



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Washington, D.C. 20460

OFFICE OF THE
ADMINISTRATOR

MEMORANDUM

SUBJECT: Recusal Statement

FROM: Janet McCabe
Deputy Administrator

TO: Michael S. Regan
Administrator

I have previously consulted with the Office of General Counsel/Ethics (OGC/Ethics) and been advised about my ethics obligations. This memorandum formally notifies you of my continuing obligation to recuse myself from participating personally and substantially in certain matters in which I have a financial interest, or a personal or business relationship. I also understand that I have obligations pursuant to Executive Order 13989 and the Biden Ethics Pledge that I signed, as well as my own attorney bar obligations.

FINANCIAL CONFLICTS OF INTEREST

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment. I have been advised that I have no financial conflicts of interest at this time.

OBLIGATIONS UNDER EXECUTIVE ORDER 13989

Pursuant to Section 1, Paragraph 2 of the Executive Order, I understand that I am prohibited from participating in any particular matter involving specific parties in which my former employer, the **Environmental Law and Policy Center**, is a party or represents a party. I understand that my recusal will last for two years from the date that I joined federal service. This recusal will end after April 29, 2023.

The Executive Order provides more restrictions than the federal ethics rules, but I am advised by OGC/Ethics that the additional restrictions contained in the Executive Order regarding former employer do not apply to me for Indiana University. The definition of “former employer” excludes an entity of a state government, including a state university.¹ Therefore, OGC/Ethics has confirmed that I am not subject to the additional Executive Order restrictions regarding former employers for Indiana University.

I have been advised by OGC/Ethics that, for the purposes of this pledge obligation, the term “particular matters involving specific parties” is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties. I am further advised that the term “open to all interested parties” means that the meeting should include a multiplicity of parties. If, for example, there is “a meeting with five or more stakeholders regarding a given policy or piece of legislation, [then I] could attend such a meeting even if one of the stakeholders is a former employer or former client.”² Should a question arise as to whether a specific forum qualifies as “open to all interested parties,” then I will consult with OGC/Ethics.

OBLIGATIONS UNDER THE IMPARTIALITY PROVISIONS

Pursuant to the federal impartiality standards, I understand that I have a “covered relationship” with my former employer, which is a state university. Therefore, I may not participate in a particular matter involving specific parties in which **Indiana University** is a party or represents a party, unless I am authorized to participate by OGC/Ethics pursuant to 5 C.F.R. § 2635.502(d). My recusal lasts until after April 29, 2022, which is one year after I resigned from the university.

I also have a “covered relationship” with my spouse’s current employer, **Indiana Legal Services, Inc.** Although it is unlikely that either his employer or he will have any business before the EPA, I will not participate personally and substantially in any particular matter involving specific parties in which I know his employer is a party or represents a party, unless I am first authorized by OGC/Ethics to participate, pursuant to 5 C.F.R. § 2635.502(d). My recusal remains in effect for the duration of my tenure at EPA and/or my spouse’s current employment.

ATTORNEY BAR OBLIGATIONS

Pursuant to my obligations under my bar rules, I recognize that I am obliged to protect the confidences of my former clients. I also understand that I cannot participate in any matter that is the same as or substantially related to the same specific party matter that I participated in

¹ See Exec. Order 13989, Section 2(k) and Office of Government Ethics (OGE) Advisory DO-09-011 (3/26/09), which applies to Exec. Order 13989 pursuant to OGE Legal Advisories LA-21-03 (1/22/21) and LA-21-05 (2/23/21).

² See OGE Advisory DO-09-011 (3/26/09).

personally and substantially, unless my bar provides for and I first obtain informed consent and notify OGC/Ethics.

DIRECTIVE AND CONCLUSION

To avoid participating in matters from which I am recused, please direct them to the attention of **Andrea Drinkard, Special Assistant**, without my knowledge or involvement. Should these recusals have a significant impact on my ability to perform my duties, I will seek additional guidance from OGC/Ethics and will consult with them to revise my recusal statement if my circumstances change, including changes in my financial interests, my personal or business relationships, or my EPA duties, and provide a copy to you and the Ethics Office.

cc: Dan Utech, Chief of Staff
Assistant and Acting Assistant Administrators
Acting Regional Administrators
Alison Cassady, Deputy Chief of Staff for Policy
Dorien Blythers, Deputy Chief of Staff for Operations
Wesley J. Carpenter, Acting Deputy Chief of Staff
Kathleen Lance, Director of Scheduling and Advance
John Lucey, Special Assistant to the Administrator
James Payne, Designated Agency Ethics Official and Deputy General Counsel for
Environmental Media and Regional Law Offices
Justina Fugh, Alternate Designated Agency Ethics Official