

## Federal Advisory Committees and the Ethics Rules: An Overview



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## Federal Advisory Committees and the Ethics Rules

Presenter:

Lorraine "Rainee" Luciano  
Branch Chief, Office of Ethics  
Forestry Ethics Branch

• [Lorraine.luciano@dm.usda.gov](mailto:Lorraine.luciano@dm.usda.gov)

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## Today's Topics:

- ▶ What is an Advisory Committee
  - Purpose
  - Composition
  
- ▶ Ethics Guidance
  - Conflicts of Interest
  - Government Resources
  - Lobbying

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### WHAT IS AN ADVISORY COMMITTEE?

Committee, board, panel, or other similar group -

- ▶ Established by statute or established or utilized by either the President or an agency official
- ▶ For the purpose of obtaining advice or recommendations on "issues or policies within the scope of an agency official's responsibilities"

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### ADVISORY COMMITTEES

- ▶ Committee Charter established with mission and duties
- ▶ Fair and balanced Committee Membership
- ▶ Maintain the highest levels of honesty, integrity and ethical conduct
- ▶ Designated Federal Official (DFO)
- ▶ Open meetings, noticed in Federal Register
- ▶ Charter expires after 2 years, unless provided otherwise

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### ADVISORY COMMITTEE MEMBERS

- ▶ Designation of members as either:
  1. Regular Government Employee, or
  2. Special Government Employee, or
  3. Representative

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**A REGULAR GOVERNMENT EMPLOYEE:**

- ▶ Full-time or permanent part-time employee
- ▶ Paid a Federal salary
- ▶ **Subject to Federal employee ethics laws and rules**
- ▶ **May submit an ethics Financial Disclosure Report (depending upon position)**

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**A SPECIAL GOVERNMENT EMPLOYEE (“SGE”):**

- ▶ Performs temporary duties
- ▶ On a full-time or part-time basis
- ▶ With or without compensation
- ▶ Not to exceed 130 days for all Federal service during a 365-day period (**part of a day counts as full day**)
- ▶ **Usually a Subject Matter Expert**
  - “I” Statements (“I believe, in my expert opinion”)
- ▶ **Subject to Federal employee ethics laws and rules**

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**A “REPRESENTATIVE” :**

- ▶ Not a Federal employee
- ▶ Only represents specific interest or group (e.g. industry, consumers, labor)
- ▶ “We” statements (“We farmers believe...”)
- ▶ Representatives articulate the interests of their particular group and are not appointed primarily to provide independent expert advice.
- ▶ Represents a “particular bias”

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## Regular Government Employees and Ethical Conduct

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### Impermissible Use of Federal Government Resources

5 C.F.R. § 2635. (100s, 500s, & 700s)

- ▶ Do not use Public Service for Private Gain (unauthorized use of title or position for private personal use or endorsement of third party.)
- ▶ No Fundraising in the Federal workplace (5 C.F.R. § 950.102a)
- ▶ Getting committee staff to commit Government Resources.

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▶ An employee has the duty to protect and conserve government property and shall **NOT** use the property, or allow its use for other than authorized purposes.  
▶ (5 CFR 2635.704)

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**Impermissible**

▶ **Endorsing** any product or service

▶ Engaging in any prohibited partisan **political activity**

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**Political Activities in Federal Government Buildings or Spaces**

▶ Cannot Solicit Politically (41 C.F.R. § 101-20.3)

▶ Applies to rooms or buildings occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any Agency (5 C.F.R. §734.101)

▶ Public Areas (controlled by GSA) (5 C.F.R. §734.101)

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## Representatives and Ethical Conduct



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## Charter Rules – Conflicts of Interest

- ▶ No Committee or Subcommittee member shall participate in any “specific party matters” such as a lease, license, permit, contract, claim, grant, agreement, or related litigation with the Department in which the member has a direct or indirect financial interest.
- ▶ (i.e., matters are narrowly focused and typically involve specific transactions between identified parties)



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## Charter Rules –Conflicts of Interest cont.

- ▶ Committee or Subcommittee members **must** immediately disclose to the DFO any specific party matter in which the member’s immediate family, relatives, business partners or employer would be **directly** seeking to financially benefit from the Committee’s recommendations.
- ▶ Members of the Committee shall be required to disclose their direct or indirect interest in leases, licenses, permits, contracts, or claims that involve lands or resources administered by the Forest Service, or in any litigation related thereto.
- ▶ DFO will contact USDA’s Office of Ethics to discuss potential conflicts of interest.



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### Lobbying 18 U.S.C. § 1913

- ▶ In Your Officially Capacity (as a Board member)
- ▶ You are prohibited from engaging in "grass-roots lobbying" even if it is related to the committee's public business, this means directly or indirectly suggesting or requesting that others contact Congress or a state legislature to urge the passage or defeat of any legislation, law, ratification, policy or appropriation.
- ▶ The Anti-Lobbying Act also requires that any permissible direct communications with Congress in your official capacity as a committee member be made only through official channels.

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### Lobbying cont.

- ▶ In your **personal capacity** you may lobby members of Congress or state legislatures, or urge others to do so, on your own time in your personal capacity.
- ▶ If you lobby Congress or state legislatures in your personal capacity, and the issue is related to Committee business, you should make it clear that you are not representing your committee and not acting in your official capacity as a committee member.
- ▶ Remember: When you are lobbying as a private citizen, you are not permitted to use government resources or equipment (including, but not limited to, computers, telephones, fax machines, copy machines, stationery), or seek assistance from committee staff.

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### Federal Property Management Regulations Title 41, Code of Federal Regulations (C.F.R.), § 101-20.300

- ▶ These rules and regulations apply to all persons entering in or on such property – It is prohibited to:
  - Solicit alms,
  - Solicit Commercially or Politically,
  - Commercial Transactions,
  - Display or distribute commercial advertising,
  - Collect private debts

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### 41, C.F.R. § 101-20.3 cont.

- Posting or affixing materials, such as pamphlets, handbills, or flyers, on bulletin boards or elsewhere
- ▶ **Photographs for news, advertising, or commercial purposes.**
  - May be taken with the consent of the occupying agency concerned.
  - For news purposes – may be taken in entrances, lobbies, foyers, corridors, or auditoriums when used for public meetings.
  - For advertising and commercial purposes – may be taken only with written permission of an authorized official of the agency

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### Consequences

- ▶ Small fine and 30 days jail for violating Federal Property Regulations.
- ▶ Dismissal from Committee

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### Questions?

Lorraine "Raine" Luciano  
Branch Chief, Office of Ethics  
Forestry Ethics Branch  
▶ [Lorraine.Luciano@dm.usda.gov](mailto:Lorraine.Luciano@dm.usda.gov)  
▶ Contact info: (703) 605-0858

Stuart Bender  
Director, Office of Ethics  
▶ [Stuart.Bender@dm.usda.gov](mailto:Stuart.Bender@dm.usda.gov)  
▶ Contact Info: (202) 720- 2251

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