

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

CHRISTOPHER R. HIXON, STAFF DIRECTOR
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March 23, 2017

The Honorable Walter M. Shaub, Jr.
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington, DC 20005

Dear Mr. Shaub:

I write to request information regarding Trump Administration appointees' ongoing efforts to comply with the President's "Executive Order on Ethics Commitments by Executive Branch Appointees" and other ethical standards of conduct for federal employees.

Numerous public reports have raised concerns regarding whether the Trump Administration is meeting the highest ethical standards. On January 11, 2017, days before President Trump's inauguration, the presidential transition team halted the General Service Administration's efforts to identify and hire a contractor to provide Trump political appointees with training in management and ethics.¹ On January 28, 2017, President Trump signed an Executive Order entitled "Ethics Commitments by Executive Branch Appointees," which superseded and revoked President Obama's Executive Order 13490 on Ethics Commitments by Executive Branch Personnel.² Although President Trump's ethics pledge places certain restrictions on political appointees who have previously lobbied or worked on particular matters under the jurisdiction of the agencies where they now serve, President Trump also removed transparency requirements and weakened some of the "revolving door" provisions included in his predecessors' ethics pledge for Executive Branch appointees. One of these changes included removing a provision directing the Office of Government Ethics to issue annual public reports regarding implementation of the ethics pledge.³

¹ *Trump's Team Nixed Ethics Course for White House Staff*, Politico (Mar. 2, 2017) (online <http://www.politico.com/story/2017/03/trump-ethics-white-house-235586>).

² Exec. Order 13770, 82 FR 9333 (Jan. 28, 2017) (online www.federalregister.gov/documents/2017/02/03/2017-02450/ethics-commitments-by-executive-branch-appointees) (hereinafter "Trump Executive Order on Ethics").

³ Exec. Order 13490, 74 FR 4673 at Section 4(c)(5) (Jan. 21, 2009).

The first weeks of the Trump Administration have also been marked by significant potential ethical lapses. Most notably, during a February 9, 2017, interview on Fox News, Counselor to the President Kellyanne Conway encouraged viewers to “Go buy Ivanka [Trump]’s stuff” referring to the President’s daughter’s fashion line.⁴ Following this incident, you wrote the White House stating, “there is strong reason to believe that Ms. Conway has violated the Standards of Conduct Act and that disciplinary action is warranted.”⁵ Despite this request, the White House Counsel’s Office informed OGE that Ms. Conway was merely verbally counseled twice.⁶ No disciplinary action was taken. In your response to the White House Counsel’s Office on this matter, you expressed concerns about “Ms. Conway’s misuse of position”, the Office’s decision not to take disciplinary action, and the assertion by Stefan Passantino, Deputy Counsel to the President, that “many” OGE regulations are inapplicable to officials in the Executive Office of the President.⁷

I share your concerns regarding the Trump Administration’s stated position on the applicability of OGE regulations to White House staff. While the White House has maintained that political appointees in the Administration have received “several sessions on ethics,” the White House Counsel has not yet responded to my request for information on such guidance. The White House has also declined to provide information on the divestments and recusals certain presidential advisers have undertaken. A White House spokesperson, for example, recently indicated that Jared Kushner, senior adviser to President Trump, retains certain real estate holdings associated with Kushner Companies but “declined to say what Kushner is keeping and what he has given up.”⁸

⁴ *White House Lawyer Twice Briefed Conway on Ethics Rules Following Ivanka Product Pitch*, Politico (Mar. 1, 2017) (online <http://www.politico.com/story/2017/03/kellyanne-conway-ivanka-nordstrom-white-house-lawyer-235571>).

⁵ *Ethics Office Calls on White House to Discipline Conway*, The Hill (Feb. 14, 2017) (online <http://thehill.com/homenews/administration/319493-ethics-office-calls-on-white-house-to-discipline-conway>).

⁶ Letter from Stefan Passantino, Deputy Counsel to the President, Compliance and Ethics, The White House to Walter Shaub, Jr., Director, U.S. Office of Government Ethics (Feb. 28, 2017).

⁷ Letter from Walter Shaub, Jr., Director, U.S. Office of Government Ethics to Stefan Passantino, Deputy Counsel to the President, Compliance and Ethics, The White House (Mar. 9, 2017).

⁸ *White House Power Player Jared Kushner Is Keeping Parts of His Real Estate Empire*, ProPublica (Feb. 24, 2017) (online at https://www.propublica.org/article/white-house-power-player-jared-kushner-keeping-parts-of-real-estate-empire?utm_source=pardot&utm_medium=email&utm_campaign=dailynewsletter).

Most recently, public reports indicate that President Trump's daughter, Ivanka Trump, who previously said that she would have no formal role in her father's administration, will now receive office space in the West Wing, and is in the process of obtaining a security clearance and government-issued communications devices.⁹ According to *Politico*, Ms. Trump will have a "broad and growing portfolio" but will not be sworn in, will hold no official position and will not receive a government salary.¹⁰ Although Ms. Trump has indicated that she "will voluntarily follow" the same ethics and records retention rules that apply to government employees, it is unclear who will oversee her voluntary compliance with these and other rules.¹¹ Ms. Trump has reportedly divested her common stock, tech investments, and investment funds, but has not divested from her business. Instead, she "will be distancing herself, as much as possible, from the day-to-day operations of the Ivanka Trump brand and convey her interests to a trust."¹² A spokeswoman for Ms. Trump that White House Counsel's Office "signed off" on her new role within the White House and conflict issues related to this role were "worked through" with the Office of Government Ethics.¹³

These reports reinforce that the American people need more information about how the Trump Administration will ensure that political appointees meet the highest ethical standards. In order to fully understand OGE's ongoing work and capacity to provide guidance and oversight of the Trump Administration's ethics compliance, please provide responses to the following requests for information not later than April 6, 2017:

1. Were OGE officials consulted by White House staff regarding President Trump's Executive Order entitled "Ethics Commitments by Executive Branch Appointees" and ethics pledge prior to its issuance on January 28, 2017?
2. In a February 28, 2017, letter to you, the White House Counsel's Office noted that the White House has "been providing specialized training to individual components within the Executive Office of the President on disclosure issues, conflicts of interest, gifts, travel, the Presidential Records Act, the STOCK Act, use of official resources and position (personal and political), the Hatch Act, outside income, and post-employment issues."¹⁴ For the issues falling within

⁹ *Ivanka Trump Set to Get West Wing Office as Role Expands*, *Politico* (Mar. 20, 2017) (online <http://www.politico.com/story/2017/03/ivanka-trump-white-house-236273>).

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ Letter from Stefan Passantino, Deputy Counsel to the President, Compliance and Ethics, The White House to Walter Shaub, Jr., Director, U.S. Office of Government Ethics (Feb. 28, 2017).

OGE's purview, were OGE officials consulted by the White House regarding any such specialized training?

3. In the same letter, the White House Counsel's Office noted that the office "has also issued written guidance to all employees of the Executive Office of the President on a number of issues including the Standard of Conduct's prohibition on using one's official position to endorse any product, service, or enterprise."¹⁵ Were OGE officials consulted by the White House regarding any such guidance?
4. Does OGE currently have legal authority to request copies of signed ethics pledge documents from applicable White House staff?
 - a. If so, please provide copies of all ethics pledge documents OGE has received from applicable White House staff on or after January 20, 2017.
5. Does OGE currently have legal authority to request copies of any waivers provided to White House staff from provisions of the ethics pledge?
 - a. If so, please provide copies of all waivers from ethics pledge provisions OGE has received, as well as any other documents and communications it has received related to ethics pledge waivers provided to applicable White House staff on or after January 20, 2017.
6. Please provide copies of any forms or disclosures describing divestments and resignations from boards, partnerships, etc., that OGE has received from applicable White House staff on or after January 20, 2017.
7. Please provide copies of any memoranda or other documents provided by OGE officials to the White House regarding recommended areas of recusal for applicable White House staff on or after January 20, 2017.
8. Please provide copies of all documents and communications between OGE officials and President Trump's nominees for any politically-appointed, Senate confirmed positions, or their representatives, regarding the provision of ethics training or guidance between November 9, 2016, and the present.
9. Please provide copies of all documents and communications between OGE officials and the Trump Presidential Transition Team regarding the provision of ethics training or guidance to incoming Trump Administration appointees between November 9, 2016, and the present.
10. Please provide copies of all documents and communications between OGE officials and the White House regarding the provision of ethics training or

¹⁵ *Id.*

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guidance to Trump Administration appointees between January 20, 2017, and the present.

11. Please provide copies of all documents and communications between OGE officials and the White House, Ivanka Trump or her representatives regarding any ethics training or guidance provided to Ms. Trump regarding her role in the White House between January 20, 2017, and the present.

Should you have any questions regarding this inquiry, please contact Donald Sherman on my staff at Donald_Sherman@hsgac.senate.gov or by phone at (202) 224-2627. Thank you in advance for your prompt attention to this request.

Sincerely,



Claire McCaskill
Ranking Member

cc: Ron Johnson
Chairman