



# PROTECT the PUBLIC'S TRUST

VIA ELECTRONIC MAIL

August 17, 2021

TO: The Honorable Sean O'Donnell  
Inspector General  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W. (2410T)  
Washington, D.C. 20460

Justina Fugh  
Director and DAEO  
Office of General Counsel  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W. (2311A)  
Washington, D.C. 20460

**Re: Request for Investigation into Ethics Violation by Acting Associate  
Administrator Joseph Goffman**

Dear Mr. O'Donnell and Ms. Fugh,

Protect the Public's Trust (PPT) is a non-profit organization dedicated to promoting integrity in government and restoring the public's trust in government officials. In pursuit of this mission, it has been brought to our attention that a current high-ranking official has acted inconsistently with his ethics obligations and may have improperly exerted his influence to arrange a high-level meeting with Agency personnel on behalf of his former employer.

Overview

In April 2021, the Acting Associate Administrator for the Office of Air and Radiation Joseph Goffman appeared to violate the Biden Administration Ethics Pledge (EO 13989) prohibiting him from participating in any particular matters involving his former employer, Harvard University, including any "meetings or other communications relating to the performance of [his] official duties."<sup>1</sup> The apparent violation occurred on April 20, 2021, less than two weeks after Mr. Goffman signed his official ethics agreement dated April 8, 2021. The communications obtained via a Freedom of Information Act (FOIA) request demonstrate a cavalier attitude toward his ethics obligations and a lack of understanding of the basic premise of his ethics obligations – do not communicate with your former employer.

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<sup>1</sup> EPA-2021-003933 Joe Goffman OGC\_Ethics Records\_Redacted.pdf at 2-5.



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Mr. Goffman's actions appear to have resulted in at least one ethics violation and a benefit to his former employer in the form of an audience with the highest levels of power in the EPA. As public records already demonstrate other appointees under his command have met with their former employers multiple times, an investigation by your office will determine the extent to which Mr. Goffman, his staff, and other appointees at the Agency have failed to meet their ethical obligations.

## Mr. Goffman is bound by numerous ethics restrictions as a political appointee

As a political appointee, Mr. Goffman is bound by applicable ethics laws, regulations, and the Biden Administration Ethics Pledge (the Ethics Pledge). Paragraph 2 (The Revolving Door Ban – All Appointees Entering Government) of the Ethics Pledge prohibits political appointees from participating in particular matters involving specific parties that are directly and substantially related to their former employer or former clients, including regulations and contracts. This prohibition extends for a period of two years after joining the government.<sup>2</sup>

Mr. Goffman is also bound by regulatory restrictions that include 5 CFR § 2635.502(a)(2) which requires appointees to consult with ethics officials and receive approval prior to participating personally and substantially in a matter where a reasonable person with knowledge of the relevant facts would question their impartiality. Based on the language in 502(a)(2) that expands the impartiality concern to “circumstances other than those specifically described in this section,” particular matters of general applicability may present such concerns for an agency in the face of bias being at issue. Failing to consider this appearance of bias by not consulting with agency ethics officials prior to engagement may likely be a violation of an appointee's ethics obligations.

## Joe Goffman has a covered relationship with Harvard University

Mr. Goffman's former employer prior to joining the EPA was Harvard University. This fact is reflected in his Recusal Statement dated April 8, 2021. According to that agreement, the clear parameters of the Ethics Pledge are spelled out: “for the purposes of this pledge obligation, the term ‘particular matters involving specific parties’ is broadened to include any meetings or other communication relating to the performance of my official duties, unless the communication applies to a particular matter of general applicability and participation in the meeting or other event is open to all interested parties.”

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<sup>2</sup> In this instance, Mr. Goffman's covered relationship with Harvard University extends to all employees of the institution.



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Mr. Goffman communicated with his former employer in his official capacity for the purpose of providing private access to senior Agency officials

On April 15, 2021, Kathy Fallon Lambert, a former colleague and frequent guest on Mr. Goffman's podcast<sup>3</sup> while at Harvard University, emailed him to request a meeting. Specifically, Ms. Lambert asked, "Would it be possible to get on your schedule for a 30-minute meeting on mercury science update with Drs. Elsie Sunderland (Harvard), Charles Driscoll (Syracuse) and myself on April 29, 30, or May 3, 4, or 5?"<sup>4</sup>

There were multiple indications that the communication was one Mr. Goffman should steer clear of: 1) Mr. Goffman's long-standing relationship with Ms. Lambert while at Harvard, 2) Ms. Lambert's clear byline indicating her Harvard title and the capacity in which she was requesting a meeting with her former colleague, and 3) the specific reference to her colleague, Dr. Elsie Sunderland's Harvard affiliation. Each of these represented clear red flags to a senior official who had received ethics training and finalized his Recusal Statement less than two weeks prior.

Unfortunately, the situation is much worse. Mr. Goffman served as a senior attorney at the EPA in the Obama Administration. Based on his legal experience and former duties, it can be assumed Mr. Goffman is very familiar with his ethics obligations and what constitutes inappropriate conduct. This makes Goffman's decision to request his subordinate to schedule a meeting with his former colleague and employer that much more egregious. When considering surrounding facts found in emails released via FOIA, Mr. Goffman's response may even be considered an intentional violation.

On April 20, five days after receiving his former colleague's email requesting a meeting, Mr. Goffman forwarded the email to a subordinate, Peter Tsirigotis, directing him to "Please provide the usual response, but I think we should do this one." As a superior official, the direction was clear – schedule the meeting and grant his former employer access to the numerous senior officials included on the email. Mr. Tsirigotis promptly replied and assented to his boss' direction.

### Goffman's attempted to claim safe harbor after "ringing the bell"

Shortly after setting the Harvard meeting request in motion with his subordinates, Mr. Goffman attempted to step back from the process and claim safe harbor from the Agency's senior ethics officials. He wrote, "If I understand correctly, my recusal bars me from the very action I took below because the point of contact and another would-be participant are employees of Harvard University. If that is correct, then please advise on **how to cure this violation**. Thanks." (emphasis added). The Agency's senior ethics

<sup>3</sup> <https://eelp.law.harvard.edu/2019/10/cleanlaw-joe-goffman-interviews-kathy-fallon-lambert-on-ace-and-public-health/>

<sup>4</sup> EPA-2021-003933 Joe Goffman OGC\_Ethics Records\_Redacted.pdf at 90-92.



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official chided the official by indicating he “should have been more alert.” She even felt the need to provide a refresher to the EPA veteran on his most fundamental ethics obligation:

“Despite this restriction, upon receiving an email from an employee of Harvard University, **you did not immediately recuse**. Instead, you forwarded the email to a subordinate with a recommendation that the Agency should involve itself, and your subordinate agreed.

What should you have done instead? Upon receiving the email, you should have noted the email address of the sender and simply forwarded the email to your chief of staff and taken no other action. Now **we have to unring the bell**, which we will do without your knowledge or involvement.”

Goffman cavalierly replied, “Unring away, please! Thanks, Justina.”

Yet, nowhere in Biden’s Ethics Pledge is there a section permitting a clear and arguably intentional violation to be “unrung.”

### The Harvard meeting may still have taken place

The records released to the public do not indicate whether the Harvard meeting Mr. Goffman directed his staff to schedule ultimately took place. However, contemporaneous emails do create the impression that Ms. Lambert was directed to contact Mr. Goffman’s Chief of Staff, Ann Campbell, for future scheduling requests.<sup>5</sup> In all likelihood, a review of the relevant officials’ calendars will almost certainly support Ms. Fugh’s prediction that the “bell had already been rung” and that a meeting did, in fact, occur as a result of Mr. Goffman’s request.

### Conclusion

It is no secret that the American public’s trust in institutions and those charged with leading them is at an all-time low. Double standards deepen cynicism and senior officials’ blatant disregard for adhering to minimum levels of ethical conduct proliferate. Consistent enforcement and holding officials accountable for indisputable violations are some of the few ways to repair the public’s mistrust and shattered confidence.

As a former senior attorney at EPA on his second stint at the agency, Joseph Goffman is a sophisticated official familiar with the important nuances of legal compliance and ethical conduct. As the EPA’s Acting Associate Administrator for the Office of Air and Radiation, Mr. Goffman is perhaps the most influential and important official in terms of implementing the Administration’s climate policy. For these reasons, it is so concerning

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<sup>5</sup> EPA-2021-003933 Joe Goffman OGC\_Ethics Records\_Redacted.pdf at 93-94.



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to see such a flagrant violation of one's most basic ethics obligations be so quickly dismissed in an attempt to "unring" what should be considered an alarming bell. Based on the heavily redacted records provided to the public, several questions remain unanswered.

The American public deserves to be assured that political appointees are carrying out their duties in an ethical, impartial manner without favoritism toward their former employers. Protect the Public's Trust therefore asks your office to begin an immediate and thorough investigation into the following issues:

1. Whether or not Mr. Goffman violated the Biden Ethics Pledge when he directed his subordinate to schedule a meeting with his former colleague and employer;
2. Whether or not Mr. Goffman violated any other ethics regulations by acting in his official capacity to urge a subordinate to accept a meeting request with his former employer;
3. Whether Mr. Goffman received additional training or admonishment beyond the immediate email from ethics officials confirming his violation;
4. Whether Mr. Goffman informed his supervisor in writing, and whether those communications led to any disciplinary action;
5. Whether or not the meeting requested by Mr. Goffman's former colleagues ultimately took place;
6. If the meeting did take place, what the topics/particular matters that were discussed, the request(s) made by outside parties, the attendees, and any communications before or after the meeting;
7. Whether Mr. Goffman's action encouraging his subordinate to schedule a meeting with his former employer constitutes preferential treatment for the former employer and misuse of his government position;
8. Whether or not Mr. Goffman has since had correspondence with his former employer, participated in any particular matters involving his former employer, or has committed another violation or attempted to violate his ethics obligations.

Protect the Public's Trust appreciates your dutiful attention to this important issue, and looks forward to the outcome of your investigation.

Sincerely,

Michael Chamberlain  
Director  
Protect the Public's Trust  
[Michael@protectpublictrust.org](mailto:Michael@protectpublictrust.org)