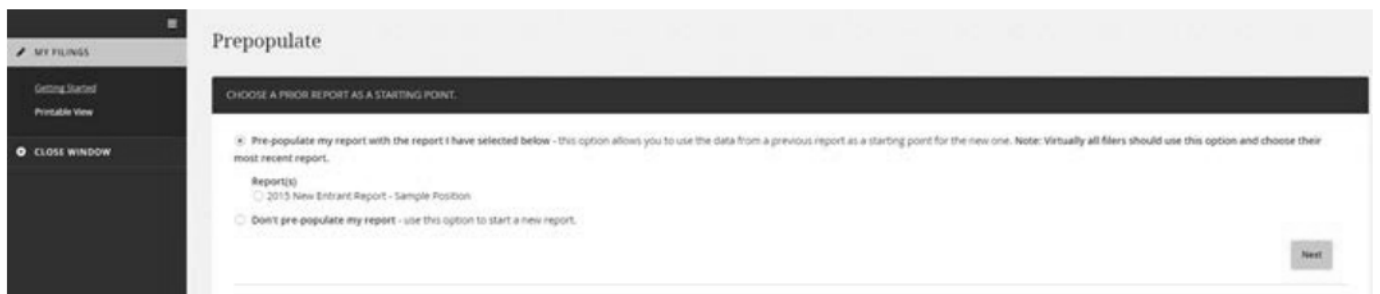


The screenshot shows the 'My Tasks' page. On the left is a navigation menu with 'MY TASKS' selected. The main content area is titled 'My Tasks' and contains a section 'MY CURRENT REPORTS'. Below this is a table with the following data:

YEAR	ITEM	TYPE	AGENCY	GROUP	POSITION	DUE DATE	STATUS	DATE FILED	ACTION
2016	Annual Report	278	Sample Agency	Nominee Demo Agency, Group 0	Sample Position	05/16/2016	Not Started		Start

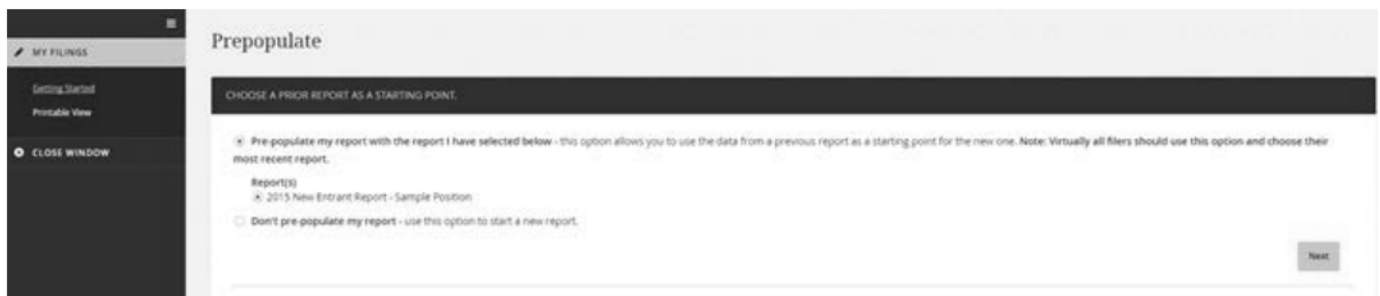
2. Select the “**Start**” button at the far right side of the page.

3. On the next page, you will see a list of prior reports that you can use to pre-populate your new report. In most cases, you should select the most recent report (e.g., your last Annual report).



The screenshot shows the 'Prepopulate' page. The left navigation menu has 'MY FILINGS' selected. The main content area is titled 'Prepopulate' and contains a section 'CHOOSE A PRIOR REPORT AS A STARTING POINT'. Below this is a list of reports with the following data:

Report(s)
<input checked="" type="radio"/> Pre-populate my report with the report I have selected below - this option allows you to use the data from a previous report as a starting point for the new one. Note: Virtually all filers should use this option and choose their most recent report.
<input type="radio"/> Don't pre-populate my report - use this option to start a new report.

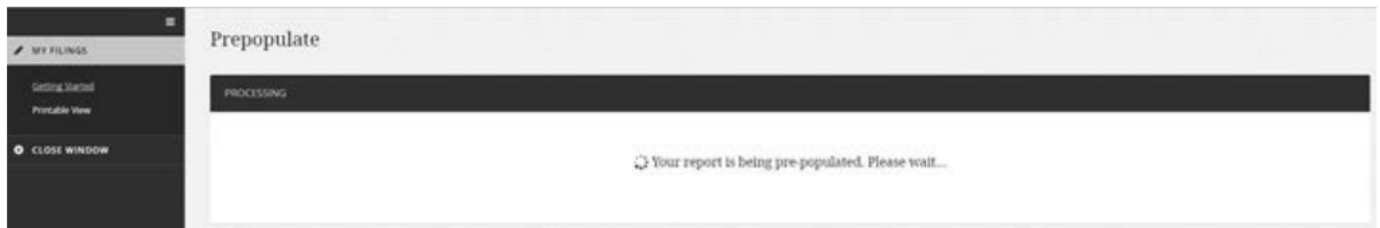


The screenshot shows the 'Prepopulate' page. The left navigation menu has 'MY FILINGS' selected. The main content area is titled 'Prepopulate' and contains a section 'CHOOSE A PRIOR REPORT AS A STARTING POINT'. Below this is a list of reports with the following data:

Report(s)
<input type="radio"/> Pre-populate my report with the report I have selected below - this option allows you to use the data from a previous report as a starting point for the new one. Note: Virtually all filers should use this option and choose their most recent report.
<input checked="" type="radio"/> Don't pre-populate my report - use this option to start a new report.

4. Select the “**Next**” button at the far right side of the page.

5. This message displays while *Integrity* pre-populates the report:



6. Once the pre-population process is complete, you will arrive at the “Getting Started” page. Complete the rest of your report as normal, changing the pre-populated information or adding new entries as needed.

Note: You will need to select **Next** and navigate through each "part" of the report before submitting. The left side menu will expand as you move through the report.

A filer may edit while moving through each part or wait until the **Report Data(Summary)** link appears. Click that to view the entire report. That view includes “Edit” action buttons to jump to a particular part to make changes.

Reference: *Integrity* User Guide, § 4.2.3. User Guide available here <https://community.max.gov/x/vQApLg>.

Note: If a filer previously registered a designee to complete the form, the filer may need to register/re-invite the designee again. The designee will likely have to reset the password.

Post-Employment Ethics Restrictions

As a Treasury employee, you are subject to certain restrictions regarding matters you may work on after you leave Government employment. Moreover, even before you leave Government, if you begin seeking non-Federal employment, you are subject to recusal requirements under a criminal statute, 18 U.S.C. § 208. While you remain a Federal employee, you must remain recused from working on matters affecting the financial interests of any future non-Federal employer. (See [Chapter 8 of the Treasury Ethics Handbook](#) for guidance on “Seeking and Negotiating for Employment”)

These post-employment restrictions are complex and technical, and this is intended only as a summary. Other rules may apply. Employees who require more specific advice concerning the applicability of these restrictions should contact a [Treasury ethics official](#).

Criminal Restrictions Applying to All Former Employees

- **Permanent Matter-specific Representational Bar** – No former employee who personally and substantially¹ participated in a particular matter involving a specific party or parties² at any time during his/her Federal employment may communicate with or appear before any Executive or Judicial branch employee on behalf of any other person with an intent to influence concerning that same matter after leaving the Government. 18 U.S.C. § 207(a)(1).
- **Two-year Representational Bar** – For two years after leaving the Government, no former employee may communicate with or appear before any Executive or Judicial branch employee on behalf of any other person concerning a particular matter involving a specific party or parties which such person knows or reasonably should know was actually pending under his/her official responsibility during the last year of his/her Federal employment. 18 U.S.C. § 207(a)(2).

¹ As used in this summary, “participate personally and substantially” means involvement in a particular matter through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise. To “participate personally” means directly, and includes the participation of a subordinate in a matter when actually directed by the employee. “Substantially” means that an employee’s involvement must be of significance to the matter, or form the basis for a reasonable appearance of such significance. It requires more than official responsibility, mere knowledge, perfunctory involvement, or involvement on an administrative or peripheral issue.

² The requirement of a particular matter involving a specific party or parties typically involves a specific proceeding involving the legal rights of the parties or an isolatable transaction, or related set of transactions, between identifiable parties. “Particular matters” include any investigation, application, request for a ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, or judicial or other proceeding. For the purposes of the restrictions in sections 207(a)(1) and (a)(2), rulemaking, legislation, and the formulation of general policy standards or objectives **are not** such “particular matters.” Therefore, with respect to both the permanent and two-year representational prohibitions noted above, a former employee may represent another person in connection with a particular matter involving a specific party, even if rules or policies which the employee had a role in establishing are involved in the proceeding.

- **One-year Trade/Treaty Negotiation Bar** – For one year after leaving the Government, no former employee who personally and substantially participated in any ongoing trade or treaty negotiation within the last year of employment **and** who gained access to information that is exempt from disclosure under the Freedom of Information Act may represent, aid or advise anyone concerning the same ongoing trade or treaty negotiation on the basis of such information. 18 U.S.C. § 207(b).

Criminal Restrictions Applying to “Senior Employees”

For purposes of the restrictions below, “senior employee” is any Presidentially-appointed, Senate-confirmed individual, or other official serving in a position listed on the Executive Schedule (5 U.S.C. §§ 5313-5316),³ or any other employee not on the General Schedule and in a position for which the basic rate of pay is equal to or greater than 86.5% of the rate for level II of the Executive Schedule (i.e., currently equal to or greater than \$176,201.00).⁴

- **Two-year Cooling-off Period for Political Appointees (e.g., PAS, PA and Non-Career SES)** – Political appointees are required to sign the President’s Ethics Pledge. Pursuant to the Pledge, political appointees in senior positions agree to abide by the post-employment restrictions in 18 U.S.C. § 207(c) for a period of two years. Specifically, for two years following service in a senior position, no former political appointee may communicate with or appear before any Treasury employee or senior White House staff, on behalf of any other person (except the United States) in connection with any matter concerning which the former employee seeks official action. 18 U.S.C. § 207(c); EO 13989, §1(4). For former Presidential appointees, this restriction applies to communications with or appearances before employees of the entire Department. For other former senior Treasury appointees, it generally is limited to their former employing bureau.⁵
 - “Senior White House staff” means any person appointed by the President to a position under sections 105(a)(2)(A) or (B) of title 3, United States Code, or by the Vice President to a position under sections 106(a)(1)(A) or (B) of title 3. EO 13989, §2(r).
- **One-year Cooling-off Period for Non-Politically Appointed Senior Employees** – For one year following service in a senior position, no former employee may communicate with or appear before any Treasury employee, on behalf of any

³ At Treasury, this generally includes all Presidential appointees other than the Secretary, who is governed by stricter rules.

⁴ This includes many (but not all) SES and SL employees.

⁵ 5 C.F.R. § 2641.302; Appendix B to 5 C.F.R. Part 2641. For former Treasury DO employees (other than former Presidential appointees), this restriction applies to communications with or appearances before Treasury DO but does not apply to the “components” listed in Appendix B to 5 C.F.R. Part 2641.

other person (except the United States) in connection with any matter concerning which the former employee seeks official action. 18 U.S.C. § 207(c). This restriction applies to a former employee’s employing bureau.⁶

- **One-year Foreign Entity Representation Bar** – For one year following service in a senior position, no former employee may represent a foreign entity (meaning a foreign government or political party) before any officer or employee of any department or agency of the United States, including Members of Congress (and Congressional staff), or aid or advise a foreign entity with the intent to influence a decision of such officer or employee. 18 U.S.C. § 207(f).

Additional Revolving Door Restrictions for Political Appointees (Ethics Pledge Signers, e.g., PAS, PA, Non-Career SES, and Schedule C appointees)

- **Appointees Leaving Government to Lobby** – For the remainder of the Biden Administration or for two years after leaving the Government (whichever is later), no former appointee may:

(1) *lobby* any “covered executive branch official” or non-career Senior Executive Service appointee. Within Treasury, “covered executive branch officials” means officials appointed by the President (whether or not confirmed by the Senate) and Schedule C employees. 2 U.S.C. § 1602(3). “Lobby” is defined by the Pledge to mean acting as a “registered lobbyist” as that term is defined under the Lobbying Disclosure Act.⁷

or

(2) engage in any activity on behalf of a foreign government or foreign political party which, were it undertaken on January 21, 2021, would require the individual to register under the Foreign Agents Registration Act of 1938, as amended (FARA). EO 13989, §1(6). Activities on behalf of a foreign government or foreign political party that would require registration under FARA include engaging, either directly or indirectly, within the United States in political activities, public relations, fundraising, or representation before federal officials. 22 U.S.C. § 611 et seq.

- **One-Year Behind-the-Scenes Lobbying-Related Restriction for Senior Employees** – For one year following service in a senior position, no former employee may provide behind-the-scenes support that *materially assists* others in engaging in *lobbying activities*. EO 13989, §1(5).
 - “Materially assist” is defined by the Pledge to mean providing substantive assistance. EO 13989, §2(h). It does not include providing background or

⁶ *Id.*

⁷ EO 13989, §§2(e), (f). The term “lobbyist” means any individual who is employed or retained by a client for financial or other compensation for services that include more than one lobbying contact, other than an individual whose lobbying activities constitute less than 20 percent of the time engaged in the services provided by such individual to that client over a 3-month period. 2 U.S.C. § 1602(10).

general education on a matter of law or policy based upon an individual's subject matter expertise, or any conduct or assistance permitted under 18 U.S.C. § 207(j) (which includes acts done in carrying out official duties on behalf of the United States or the District of Columbia or as an elected official of a State or local government).

- “Lobbying activities” is defined by the Pledge with reference to the Lobbying Disclosure Act’s definition of that term, EO 13989, §2(g), and includes “lobbying contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended, at the time it is performed, for use in contacts, and coordination with the lobbying activities of others.” 2 U.S.C. § 1602.

Additional Restrictions for All Employees

- **18 U.S.C. § 209** – If you receive an offer of a signing bonus or similar compensation (other than salary) from your future non-Federal employer, arrange receipt of such compensation for after your termination from Federal service, to avoid any potential violation of 18 U.S.C. § 209, a criminal statute on supplementation of Government salary.
- **18 U.S.C. § 203** – Certain post-employment restrictions are contained in this statute which may apply to employees who anticipate joining a partnership after leaving Government service. This statute makes it unlawful for a former Federal employee to receive, agree to receive, solicit, or share in any compensation earned for services rendered personally or by another before any Federal department or agency during the time that the former employee worked for the Government.

If, for example, an employee leaves Treasury and accepts a partner position in a law firm which has regularly represented clients before Federal agencies, suitable arrangements must be made to ensure that the former employee does not receive any compensation attributable to such representation provided by the firm while he or she was a Federal employee. In order to avoid this particular prohibition, payment of a salary generally for at least one year, instead of a grant of a usual partnership compensation arrangement, to the employee is advisable.

- **The “Procurement Integrity” Bar** – For one year after taking certain actions or serving in particular capacities in relation to the award or the administration of Treasury contracts or contract amendments in excess of \$10,000,000, former employees are barred from accepting compensation from the contractors concerned. 41 U.S.C. § 2104. Specific advice should be sought with regard to the application of this provision by those departing employees who have been involved in significant Treasury contracting activities.

- **Attorneys** – Government employees who are attorneys may be subject to additional restrictions under their applicable state bar rules.
- **Treasury Circular No. 230, 31 C.F.R. § 10.25** – Additional restrictions may apply to former employees regarding matters before the Internal Revenue Service if they worked on those IRS matters while Federal employees. An ethics official can provide a summary of these restrictions on request.

5/3/2022

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Attorney-Advisor

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Advice given on 3/15/22 in ethics database on seeking employment:

Advised Natasha on recusal requirements with respect to an offer from Yale. Also advised on acceptance of travel, lodging and meals in connection with interviewing with Yale. Reminded her that she would have to report the travel, lodging and meals on her next financial disclosure form filing.