

Office of Government Ethics
94 x 12 -- 06/06/94

**Letter to an Agency Commissioner and a
Designated Agency Ethics Official dated
June 6, 1994**

This is in response to your letter of May 11, 1994 requesting a waiver of 18 U.S.C. § 207(c)(1) on behalf of an employee of [your agency].

On February 5, 1993, [one of the commissioners] was designated the Interim Chairman of the [agency] pending the appointment of a permanent Chairman by the President. On February 21, 1993, [the Interim Chairman] appointed his Senior Advisor to the position of Chief of Staff, a senior position subject to the restrictions of 18 U.S.C. § 207(c)(1). [The employee] served in that position on a temporary basis until December 18, 1993. We understand that you do not request a waiver for the position of Chief of Staff; rather, you request that a waiver of the restrictions under section 207(c)(1) be granted to [the employee] personally.

The one-year restriction on certain senior personnel applicable under 18 U.S.C. § 207(c)(1) may be waived in certain circumstances pursuant to the authority of 18 U.S.C. § 207(c)(2)(C) which provides that the Director of the Office of Government Ethics may waive the restrictions in section 207(c)(1) "with respect to any position, or category of positions, referred to in clause (ii) or (iv) of subparagraph (A). . . ." (Emphasis added). Similarly, the regulation implementing this statutory authority provides that the Director may grant a waiver for certain positions or categories of positions. 5 C.F.R. § 2641.201(d).

Neither the statute nor the implementing regulation provides any authority to grant a waiver to an individual personally. Accordingly, we are unable to take the action that you request. [The employee] will remain subject to the restrictions under 18 U.S.C. § 207(c)(1) for a period of one-year from the date of the termination of his service in the covered position.

If you have any questions regarding this letter, please do not hesitate to contact my Office.

Sincerely,

Stephen D. Potts
Director