

Rosenberg, Howard

From: Allen, Lindsey A
Sent: Friday, April 30, 2021 6:23 PM
To: Bailey, Peggy F
Cc: Smith, Damon Y; Bohling, Gayle E; Smith Johnson, Tiffanie; Baxter, Daniel P; Smith Johnson, Tiffanie; Kugler, Elly
Subject: FW: waiver on contact with past affiliations?
Attachments: Section 3 waiver request - April 19.docx

Peggy,

You have requested a waiver of the Ethics Pledge to communicate with your former employer, Center on Budget Policy Priorities (CBPP), and the National Low Income Housing Coalition (NLIHC), where you served as a board member. After review, your waiver request is denied.

The Ethics Pledge provides that a political appointee will not, for a period of two years from the date of appointment, participate in any particular matter involving specific parties that is directly and substantially related to the appointee's former employer or former clients, including regulations and contracts. See Paragraph 2, EO 13989. You are prohibited from participating in particular matters involving specific parties involving CBPP and NLIHC for 2 years from the date of your appointment. To obtain a waiver of any provision of the Ethics Pledge, the Designated Agency Ethics Official (DAEO) must certify in writing (1) that the literal application of the restriction is inconsistent with the purposes of the restriction; or (2) that it is in the public interest to grant a waiver. See Paragraph 3, EO 13989. The public interest includes, but is not limited to, exigent circumstances relating to national security, the economy, public health, or the environment. See *id.*

You contend that the primary purpose of the restriction is to ensure neither you nor your past affiliations unfairly acquire a financial advantage due to your government position. You state that both CBPP and NLIHC receive their funding primarily from foundations and individual donations that are not directly influenced by federal government actions. You believe that the restrictions under Paragraph 2 prohibit you from participating in important stakeholder meetings (including meetings convened by White House officials), learning from their expert policy and data analysis, and, in the case of NLIHC, accessing their network of people with lived experience to inform federal policy actions.

After reviewing your request, the ethics office does not find that your request met the above-stated criteria required for a waiver. The Ethics Pledge seeks to restore and maintain public trust in government. The purpose of Paragraph 2 is to prevent actual and/or apparent favoritism, preferential treatment or unfair advantage toward an appointee's former employer or clients. Your restriction from participating in particular matters involving CBPP and NLIHC assures the public that you will not give or be perceived as giving favoritism or preferential treatment to these entities, regardless of whether HUD provides them money. This type of transparency helps to restore and maintain public trust in government. The literal application of the restriction is not inconsistent with the purposes of the restriction. In addition, your waiver request is not in the public interest because it does not raise exigent circumstances relating to national security, the economy, public health, or the environment.

Please be reminded that you can work on all policy, legislation or regulation impacting these entities and still attend meetings (no matter who hosts them) in which these entities are present to discuss important policy,

legislative or regulatory issues as long as at least 5 entities are in attendance. Additionally, other HUD employees can be available to have conversations with these entities or attend meetings when you cannot to ensure that their expertise is still communicated to the Department.

If you have any questions, please let me know.

Lindsey Allen
Assistant General Counsel, Ethics and Appeals Division
Office of General Counsel
US Dept. of Housing and Urban Development
Work Cell: (b)(6)
Office Tel: 303-672-5066

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From: Bailey, Peggy F <Peggy.F.Bailey@hud.gov>
Sent: Monday, April 19, 2021 6:06 AM
To: Allen, Lindsey A <lindsey.a.allen@hud.gov>
Cc: Kugler, Elly <Elly.H.Kugler@hud.gov>; Bohling, Gayle E <Gayle.E.Bohling@hud.gov>; Baxter, Daniel P <Daniel.P.Baxter@hud.gov>; Smith Johnson, Tiffanie <tiffanie.l.smithjohnson@hud.gov>; Bell, Keisha D <keisha.d.bell@hud.gov>
Subject: RE: waiver on contact with past affiliations?

Hi Lindsey,

Here's a brief memo with my request.

Thanks so much for your help.

Peggy Bailey (she, her)
Senior Advisor, Secretary's Office
U.S. Department of Housing and Urban Development
Office of General Counsel
Cell: (b)(6)

From: Allen, Lindsey A <Lindsey.A.Allen@hud.gov>

Sent: Thursday, April 1, 2021 11:39 AM

To: Bailey, Peggy F <Peggy.F.Bailey@hud.gov>

Cc: Kugler, Elly <Elly.H.Kugler@hud.gov>; Bohling, Gayle E <Gayle_E.Bohling@hud.gov>; Baxter, Daniel P <Daniel.P.Baxter@hud.gov>; Smith Johnson, Tiffanie <Tiffanie_SmithJohnson@hud.gov>; Bell, Keisha D <Keisha.D.Bell@hud.gov>

Subject: FW: waiver on contact with past affiliations?

Peggy,

We have completed our review of your financial disclosure report and want to provide you with information regarding recusal from certain matters pertaining to your former employer, Center on Budget and Policy Priorities (CBPP), as well as the entities in which you served on their board (National Low Income Housing Coalition (NLIHC), The Coordinating Center and Excelerate Housing Group).

Pursuant to 5 C.F.R. 2635.502, you are prohibited from participating in particular matters involving specific parties in which your former employer within the last year is or represents a party. The Ethics Pledge has extended the usual 1-year prohibition to 2 years for all Ethics Pledge signers and includes entities for which you served on their respective boards during any 2 year period prior to appointment. "Particular matters involving specific parties" generally only include matters such as individual grants, contracts, litigation and enforcement type of situations in which the former employer is a party to the matter. It does not include rulemaking, regulation, legislation or policymaking. Therefore, you would not be able to work on particular matters in which either CBPP, NLIHC, the Coordinating Center and Excelerate Housing Group is a party to the matter for 2 years from the date of your appointment. As you were advised related to CBPP, while the restriction does not prohibit you from working on policy, legislation or regulations that may impact these entities, it does prohibit you from participating in any meeting or other communication on rulemaking, regulations, legislation or policy in which one of these former employers is in attendance and there are less than 5 entities at the meeting. See attached email. Additionally, as you were advised February 23, 2021, the Ethics Pledge prohibits political appointees from speaking at events hosted by a former employer if an admission fee is charged for the event or the former employer is organizing the event for the purpose of fundraising or business development. See attached emails. I have also attached a template recusal that you can complete that will outline your recusal and identify who will work on the matters from which you are recused.

Elly reached out to my office regarding your inquiry related to obtaining a waiver under the Ethics Pledge so you may have communication with NLIHC and CBPP. Please note that pursuant to Section 3 of Executive Order 13989, the Director of the Office of Management and Budget (OMB), in consultation with Counsel to the President, may grant an appointee a written waiver of the restrictions in the Ethics Pledge. The Acting Director of OMB has designated to each agency's Designated Agency Ethics Official (DAEO) the ability to exercise Section 3 waiver authority only after consultation with the Counsel to the President. Under Section 3 waiver authority, the DAEO must certify in writing (1) that the literal application of the restriction is inconsistent with the purposes of the restriction; or (2) that it is in the public interest to grant a waiver. The public interest includes, but is not limited to, exigent circumstances relating to national security, the economy, public health, or the environment. All waivers issued must be posted on the agency's website. If you wish to pursue a waiver of paragraph 2 of the Ethics Pledge, please provide my office with additional information that you believe would support such a waiver and we can discuss further.

Please let me know if you have any other questions.

Lindsey Allen
Assistant General Counsel, Ethics and Appeals Division
Office of General Counsel
US Dept. of Housing and Urban Development
Work Cell: (b)(6)
Office Tel: 303-672-5066

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From: Bailey, Peggy F <peggy.f.bailey@hud.gov>
Sent: Wednesday, March 31, 2021 12:52 PM
To: Kugler, Elly <Elly.H.Kugler@hud.gov>
Subject: waiver on contact with past affiliations?

Hi Elly,

Thank you for taking this on for me.

I'm currently prohibited from connecting with my former employer – the Center on Budget and Policy Priorities and the National Low Income Housing Coalition (I was a board member). I'm interested in what is needed to get an ethics waiver so that I can engage with these key partners. I worked at CBPP for 5 years and lead the housing team which works on issues central to my current HUD position. If I can't get that waived, that's fine. But for NLIHC I was only on that board for about 4 months. I took a leave of absence when I joined transition and formally resigned from the board in January. With such a small term as a board member, I'm hoping that at the least I can get an exception for my contact with them.

Thanks and let me know what else you need.

Peggy Bailey (she, her)
Senior Advisor, Secretary's Office
U.S. Department of Housing and Urban Development
Peggy.F.Bailey@hud.gov
Cell: (b)(6)

Memorandum

Date: April 19, 2021
To: Lindsey Allen, Assistant General Counsel, Ethics and Appeals Division
From: Peggy Bailey, Senior Advisor, Office of the Secretary
Subject: Section 3 Waiver request from Executive Order on Ethics and Commitments requirements

I am writing to request a Section 3 waiver in regard to communication with the Center on Budget and Policy Priorities (CBPP) and the National Low Income Housing Coalition (NLIHC). I believe the application of this restriction is inconsistent with the purpose of the restriction.

The primary purpose of the restriction is meant to ensure neither I nor my past affiliations unfairly acquire a financial advantage due to my government position. Both CBPP and NLIHC are well respected non-profit organizations with a long, strong history of housing policy and advocacy expertise. They also regularly communicate with a variety of high-ranking government officials who have access to the same information I do and often seek advice from both organizations. For both organizations, their funding is primarily granting from foundations and individual donations that are not directly influenced by federal government actions.

Rather than accomplishing the goals of the President's Executive Order on Ethics and Commitments, these restrictions prohibit me from participating in important stakeholder meetings (including meetings convened by White House officials), learning from their expert policy and data analysis, and, in the case of NLIHC, accessing their network of people with lived experience to inform federal policy actions.

Therefore, I request a Section 3 waiver so that I can engage in meetings and other stakeholder events for NLIHC and CBPP. It is ok if I can't participate in meetings where they charge a fee or will raise money. I seek this waiver for routine meetings and information gathering activities.

Thank you for considering this request.

Rosenberg, Howard

From: Allen, Lindsey A
Sent: Thursday, April 01, 2021 11:39 AM
To: Bailey, Peggy F
Cc: Kugler, Elly; Bohling, Gayle E; Baxter, Daniel P; Smith Johnson, Tiffanie; Bell, Keisha D
Subject: FW: waiver on contact with past affiliations?
Attachments: Template Former Employer Biden Ethics Pledge Recusal.doc; FW: connecting with my former employer; FW: Invitation to Speak at NLIHC's State Partner Convening; FW: Panelist Invitation for NLIHC's Virtual Policy Forum: March 31 at 1:30pm ET

Peggy,

We have completed our review of your financial disclosure report and want to provide you with information regarding recusal from certain matters pertaining to your former employer, Center on Budget and Policy Priorities (CBPP), as well as the entities in which you served on their board (National Low Income Housing Coalition (NLIHC), The Coordinating Center and Excelerate Housing Group).

Pursuant to 5 C.F.R. 2635.502, you are prohibited from participating in particular matters involving specific parties in which your former employer within the last year is or represents a party. The Ethics Pledge has extended the usual 1-year prohibition to 2 years for all Ethics Pledge signers and includes entities for which you served on their respective boards during any 2 year period prior to appointment. "Particular matters involving specific parties" generally only include matters such as individual grants, contracts, litigation and enforcement type of situations in which the former employer is a party to the matter. It does not include rulemaking, regulation, legislation or policymaking. Therefore, you would not be able to work on particular matters in which either CBPP, NLIHC, the Coordinating Center and Excelerate Housing Group is a party to the matter for 2 years from the date of your appointment. As you were advised related to CBPP, while the restriction does not prohibit you from working on policy, legislation or regulations that may impact these entities, it does prohibit you from participating in any meeting or other communication on rulemaking, regulations, legislation or policy in which one of these former employers is in attendance and there are less than 5 entities at the meeting. See attached email. Additionally, as you were advised February 23, 2021, the Ethics Pledge prohibits political appointees from speaking at events hosted by a former employer if an admission fee is charged for the event or the former employer is organizing the event for the purpose of fundraising or business development. See attached emails. I have also attached a template recusal that you can complete that will outline your recusal and identify who will work on the matters from which you are recused.

Elly reached out to my office regarding your inquiry related to obtaining a waiver under the Ethics Pledge so you may have communication with NLIHC and CBPP. Please note that pursuant to Section 3 of Executive Order 13989, the Director of the Office of Management and Budget (OMB), in consultation with Counsel to the President, may grant an appointee a written waiver of the restrictions in the Ethics Pledge. The Acting Director of OMB has designated to each agency's Designated Agency Ethics Official (DAEO) the ability to exercise Section 3 waiver authority only after consultation with the Counsel to the President. Under Section 3 waiver authority, the DAEO must certify in writing (1) that the literal application of the restriction is inconsistent with the purposes of the restriction; or (2) that it is in the public interest to grant a waiver. The public interest includes, but is not limited to, exigent circumstances relating to national security, the economy, public health, or the environment. All waivers issued must be posted on the agency's website. If you wish to

pursue a waiver of paragraph 2 of the Ethics Pledge, please provide my office with additional information that you believe would support such a waiver and we can discuss further.

Please let me know if you have any other questions.

Lindsey Allen
Assistant General Counsel, Ethics and Appeals Division
Office of General Counsel
US Dept. of Housing and Urban Development
Work Cell: (b)(6)
Office Tel: 303-672-5066

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From: Bailey, Peggy F <Peggy.F.Bailey@hud.gov>
Sent: Wednesday, March 31, 2021 12:52 PM
To: Kugler, Elly <Elly.Kugler@hud.gov>
Subject: waiver on contact with past affiliations?

Hi Elly,

Thank you for taking this on for me.

I'm currently prohibited from connecting with my former employer – the Center on Budget and Policy Priorities and the National Low Income Housing Coalition (I was a board member). I'm interested in what is needed to get an ethics waiver so that I can engage with these key partners. I worked at CBPP for 5 years and lead the housing team which works on issues central to my current HUD position. If I can't get that waived, that's fine. But for NLIHC I was only on that board for about 4 months. I took a leave of absence when I joined transition and formally resigned from the board in January. With such a small term as a board member, I'm hoping that at the least I can get an exception for my contact with them.

Thanks and let me know what else you need.

Peggy Bailey (she, her)
Senior Advisor, Secretary's Office
U.S. Department of Housing and Urban Development
Peggy.F.Bailey@hud.gov
Cell: (b)(6)

MEMORANDUM FOR: [Supervisor]

FROM:

SUBJECT: Disqualification to Avoid Apparent Conflict of Interest

This is to notify you that I have recused myself from participating in certain official matters as described below. I take this action in an abundance of caution to avoid any apparent violation of law or ethics regulations in accordance with the Government-wide Standards of Ethical Conduct regulation at 5 C.F.R. §§ 2635.101(b)(14) & 2635.502 as well as the President's Ethics Pledge, Executive Order 13989.

[Insert this paragraph if former employer is a state or local government] Before commencing my current Federal service, I was employed by **[NAME(S) OF FORMER EMPLOYER(S)]**. Effective immediately, I am disqualifying myself from personal participation in any particular matter in which **[FORMER EMPLOYER(S)]** is or represents a party. Any official matter involving **[FORMER EMPLOYER(S)]**, including decisions, meetings, correspondence, memoranda, and telephone calls, should be handled appropriately without being brought to my attention. My name should not appear on any documents pertaining to such matters. This disqualification will remain in effect until **[insert date one year from termination of prior employment(s)]**.

[Insert this paragraph if former employer is not a state or local government] Before commencing my current Federal service, I was employed by **[NAME(S) OF FORMER EMPLOYER(S)]**. Pursuant to 5 C.F.R. 2635.502 as well as Paragraph 2 of the Ethics Pledge that I signed pursuant to the Executive Order 13989, effective immediately, I am disqualifying myself from personal participation in any particular matter involving specific parties that is directly and substantially related to **[FORMER EMPLOYER(S)]**. This includes any meeting or other communication, unless the communication applies to a particular matter of general applicability and participation in the meeting or event is open to all interested parties. Any matters covered by this restriction involving **[FORMER EMPLOYER(S)]**, including decisions, meetings, correspondence, memoranda, and telephone calls, should be handled appropriately without being brought to my attention. My name should not appear on any documents pertaining to such matters. This disqualification will remain in effect until **[insert date two years from date of appointment]**.

[If needed] In addition, I am disqualifying myself from personal participation in any particular matter in which any of these entities is or represents a party:

- **[LIST FORMER CLIENTS, OR CLIENTS OF FORMER EMPLOYER(S) TO WHOM YOU PROVIDED PROFESSIONAL SERVICES]**
-

Any official matter involving any of these entities, including decisions, meetings, correspondence, memoranda, and telephone calls, should be handled appropriately without being

brought to my attention. My name should not appear on any documents pertaining to such matters. This disqualification will remain in effect until **insert date two years from date of appointment**.

If you should have any questions as to the applicability of this memorandum to any particular situation, please contact Lindsey Allen, Assistant General Counsel, Ethics and Appeals Law Division at (202) 695-6509.

I appreciate your cooperation.

cc: Lindsey Allen, Assistant General Counsel, Ethics and Appeals Law Division

Rosenberg, Howard

From: Baxter, Daniel P
Sent: Wednesday, February 17, 2021 4:10 PM
To: Bailey, Peggy F
Cc: Allen, Lindsey A; Smith Johnson, Tiffanie
Subject: FW: connecting with my former employer

Peggy,

You have asked for guidance on discussing work-related topics with your former employer, Center on Budget and Policy Priorities. You indicate that they often have advocacy interests before HUD. You would like to know whether there are any restrictions on you accepting meeting requests.

Under the Ethics Pledge, paragraph 2, for a two-year period from date of your appointment, you are prohibited from participating in particular matters involving specific parties, i.e. contracts, grants, litigation, investigations, in which your former employer is or represents a party. An employee participates personally if they have direct input into a decision, recommendation, approval, disapproval, rendering of advice, etc. An employee participates substantially if their involvement is of significance to the matter and encompasses more than official responsibility. This restriction includes meetings with your former employer unless the meeting concerns a matter of general applicability, i.e. policy, legislation and regulation, and the meeting includes at least five parties. For example, if Center on Budget and Policy Priorities requests a meeting with you regarding a policy or regulatory issue, the meeting must include 5 other parties each representing a different organization/entity in order for you to accept.

If you have any other questions, please let me know.

*Daniel Baxter
Deputy Assistant General Counsel
Ethics and Appeals Division
Office of the General Counsel
U.S. Department of Housing and Urban Development
202-402-2089*

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From: Bailey, Peggy F <Peggy.F.Bailey@hud.gov>
Sent: Wednesday, February 17, 2021 12:11 PM
To: Allen, Lindsey A <Lindsey.A.Allen@hud.gov>
Subject: connecting with my former employer

Hi Lindsey,

What are the ethics rules with discussing work related topics with my former employer? It was the Center on Budget and Policy Priorities and they often have advocacy interests before HUD. I'm not sure how strict I need to be with accepting meeting requests.

Thanks,

Peggy Bailey (she, her)
Senior Advisor, Secretary's Office
U.S. Department of Housing and Urban Development
Peggy.bailey@hud.gov
Cell: (b)(6)

Rosenberg, Howard

From: Baxter, Daniel P
Sent: Tuesday, February 23, 2021 2:06 PM
To: Bailey, Peggy F
Cc: Allen, Lindsey A; Slye, Brandi M
Subject: FW: Invitation to Speak at NLIHC's State Partner Convening

Peggy,

You have been invited to speak at NLIHC's Virtual State Partner Convening on March 2, 2021. They have asked you to provide a brief update about where things stand with President Biden's housing agenda and answer some questions from the audience. It is expected that there will be about 25-50 people in attendance including NLIHC's most active and closest statewide partners from nearly every state. There is no fee associated with this event for anyone attending and this is not a fundraiser or business development event. You are a political appointee and previously served on NLIHC's board prior to joining HUD. You would like to know whether it is permissible for you to speak at this event. After review, we find that the ethics rules permit you to speak at this event.

Paragraph 2 of the ethics pledge prohibits appointees from participating, for two years after their appointment, in any particular matter involving specific parties that is directly and substantially related to a former employer or client. The Office of Government Ethics (OGE) has stated that this provision does not prohibit an appointee from participating in an official speech made in an official capacity, unless the speech would have a demonstrable financial effect on the former employer or client. Here, this event is free for all attendees and the topic to be discussed involves your duties at HUD. Furthermore, it is unlikely that your speaking at this event will have a financial effect on NLIHC. Therefore, you may speak at this event.

If you have any other questions, please let me know.

*Daniel Baxter
Deputy Assistant General Counsel
Ethics and Appeals Division
Office of the General Counsel
U.S. Department of Housing and Urban Development
202-402-2089*

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From: Bailey, Peggy F <Peggy.F.Bailey@hud.gov>
Sent: Monday, February 22, 2021 8:37 PM

To: Slye, Brandi M <Brandi.M.Slye@hud.gov>
Subject: RE: Invitation to Speak at NLIHC's State Partner Convening

Brandi,

For this one there's no fee for those attending. It isn't a fundraiser or business development event.

Peggy
(b)(6) - cell

From: Slye, Brandi M <Brandi.M.Slye@hud.gov>
Sent: Monday, February 22, 2021 9:28 AM
To: Bailey, Peggy F <Peggy.F.Bailey@hud.gov>
Subject: Fw: Invitation to Speak at NLIHC's State Partner Convening

Hi Peggy,

I am the attorney in Ethics reviewing your inquiry. I have some questions.

Is there a fee associated with this event for those attending?

Is this event a fundraiser?

Is this event a business development activity (seminar for current or prospective clients)?

Thanks

Brandi Slye

From: Bailey, Peggy F <Peggy.F.Bailey@hud.gov>
Sent: Friday, February 19, 2021 3:55 PM
To: Allen, Lindsey A <Lindsey.A.Allen@hud.gov>
Subject: FW: Invitation to Speak at NLIHC's State Partner Convening

Lindsey,

I have a meeting request to run by you. I was on NLIHC's board prior to joining HUD. Can I do this speaking request? The audience is in the 25-50 people range and it is virtual.

Peggy Bailey (she, her)
Senior Advisor, Secretary's Office
U.S. Department of Housing and Urban Development
Peggy.f.bailey@hud.gov
Cell: (b)(6)



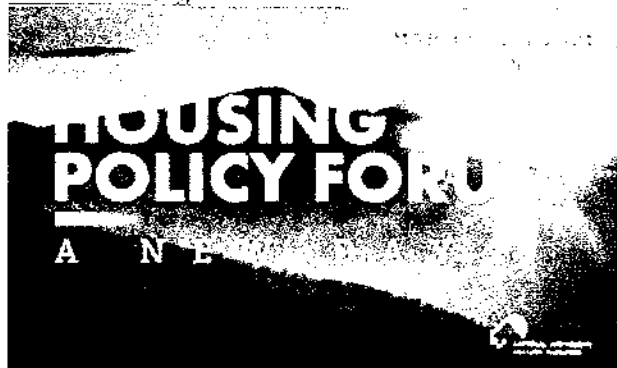
From: Sarah Saadian <ssaadian@nlihc.org>
Sent: Friday, February 19, 2021 5:04 PM
To: Bailey, Peggy F <Peggy.F.Bailey@hud.gov>
Subject: RE: Invitation to Speak at NLIHC's State Partner Convening

Hi Peggy, just following up to see if you're able to join our state partners on March 2!

Thanks,

Sarah

Sarah Saadian
Vice President of Public Policy
National Low Income Housing Coalition
1000 Vermont Avenue, Suite 500
Washington, DC 20005
Cell: (b)(6)
ssaadian@nlihc.org
www.nlihc.org



Join or Donate to NLIHC! (CFC #83644)
Connect to NLIHC on [Facebook](#) and [Twitter](#)

From: Sarah Saadian
Sent: Friday, February 12, 2021 9:15 AM
To: Peggy.F.Bailey@hud.gov
Subject: Invitation to Speak at NLIHC's State Partner Convening

Peggy,

I'm writing to invite you to speak at NLIHC's State Partner Convening on **March 2 – anytime between 2pm and 5pm**. We would love for you to give a brief update about where things stand with President Biden's housing agenda, and hopefully to take a few questions from the audience.

We've also invited Erika Poethig to speak on the same panel.

Our state partner convening pulls together NLIHC's most active and closest statewide partners from nearly every state. Our state partners are housing and homelessness advocacy organizations that serve whole states or regions and are the organizations with which we work most closely in their respective states. You can find a list of our state partners here: <https://nlihc.org/explore-issues/projects-campaigns/state-partner-project>

Thanks,

Sarah

Sarah Saadian

Vice President of Public Policy

National Low Income Housing Coalition

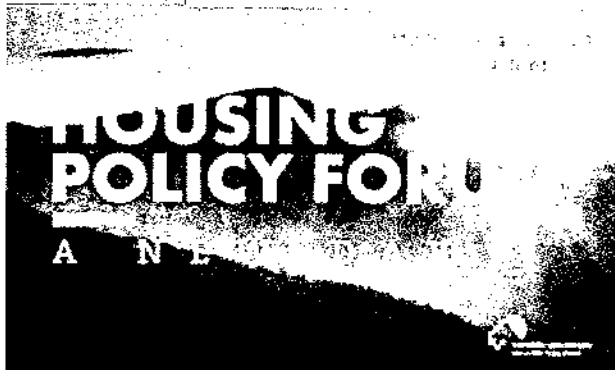
1000 Vermont Avenue, Suite 500

Washington, DC 20005

Cell: (b)(6)

ssaadian@nlihc.org

www.nlihc.org



Rosenberg, Howard

From: Baxter, Daniel P
Sent: Tuesday, February 23, 2021 2:07 PM
To: Bailey, Peggy F
Cc: Allen, Lindsey A; Slye, Brandi M
Subject: FW: Panelist Invitation for NLIHC's Virtual Policy Forum: March 31 at 1:30pm ET

Peggy,

You have invited to speak at a virtual Housing Policy Forum on March 31, 2021 hosted by NLIHC. The session you have been asked to participate in will focus on the work that lies ahead to realizing President Biden's campaign promise of universal housing assistance and the potential impact doing so would have on individuals, families, and communities. The session will be comprised of a panel followed by a round of Q&A with the audience. They have asked you to specifically share your expertise on HUD programs. The fee for attending this event ranges from \$5-\$75; however, it is free for all speakers. This is not a fundraiser event; however, NLIHC will receive some profits from the event through registration fees. This is also not a business development activity. After review, we find that the ethics rules prohibit you from speaking at this event.

Paragraph 2 of the ethics pledge prohibits appointees from participating, for two years after their appointment, in any particular matter involving specific parties that is directly and substantially related to a former employer or client. The Office of Government Ethics (OGE) has stated that this provision prohibits an appointee from participating in an official speech made in an official capacity if the speech would have a demonstrable financial effect on the former employer or client. Further, OGE has stated that an event has a demonstrable financial effect on the former employer if an admission fee is charged for the event or the former employer organizes the event for the purpose of fundraising or business development. Here, since NLIHC is charging an admission fee for all attendees, you would be barred from speaking at this event. Therefore, you may not speak at this event.

If you have any other questions, please let me know.

*Daniel Baxter
Deputy Assistant General Counsel
Ethics and Appeals Division
Office of the General Counsel
U.S. Department of Housing and Urban Development
202-402-2089*

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From: Bailey, Peggy F <Peggy.F.Bailey@hud.gov>
Sent: Monday, February 22, 2021 8:36 PM
To: Slye, Brandi M <Brandi.M.Slye@hud.gov>
Subject: RE: Panelist Invitation for NLIHC's Virtual Policy Forum: March 31 at 1:30pm ET

Hi Brandi,

For this one, the fee ranges from \$5 - \$75 but speakers don't pay. It isn't a fundraiser except that they keep profits from the event. And it isn't a business development activity.

Peggy
(b)(6) - cell

From: Slye, Brandi M <Brandi.M.Slye@hud.gov>
Sent: Monday, February 22, 2021 9:33 AM
To: Bailey, Peggy F <Peggy.F.Bailey@hud.gov>
Subject: Fw: Panelist Invitation for NLIHC's Virtual Policy Forum: March 31 at 1:30pm ET

Hi Peggy,

Can you provide responses below for the same questions I asked in my previous email?

Is there a fee associated with this event for those attending?

Is this event a fundraiser?

Is this event a business development activity (seminar for current or prospective clients)?

Thanks

Brandi Slye

From: Bailey, Peggy F <Peggy.F.Bailey@hud.gov>
Sent: Sunday, February 21, 2021 7:26 AM
To: Allen, Lindsey A <Lindsey.A.Allen@hud.gov>
Subject: FW: Panelist Invitation for NLIHC's Virtual Policy Forum: March 31 at 1:30pm ET

Hi Lindsey,

See the speaking request below. Any ethics concerns? This is a widely attended conference. They have about 300 or more people attend.

Peggy
(b)(6) - cell

From: Kim Johnson <kjohnson@nlhc.org>
Sent: Wednesday, February 17, 2021 10:27 AM
To: Bailey, Peggy F <Peggy.F.Bailey@hud.gov>
Subject: Panelist Invitation for NLIHC's Virtual Policy Forum: March 31 at 1:30pm ET

Good morning Peggy,

I hope you're safe, healthy, and doing as well as can be, and that you're enjoying your new role at HUD! NLIHC is hosting a virtual Housing Policy Forum March 30 and 31, and I'm reaching out to see if you're available to serve as a panelist for one of our sessions, "Achieving Universal Housing Assistance." The session is currently scheduled for **Wednesday, March 31 at 1:30pm ET**; as the name implies, this session will focus on the work that lies ahead to realizing President Biden's campaign promise of universal housing assistance and the potential impact doing so would have on individuals, families, and communities.

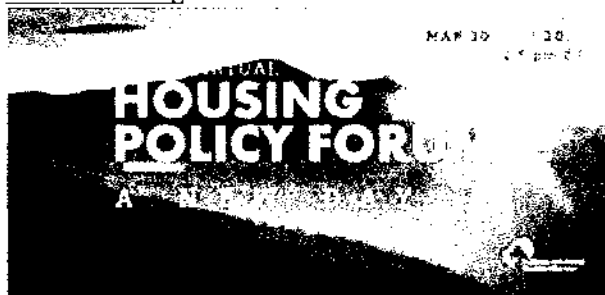
The session will be about 50 minutes long and comprised of a panel followed by a round of Q&A with the audience. Presenters will have about 10 minutes to speak, leaving 15-20 minutes for Q&A. I'm hoping you might be able to share your expertise on HUD programs that could be expanded to achieve the goal of universal housing assistance, and how doing so could be a tool to help address longstanding racial disparities in housing, health and economic outcomes.

Other invited speakers include Dr. Kamillah Wood of Children's Health Fund and Alex Beaton from Sen. Sanders' Budget Committee. When you can, please let me know if you'll be able to join for the upcoming panel, and if you have any questions please don't hesitate to reach out.

Thanks as always for your time, and the incredible work you do!

Best,
Kim

Kim Johnson
Policy Analyst (she/her/hers)
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(202) 662-1530 x243
kjohnson@nlihc.org
www.nlihc.org



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[Check out our Blog](#)
nlihc.org/gap

Rosenberg, Howard

From: Allen, Lindsey A
Sent: Thursday, May 06, 2021 10:57 AM
To: Smith, Damon Y
Cc: Bohling, Gayle E; Bell, Keisha D; Baxter, Daniel P; Smith Johnson, Tiffanie; Kugler, Elly
Subject: RE: waiver on contact with past affiliations?

Damon,

We have reviewed the limited public interest waiver of Section 1, Paragraph 2 of Executive Order 13989, granted by OMB to Aviva Aron-Dine to communicate directly with her former employer, Center on Budget and Policy Priorities (CBPP), when representing the interests of the President and the United States as the Executive Associate Director (EAD) for OMB. As EAD, Ms. Aron-Dine is responsible for helping to craft the President's discretionary and mandatory budget proposals, advocating for the inclusion of these proposals in legislation, and advising on budget execution and program administration issues across government. The General Counsel at OMB determined that CBPP has expertise that is unique among non-governmental organizations in a number of areas directly relevant to Ms. Aron-Dine's responsibilities at OMB, including funding levels and policy design of low-income and health programs and various technical budget concepts. In addition, CBPP plays a unique role in shaping congressional, press, and public understanding of these issues. If she were not permitted to have direct communication with CBPP, her ability to fully and effectively perform the duties of her position would be impaired.

(b)(5) Deliberative Privilege

Please note, the Ethics Pledge does not restrict Peggy from participating in any meetings or events involving CBPP or NILHC with 5 or more parties, on regulations and matters of general applicability. This includes meetings hosted by CBPP or NILHC. She may also work with co-workers on regulations, legislation and policy in which CBPP or NILHC may have an interest. NILHC is a member organization and this restriction does not prohibit Peggy from communicating with NILHC member organizations. Lastly, perhaps there are others working with Peggy who can obtain the information she is seeking, if these options are not possible.

If you have any questions, please let me know.

Lindsey Allen
Assistant General Counsel, Ethics and Appeals Division

Office of General Counsel
US Dept. of Housing and Urban Development
Work Cell: (b)(6)
Office Tel: 303-672-5066

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From: Smith, Damon Y <Damon.Y.Smith@hud.gov>
Sent: Tuesday, May 04, 2021 5:42 AM
To: Allen, Lindsey A <lindsey.A.Allen@hud.gov>
Cc: Bohling, Gayle E <Gayle.E.Bohling@hud.gov>; Smith Johnson, Tiffanie <tiffanie.SmithJohnson@hud.gov>; Baxter, Daniel P <Daniel.P.Baxter@hud.gov>; Smith Johnson, Tiffanie <tiffanie.SmithJohnson@hud.gov>; Kugler, Elly <Elly.H.Kugler@hud.gov>
Subject: RE: waiver on contact with past affiliations?

- Peggy

Lindsey, et. al.,

Can you take a look at the waiver Peggy sent and let me know if it is the exact same waiver for CBPP that she asked us to make? If it is, (b)(5) Deliberative Privilege

(b)(5) Deliberative Privilege?

(b)(5) Deliberative Privilege

Thanks,

Damon

From: Bailey, Peggy F <Peggy.F.Bailey@hud.gov>
Sent: Monday, May 3, 2021 9:55 AM
To: Allen, Lindsey A <lindsey.A.Allen@hud.gov>
Cc: Smith, Damon Y <Damon.Y.Smith@hud.gov>; Bohling, Gayle E <Gayle.E.Bohling@hud.gov>; Smith Johnson, Tiffanie <tiffanie.SmithJohnson@hud.gov>; Baxter, Daniel P <Daniel.P.Baxter@hud.gov>; Smith Johnson, Tiffanie <tiffanie.SmithJohnson@hud.gov>; Kugler, Elly <Elly.H.Kugler@hud.gov>
Subject: RE: waiver on contact with past affiliations?

Lindsey,

Thanks for this email. Damon gave me a heads up to ease my disappointment.

I have two requests.

1. If it is helpful, a former CBPP colleague who is now at OMB made a similar request and hers was approved. Here's the link - <https://www.whitehouse.gov/on/b/information-for-journalists/direct-physical-contact/>. Could this help with my ask?

2. If there's no hope for an appeal, I think I need to have a conversation to make sure I understand 'particular matters'. CBPP routinely submits comments to regs, guidance, or makes recommendations to HUD and I need to better understand the degree to which I have to separate myself.

Peggy
202-577-1782 - cell

From: Allen, Lindsey A <Lindsey.A.Allen@hud.gov>
Sent: Friday, April 30, 2021 6:23 PM
To: Bailey, Peggy F <Peggy.F.Bailey@hud.gov>
Cc: Smith, Damon Y <Damon.Smith@hud.gov>; Bohling, Gayle E <Gayle.E.Bohling@hud.gov>; Smith Johnson, Tiffanie <tiffanie.smithjohnson@hud.gov>; Baxter, Daniel P <Dan.P.Baxter@hud.gov>; Smith Johnson, Tiffanie <tiffanie.smithjohnson@hud.gov>; Kugler, Elly <Elly.H.Kugler@hud.gov>
Subject: FW: waiver on contact with past affiliations?

Peggy,

You have requested a waiver of the Ethics Pledge to communicate with your former employer, Center on Budget Policy Priorities (CBPP), and the National Low Income Housing Coalition (NLIHC), where you served as a board member. After review, your waiver request is denied.

The Ethics Pledge provides that a political appointee will not, for a period of two years from the date of appointment, participate in any particular matter involving specific parties that is directly and substantially related to the appointee's former employer or former clients, including regulations and contracts. See Paragraph 2, EO 13989. You are prohibited from participating in particular matters involving specific parties involving CBPP and NLIHC for 2 years from the date of your appointment. To obtain a waiver of any provision of the Ethics Pledge, the Designated Agency Ethics Official (DAEO) must certify in writing (1) that the literal application of the restriction is inconsistent with the purposes of the restriction; or (2) that it is in the public interest to grant a waiver. See Paragraph 3, EO 13989. The public interest includes, but is not limited to, exigent circumstances relating to national security, the economy, public health, or the environment. See *id.*

You contend that the primary purpose of the restriction is to ensure neither you nor your past affiliations unfairly acquire a financial advantage due to your government position. You state that both CBPP and NLIHC receive their funding primarily from foundations and individual donations that are not directly influenced by federal government actions. You believe that the restrictions under Paragraph 2 prohibit you from participating in important stakeholder meetings (including meetings convened by White House officials), learning from their expert policy and data analysis, and, in the case of NLIHC, accessing their network of people with lived experience to inform federal policy actions.

After reviewing your request, the ethics office does not find that your request met the above-stated criteria required for a waiver. The Ethics Pledge seeks to restore and maintain public trust in government. The purpose of Paragraph 2 is to prevent actual and/or apparent favoritism, preferential treatment or unfair advantage toward an appointee's former employer or clients. Your restriction from participating in particular matters involving CBPP and NLIHC assures the public that you will not give or be perceived as giving favoritism or preferential treatment to these entities, regardless of whether HUD provides them money. This type of transparency helps to restore and maintain public trust in government. The literal application of the restriction is not inconsistent with the purposes of the restriction. In addition, your waiver request is not in the public interest because it does not raise exigent circumstances relating to national security, the economy, public health, or the environment.

Please be reminded that you can work on all policy, legislation or regulation impacting these entities and still attend meetings (no matter who hosts them) in which these entities are present to discuss important policy, legislative or regulatory issues as long as at least 5 entities are in attendance. Additionally, other HUD employees can be available to have conversations with these entities or attend meetings when you cannot to ensure that their expertise is still communicated to the Department.

If you have any questions, please let me know.

Lindsey Allen
Assistant General Counsel, Ethics and Appeals Division
Office of General Counsel
US Dept. of Housing and Urban Development
Work Cell: (b)(6)
Office Tel: 303-672-5066

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From: Bailey, Peggy F <Peggy.F.Bailey@hud.gov>
Sent: Monday, April 19, 2021 6:06 AM
To: Allen, Lindsey A <lindsey.A.Allen@hud.gov>
Cc: Kugler, Elly <Elly.Kugler@hud.gov>; Bohling, Gayle E <Gayle.E.Bohling@hud.gov>; Baxter, Daniel P <Daniel.P.Baxter@hud.gov>; Smith Johnson, Tiffanie <Tiffanie.SmithJohnson@hud.gov>; Bell, Keisha D <keisha.d.bell@hud.gov>
Subject: RE: waiver on contact with past affiliations?

Hi Lindsey,

Here's a brief memo with my request.

Thanks so much for your help.

Peggy Bailey (she, her)
Senior Advisor, Secretary's Office
U.S. Department of Housing and Urban Development
P. Bailey (mailto:peggy.bailey@hud.gov)
Cell: (b)(6)

From: Allen, Lindsey A <Lindsey.A.Allen@hmd.gov>
Sent: Thursday, April 1, 2021 11:39 AM
To: Bailey, Peggy F <Peggy.F.Bailey@hmd.gov>
Cc: Kugler, Elly <Elly.H.Kugler@hmd.gov>; Bohling, Gayle E <Gayle.E.Bohling@hmd.gov>; Baxter, Daniel P <Daniel.P.Baxter@hmd.gov>; Smith Johnson, Tiffanie <Tiffanie.S.SmithJohnson@hmd.gov>; Bell, Keisha D <Keisha.D.Bell@hmd.gov>
Subject: FW: waiver on contact with past affiliations?

Peggy,

We have completed our review of your financial disclosure report and want to provide you with information regarding recusal from certain matters pertaining to your former employer, Center on Budget and Policy Priorities (CBPP), as well as the entities in which you served on their board (National Low Income Housing Coalition (NLIHC), The Coordinating Center and Excelerate Housing Group).

Pursuant to 5 C.F.R. 2635.502, you are prohibited from participating in particular matters involving specific parties in which your former employer within the last year is or represents a party. The Ethics Pledge has extended the usual 1-year prohibition to 2 years for all Ethics Pledge signers and includes entities for which you served on their respective boards during any 2 year period prior to appointment. "Particular matters involving specific parties" generally only include matters such as individual grants, contracts, litigation and enforcement type of situations in which the former employer is a party to the matter. It does not include rulemaking, regulation, legislation or policymaking. Therefore, you would not be able to work on particular matters in which either CBPP, NLIHC, the Coordinating Center and Excelerate Housing Group is a party to the matter for 2 years from the date of your appointment. As you were advised related to CBPP, while the restriction does not prohibit you from working on policy, legislation or regulations that may impact these entities, it does prohibit you from participating in any meeting or other communication on rulemaking, regulations, legislation or policy in which one of these former employers is in attendance and there are less than 5 entities at the meeting. See attached email. Additionally, as you were advised February 23, 2021, the Ethics Pledge prohibits political appointees from speaking at events hosted by a former employer if an admission fee is charged for the event or the former employer is organizing the event for the purpose of fundraising or business development. See attached emails. I have also attached a template recusal that you can complete that will outline your recusal and identify who will work on the matters from which you are recused.

Elly reached out to my office regarding your inquiry related to obtaining a waiver under the Ethics Pledge so you may have communication with NLIHC and CBPP. Please note that pursuant to Section 3 of Executive Order 13989, the Director of the Office of Management and Budget (OMB), in consultation with Counsel to the President, may grant an appointee a written waiver of the restrictions in the Ethics Pledge. The Acting Director of OMB has designated to each agency's Designated Agency Ethics Official (DAEO) the ability to exercise Section 3 waiver authority only after consultation with the Counsel to the President. Under Section 3

waiver authority, the DAEO must certify in writing (1) that the literal application of the restriction is inconsistent with the purposes of the restriction; or (2) that it is in the public interest to grant a waiver. The public interest includes, but is not limited to, exigent circumstances relating to national security, the economy, public health, or the environment. All waivers issued must be posted on the agency's website. If you wish to pursue a waiver of paragraph 2 of the Ethics Pledge, please provide my office with additional information that you believe would support such a waiver and we can discuss further.

Please let me know if you have any other questions.

Lindsey Allen
Assistant General Counsel, Ethics and Appeals Division
Office of General Counsel
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From: Bailey, Peggy F <Peggy.F.Bailey@hud.gov>
Sent: Wednesday, March 31, 2021 12:52 PM
To: Kugler, Elly <Elly.H.Kugler@hud.gov>
Subject: waiver on contact with past affiliations?

Hi Elly,

Thank you for taking this on for me.

I'm currently prohibited from connecting with my former employer – the Center on Budget and Policy Priorities and the National Low Income Housing Coalition (I was a board member). I'm interested in what is needed to get an ethics waiver so that I can engage with these key partners. I worked at CBPP for 5 years and lead the housing team which works on issues central to my current HUD position. If I can't get that waived, that's fine. But for NLIHC I was only on that board for about 4 months. I took a leave of absence when I joined transition and formally resigned from the board in January. With such a small term as a board member, I'm hoping that at the least I can get an exception for my contact with them.

Thanks and let me know what else you need.

Peggy Bailey (she, her)
Senior Advisor, Secretary's Office
U.S. Department of Housing and Urban Development
Peggy.F.Bailey@hud.gov
Cell: (b)(6)

