



PROTECT the PUBLIC'S TRUST

REQUEST FOR INVESTIGATION

August 24, 2022

TO: The Honorable Sean O'Donnell
Inspector General
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (2410T)
Washington, D.C. 20460

Justina Fugh
Director and DAEO
Office of General Counsel
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W. (2311A)
Washington, D.C. 20460

Re: Supplemental Information and Request for Investigation Pertaining to Potential Ethics Violations by Acting Associate Administrator Joseph Goffman.

Dear Mr. O'Donnell and Ms. Fugh,

On August 17, 2021, Protect the Public's Trust (PPT) filed a Complaint requesting that your office open an investigation into whether contacts between current Principal Deputy Assistant Administrator, Office of Air and Radiation, Joseph Goffman, and his former employer violated his ethics obligations. (A copy of PPT's "Request for Investigation into Ethics Violation by Acting Associate Administrator Joseph Goffman" ("Complaint") is attached).

In the ensuing year, additional information has been brought to our attention that significantly heightens our concern over the extent of Mr. Goffman's improper contacts with his former employer. For the reasons discussed below, we ask that you either begin an additional investigation taking into account this information or consider this information in your ongoing investigation.

Overview

PPT's Complaint identifies a violation by Mr. Joseph Goffman, at the time Acting Associate Administrator for the Office of Air and Radiation, involving his former employer, Harvard University. As we explained, as a political appointee Mr. Goffman is bound by the Biden



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Administration Ethics Pledge,¹ regulatory restrictions including 5 CFR § 2635.502(a)(2),² and has a covered relationship with his former employer, Harvard.³ Our Complaint focuses on Mr. Goffman's receipt of an email directly from a close colleague at Harvard requesting a meeting and his subsequent direction to a subordinate that "I think we should do this one." Upon learning of this communication with his former employer, a senior EPA ethics advisor upbraided Mr. Goffman:

"Despite this restriction, upon receiving an email from an employee of Harvard University, you did not immediately recuse. Instead, you forwarded the email to a subordinate with a recommendation that the Agency should involve itself, and your subordinate agreed.

"What should you have done instead? Upon receiving the email, you should have noted the email address of the sender and simply forwarded the email to your chief of staff and taken no other action. Now we have to unring the bell, which we will do without your knowledge or involvement."

Request at 4 (Emphasis added). However, documents recently produced to PPT in response to a Freedom of Information Act (FOIA) request reveal that there should have been even more alarm bells ringing with respect to Mr. Goffman's conduct in taking a direct role in advancing Harvard's interests at EPA.⁴

For example, on March 29, 2021, Harvard Professor Joseph Aldy emailed Mr. Goffman stating "Joe . . . let me cut to the chase. I have a favor to ask." Both Professor Aldy and Mr. Goffman worked on climate issues as senior officials in the Obama Administration and overlapped for several years of work at Harvard. Even in the unlikely event that Mr. Goffman was not personally acquainted with Professor Aldy, the Professor's affiliation with Harvard was apparent from his email address as well as from the footer on his email.

The favor requested by the Professor was that Mr. Goffman help a Harvard student (cc'd on the email) obtain information about EPA's involvement with research on natural language processing and artificial intelligence in rulemaking. Specifically, Professor Aldy asked Mr. Goffman to help the student determine whether EPA has "assessed the cost-savings and efficiencies that stem from the utilization of [natural language processing] of public comments on major regulatory proposals."⁵

¹ EO 13989. Paragraph 2 (The Revolving Door Ban – All Appointees Entering Government) of the Ethics Pledge prohibits political appointees from participating in particular matters involving specific parties that are directly and substantially related to their former employer or former clients, including regulations and contracts. This prohibition extends for a period of two years after joining the government. See, [Federal Register: Ethics Commitments by Executive Branch Personnel](#)

² 502(a)(2) requires appointees to consult with ethics officials and receive approval prior to participating personally and substantially in a matter where a reasonable person with knowledge of the relevant facts would question their impartiality. Failing to consider the appearance of bias by not consulting with agency ethics officials prior to engagement may likely be a violation of an appointee's ethics obligations. See, [eCFR :: 5 CFR 2635.502 -- Personal and business relationships](#).

³ Complaint at 2.

⁴ EPA-2021-006089, Interim Response, pdf at 1-206.

⁵ EPA-2021-006089, Interim Response, pdf at 187-189; ED_0062471_00000045-00001 through ED_0062471_00000045-00003.



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The next day, Mr. Goffman responded by email to the Harvard professor and identified two career EPA economists “as the people to connect with on this.” Both career employees were cc’d on Mr. Goffman’s email with the unmistakable implication that they were expected to assist the professor and student at Mr. Goffman’s former employer in gaining access to information at EPA.⁶

In this instance a former Harvard colleague asks him for a favor and he complies, forwarding the request with the unmistakable implication that those he sent it to were expected to assist the professor and one of his students at Mr. Goffman’s former employer in gaining access to information at EPA. Harvard is one of many schools with a Natural Language Processing (NLP) Program. Several other schools with similar programs would probably also appreciate the opportunity to have priority access to an audience at the senior ranks of a federal agency to pick their brains. Yet those schools do not appear to have Joe Goffman's email or his willingness to grant favors on a whim. Apparently, that kind of treatment is reserved for Mr. Goffman’s former employer.

Mr. Goffman’s efforts on behalf of Harvard were antithetical to the expectations of the EPA ethics official that whenever he saw an email from an employee at Harvard he would immediately recuse himself from the issue and forward the inquiry to his chief of staff. Instead, Mr. Goffman’s actions raise significant ethics concerns because he:

1. Personally responded to the request for a favor from his former employer,
2. Identified the best connections within EPA for the information requested by Harvard, and
3. Let subordinate EPA employees know that he had identified them as a resource to be called upon by his colleagues at Harvard.

Such actions are at odds with the letter and spirit of the Biden Pledge and 502(a)(2).

An alarm bell also should have rung on February 23, 2021, when Mr. Goffman, once again, went to work on behalf of his former employer. This time, he was emailed by another colleague from Harvard, Kathleen Fallon Lambert, who forwarded a letter she and another professor had submitted to a House Energy and Commerce subcommittee.⁷ In her email, Ms. Lambert stated “we would be happy to answer any questions or brief EPA officials on this work.” In a matter of hours Mr. Goffman responded, “I will inquire with colleagues here as to whether they would benefit from a briefing.”⁸ Again, rather than removing himself from a matter raised by his former employer, or at least addressing with an ethics official the appearance of favoritism

⁶ *Id.*

⁷ A communication from Ms. Lambert seeking a meeting with Mr. Goffman was the impetus for PPT’s initial Complaint about Mr. Goffman’s ongoing efforts on behalf of Harvard. *See* Complaint at 3. As noted in the Complaint, Mr. Goffman and Ms. Lambert were well acquainted with one another. *Id.* Ms. Lambert’s affiliation with Harvard was also apparent from her email address on her email of February 23, 2021.

⁸ EPA-2021-006089, Interim Response, pdf at 160; ED_0062471_00000004-00001.



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inherent in the communication before proceeding further, Mr. Goffman told his former coworker that he would take action on behalf of Harvard with his colleagues at EPA.

In all, there are emails directly between Mr. Goffman and his former Harvard colleagues comprising roughly 45 pages that were sent just between January and July of 2021.⁹ Many of these emails are so familiar in tone that they could have been written while Mr. Goffman was still at Harvard. At bottom, these communications, particularly when viewed in conjunction with the other violation identified in PPT's Complaint, lay bare Mr. Goffman's cavalier attitude toward his ethics obligations, lack of understanding (or willful disregard) of the basic premise of his obligation not to communicate with his former employer, and complete contempt for how all of this appears to the public on whose behalf he is supposed to be working.

Further, even in the instances in which the contacts referenced above occurred prior to Mr. Goffman completing his recusal statement, Mr. Goffman should have known of the restrictions that his ethics obligations placed on contacts with his former employer and its representatives. The FOIA documents PPT received from EPA indicate that Mr. Goffman completed the ethics training required of all political appointees, which is intended to provide general guidance on precisely the types of incidents at issue in this letter, on January 21, 2021, prior to any of these incidents. The FOIA documents reveal that he signed the Biden Ethics Pledge on January 23, 2021.¹⁰ These documents explain the Biden Ethics Pledge's provisions about impartiality in detail:

You must avoid even the appearance of a loss of impartiality when performing official duties. When we consider impartiality, we expand the ambit of relationships beyond the conflicts realm of "imputed interests." We consider all of your "covered relationships," which includes...any person or organization for which you have served in the last year as an officer, agent, employee...You should refrain from engaging in official acts that may be perceived as an "appearance problem" by a reasonable person (and the reasonable person is not you, but rather your ethics officials). Ethics officials can provide advice and determine whether a proposed course of action is appropriate by issuing an impartiality determination, but we cannot provide cover if you have already done the deed.¹¹

It does not appear as though Mr. Goffman consulted with ethics officials prior to engaging in any of the noted communications with and regarding Harvard officials. If any consultation with ethics officials occurred it was most certainly, as was the case in the incident that was the subject of PPT's August 2021 complaint, after he had "already done the deed."

In addition, according to Mr. Goffman, he served as Associate Assistant Administrator for Climate/Senior Counsel to the Assistant Administrator for Air and Radiation at EPA (a political appointment) for more than seven years during the Obama Administration. Therefore, Mr. Goffman should be extremely familiar with his ethics obligations and need for recusals from matters involving his former employer and others with which he has covered relationships.

⁹ See, EPA-2021-006089, Interim Response, pdf at 160-205.

¹⁰ EPA-2021-0003933 Joe Goffman OGC_Ethics Records_Redacted.pdf at 165.

¹¹ *Id.* at 142.



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Conclusion

The American public deserves to be assured that political appointees are performing their duties in an ethical, impartial manner without favoritism toward their former employers. Protect the Public's Trust therefore asks your office to begin an immediate and thorough investigation into the following issues:

1. Whether Mr. Goffman violated the Biden Ethics Pledge when he performed a "favor" for his former colleague and employer by specifically identifying two of his subordinates as contacts for internal EPA information.
2. Whether Mr. Goffman violated any other ethics regulations when he performed a "favor" for his former colleague and employer by specifically identifying two of his subordinates as contacts for internal EPA information.
3. Whether Mr. Goffman violated the Biden Ethics Pledge when he accepted his former colleague's request and agreed to inquire of his EPA associates as to whether they would benefit from a briefing from his former colleague.
4. Whether Mr. Goffman violated any other ethics regulations when he accepted his former colleague's request and agreed to inquire of his EPA associates as to whether they would benefit from a briefing from his former colleague.
5. Whether Mr. Goffman sought and received a written impartiality determination from an ethics officer in advance of any of the contacts with his former colleagues and employer discussed herein.
6. If Mr. Goffman did not receive a written impartiality determination in advance of his contacts with his former colleagues and employer, whether those contacts led to any disciplinary action.
7. Whether the totality of the circumstances demonstrated by roughly 45 pages of documents produced to Protect the Public's Trust revealing Mr. Goffman's repeated contacts with his former employer - - apparently without having first obtained an impartiality determination - - establish a loss of impartiality and/or bias in violation of the Biden Ethics Pledge or other ethics regulations.
8. Whether or not Mr. Goffman has since had contacts with his former employer, participated in any particular matters involving his former employer, or has committed another violation or attempted to violate his ethics obligations.
9. Since it appears Mr. Goffman may have had multiple encounters with his former employer that could have run afoul of his ethics obligations, whether there were other instances in which Mr. Goffman may have violated those obligations, including through inappropriate contacts with his former employer or others with which he had a covered relationship.



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Protect the Public's Trust appreciates your dutiful attention to this important issue and looks forward to the outcome of your investigation.

Sincerely,

Michael Chamberlain
Director
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