

Restrictions on Lobbying the Government: Current Policy and Proposed Changes

December 15, 2016 (IN10625)

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During the 2016 presidential campaign, President-elect Donald Trump proposed [a series of ethics measures](#), including several lobbying-related provisions. They are:

- extending "cooling off" periods on lobbying the government for five years after government service;
- "instituting a five-year ban on lobbying by former Members of Congress and their staffs";
- expanding the definition of a lobbyist to cover former government officials who engage in strategic consulting; and
- issuing a "lifetime ban against senior executive branch officials lobbying on behalf of a foreign government."

President-elect Trump's ethics plan shares some features with past efforts to restrict Administration officials' future lobbying activities (the "revolving door") by adjusting "cooling off" periods—a period of time a former government official is restricted from contacting their former employer on particular matters they might have worked on in government. These previous efforts include a 1993 executive order issued by President Bill Clinton ([E.O. 12834](#)) and a 2009 executive order issued by President Barack Obama ([E.O. 13490](#)), and the [Honest Leadership and Open Government Act](#) (HLOGA) of 2007. The executive orders supplemented existing statutory revolving door and "cooling off" period requirements.

Executive Branch Post-Employment Restrictions

Several laws govern the movement of federal employees from the government to the private sector and vice versa. Most prominently, [18 U.S.C. §207](#) provides a series of post-employment restrictions on "representational" activities for executive branch personnel when they leave government service, including

- a lifetime ban on "switching sides" on a matter involving specific parties on which any executive branch employee had worked personally and substantially while with the government;
- a two-year ban on "switching sides" on a somewhat broader range of matters which were under the employee's official responsibility;
- a one-year restriction on assisting others on certain trade or treaty negotiations;

- a one-year "cooling off" period for certain "senior" officials, barring representational communications before their former departments or agencies;
- a two-year "cooling off" period for "very senior" officials, barring representational communications to and attempts to influence certain other high-ranking officials in the entire executive branch of government; and
- a one-year ban on certain officials in performing some representational or advisory activities for foreign governments or foreign political parties.

In addition to these statutory provisions, as mentioned above, President Barack Obama issued an executive order ([E.O. 13490](#)) that banned executive branch employees from accepting gifts from registered lobbyists; restricted for two years executive branch appointees—including former lobbyists—from participating in "particular matters" involving subjects related to former clients or employers; and restricted former Administration officials from contacting back agencies for two years pursuant to [18 U.S.C. §207\(c\)](#) or from lobbying "any covered executive branch official or non-career Senior Executive Service appointees for the remainder of the administration." Officials covered by President Obama's executive order signed an [ethics pledge](#) agreeing to the restrictions. [Waivers](#) are available from the Office of Management and Budget (OMB). Similar restrictions were included in President Clinton's executive order ([E.O. 12834](#)).

Legislative Branch Post-Employment Restrictions

Post-employment restrictions are applied differently by the House and Senate. In the House, former Members and senior staff are subject to a one-year "cooling off" period, during which they cannot make lobbying contact with Representatives, Senators, or congressional staff. In the Senate, a two-year ban on lobbying is in place. During this time, former Senators cannot lobby anyone in Congress or legislative branch employees. For senior Senate staff, a one-year "cooling off" period is in place. Further, pursuant to [House](#) and [Senate](#) rules, former Representatives and Senators, who generally enjoy the privilege of admission to the floor of the House or Senate, respectively, are restricted if they are a registered lobbyist under the [Lobbying Disclosure Act](#) (LDA) or the [Foreign Agent Registration Act](#) (FARA).

Potential Options to Change Lobbying Restrictions

Several options potentially exist should the White House or Congress wish to alter existing post-employment restrictions on government employees. These include making changes to existing law or using executive orders to alter statutory "cooling off" periods, a ban on holding certain types of post-employment positions, and restrictions on the activities of lobbyists in the presidential transition.

Alter Statutory "Cooling Off" Periods

Pursuant to [18 U.S.C. §207](#), a one-year or two-year "cooling off" period exists prohibiting senior officials and "very senior" officials from lobbying their former departments. Should changes to the length of "cooling off" periods for contact "with the intent to influence" be desired, the duration could potentially be decreased or increased statutorily or by executive order. As discussed above, President-elect Trump has proposed increasing current "cooling off" periods to [five years](#). Additionally, [legislative](#) proposals have previously been introduced, but not passed into law, to extend "cooling off" periods for former Members of Congress. Extensions of "cooling off" periods by executive order, however, have occurred previously (see [Executive Order 12834](#)).

Ban on Certain Types of Post-Employment Positions

Current proposals also suggest a ban on lobbying for former government officials. Two laws may be particularly relevant—the [LDA](#) and [FARA](#). These acts require the [registration and disclosure](#) of certain influence activities for a carefully defined group with the [Clerk of the House of Representatives](#) and [Secretary of the Senate](#) (for LDA) or the [Department of Justice](#) (for FARA). Current "cooling off" periods do restrict former officials from engaging in some activities, even if they are not prohibited from accepting lobbying positions.

Restricting Lobbyists on the Presidential Transition

Recently, [legislation](#) was introduced that would amend the Presidential Transition Act of 1963 ([3 U.S.C. §102 note](#)) to prohibit the Administrator of the General Services Administration (GSA) from paying for "services or facilities

provided by a person who is registered under the Lobbying Disclosure Act (LDA) of 1995 ([2 U.S.C. §§1601-1614](#)).¹ If enacted, such a restriction would likely prohibit the inclusion of registered lobbyists from being paid by GSA for [transition services](#).

Proponents of restricting government-lobbyist interactions assert a need to [reduce outside influence](#) on government decisionmaking. Others argue that [government-lobbyist interactions are essential](#) for the exchange of information and ideas.