

THE WHITE HOUSE

Washington

MEMORANDUM FOR APPOINTEES IN THE EXECUTIVE OFFICE OF THE PRESIDENT

FROM: Counsel to the President

SUBJECT: Waiver Certification Under Section 3 of Executive Order 13770 for
Communications and Meetings with News Organizations

Pursuant to section 3 of Executive Order 13770, “Ethics Commitments by Executive Branch Employees,” (“Ethics Pledge”), I am issuing this memorandum retroactive to January 20, 2017 to provide a limited waiver to the restrictions found in paragraph 6 of the Ethics Pledge for all appointees in the Executive Office of the President. This limited waiver allows appointees to participate in communications and meetings with news organizations on matters of broad policy and particular matters of general applicability, notwithstanding the limitations found in paragraph 6 of the Ethics Pledge.

In addition to other restrictions found in the Ethics Pledge, paragraph 6 establishes certain restrictions related to an appointee’s “former employers”¹ and “former clients.”² In particular, paragraph 6 prohibits all appointees, including commissioned officers, from:

- Participating in any particular matter involving specific parties in which a “former employer” or “former client” is a party or represents a party for two years from the date of their appointment; and
- Participating in any official meeting or communication with a former employer or former client, except where such meeting or communication relates to a particular matter of general applicability and the meeting or other event is open to all interested parties.

After careful consideration, I have determined that it is appropriate and in the public interest to provide a limited waiver of the restrictions in section 1, paragraph 6, of Executive Order 13770 to allow appointees, who may otherwise be barred from communicating or meeting with news organizations under that paragraph, to participate in meetings and communications with news organizations regarding broad policy matters and particular matters of general applicability in

¹ A “former employer” is defined by the pledge as “any person for whom the appointee has within the 2 years prior to the date of his or her appointment served as an employee, officer, director, trustee, or general partner, except that ‘former employer’ does not include any executive agency or other entity of the Federal Government, State or local government, the District of Columbia, Native American tribe, or any United States territory or possession.” Executive Order 13770, Sec. 2(j).

² A “former client” is defined by the pledge as “any person for whom the appointee served personally as agent, attorney, or consultant within the 2 years prior to the date of his or her appointment, but excluding instances where the service provided was limited to a speech or similar appearance. It does not include clients of the appointee’s former employer to whom the appointee did not personally provide services.” Executive Order 13770, Sec. 2(i).

their official capacity even if the communication or meeting is not “open to all interested parties.” The Administration has an interest in interacting with news organizations on issues of importance to the Administration. It is important that all appointees be able to communicate and meet with news organizations, and disqualification from such meetings or communications would limit the ability of the White House Office to effectively carry out Administration priorities.

Although this waiver permits appointees to communicate and meet with news organizations on broad policy matters and particular matters of general applicability, appointees whose former employer or former client includes a news organization will continue to be precluded from participating in any other particular matter involving specific parties, such as any investigation, application, request for a ruling or determination, rulemaking, contract, controversy, claim, charge, accusation, arrest, or judicial or other proceeding that is focused on identified parties and in which the news organization is a party or represents a party.

This limited waiver does not affect the application of any other provision of law, including any other provision of the Ethics Pledge; the Standards of Ethical Conduct for Executive Branch Employees (5 C.F.R. part 2635); the criminal bribery, graft and conflict of interest statutes (18 U.S.C. 201-209); or the Hatch Act (5 U.S.C. 7323).