

Six Steps To a Better Relationship With Your Senior Staff



Panelists:

Joan Bardee, Department of Education
Steve Epstein, Department of Defense
Wendy Hocking, United States Postal Service

**March 2003
OGE Conference**

Tip No. 1

Setting the Stage: Bringing New People on Board

- A. Initial contact: *First impressions count!* Make the most of the very first time that an ethics person talks with a nominee or other senior officer. Ideally, the DAEO or Alternate DAEO should call the nominee personally – even if he or she will not be reviewing his or her paperwork. This sets the tone, and especially at the beginning of an Administration, will often provide the nominee with the first contact with a career employee at your agency.
- B. Use this very first contact to explain the nomination and confirmation process to the nominee – provide practical information on what happens and when -- you will probably be the first person to take the time to explain the steps prior to nomination and confirmation. Explain the role that OGE and the White House Counsel play.
- C. Explain in this initial discussion exactly what services your ethics office provides – advice and counseling, financial disclosure, training, and any others relevant to your agency.
- D. Consider providing your nominees with written introduction and guidance tailored specifically for nominees (see sample guidance used by the Department of Education).
- E. Explain rationale for the 278 and ethics agreement, and commiserate where appropriate. Emphasize the importance of the ethics agreement.
- F. Be ready to provide the nominee with answers (or referrals) for non-ethics related issues – pay, parking, benefits, etc. Nominees may be reluctant to ask the White House or other senior Administration officials some of these questions, and will appreciate getting referred to the proper personnel.
- G. Keep the nominee informed on any developments in his or her nomination/confirmation: for example, notify the nominee when he or she is nominated – sometimes the nominee is the last to know.
- H. Offer to review the Senate Questionnaire to ensure consistency with the 278 (be ready to advise nominee on where to find a notary).
- I. DAEO and Alternate should meet with nominee prior to, or immediately after, confirmation to provide initial ethics orientation training (more on this in Tip No. 5).

Tip No. 2

Initial and Annual Ethics Training for Senior Officials

- A. Conduct initial ethics training for senior officials in one-on-one or two-on-one briefings whenever possible (DAEO and official, or DAEO, Alternate DAEO, and official). First meeting should be helpful, not adversarial and tension-filled.
- B. Opportunity to build a relationship. Opportunity to show how your assistance will help the agency and maybe save his/her you-know-what.

- C. Opportunity to informally identify ethical threats facing the client. Opportunity to convey views of the organization head on ethics matters (or, if this IS the organization head, to *ascertain* views!).
- D. Include the DAEO in both initial and annual training sessions with senior officials. Conveys the importance of the information and confirms that it is a priority for the agency.
- E. Take the opportunity during initial and subsequent ethics briefing sessions to explain – and, better yet, demonstrate – how:
 - the work you and other ethics officials do supports the senior official in conducting his or her important work.
 - simple appearance issues, if not considered or addressed, can become mountains even if they start off as molehills.
 - the senior official’s public and frequent acknowledgment of the ethics program as both valuable and important will positively impact the work force.
 - you really are there to HELP, even when you must say no.
- F. Address seeking and post-employment issues that may later be important.

Tip No. 3

Getting Access to Senior Leadership: How to Get Senior Officials to Listen to You and Take You Seriously

- A. Advice is best before decisions are made and action taken. However, you can’t provide advice in advance if you aren’t part of the process.
- B. **Be an Insider!** Become part of planning apparatus. Become an essential part of planning meetings, strategy sessions, brainstorming meetings. Remember that you offer a unique competence that others don’t. You are needed to spot legal/ethical issues that managers and other specialists may not see. Ensure your presence adds value to the meeting.
- C. Gain confidence and respect of aide, executive assistant, secretary, public affairs officer, protocol chief, scheduler, etc. Show them how you can make their jobs easier -- provide guidelines, checklists, training programs that are tailored to their duties. (Through the staff in the immediate office of the agency head, your words will be heard.)
- D. Practice those traits that are critical to your role:
 - Candor
 - Disclose all sides of the argument, not just your position
 - Disclose all applicable authority
 - Accessibility
 - Responsiveness
 - Confidentiality
 - Precision
 - Courage
 - Integrity

- E. Assist your senior officer in accomplishing your agency's mission. (Be a problem solver rather than a nay-sayer):
- Use your unique expertise, experience, training, and perspective to facilitate accomplishment of the agency's mission.
 - Remember, you're the most qualified to spot issues.
 - Be a team player.
 - Consider more than just the strictly legal issues at stake (for example: don't ignore decisions that may cause others to challenge the senior officer's or your agency's judgment; Hotline complaints; IG investigations; adverse media attention; Congressional intervention, adverse impact on reputation and integrity of boss and agency).
 - Identify the legal factors as separate from matters of prudence.
 - Explain your advice in terms of cost-benefit to the agency: benefits of following advice and the costs of not following it. This is especially effective if the official is a risk taker and will use this same analysis to weigh your advice.
 - Be creative. (Look for remedies in addition to legal "fixes.")
- F. Get into the mainstream of agency business. Know what is happening.
- Be included in meetings and planning sessions.
 - Be included on routing of agency documents, schedules of meetings for agency leadership, your official's daily calendar, correspondence, daily reports from public affairs office, close of business reports, etc.
 - Get out of your office and rub elbows: Join agency bowling, golf, and softball teams. Use health club or gym. Walk the halls.
 - Do "in person" training.
- G. Drag in the Dead Bodies -- real examples from media, prosecutions, or (better yet) within your agency. Include examples in training, mini-briefings, employee newsletters, agency intranet.
- Key concept to convey to personnel: You don't have to be evil to screw up. Many regulations and statutes are not well known, are counter-intuitive, and have been violated in the past. People violate them unintentionally and unwittingly. (e.g.: 18 U.S.C. 205, 18 U.S.C. 207(a)(2)).
- H. Provide opinions in writing.
- Puts decision-maker on notice that you're serious. (No wiggle room, no plausible deniability, no "He/She didn't tell me" defense.)
 - Issue/situation is important enough that ethics counselor took time to write the opinion, thereby making a record of it.

Tip No. 4

Getting Senior Officers to Model Ethical Behavior

- A. Try to convince your senior officer that there is more to ethical behavior than just following the Standards of Ethical Conduct. Provide a rationale to senior management on why they should model ethical behavior: research shows that, in the absence of information, most employees believe that management is – at best - ethically neutral. Therefore, managers must affirmatively demonstrate ethical behavior or risk the appearance that they do not follow the rules.

- B. Explain that ethical leadership increases employee morale and productivity. It can also enhance the public's view of the agency, and the government in general.
- C. Provide examples to senior officers on how to model ethical behavior in ways that make sense in your agency. Possible activities by senior officer:
 - Write ethics article for employee newsletter.
 - "Guest host" ethics training, or attend session with staff and actively participate.
 - Mention ethical considerations when making decisions. "I know the law permits us to do that – but it just feels wrong."
 - Suggest to his or her staff members that they contact the ethics office when certain situations arise – going away parties, hiring, post employment, etc.
 - Send a message to staff after he or she has completed ethics training or filed financial disclosure report.
 - Reward ethical behavior – cash awards, recognition, etc.

Tip No. 5

Substantive Issues Applicable to Senior Officers

- A. **Spouses/Significant Others:** Husbands, wives, girlfriends, boyfriends, and sometimes children of senior officials will at times figure into a variety of ethical conduct issues.
 - *Travel situations.* Relatives or significant others may need to be authorized in order to accompany the senior official on official agency business. Even if authorized, this person's expenses may not be covered by the agency. Cover this point with the official and his or her staff BEFORE the trip. [It's good to be "in" with the official's advance team!]
 - *Conflicts of interest.* Carefully cover with the senior official the ways in which conflicts involving family members can unintentionally arise. Examples: stock acquisitions via day-trading by spouse; minor child's inheritance from a grandparent; spouse becomes employed, etc.
- B. **Friends and former colleagues:** Impartiality and Misuse of Position (authority, time, and property) issues, among others, may arise in connection with the relatives, friends, acquaintances, and former colleagues of senior officials. Address these issues with senior officials early and often.
 - "Friends" will come out of the woodwork for many newly-appointed senior officials, and many of them will want "face time" to further their own interests (even if this motive is couched in other terms).
 - Encourage the "but for" rule: "But for" my personal or previous business relationship with this person, would I meet with him/her on the proposed matter? If no, follow SOP for dealing with the request for a meeting.
 - A simple "let's catch up" lunch may end up as business meetings, despite the official's intentions. Make sure the official knows when to pick up the bill, and when it may be best to decline an ostensibly "social only" invitation.
- C. **Welcoming and farewell receptions:** These can be very tricky, whether they are hosted by the agency or someone on the outside.
 - *Outside entities* that wish to sponsor or host such receptions may be prohibited sources. Even if they aren't, appearance issues may pose serious PR problems.

- *Agency-hosted* events that involve questionable use of government funds are PR nightmares, at best. At worst, ethics violations may abound. Make sure you are in the loop when such events are in the planning stages.

D. ***Executive perks and amenities.*** Senior officials who have come from the private sector are especially vulnerable, not surprisingly, to expecting amenities that are rarely available to public sector officials. Even career employees who have been promoted to senior positions have misconceptions about what the “executive perks” are or should be.

- Cars and/or drivers ARE available to some senior officials – for OFFICIAL AGENCY BUSINESS ONLY. This is a difficult concept for those used to having a driver or business vehicle 24/7. The 40-day mandatory suspension for unauthorized use can be an effective educational tool (see 31 U.S.C. 1344).
- Assistants who run personal errands (drycleaning, pharmacy, ferrying kids/spouse, etc.) are, for now, a thing of the past. Include in initial ethics briefings specific discussion of the difference between business courtesies and amenities that are customary in the private sector, and their limited availability to officials in the public sector. Promote appropriate expectations.
- While some of the anticipated “amenities” may be available to select senior officials, all will benefit from knowing where the lines are drawn. Tell them.

E. ***Endorsements and Fundraising.***

- Private businesses and others solicit statements from senior officials that can be used for marketing and advertising purposes (though the purpose may not be stated clearly). Offer to be a clearinghouse for such statements, and/or work on them with senior officials’ staff members.
- Charitable organizations sometimes ask senior officials to assist in fundraising efforts: appearing at events, donating agency funds or services, providing personalized or valuable items for auction, etc. Unless such assistance is authorized by statute, or done entirely in the official’s personal capacity (among other criteria, 5 C.F.R. 2635.808 and 5 C.F.R. 950), participation in such efforts is inadvisable. Create a draft response that can be used by officials in response to such requests.

Tip No. 6

Keeping Your Agency and Your Senior Officer Out of Trouble

- A. Identify greatest ethical threats to your client – Where are you the most vulnerable?
- Common problems (e.g., gifts, travel, contracts, contractor personnel in the workplace, use of agency assets, issues arising from spouses’ activities)
 - Particularly sensitive or explosive issues (e.g., downloading porn at work)
 - Cowboys (people who think the rules don’t apply to them and those who play fast and loose.)
- B. Directly address and try to reduce such ethics threats – Take a preemptive strike.
- Focus your ethics training sessions.
 - Provide information papers on appropriate threats.
 - Give special briefings to affected personnel.
 - Provide guidebooks and materials.
 - Build agency awareness through internal communications: agency intranet, newsletters, email and other communications and publications.