of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3901 of Title 22 and Tables.

PRIOR PROVISIONS

A prior section 205, act June 25, 1948, ch. 645, 62 Stat. 692, related to the acceptance by a Member of Congress of anything of value to influence him, prior to the general amendment of this chapter by Pub. L. 87–849 and is substantially covered by revised section 201.

Provisions similar to those comprising this section were contained in section 283 of this title prior to the repeal of such section and the general amendment of this chapter by Pub. L. 87–849.

AMENDMENTS

2002—Subsec. (d)(1)(B). Pub. L. 107–273 substituted ''group's'' for ''groups's''.

1996—Subsec. (d). Pub. L. 104–177, § 2(a), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: ''Nothing in subsection (a) or (b) prevents an officer or employee, if not inconsistent with the faithful performance of his duties, from acting without compensation as agent or attorney for, or otherwise representing, any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings.''

Subsec. (i). Pub. L. 104–177, § 2(b), added subsec. (i).

1990—Subsec. (a)(2). Pub. L. 101–280, § 5(c)(1), substituted ''civil'' for ''any civil''.

Subsec. (b)(2). Pub. L. 101–280, § 5(c)(2), substituted ''commission'' for ''any commission''.

1989—Pub. L. 101–194 amended section generally, revising and restating as subsecs. (a) to (h) provisions formerly consisting of eight undesignated pars.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87–849, set out as a note under section 201 of this title.

DELEGATION OF AUTHORITY

Authority of President under subsec. (e) of this section to grant exemptions or approvals to individuals delegated to agency heads, see section 401 of Ex. Ord. No. 12674, Apr. 12, 1989, 54 F.R. 15159, as amended, set out as a note under section 7301 of Title 5, Government Organization and Employees.

Authority of President under subsec. (e) of this section to grant exemptions or approvals for Presidential appointees to committees, commissions, boards, or similar groups established by the President, and for individuals appointed pursuant to sections 105 and 107(a) of Title 3, The President, delegated to Counsel to President, see section 402 of Ex Ord. No. 12674, Apr. 12, 1989, 54 F.R. 15159, as amended, set out as a note under section 7301 of Title 5.

EXEMPTIONS

Exemptions from former section 283 of this title deemed to be exemptions from this section, see section 2 of Pub. L. 87–849, set out as a note under section 203 of this title.

§ 206. Exemption of retired officers of the uniformed services

Sections 203 and 205 of this title shall not apply to a retired officer of the uniformed services of the United States while not on active duty and not otherwise an officer or employee of the United States, or to any person specially excepted by Act of Congress.

(Added Pub. L. 87–849, § 1(a), Oct. 23, 1962, 76 Stat. 1123.)

PRIOR PROVISIONS

A prior section 206, act June 25, 1948, ch. 645, 62 Stat. 692, related to an offer to a judge or judicial officer to influence him, prior to the general amendment of this chapter by Pub. L. 87–849 and is substantially covered by revised section 201.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87–849, set out as a note under section 201 of this title.

§ 207. Restrictions on former officers, employees, and elected officials of the executive and legislative branches

(a) RESTRICTIONS ON ALL OFFICERS AND EMPLOYEES OF THE EXECUTIVE BRANCH AND CERTAIN OTHER AGENCIES.—

(1) PERMANENT RESTRICTIONS ON REPRESENTATION ON PARTICULAR MATTERS.—Any person who is an officer or employee (including any special Government employee) of the executive branch of the United States (including any independent agency of the United States), or of the District of Columbia, and who, after the termination of his or her service or employment with the United States or the District of Columbia, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, on behalf of any other person (except the United States or the District of Columbia) in connection with a particular matter—

(A) in which the United States or the District of Columbia is a party or has a direct and substantial interest,

(B) in which the person participated personally and substantially as such officer or employee, and

(C) which involved a specific party or specific parties at the time of such participation,

shall be punished as provided in section 216 of this title.

(2) TWO-YEAR RESTRICTIONS CONCERNING PARTICULAR MATTERS UNDER OFFICIAL RESPONSIBILITY.—Any person subject to the restrictions contained in paragraph (1) who, within 2 years after the termination of his or her service or employment with the United States or the District of Columbia, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of any department, agency, court, or court-martial of the United States or the District of Columbia, on behalf of any other person (except the United States or the District of Columbia), in connection with a particular matter—

(A) in which the United States or the District of Columbia is a party or has a direct and substantial interest,

(B) which such person knows or reasonably should know was actually pending under his or her official responsibility as such officer or employee within a period of 1 year before the termination of his or her service or employment with the United States or the District of Columbia, and

(C) which involved a specific party or specific parties at the time it was so pending,

shall be punished as provided in section 216 of this title.

(3) CLARIFICATION OF RESTRICTIONS.—The restrictions contained in paragraphs (1) and (2) shall apply—

(A) in the case of an officer or employee of the executive branch of the United States (including any independent agency), only with respect to communications to or appearances before any officer or employee of any department, agency, court, or court-martial of the United States on behalf of any other person (except the United States), and only with respect to a matter in which the United States is a party or has a direct and substantial interest; and

(B) in the case of an officer or employee of the District of Columbia, only with respect to communications to or appearances before any officer or employee of any department, agency, or court of the District of Columbia on behalf of any other person (except the District of Columbia), and only with respect to a matter in which the District of Columbia is a party or has a direct and substantial interest.

(b) ONE-YEAR RESTRICTIONS ON AIDING OR ADVISING.—

(1) IN GENERAL.—Any person who is a former officer or employee of the executive branch of the United States (including any independent agency) and is subject to the restrictions contained in subsection (a)(1), or any person who is a former officer or employee of the legislative branch or a former Member of Congress, who personally and substantially participated in any ongoing trade or treaty negotiation on behalf of the United States within the 1-year period preceding the date on which his or her service or employment with the United States terminated, and who had access to information concerning such trade or treaty negotiation which is exempt from disclosure under section 552 of title 5, which is so designated by the appropriate department or agency, and which the person knew or should have known was so designated, shall not, on the basis of that information, knowingly represent, aid, or advise any other person (except the United States) concerning such ongoing trade or treaty negotiation for a period of 1 year after his or her service or employment with the United States terminates. Any person who violates this subsection shall be punished as provided in section 216 of this title.

(2) DEFINITION.—For purposes of this paragraph—

(A) the term ''trade negotiation'' means negotiations which the President determines to undertake to enter into a trade agreement pursuant to section 1102 of the Omnibus Trade and Competitiveness Act of 1988, and does not include any action taken before that determination is made; and

(B) the term ''treaty'' means an international agreement made by the President that requires the advice and consent of the Senate.

(c) ONE-YEAR RESTRICTIONS ON CERTAIN SENIOR PERSONNEL OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES.—

(1) RESTRICTIONS.—In addition to the restrictions set forth in subsections (a) and (b), any person who is an officer or employee (including any special Government employee) of the executive branch of the United States (including an independent agency), who is referred to in paragraph (2), and who, within 1 year after the termination of his or her service or employment as such officer or employee, knowingly makes, with the intent to influence, any communication to or appearance before any officer or employee of the department or agency in which such person served within 1 year before such termination, on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of such department or agency, shall be punished as provided in section 216 of this title.

(2) PERSONS TO WHOM RESTRICTIONS APPLY.—(A) Paragraph (1) shall apply to a person (other than a person subject to the restrictions of subsection (d))—

(i) employed at a rate of pay specified in or fixed according to subchapter II of chapter 53 of title 5,

(ii) employed in a position which is not referred to in clause (i) and for which that person is paid at a rate of basic pay which is equal to or greater than 86.5 percent of the rate of basic pay for level II of the Executive Schedule, or, for a period of 2 years following the enactment of the National Defense Authorization Act for Fiscal Year 2004, a person who, on the day prior to the enactment of that Act, was employed in a position which is not referred to in clause (i) and for which the rate of basic pay, exclusive of any locality-based pay adjustment under section 5304 or section 5304a of title 5, was equal to or greater than the rate of basic pay payable for level 5 of the Senior Executive Service on the day prior to the enactment of that Act,

(iii) appointed by the President to a position under section 105(a)(2)(B) of title 3 or by the Vice President to a position under section 106(a)(1)(B) of title 3,

(iv) employed in a position which is held by an active duty commissioned officer of the uniformed services who is serving in a grade or rank for which the pay grade (as specified in section 201 of title 37) is pay grade O–7 or above; or

(v) assigned from a private sector organization to an agency under chapter 37 of title 5.

(B) Paragraph (1) shall not apply to a special Government employee who serves less than 60 days in the 1-year period before his or her service or employment as such employee terminates.

(C) At the request of a department or agency, the Director of the Office of Government Ethics may waive the restrictions contained in paragraph (1) with respect to any position, or category of positions, referred to in clause (ii) or (iv) of subparagraph (A), in such department or agency if the Director determines that—

(i) the imposition of the restrictions with respect to such position or positions would create an undue hardship on the department

or agency in obtaining qualified personnel to fill such position or positions, and

(ii) granting the waiver would not create the potential for use of undue influence or unfair advantage.

(3) MEMBERS OF THE INDEPENDENT PAYMENT ADVISORY BOARD.—

(A) IN GENERAL.—Paragraph (1) shall apply to a member of the Independent Payment Advisory Board under section 1899A.[1]

(B) AGENCIES AND CONGRESS.—For purposes of paragraph (1), the agency in which the individual described in subparagraph (A) served shall be considered to be the Independent Payment Advisory Board, the Department of Health and Human Services, and the relevant committees of jurisdiction of Congress, including the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate.

(d) RESTRICTIONS ON VERY SENIOR PERSONNEL OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES.—

(1) RESTRICTIONS.—In addition to the restrictions set forth in subsections (a) and (b), any person who—

(A) serves in the position of Vice President of the United States,

(B) is employed in a position in the executive branch of the United States (including any independent agency) at a rate of pay payable for level I of the Executive Schedule or employed in a position in the Executive Office of the President at a rate of pay payable for level II of the Executive Schedule, or

(C) is appointed by the President to a position under section 105(a)(2)(A) of title 3 or by the Vice President to a position under section 106(a)(1)(A) of title 3,

and who, within 2 years after the termination of that person's service in that position, knowingly makes, with the intent to influence, any communication to or appearance before any person described in paragraph (2), on behalf of any other person (except the United States), in connection with any matter on which such person seeks official action by any officer or employee of the executive branch of the United States, shall be punished as provided in section 216 of this title.

(2) PERSONS WHO MAY NOT BE CONTACTED.—The persons referred to in paragraph (1) with respect to appearances or communications by a person in a position described in subparagraph (A), (B), or (C) of paragraph (1) are—

(A) any officer or employee of any department or agency in which such person served in such position within a period of 1 year before such person's service or employment with the United States Government terminated, and

(B) any person appointed to a position in the executive branch which is listed in section 5312, 5313, 5314, 5315, or 5316 of title 5.

(e) RESTRICTIONS ON MEMBERS OF CONGRESS AND OFFICERS AND EMPLOYEES OF THE LEGISLATIVE BRANCH.—

(1) MEMBERS OF CONGRESS AND ELECTED OFFICERS OF THE HOUSE.—

(A) SENATORS.—Any person who is a Senator and who, within 2 years after that person leaves office, knowingly makes, with the intent to influence, any communication to or appearance before any Member, officer, or employee of either House of Congress or any employee of any other legislative office of the Congress, on behalf of any other person (except the United States) in connection with any matter on which such former Senator seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

(B) MEMBERS AND OFFICERS OF THE HOUSE OF REPRESENTATIVES.—(i) Any person who is a Member of the House of Representatives or an elected officer of the House of Representatives and who, within 1 year after that person leaves office, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in clause (ii) or (iii), on behalf of any other person (except the United States) in connection with any matter on which such former Member of Congress or elected officer seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

(ii) The persons referred to in clause (i) with respect to appearances or communications by a former Member of the House of Representatives are any Member, officer, or employee of either House of Congress and any employee of any other legislative office of the Congress.

(iii) The persons referred to in clause (i) with respect to appearances or communications by a former elected officer are any Member, officer, or employee of the House of Representatives.

(2) OFFICERS AND STAFF OF THE SENATE.—Any person who is an elected officer of the Senate, or an employee of the Senate to whom paragraph (7)(A) applies, and who, within 1 year after that person leaves office or employment, knowingly makes, with the intent to influence, any communication to or appearance before any Senator or any officer or employee of the Senate, on behalf of any other person (except the United States) in connection with any matter on which such former elected officer or former employee seeks action by a Senator or an officer or employee of the Senate, in his or her official capacity, shall be punished as provided in section 216 of this title.

(3) PERSONAL STAFF.—(A) Any person who is an employee of a Member of the House of Representatives to whom paragraph (7)(A) applies and who, within 1 year after the termination of that employment, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in con-

[1] See References in Text note below.

nection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a person who is a former employee are the following:

(i) the Member of the House of Representatives for whom that person was an employee; and

(ii) any employee of that Member of the House of Representatives.

(4) COMMITTEE STAFF.—Any person who is an employee of a committee of the House of Representatives, or an employee of a joint committee of the Congress whose pay is disbursed by the Clerk of the House of Representatives, to whom paragraph (7)(A) applies and who, within 1 year after the termination of that person's employment on such committee or joint committee (as the case may be), knowingly makes, with the intent to influence, any communication to or appearance before any person who is a Member or an employee of that committee or joint committee (as the case may be) or who was a Member of the committee or joint committee (as the case may be) in the year immediately prior to the termination of such person's employment by the committee or joint committee (as the case may be), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

(5) LEADERSHIP STAFF.—(A) Any person who is an employee on the leadership staff of the House of Representatives to whom paragraph (7)(A) applies and who, within 1 year after the termination of that person's employment on such staff, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former employee are any Member of the leadership of the House of Representatives and any employee on the leadership staff of the House of Representatives.

(6) OTHER LEGISLATIVE OFFICES.—(A) Any person who is an employee of any other legislative office of the Congress to whom paragraph (7)(B) applies and who, within 1 year after the termination of that person's employment in such office, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B), on behalf of any other person (except the United States) in connection with any matter on which such former employee seeks action by any officer or employee of such office, in his or her official capacity, shall be punished as provided in section 216 of this title.

(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former employee are the employees and officers of the former legislative office of the Congress of the former employee.

(7) LIMITATION ON RESTRICTIONS.—(A) The restrictions contained in paragraphs (2), (3), (4), and (5) apply only to acts by a former employee who, for at least 60 days, in the aggregate, during the 1-year period before that former employee's service as such employee terminated, was paid a rate of basic pay equal to or greater than an amount which is 75 percent of the basic rate of pay payable for a Member of the House of Congress in which such employee was employed.

(B) The restrictions contained in paragraph (6) apply only to acts by a former employee who, for at least 60 days, in the aggregate, during the 1-year period before that former employee's service as such employee terminated, was employed in a position for which the rate of basic pay, exclusive of any locality-based pay adjustment under section 5302 of title 5, is equal to or greater than the basic rate of pay payable for level IV of the Executive Schedule.

(8) EXCEPTION.—This subsection shall not apply to contacts with the staff of the Secretary of the Senate or the Clerk of the House of Representatives regarding compliance with lobbying disclosure requirements under the Lobbying Disclosure Act of 1995.

(9) DEFINITIONS.—As used in this subsection—

(A) the term ''committee of Congress'' includes standing committees, joint committees, and select committees;

(B) a person is an employee of a House of Congress if that person is an employee of the Senate or an employee of the House of Representatives;

(C) the term ''employee of the House of Representatives'' means an employee of a Member of the House of Representatives, an employee of a committee of the House of Representatives, an employee of a joint committee of the Congress whose pay is disbursed by the Clerk of the House of Representatives, and an employee on the leadership staff of the House of Representatives;

(D) the term ''employee of the Senate'' means an employee of a Senator, an employee of a committee of the Senate, an employee of a joint committee of the Congress whose pay is disbursed by the Secretary of the Senate, and an employee on the leadership staff of the Senate;

(E) a person is an employee of a Member of the House of Representatives if that person is an employee of a Member of the House of Representatives under the clerk hire allowance;

(F) a person is an employee of a Senator if that person is an employee in a position in the office of a Senator;

(G) the term ''employee of any other legislative office of the Congress'' means an offi-

cer or employee of the Architect of the Capitol, the United States Botanic Garden, the Government Accountability Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, the Congressional Budget Office, the United States Capitol Police, and any other agency, entity, or office in the legislative branch not covered by paragraph (1), (2), (3), (4), or (5) of this subsection;

(H) the term ''employee on the leadership staff of the House of Representatives'' means an employee of the office of a Member of the leadership of the House of Representatives described in subparagraph (L), and any elected minority employee of the House of Representatives;

(I) the term ''employee on the leadership staff of the Senate'' means an employee of the office of a Member of the leadership of the Senate described in subparagraph (M);

(J) the term ''Member of Congress'' means a Senator or a Member of the House of Representatives;

(K) the term ''Member of the House of Representatives'' means a Representative in, or a Delegate or Resident Commissioner to, the Congress;

(L) the term ''Member of the leadership of the House of Representatives'' means the Speaker, majority leader, minority leader, majority whip, minority whip, chief deputy majority whip, chief deputy minority whip, chairman of the Democratic Steering Committee, chairman and vice chairman of the Democratic Caucus, chairman, vice chairman, and secretary of the Republican Conference, chairman of the Republican Research Committee, and chairman of the Republican Policy Committee, of the House of Representatives (or any similar position created on or after the effective date set forth in section 102(a) of the Ethics Reform Act of 1989);

(M) the term ''Member of the leadership of the Senate'' means the Vice President, and the President pro tempore, Deputy President pro tempore, majority leader, minority leader, majority whip, minority whip, chairman and secretary of the Conference of the Majority, chairman and secretary of the Conference of the Minority, chairman and cochairman of the Majority Policy Committee, and chairman of the Minority Policy Committee, of the Senate (or any similar position created on or after the effective date set forth in section 102(a) of the Ethics Reform Act of 1989).

(f) RESTRICTIONS RELATING TO FOREIGN ENTITIES.—

(1) RESTRICTIONS.—Any person who is subject to the restrictions contained in subsection (c), (d), or (e) and who knowingly, within 1 year after leaving the position, office, or employment referred to in such subsection—

(A) represents a foreign entity before any officer or employee of any department or agency of the United States with the intent to influence a decision of such officer or employee in carrying out his or her official duties, or

(B) aids or advises a foreign entity with the intent to influence a decision of any officer or employee of any department or agency of the United States, in carrying out his or her official duties,

shall be punished as provided in section 216 of this title.

(2) SPECIAL RULE FOR TRADE REPRESENTATIVE.—With respect to a person who is the United States Trade Representative or Deputy United States Trade Representative, the restrictions described in paragraph (1) shall apply to representing, aiding, or advising foreign entities at any time after the termination of that person's service as the United States Trade Representative.

(3) DEFINITION.—For purposes of this subsection, the term ''foreign entity'' means the government of a foreign country as defined in section 1(e) of the Foreign Agents Registration Act of 1938, as amended, or a foreign political party as defined in section 1(f) of that Act.

(g) SPECIAL RULES FOR DETAILEES.—For purposes of this section, a person who is detailed from one department, agency, or other entity to another department, agency, or other entity shall, during the period such person is detailed, be deemed to be an officer or employee of both departments, agencies, or such entities.

(h) DESIGNATIONS OF SEPARATE STATUTORY AGENCIES AND BUREAUS.—

(1) DESIGNATIONS.—For purposes of subsection (c) and except as provided in paragraph (2), whenever the Director of the Office of Government Ethics determines that an agency or bureau within a department or agency in the executive branch exercises functions which are distinct and separate from the remaining functions of the department or agency and that there exists no potential for use of undue influence or unfair advantage based on past Government service, the Director shall by rule designate such agency or bureau as a separate department or agency. On an annual basis the Director of the Office of Government Ethics shall review the designations and determinations made under this subparagraph and, in consultation with the department or agency concerned, make such additions and deletions as are necessary. Departments and agencies shall cooperate to the fullest extent with the Director of the Office of Government Ethics in the exercise of his or her responsibilities under this paragraph.

(2) INAPPLICABILITY OF DESIGNATIONS.—No agency or bureau within the Executive Office of the President may be designated under paragraph (1) as a separate department or agency. No designation under paragraph (1) shall apply to persons referred to in subsection (c)(2)(A)(i) or (iii).

(i) DEFINITIONS.—For purposes of this section—

(1) the term ''officer or employee'', when used to describe the person to whom a communication is made or before whom an appearance is made, with the intent to influence, shall include—

(A) in subsections (a), (c), and (d), the President and the Vice President; and

(B) in subsection (f), the President, the Vice President, and Members of Congress;

(2) the term ''participated'' means an action taken as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or other such action; and

(3) the term ''particular matter'' includes any investigation, application, request for a ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, or judicial or other proceeding.

(j) EXCEPTIONS.—

(1) OFFICIAL GOVERNMENT DUTIES.—

(A) IN GENERAL.—The restrictions contained in this section shall not apply to acts done in carrying out official duties on behalf of the United States or the District of Columbia or as an elected official of a State or local government.

(B) TRIBAL ORGANIZATIONS AND INTER-TRIBAL CONSORTIUMS.—The restrictions contained in this section shall not apply to acts authorized by section 104(j) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450i(j)).

(2) STATE AND LOCAL GOVERNMENTS AND INSTITUTIONS, HOSPITALS, AND ORGANIZATIONS.—The restrictions contained in subsections (c), (d), and (e) shall not apply to acts done in carrying out official duties as an employee of—

(A) an agency or instrumentality of a State or local government if the appearance, communication, or representation is on behalf of such government, or

(B) an accredited, degree-granting institution of higher education, as defined in section 101 of the Higher Education Act of 1965, or a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1986, if the appearance, communication, or representation is on behalf of such institution, hospital, or organization.

(3) INTERNATIONAL ORGANIZATIONS.—The restrictions contained in this section shall not apply to an appearance or communication on behalf of, or advice or aid to, an international organization in which the United States participates, if the Secretary of State certifies in advance that such activity is in the interests of the United States.

(4) SPECIAL KNOWLEDGE.—The restrictions contained in subsections (c), (d), and (e) shall not prevent an individual from making or providing a statement, which is based on the individual's own special knowledge in the particular area that is the subject of the statement, if no compensation is thereby received.

(5) EXCEPTION FOR SCIENTIFIC OR TECHNOLOGICAL INFORMATION.—The restrictions contained in subsections (a), (c), and (d) shall not apply with respect to the making of communications solely for the purpose of furnishing scientific or technological information, if such communications are made under procedures acceptable to the department or agency concerned or if the head of the department or agency concerned with the particular matter, in consultation with the Director of the Office of Government Ethics, makes a certification, published in the Federal Register, that the former officer or employee has outstanding qualifications in a scientific, technological, or other technical discipline, and is acting with respect to a particular matter which requires such qualifications, and that the national interest would be served by the participation of the former officer or employee. For purposes of this paragraph, the term ''officer or employee'' includes the Vice President.

(6) EXCEPTION FOR TESTIMONY.—Nothing in this section shall prevent an individual from giving testimony under oath, or from making statements required to be made under penalty of perjury. Notwithstanding the preceding sentence—

(A) a former officer or employee of the executive branch of the United States (including any independent agency) who is subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except pursuant to court order, serve as an expert witness for any other person (except the United States) in that matter; and

(B) a former officer or employee of the District of Columbia who is subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except pursuant to court order, serve as an expert witness for any other person (except the District of Columbia) in that matter.

(7) POLITICAL PARTIES AND CAMPAIGN COMMITTEES.—(A) Except as provided in subparagraph (B), the restrictions contained in subsections (c), (d), and (e) shall not apply to a communication or appearance made solely on behalf of a candidate in his or her capacity as a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party.

(B) Subparagraph (A) shall not apply to—

(i) any communication to, or appearance before, the Federal Election Commission by a former officer or employee of the Federal Election Commission; or

(ii) a communication or appearance made by a person who is subject to the restrictions contained in subsections[1] (c), (d), or (e) if, at the time of the communication or appearance, the person is employed by a person or entity other than—

(I) a candidate, an authorized committee, a national committee, a national Federal campaign committee, a State committee, or a political party; or

(II) a person or entity who represents, aids, or advises only persons or entities described in subclause (I).

(C) For purposes of this paragraph—

(i) the term ''candidate'' means any person who seeks nomination for election, or election, to Federal or State office or who has authorized others to explore on his or her behalf the possibility of seeking nomination for election, or election, to Federal or State office;

(ii) the term ''authorized committee'' means any political committee designated in

[1] So in original. Probably should be ''subsection''.

writing by a candidate as authorized to receive contributions or make expenditures to promote the nomination for election, or the election, of such candidate, or to explore the possibility of seeking nomination for election, or the election, of such candidate, except that a political committee that receives contributions or makes expenditures to promote more than 1 candidate may not be designated as an authorized committee for purposes of subparagraph (A);

(iii) the term ''national committee'' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level;

(iv) the term ''national Federal campaign committee'' means an organization that, by virtue of the bylaws of a political party, is established primarily for the purpose of providing assistance, at the national level, to candidates nominated by that party for election to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress;

(v) the term ''State committee'' means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level;

(vi) the term ''political party'' means an association, committee, or organization that nominates a candidate for election to any Federal or State elected office whose name appears on the election ballot as the candidate of such association, committee, or organization; and

(vii) the term ''State'' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(k)(1)(A) The President may grant a waiver of a restriction imposed by this section to any officer or employee described in paragraph (2) if the President determines and certifies in writing that it is in the public interest to grant the waiver and that the services of the officer or employee are critically needed for the benefit of the Federal Government. Not more than 25 officers and employees currently employed by the Federal Government at any one time may have been granted waivers under this paragraph.

(B)(i) A waiver granted under this paragraph to any person shall apply only with respect to activities engaged in by that person after that person's Federal Government employment is terminated and only to that person's employment at a Government-owned, contractor operated entity with which the person served as an officer or employee immediately before the person's Federal Government employment began.

(ii) Notwithstanding clause (i), a waiver granted under this paragraph to any person who was an officer or employee of Lawrence Livermore National Laboratory, Los Alamos National Laboratory, or Sandia National Laboratory immediately before the person's Federal Government employment began shall apply to that person's employment by any such national laboratory after the person's employment by the Federal Government is terminated.

(2) Waivers under paragraph (1) may be granted only to civilian officers and employees of the executive branch, other than officers and employees in the Executive Office of the President.

(3) A certification under paragraph (1) shall take effect upon its publication in the Federal Register and shall identify—

(A) the officer or employee covered by the waiver by name and by position, and

(B) the reasons for granting the waiver.

A copy of the certification shall also be provided to the Director of the Office of Government Ethics.

(4) The President may not delegate the authority provided by this subsection.

(5)(A) Each person granted a waiver under this subsection shall prepare reports, in accordance with subparagraph (B), stating whether the person has engaged in activities otherwise prohibited by this section for each six-month period described in subparagraph (B), and if so, what those activities were.

(B) A report under subparagraph (A) shall cover each six-month period beginning on the date of the termination of the person's Federal Government employment (with respect to which the waiver under this subsection was granted) and ending two years after that date. Such report shall be filed with the President and the Director of the Office of Government Ethics not later than 60 days after the end of the six-month period covered by the report. All reports filed with the Director under this paragraph shall be made available for public inspection and copying.

(C) If a person fails to file any report in accordance with subparagraphs (A) and (B), the President shall revoke the waiver and shall notify the person of the revocation. The revocation shall take effect upon the person's receipt of the notification and shall remain in effect until the report is filed.

(D) Any person who is granted a waiver under this subsection shall be ineligible for appointment in the civil service unless all reports required of such person by subparagraphs (A) and (B) have been filed.

(E) As used in this subsection, the term ''civil service'' has the meaning given that term in section 2101 of title 5.

(*l*) CONTRACT ADVICE BY FORMER DETAILS.—Whoever, being an employee of a private sector organization assigned to an agency under chapter 37 of title 5, within one year after the end of that assignment, knowingly represents or aids, counsels, or assists in representing any other person (except the United States) in connection with any contract with that agency shall be punished as provided in section 216 of this title.

(Added Pub. L. 87–849, § 1(a), Oct. 23, 1962, 76 Stat. 1123; amended Pub. L. 95–521, title V, § 501(a), Oct. 26, 1978, 92 Stat. 1864; Pub. L. 96–28, June 22, 1979, 93 Stat. 76; Pub. L. 101–189, div. A, title VIII, § 814(d)(2), Nov. 29, 1989, 103 Stat. 1499; Pub. L. 101–194, title I, § 101(a), Nov. 30, 1989, 103 Stat. 1716; Pub. L. 101–280, §§ 2(a), 5(d), May 4, 1990, 104 Stat. 149, 159; Pub. L. 101–509, title V, § 529 [title I, § 101(b)(8)(A)], Nov. 5, 1990, 104 Stat. 1427, 1440; Pub. L. 102–25, title VII, § 705(a), Apr. 6, 1991, 105 Stat. 120; Pub. L. 102–190, div. C, title XXXI,

§ 3138(a), Dec. 5, 1991, 105 Stat. 1579; Pub. L. 102–395, title VI, § 609(a), Oct. 6, 1992, 106 Stat. 1873; Pub. L. 103–322, title XXXIII, §§ 330002(i), 330010(15), Sept. 13, 1994, 108 Stat. 2140, 2144; Pub. L. 104–65, § 21(a), Dec. 19, 1995, 109 Stat. 704; Pub. L. 104–179, §§ 5, 6, Aug. 6, 1996, 110 Stat. 1567, 1568; Pub. L. 104–208, div. A, title I, § 101(f) [title VI, § 635], Sept. 30, 1996, 110 Stat. 3009–314, 3009–363; Pub. L. 105–244, title I, § 102(a)(5), Oct. 7, 1998, 112 Stat. 1618; Pub. L. 107–347, title II, § 209(d)(1), (3), Dec. 17, 2002, 116 Stat. 2930; Pub. L. 108–136, div. A, title XI, § 1125(b)(1), Nov. 24, 2003, 117 Stat. 1639; Pub. L. 108–271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110–81, title I, §§ 101, 104(a), Sept. 14, 2007, 121 Stat. 736, 740; Pub. L. 111–148, title III, § 3403(a)(2), title X, § 10320(b), Mar. 23, 2010, 124 Stat. 506, 952.)

REFERENCES IN TEXT

Section 1102 of the Omnibus Trade and Competitiveness Act of 1988, referred to in subsec. (b)(2)(A), is classified to section 2902 of Title 19, Customs Duties.

Levels I, II, and IV of the Executive Schedule, referred to in subsecs. (c)(2)(A)(ii), (d)(1)(B), and (e)(7)(B), are set out in sections 5312, 5313, and 5315, respectively, of Title 5, Government Organization and Employees.

The National Defense Authorization Act for Fiscal Year 2004, referred to in subsec. (c)(2)(A)(ii), is Pub. L. 108–136, Nov. 24, 2003, 117 Stat. 1392. For complete classification of this Act to the Code, see Tables.

Senior Executive Service, referred to in subsec. (c)(2)(A)(ii), see section 5382 of Title 5, Government Organization and Employees.

Section 1899A, referred to in subsec. (c)(3)(A), probably means section 1899A of the Social Security Act, which is classified to section 1395kkk of Title 42, The Public Health and Welfare.

The Lobbying Disclosure Act of 1995, referred to in subsec. (e)(8), is Pub. L. 104–65, Dec. 19, 1995, 109 Stat. 691, which is classified principally to chapter 26 (§ 1601 et seq.) of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 2 and Tables.

Section 102(a) of the Ethics Reform Act of 1989, referred to in subsec. (e)(9)(L), (M), is section 102(a) of Pub. L. 101–194, which is set out below.

Section 1(e) and (f) of the Foreign Agents Registration Act of 1938, referred to in subsec. (f)(3), is classified to section 611(e) and (f) of Title 22, Foreign Relations and Intercourse.

Section 101 of the Higher Education Act of 1965, referred to in subsec. (j)(2)(B), is classified to section 1001 of Title 20, Education.

Section 501(c)(3) of the Internal Revenue Code of 1986, referred to in subsec. (j)(2)(B), is classified to section 501(c)(3) of Title 26, Internal Revenue Code.

CODIFICATION

Another section 501(a) of Pub. L. 95–521, as added by Pub. L. 101–194, title VI, § 601(a), Nov. 30, 1989, 103 Stat. 1760, is set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

A prior section 207, act June 25, 1948, ch. 645, 62 Stat. 692, related to the acceptance of a bribe by a judge, prior to the general amendment of this chapter by Pub. L. 87–849 and is substantially covered by revised section 201.

Provisions similar to those comprising this section were contained in section 284 of this title prior to the repeal of such section and the general amendment of this chapter by Pub. L. 87–849.

AMENDMENTS

2010—Subsec. (c)(3). Pub. L. 111–148, § 3403(a)(2), added par. (3).

2007—Subsec. (d)(1). Pub. L. 110–81, § 101(a), substituted ''within 2 years'' for ''within 1 year'' in concluding provisions.

Subsec. (e)(1). Pub. L. 110–81, § 101(b)(3), added par. (1) and struck out former par. (1) which read as follows:

''(1) MEMBERS OF CONGRESS AND ELECTED OFFICERS.—(A) Any person who is a Member of Congress or an elected officer of either House of Congress and who, within 1 year after that person leaves office, knowingly makes, with the intent to influence, any communication to or appearance before any of the persons described in subparagraph (B) or (C), on behalf of any other person (except the United States) in connection with any matter on which such former Member of Congress or elected officer seeks action by a Member, officer, or employee of either House of Congress, in his or her official capacity, shall be punished as provided in section 216 of this title.

''(B) The persons referred to in subparagraph (A) with respect to appearances or communications by a former Member of Congress are any Member, officer, or employee of either House of Congress, and any employee of any other legislative office of the Congress.

''(C) The persons referred to in subparagraph (A) with respect to appearances or communications by a former elected officer are any Member, officer, or employee of the House of Congress in which the elected officer served.''

Subsec. (e)(2). Pub. L. 110–81, § 101(b)(3), added par. (2). Former par. (2) redesignated (3).

Subsec. (e)(3). Pub. L. 110–81, § 101(b)(2), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (e)(3)(A). Pub. L. 110–81, § 101(b)(4)(A), substituted ''of a Member of the House of Representatives to whom paragraph (7)(A) applies'' for ''of a Senator or an employee of a Member of the House of Representatives''.

Subsec. (e)(3)(B). Pub. L. 110–81, § 101(b)(4)(B), struck out ''Senator or'' before ''Member of the House'' in cls. (i) and (ii).

Subsec. (e)(4). Pub. L. 110–81, § 101(b)(5), substituted ''committee of the House of Representatives, or an employee of a joint committee of the Congress whose pay is disbursed by the Clerk of the House of Representatives, to whom paragraph (7)(A) applies'' for ''committee of Congress'' and inserted ''or joint committee (as the case may be)'' after ''committee'' wherever subsequently appearing.

Pub. L. 110–81, § 101(b)(2), redesignated par. (3) as (4). Former par. (4) redesignated (5).

Subsec. (e)(5). Pub. L. 110–81, § 101(b)(2), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (e)(5)(A). Pub. L. 110–81, § 101(b)(6)(A), substituted ''to whom paragraph (7)(A) applies'' for ''or an employee on the leadership staff of the Senate''.

Subsec. (e)(5)(B). Pub. L. 110–81, § 101(b)(6)(B), substituted ''any Member of the leadership of the House of Representatives and any employee on the leadership staff of the House of Representatives.'' for ''the following:

''(i) in the case of a former employee on the leadership staff of the House of Representatives, those persons are any Member of the leadership of the House of Representatives and any employee on the leadership staff of the House of Representatives; and

''(ii) in the case of a former employee on the leadership staff of the Senate, those persons are any Member of the leadership of the Senate and any employee on the leadership staff of the Senate.''

Subsec. (e)(6). Pub. L. 110–81, § 101(b)(2), redesignated par. (5) as (6). Former par. (6) redesignated (7).

Subsec. (e)(6)(A). Pub. L. 110–81, § 101(b)(7), inserted ''to whom paragraph (7)(B) applies'' after ''office of the Congress''.

Subsec. (e)(7). Pub. L. 110–81, § 101(b)(2), redesignated par. (6) as (7). Former par. (7) redesignated (9).

Subsec. (e)(7)(A). Pub. L. 110–81, § 101(b)(8)(A), substituted ''(4), and (5)'' for ''and (4)''.

Subsec. (e)(7)(B). Pub. L. 110–81, § 101(b)(8)(B), substituted ''paragraph (6)'' for ''paragraph (5)'' and ''level

IV of the Executive Schedule'' for ''level 5 of the Senior Executive Service'' and struck out ''(or any comparable adjustment pursuant to interim authority of the President)'' after ''title 5''.

Subsec. (e)(8). Pub. L. 110–81, §101(b)(9), added par. (8).

Subsec. (e)(9). Pub. L. 110–81, §101(b)(1), redesignated par. (7) as (9).

Subsec. (e)(9)(G). Pub. L. 110–81, §101(b)(10), struck out ''the Copyright Royalty Tribunal,'' after ''Congressional Budget Office,'' and substituted ''(4), or (5)'' for ''or (4)''.

Subsec. (j)(1). Pub. L. 110–81, §104(a), inserted subpar. (A) designation and heading, realigned margins, and added subpar. (B).

2004—Subsec. (e)(7)(G). Pub. L. 108–271 substituted ''Government Accountability Office'' for ''General Accounting Office''.

2003—Subsec. (c)(2)(A)(ii). Pub. L. 108–136 amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''employed in a position which is not referred to in clause (i) and for which the basic rate of pay, exclusive of any locality-based pay adjustment under section 5302 of title 5 (or any comparable adjustment pursuant to interim authority of the President), is equal to or greater than the rate of basic pay payable for level 5 of the Senior Executive Service,''.

2002—Subsec. (c)(2)(A)(v). Pub. L. 107–347, §209(d)(1), added cl. (v).

Subsec. (*l*). Pub. L. 107–347, §209(d)(3), added subsec. (*l*).

1998—Subsec. (j)(2)(B). Pub. L. 105–244 substituted ''section 101'' for ''section 1201(a)''.

1996—Subsec. (c)(2)(A)(ii). Pub. L. 104–179, §6, substituted ''level 5 of the Senior Executive Service,'' for ''level V of the Executive Schedule,''.

Subsec. (e)(6)(B). Pub. L. 104–208 substituted ''level 5 of the Senior Executive Service'' for ''level V of the Executive Schedule''.

Subsec. (j). Pub. L. 104–179, §5, added par. (7).

1995—Subsec. (f)(2). Pub. L. 104–65 inserted ''or Deputy United States Trade Representative'' after ''is the United States Trade Representative'' and substituted ''at any time'' for ''within 3 years''.

1994—Subsec. (a)(3). Pub. L. 103–322, §330010(15), substituted ''restrictions'' for ''Restrictions'' in heading.

Subsec. (c)(2)(A)(ii). Pub. L. 103–322, §330002(i), substituted a comma for semicolon at end.

1992—Subsec. (f)(2), (3). Pub. L. 102–395 added par. (2) and redesignated former par. (2) as (3).

1991—Subsec. (k). Pub. L. 102–25 reinstated subsec. (k) as originally enacted by Pub. L. 101–189. See 1989 Amendment note and Effective Date of 1991 Amendments note below.

Subsec. (k)(1)(B). Pub. L. 102–190 designated existing provisions as cl. (i) and added cl. (ii).

1990—Subsec. (a)(1). Pub. L. 101–280, §2(a)(1), amended subsec. (a)(1), as amended by Pub. L. 101–194, by inserting ''(including any special Government employee)'' after ''who is an officer or employee'', striking out ''Government'' after ''executive branch of the United States'', ''and any special Government employee'' after ''independent agency of the United States'', ''Government'' after ''employment with the United States'', ''as the case may be,'' before ''knowingly makes'' and before ''on behalf of'', inserting ''or the District of Columbia'' after ''(except the United States'', and in subpar. (A) inserting ''or the District of Columbia'' after ''United States''.

Subsec. (a)(2). Pub. L. 101–280, §2(a), amended subsec. (a)(2), as amended by Pub. L. 101–194, by substituting ''or the District of Columbia, knowingly'' for ''Government, knowingly'' and ''(except the United States or the District of Columbia)'' for ''(except the United States)'', in subpar. (A) inserting ''or the District of Columbia'' after ''United States)'', and in subpar. (B) striking out ''Government'' after ''United States''.

Subsec. (a)(3). Pub. L. 101–280, §2(a)(3), amended subsec. (a), as amended by Pub. L. 101–194, by adding par. (3).

Subsec. (b)(1). Pub. L. 101–280, §2(a)(4), amended subsec. (b)(1), as amended by Pub. L. 101–194, by substituting ''a former officer or employee of the executive branch of the United States (including any independent agency) and is'' for ''a former officer or employee'', substituting ''or any person who is a former officer or employee of the legislative branch or a former Member of Congress'' for ''and any person described in subsection (e)(7)'', substituting ''which is so designated by the appropriate department or agency, and which the person knew or should have known was so designated, shall not, on the basis of that information, knowingly represent'' for ''and which is so designated by the appropriate department or agency, shall not, on the basis of that information, which the person knew or should have known was so designated, knowingly represent'', inserting ''a period of'' before ''1 year'', and striking out ''Government'' before ''terminates''.

Subsec. (c). Pub. L. 101–280, §5(d), substituted ''shall be subject to the penalties set forth in section 216 of this title'' for ''shall be fined not more than $10,000 or imprisoned for not more than two years, or both'' in concluding provisions of subsec. (c) as in effect on May 4, 1990.

Subsec. (c)(1). Pub. L. 101–280, §2(a)(5)(A), amended subsec. (c)(1), as amended by Pub. L. 101–194, by substituting ''(including any special Government employee) of the executive branch of the United States'' for ''of the executive branch''.

Subsec. (c)(2)(A)(i). Pub. L. 101–280, §2(a)(5)(B)(i), amended subsec. (c)(2)(A)(i), as amended by Pub. L. 101–194, by inserting ''specified in or'' after ''employed at a rate of pay'' and striking out ''or a comparable or greater rate of pay under other authority,'' after ''chapter 53 of title 5,''.

Subsec. (c)(2)(A)(ii). Pub. L. 101–509, §529 [title I, §101(b)(8)(A)(i)], added cl. (ii) and struck out former cl. (ii) which read as follows: ''employed in a position which is not referred to in clause (i) and for which the rate of basic pay is equal to or greater than the rate of basic pay payable for GS–17 of the General Schedule,''.

Pub. L. 101–280, §2(a)(5)(B)(ii), amended subsec. (a)(2)(A)(ii), as amended by Pub. L. 101–194, by substituting ''rate of basic'' for ''basic rate of'' wherever appearing.

Subsec. (c)(2)(C), (D). Pub. L. 101–280, §2(a)(5)(B)(iii), amended subsec. (c)(2)(C), (D), as amended by Pub. L. 101–194, by redesignating subpar. (D) as (C) and striking out former subpar. (C) which read as follows: ''Subparagraph (A)(ii) includes persons employed in the Senior Executive Service at the basic rate of pay specified in that subparagraph.''

Subsec. (d)(1)(B). Pub. L. 101–280, §2(a)(6)(A), amended subsec. (d)(1)(B), as amended by Pub. L. 101–194, by substituting ''in the executive branch of the United States (including any independent agency)'' for ''paid''.

Subsec. (d)(2). Pub. L. 101–280, §2(a)(6)(B), amended subsec. (d)(2), as amended by Pub. L. 101–194, by substituting ''Persons who may not be contacted'' for ''Entities to which restrictions apply'' in heading, and striking out ''other'' after ''any'' in subpar. (B).

Subsec. (e)(6). Pub. L. 101–509, §529 [title I, §101(b)(8)(A)(ii)], added par. (6) and struck out former par. (6) which read as follows: ''The restrictions contained in paragraphs (2), (3), (4), and (5) apply only to acts by a former employee who, for at least 60 days, in the aggregate, during the 1-year period before that former employee's service as such employee terminated, was paid for such service at a rate of basic pay equal to or greater than the rate of basic pay payable for GS–17 of the General Schedule under section 5332 of title 5.''

Pub. L. 101–280, §2(a)(7)(A), amended subsec. (e)(6), as amended by Pub. L. 101–194, by substituting ''rate of basic'' for ''basic rate of'' wherever appearing.

Subsec. (e)(7)(L), (M). Pub. L. 101–280, §2(a)(7)(B), amended subsec. (e)(7)(L), (M), as amended by Pub. L. 101–194, by inserting ''on or'' before ''after the effective date''.

Subsec. (f)(1). Pub. L. 101–280, §2(a)(8)(A), amended subsec. (f)(1), as amended by Pub. L. 101–194, by substituting ''such subsection'' for ''subsection (c), (d), or (e), as the case may be''.

Subsec. (f)(1)(A). Pub. L. 101–280, §2(a)(8)(B), amended subsec. (f)(1)(A), as amended by Pub. L. 101–194, by striking out ''the interests of'' after ''represents'' and ''of the Government'' after ''department or agency''.

Subsec. (f)(1)(B). Pub. L. 101–280, §2(a)(8)(C), amended subsec. (f)(1)(B), as amended by Pub. L. 101–194, by striking out ''of the Government'' after ''department or agency''.

Subsec. (i)(1). Pub. L. 101–280, §2(a)(9), amended subsec. (i)(1), as amended by Pub. L. 101–194, by adding par. (1) and striking out former par. (1) which read as follows: ''the term 'intent to influence' means the intent to affect any official action by a Government entity of the United States through any officer or employee of the United States, including Members of Congress;''.

Subsec. (j)(1). Pub. L. 101–280, §2(a)(10)(A), amended subsec. (j)(1), as amended by Pub. L. 101–194, by substituting ''this section'' for ''subsections (a), (c), (d), and (e)'', ''on behalf of'' for ''as an officer or employee of'', and ''or the District of Columbia'' for ''Government''.

Subsec. (j)(3). Pub. L. 101–280, §2(a)(10)(B), amended subsec. (j)(3), as amended by Pub. L. 101–194, by substituting ''this section'' for ''subsections (c), (d), and (e)'' and ''in which the United States participates, if the Secretary of State certifies in advance that such activity is in the interests of the United States'' for ''of which the United States is a member''.

Subsec. (j)(4). Pub. L. 101–280, §2(a)(10)(C), amended subsec. (j)(4), as amended by Pub. L. 101–194, by substituting ''Special'' for ''Personal matters and special'' in heading, substituting ''prevent an individual'' for ''apply to appearances or communications by a former officer or employee concerning matters of a personal and individual nature, such as personal income taxes or pension benefits; nor shall the prohibitions of those subsections prevent a former officer or employee'', substituting ''individual's'' for ''former officer's or employee's'', and striking out '', other than that regularly provided for by law or regulation for witnesses'' after ''if no compensation is thereby received''.

Subsec. (j)(5). Pub. L. 101–280, §2(a)(10)(D), amended subsec. (j)(5), as amended by Pub. L. 101–194, by substituting ''and (d)'' for ''(d), and (e)'' and inserting ''For purposes of this paragraph, the term 'officer or employee' includes the Vice President.''

Subsec. (j)(6). Pub. L. 101–280, §2(a)(10)(E)(ii), amended subsec. (j)(6), as amended by Pub. L. 101–194, by substituting ''sentence—'' for ''sentence, a former officer or employee subject to the restrictions contained in subsection (a)(1) with respect to a particular matter may not, except pursuant to court order, serve as an expert witness for any other person (except the United States) in that matter.'' and adding subpars. (A) and (B).

Pub. L. 101–280, §2(a)(10)(E)(i), amended subsec. (j)(6), as amended by Pub. L. 101–194, by substituting ''an individual'' for ''a former Member of Congress or officer or employee of the executive or legislative branch or an independent agency (including the Vice President and any special Government employee)''.

1989—Pub. L. 101–194 amended section generally, substituting ''Restrictions on former officers, employees, and elected officials of the executive and legislative branches'' for ''Disqualification of former officers and employees; disqualification of partners of current officers and employees'' as section catchline and making extensive changes in content and structure of text. For text of section as it existed prior to the general amendment by Pub. L. 101–194, see Effective Date of 1989 Amendment; Effect on Employment note set out below.

Subsec. (k). Pub. L. 101–189 added subsec. (k).

1979—Subsec. (b). Pub. L. 96–28, §1, substituted ''by personal presence at any formal or informal appearance'' for ''concerning any formal or informal appearance'' in cl. (ii) of provisions before par. (1), and, in par. (3), inserted ''as to (i),'' before ''which was actually pending'' and '', as to (ii),'' before ''in which he participated''.

Subsec. (d). Pub. L. 96–28, §2, designated existing provisions as par. (1), designated existing pars. (1) and (3) as subpars. (A) and (B) of par. (1) as so designated, and added subpar. (C) of par. (1) and par. (2), incorporating into the new par. and subpar. portions of former provisions relating to positions for which the basic rate of pay was equal to or greater than the basic rate of pay for GS–17 of the General Schedule prescribed by section 5332 of Title 5 and who had significant decision-making or supervisory responsibility, as designated by the Director of the Office of Government Ethics, in consultation with the head of the department or agency concerned, and provisions relating to the designation of positions by the Director of the Office of Government Ethics.

1978—Pub. L. 95–521 expanded section to include provisions designed to more effectively deal with the problem of the disproportionate influence former officers and employees might have upon the government processes and decision-making in their previous departments or agencies when they return in the role of representatives or advocates of nongovernmental groups or interests before those same departments or agencies.

CHANGE OF NAME

''Independent Payment Advisory Board'' substituted for ''Independent Medicare Advisory Board'' in subsec. (c)(3) on authority of section 10320(b) of Pub. L. 111–148, set out as a note under section 1395kkk of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–81, title I, §105(a), Sept. 14, 2007, 121 Stat. 741, provided that: ''The amendments made by section 101 [amending this section] shall apply to individuals who leave Federal office or employment to which such amendments apply on or after the date of adjournment of the first session of the 110th Congress sine die or December 31, 2007, whichever date is earlier.''

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–136 effective on first day of first pay period beginning on or after Jan. 1, 2004, see section 1125(c)(1) of Pub. L. 108–136, set out as a note under section 5304 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–347 effective 120 days after Dec. 17, 2002, see section 402(a) of Pub. L. 107–347, set out as an Effective Date note under section 3601 of Title 44, Public Printing and Documents.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see section 3 of Pub. L. 105–244, set out as a note under section 1001 of Title 20, Education.

EFFECTIVE DATE OF 1995 AMENDMENT

Section 21(c) of Pub. L. 104–65 provided that: ''The amendments made by this section [amending this section and section 2171 of Title 19, Customs Duties] shall apply with respect to an individual appointed as United States Trade Representative or as a Deputy United States Trade Representative on or after the date of enactment of this Act [Dec. 19, 1995].''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 609(b) of Pub. L. 102–395 provided that: ''This section [amending this section] shall not apply to the person serving as the United States Trade Representative at the date of enactment of this Act [Oct. 6, 1992].''

EFFECTIVE DATE OF 1991 AMENDMENTS

Section 3138(b) of Pub. L. 102–190 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 5, 1991] and shall apply to persons granted waivers under section 207(k)(1) of title 18, United States Code, on or after that date.''

Section 705(a) of Pub. L. 102–25 provided that subsec. (k), added by Pub. L. 101–189 and omitted in the general amendment of this section by Pub. L. 101–194, is reinstated as originally enacted, effective as of Jan. 1, 1991.

EFFECTIVE DATE OF 1990 AMENDMENTS

Section 529 [title I, § 101(b)(8)(B)] of Pub. L. 101–509 provided that: ''The amendments made by subparagraph (A) [amending this section] take effect on January 1, 1991.''

Amendment by Pub. L. 101–280 effective May 4, 1990, see section 11 of Pub. L. 101–280, set out as a note under section 101 of Pub. L. 95–521 in the Appendix to Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1989 AMENDMENT; EFFECT ON EMPLOYMENT

Section 102 of Pub. L. 101–194, as amended by Pub. L. 101–280, § 2(b), May 4, 1990, 104 Stat. 152, provided that:

''(a) IN GENERAL.—(1) Subject to paragraph (2) and to subsection (b), the amendments made by section 101 [amending this section] take effect on January 1, 1991.

''(2) Subject to subsection (b), the amendments made by section 101 take effect at noon on January 3, 1991, with respect to Members of Congress (within the meaning of section 207 of title 18, United States Code).

''(b) EFFECT ON EMPLOYMENT.—(1) The amendments made by section 101 apply only to persons whose service as a Member of Congress, the Vice President, or an officer or employee to which such amendments apply terminates on or after the effective date of such amendments.

''(2) With respect to service as an officer or employee which terminates before the effective date set forth in subsection (a), section 207 of title 18, United States Code, as in effect at the time of the termination of such service, shall continue to apply, on and after such effective date, with respect to such service.''

Prior to the effective date of the amendment by Pub. L. 101–194, section 207 read as follows:

''§ 207. Disqualification of former officers and employees; disqualification of partners of current officers and employees

''(a) Whoever, having been an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, after his employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to—

''(1) any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, and

''(2) in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

''(3) in which he participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, while so employed; or

''(b) Whoever, (i) having been so employed, within two years after his employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, any other person (except the United States), in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of any other person (except the United States) to, or (ii) having been so employed and as specified in subsection (d) of this section, within two years after his employment has ceased, knowingly represents or aids, counsels, advises, consults, or assists in representing any other person (except the United States) by personal presence at any formal or informal appearance before—

''(1) any department, agency, court, court-martial, or any civil, military or naval commission of the United States or the District of Columbia, or any officer or employee thereof, and

''(2) in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties in which the United States or the District of Columbia is a party or has a direct and substantial interest, and

''(3) as to (i), which was actually pending under his official responsibility as an officer or employee within a period of one year prior to the termination of such responsibility, or, as to (ii), in which he participated personally and substantially as an officer or employee; or

''(c) Whoever, other than a special Government employee who serves for less than sixty days in a given calendar year, having been so employed as specified in subsection (d) of this section, within one year after such employment has ceased, knowingly acts as agent or attorney for, or otherwise represents, anyone other than the United States in any formal or informal appearance before, or, with the intent to influence, makes any oral or written communication on behalf of anyone other than the United States, to—

''(1) the department or agency in which he served as an officer or employee, or any officer or employee thereof, and

''(2) in connection with any judicial, rulemaking, or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter, and

''(3) which is pending before such department or agency or in which such department or agency has a direct and substantial interest—

shall be subject to the penalties set forth in section 216 of this title.

''(d)(1) Subsection (c) of this section shall apply to a person employed—

''(A) at a rate of pay specified in or fixed according to subchapter II of chapter 53 of title 5, United States Code, or a comparable or greater rate of pay under other authority;

''(B) on active duty as a commissioned officer of a uniformed service assigned to pay grade of O–9 or above as described in section 201 of title 37, United States Code; or

''(C) in a position which involves significant decision-making or supervisory responsibility, as designated under this subparagraph by the Director of the Office of Government Ethics, in consultation with the department or agency concerned. Only positions which are not covered by subparagraphs (A) and (B) above, and for which the basic rate of pay is equal to or greater than the basic rate of pay for GS–17 of the General Schedule prescribed by section 5332 of title 5, United States Code, or positions which are established within the Senior Executive Service pursuant to the Civil Service Reform Act of 1978, or positions of active duty commissioned officers of the uniformed services assigned to pay O–7 or O–8, as described in section 201 of title 37, United States Code, may be designated. As to persons in positions designated under this subparagraph, the Director may limit the restrictions of subsection (c) to permit a former officer or employee, who served in a separate agency or bureau within a department or agency, to make appearances before or communications to persons in an unrelated agency or bureau, within the same department or agency, having separate and distinct subject matter jurisdiction, upon a determination by the Director that there exists no potential for use of undue

influence or unfair advantage based on past government service. On an annual basis, the Director of the Office of Government Ethics shall review the designations and determinations made under this subparagraph and, in consultation with the department or agency concerned, make such additions and deletions as are necessary. Departments and agencies shall cooperate to the fullest extent with the Director of the Office of Government Ethics in the exercise of his responsibilities under this paragraph.

''(2) The prohibition of subsection (c) shall not apply to appearances, communications, or representation by a former officer or employee, who is—

''(A) an elected official of a State or local government, or

''(B) whose principal occupation or employment is with (i) an agency or instrumentality of a State or local government, (ii) an accredited, degree-granting institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965, or (iii) a hospital or medical research organization, exempted and defined under section 501(c)(3) of the Internal Revenue Code of 1986, and the appearance, communication, or representation is on behalf of such government, institution, hospital, or organization.

''(e) For the purposes of subsection (c), whenever the Director of the Office of Government Ethics determines that a separate statutory agency or bureau within a department or agency exercises functions which are distinct and separate from the remaining functions of the department or agency, the Director shall by rule designate such agency or bureau as a separate department or agency; except that such designation shall not apply to former heads of designated bureaus or agencies, or former officers and employees of the department or agency whose official responsibilities included supervision of said agency or bureau.

''(f) The prohibitions of subsections (a), (b), and (c) shall not apply with respect to the making of communications solely for the purpose of furnishing scientific or technological information under procedures acceptable to the department or agency concerned, or if the head of the department or agency concerned with the particular matter, in consultation with the Director of the Office of Government Ethics, makes a certification, published in the Federal Register, that the former officer or employee has outstanding qualifications in a scientific, technological, or other technical discipline, and is acting with respect to a particular matter which requires such qualifications, and that the national interest would be served by the participation of the former officer or employee.

''(g) Whoever, being a partner of an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, acts as agent or attorney for anyone other than the United States before any department, agency, court, court-martial, or any civil, military, or naval commission of the United States or the District of Columbia, or any officer or employee thereof, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter in which the United States or the District of Columbia is a party or has a direct and substantial interest and in which such officer or employee or special Government employee participates or has participated personally and substantially as an officer or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is the subject of his official responsibility, shall be fined not more than $5,000, or imprisoned for not more than one year, or both.

''(h) Nothing in this section shall prevent a former officer or employee from giving testimony under oath, or from making statements required to be made under penalty of perjury.

''(i) The prohibition contained in subsection (c) shall not apply to appearances or communications by a former officer or employee concerning matters of a personal and individual nature, such as personal income taxes or pension benefits; nor shall the prohibition of that subsection prevent a former officer or employee from making or providing a statement, which is based on the former officer's or employee's own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received, other than that regularly provided for by law or regulation for witnesses.

''(j) If the head of the department or agency in which the former officer or employee served finds, after notice and opportunity for a hearing, that such former officer or employee violated subsection (a), (b), or (c) of this section, such department or agency head may prohibit that person from making, on behalf of any other person (except the United States), any informal or formal appearance before, or, with the intent to influence, any oral or written communication to, such department or agency on a pending matter of business for a period not to exceed five years, or may take other appropriate disciplinary action. Such disciplinary action shall be subject to review in an appropriate United States district court. No later than six months after the effective date of this Act, departments and agencies shall, in consultation with the Director of the Office of Government Ethics, establish procedures to carry out this subsection.

''(k)(1)(A) The President may grant a waiver of a restriction imposed by this section to any officer or employee described in paragraph (2) if the President determines and certifies in writing that it is in the public interest to grant the waiver and that the services of the officer or employee are critically needed for the benefit of the Federal Government. Not more than 25 officers and employees currently employed by the Federal Government at any one time may have been granted waivers under this paragraph.

''(B) A waiver granted under this paragraph to any person shall apply only with respect to activities engaged in by that person after that person's Federal Government employment is terminated and only to that person's employment at a Government-owned, contractor operated entity with which the person served as an officer or employee immediately before the person's Federal Government employment began.

''(2) Waivers under paragraph (1) may be granted only to civilian officers and employees of the executive branch, other than officers and employees in the Executive Office of the President.

''(3) A certification under paragraph (1) shall take effect upon its publication in the Federal Register and shall identify—

''(A) the officer or employee covered by the waiver by name and by position, and

''(B) the reasons for granting the waiver.

A copy of the certification shall also be provided to the Director of the Office of Government Ethics.

''(4) The President may not delegate the authority provided by this subsection.

''(5)(A) Each person granted a waiver under this subsection shall prepare reports, in accordance with subparagraph (B), stating whether the person has engaged in activities otherwise prohibited by this section for each six-month period described in subparagraph (B), and if so, what those activities were.

''(B) A report under subparagraph (A) shall cover each six-month period beginning on the date of the termination of the person's Federal Government employment (with respect to which the waiver under this subsection was granted) and ending two years after that date. Such report shall be filed with the President and the Director of the Office of Government Ethics not later than 60 days after the end of the six-month period covered by the report. All reports filed with the Director under this paragraph shall be made available for public inspection and copying.

''(C) If a person fails to file any report in accordance with subparagraphs (A) and (B), the President shall revoke the waiver and shall notify the person of the rev-

ocation. The revocation shall take effect upon the person's receipt of the notification and shall remain in effect until the report is filed.

''(D) Any person who is granted a waiver under this subsection shall be ineligible for appointment in the civil service unless all reports required of such person by subparagraphs (A) and (B) have been filed.

''(E) As used in this subsection, the term 'civil service' has the meaning given that term in section 2101 of title 5.''

EFFECTIVE DATE OF 1978 AMENDMENT

Section 503 of Pub. L. 95–521, which provided that the amendments made by section 501 (amending this section) shall become effective on July 1, 1979, was amended generally by Pub. L. 101–194, title VI, § 601(a), Nov. 30, 1989, 103 Stat. 1761, and is now set out in the Appendix to Title 5, Government Organization and Employees.

Section 502 of Pub. L. 95–521, which provided that the amendments made by section 501 (amending this section) shall not apply to those individuals who left Government service prior to the effective date of such amendments (July 1, 1979) or, in the case of individuals who occupied positions designated pursuant to section 207(d) of title 18, United States Code, prior to the effective date of such designation; except that any such individual who returns to Government service on or after the effective date of such amendments or designation shall be thereafter covered by such amendments or designation, was amended generally by Pub. L. 101–194, title VI, § 601(a), Nov. 30, 1989, 103 Stat. 1761, and is now set out in the Appendix to Title 5.

EFFECTIVE DATE

Section effective 90 days after Oct. 23, 1962, see section 4 of Pub. L. 87–849, set out as a note under section 201 of this title.

REGULATIONS

Responsibility of Office of Government Ethics for promulgating regulations and interpreting this section, see section 201(c) of Ex. Ord. No. 12674, Apr. 12, 1989, 54 F.R. 15159, as amended, set out as a note under section 7301 of Title 5, Government Organization and Employees.

CONSTRUCTION OF 2007 AMENDMENT

Pub. L. 110–81, title I, § 104(c), Sept. 14, 2007, 121 Stat. 740, provided that: ''Except as expressly identified in this section [amending this section and section 450i of Title 25, Indians] and in the amendments made by this section, nothing in this section or the amendments made by this section affects any other provision of law.''

TRANSFER OF FUNCTIONS

Certain functions of Clerk of House of Representatives transferred to Director of Non-legislative and Financial Services by section 7 of House Resolution No. 423, One Hundred Second Congress, Apr. 9, 1992. Director of Non-legislative and Financial Services replaced by Chief Administrative Officer of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

AGENCIES WITHIN EXECUTIVE OFFICE OF PRESIDENT

For provisions relating to treatment of agencies within the Executive Office of the President as one agency under subsec. (c) of this section, see Ex. Ord. No. 12674, § 202, Apr. 12, 1989, 54 F.R. 15160, as amended, set out as a note under section 7301 of Title 5, Government Organization and Employees.

EXEMPTIONS

Exemptions from former section 284 of this title deemed to be exemptions from this section, see section 2 of Pub. L. 87–849, set out as a note under section 203 of this title.

§ 208. Acts affecting a personal financial interest

(a) Except as permitted by subsection (b) hereof, whoever, being an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States, a Federal Reserve bank director, officer, or employee, or an officer or employee of the District of Columbia, including a special Government employee, participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, general partner, organization in which he is serving as officer, director, trustee, general partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest—

Shall be subject to the penalties set forth in section 216 of this title.

(b) Subsection (a) shall not apply—

(1) if the officer or employee first advises the Government official responsible for appointment to his or her position of the nature and circumstances of the judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee;

(2) if, by regulation issued by the Director of the Office of Government Ethics, applicable to all or a portion of all officers and employees covered by this section, and published in the Federal Register, the financial interest has been exempted from the requirements of subsection (a) as being too remote or too inconsequential to affect the integrity of the services of the Government officers or employees to which such regulation applies;

(3) in the case of a special Government employee serving on an advisory committee within the meaning of the Federal Advisory Committee Act (including an individual being considered for an appointment to such a position), the official responsible for the employee's appointment, after review of the financial disclosure report filed by the individual pursuant to the Ethics in Government Act of 1978, certifies in writing that the need for the individual's services outweighs the potential for a conflict of interest created by the financial interest involved; or

(4) if the financial interest that would be affected by the particular matter involved is that resulting solely from the interest of the officer or employee, or his or her spouse or minor child, in birthrights—

(A) in an Indian tribe, band, nation, or other organized group or community, includ-