

Synopsis:

A brief look at “ethics” rules applicable to Representatives.



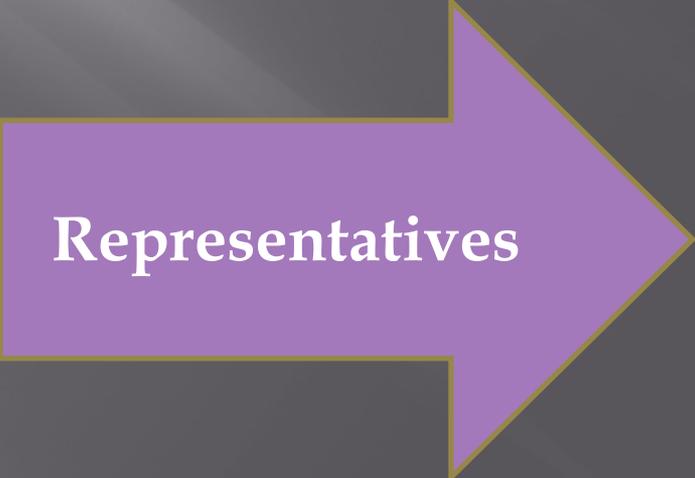
Background

In 1972, Congress passed the Federal Advisory Committee Act (FACA) to provide an orderly procedure for Federal agencies to use in seeking the advice, assistance, and input of persons outside of Government.

FACA gave rise to the use of special Government employees (SGEs) [18 U.S.C. § 202) and Representatives.



**Special
Government
Employees**



Representatives

Special Government Employees

Special Government employees are those officers or employees who are retained, designated, appointed, or employed by Government to perform temporary duties, with or without compensation, for not more than 130 days, during any 365 consecutive days.



Representatives

□ Representatives are individuals who are specifically appointed to an advisory committee/council to provide the committee with points of views of nongovernmental entities or of a recognizable group of persons, e.g., industry sector, labor unions, or environmental groups, that have interests in the subject matter under a committee's/council's charge.

□ Representatives serve as the voice of groups of entities with a financial or other stake in a particular matter before an advisory committee.



Special Government Employees

1. Are there unique rules that apply to FACA members? Yes.

Representatives

Special Government Employees

2. Is a representative treated as a Federal employee? No.

Representatives

Special Government Employees

3. What ethics rules apply to Federal employees?

Representatives



Federal ethics rules applicable to Federal employees include the following:

- 14 General Ethical Principles
- The Standards of Ethical Conduct for Employees of the Executive Branch
- Criminal Conflict of Interest Laws (18 U.S.C. §§ 201-209)

Question: Do these laws and principles apply to FACA members serving as representatives?

No. Federal ethics rules do not apply to FACA members serving as representatives.

What rules do apply, if any?



Generally speaking, a FACA member may acquire and retain an interest through a license or permit in land or resources administered by the Bureau of Land Management.

Rule: A FACA member may not participate in any advice or recommendation concerning a license or permit in which such a member has a direct or indirect interest.

This means that a FACA member, including a **representative** may not provide advice or a recommendation regarding a license or permit in connection with:

Direct Interests

- His/her own interest in Federal land
- His/her membership or employment by a business with an interest in Federal lands
- Stock ownership or other securities in corporations with an interest in Federal lands.
- A right to occupy, use or benefit there from based on contract, grant, lease, permit, or agreement or application.

In-direct Interests

- Ownership/partial ownership of an interest in Federal land, even if held in the name of another, e.g., holdings in land, mineral rights, grazing rights, or livestock which in any manner involve substantial use of Federal lands or resources.
- Substantial holdings of a spouse or child.

Test your knowledge.

1. Rosita, a newly appointed Representative has been asked to provide a recommendation concerning a proposed land use in Colorado Springs, Colorado. She owns a 5% partnership interest in the company that possesses a right-of-way interest on the land in question. Can she provide a recommendation to the FACA committee she serves?
2. Doug serves on the FACA council as a representative and works for multi-national corporation. The corporation is a large concessionaire with revenue in excess of \$4 million annually. (The corporation leases land from the BLM for its operations.) Is it permissible for Doug to participate in discussions regarding lease increases for concessionaires?



No.



No.

The End

1. Slides 1-3, Adapted from the Office of Government Ethics, Daeogram, DO-05-012, August 18, 2005

2. Slides 4-5, Subpart D, 43 C.F.R. § 20.401, et. al., Interests in Federal lands.

Questions may be directed to your servicing ethics advisor, using the following contact list: (Double-click on the listing and it will expand.)

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