

From: [Fugh, Justina](#)
To: [Lance, Kathleen](#); [Lucey, John](#)
Subject: confirmation of impartiality determination for both of you (for our records)
Date: Monday, April 5, 2021 10:37:00 AM

Hi Kathleen and John,

This note confirms that I have authorized you both to participate in specific party matters that involve the North Carolina Department of Environmental Quality (NC DEQ). Within the last year, you worked at NC DEQ but are now at EPA to support Administrator Regan as he carries out his official duties. Under President Biden's Ethics Pledge, political appointees are prohibited from participating in specific party matters in which their former employer is a party, but state government is excluded under the definition of "former employer." Therefore the Ethics Pledge does not apply to your NC DEQ employment.

Federal ethics rules, however, do not contain a similar exclusion for state or local government. Under the impartiality provisions of the Standards of Ethical Conduct for Employees of the Executive Branch, you have a "covered relationship" with the NC DEQ under 5 C.F.R. § 2635.502(b)(1)(iv). For one year after you left the NC DEQ, you cannot participate in any specific party matter in which the NC DEQ is a party or represents a party if the circumstances would cause a reasonable person with knowledge of the relevant facts to question your impartiality. See 5 C.F.R. § 2635.502(a). That said, the ethics regulations permit federal employees to participate in matters that might raise impartiality concerns when the interest of the federal government in your participation outweighs concern over the questioning of the "integrity of the agency's programs and operations." 5 C.F.R. § 2635.502(d).

This note formally confirms that I have authorized you to participate in particular matters in which the NC DEQ is a party. The Administrator has already been granted a limited impartiality determination to permit him to interact with NC DEQ, and you are authorized to assist him as necessary, even if your former employer is involved. I have reviewed the impartiality factors set forth under the regulations and determined that the interest of the United States Government outweigh any concerns about your impartiality.

If either of you has any questions regarding this determination, or if a situation arises in which you need advice or clarification, please feel free to contact me.

Justina

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