

Office of Government Ethics
81 x 20 -- 06/18/81

Letter to a DAEO dated June 18, 1981

In your letter of May 27, 1981, you have asked whether [a] former director of your agency may seek to have his name returned to active status on the roster of arbitrators maintained by your agency. [The former employee] had been placed on inactive status as [an] arbitrator during the period he served as director of [your agency].

The query is whether the one year disability contained in 18 U.S.C. § 207(c) would apply to this situation. Subsection (i) of section 207 provides that the prohibition of subsection (c) does not apply to appearances "concerning matters of a personal and individual nature, such as personal income taxes or pension benefits" The legislative history explains the purpose of this exclusion. S. Rep. No. 170, 95th Cong., 1st Sess. 153 (1977) states (emphasis added):

Subsection (c) further excludes contacts concerning matters of a personal and individual nature, such as personal income taxes and pension benefits. That form of self-representation is reasonable and to be expected

All of those matters are obviously of a very personal and individual nature. They present no problem under subsection (c), which is directed at unfair influence being exerted by a former official with the persons with whom he had worked.

[The former employee's] application as [an] arbitrator does not involve the use of "unfair influence." The application according to the material submitted in your letter and its attachments follows prescribed criteria set forth in 1404.5 of your regulations

and should be fairly routine since [the former employee] had been on the roster before. The [agency], moreover, cannot compel the choice of a particular arbitrator. This is a decision that is made by the parties to the arbitration.

It is my conclusion that [the former employee's] request to be restored to the active list of arbitrators does not in any way conflict with 18 U.S.C. § 207(c) or the regulations issued by this Office pursuant thereto. (See C.F.R. § 737.11(e) and (h).)

Sincerely,

J. Jackson Walter
Director