

Dechert Partner Is Trump's Likely Pick to Head 'President's Law Firm' Within DOJ

Tony Mauro

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When the White House asked the Justice Department's Office of Legal Counsel whether appointing President Donald Trump's son-in-law was legal under the federal anti-nepotism law, the office told the administration last week what it wanted to hear: yes, it was OK.

The answer was rooted in the text of another statute that allows presidents to appoint White House staffers "without regard to any other provision of law."

But the time will almost certainly come when the office, sometimes called "the president's law firm," will say no to the White House or other executive branch entities, including the attorney general. It happens with every administration.

That tricky job is expected to go to Steven Engel, a partner in the Washington office of Dechert who served in the office as deputy assistant attorney general during the George W. Bush administration. While Engel hasn't formally been appointed, his name has been reported by Above the Law and two sources with knowledge of the vetting process confirmed that he's the likely nominee. Curtis Gannon, a former assistant to the solicitor general, is heading the office as acting assistant attorney general until a nominee is confirmed.

Those who know Engel say he'll have no trouble saying no. Steven Bradbury, a Dechert colleague of Engel who headed the Office of Legal Counsel and hired Engel at the Justice Department, said, "He can deliver the bad news. He is not someone who is driven by ideology. I am confident he will focus on the strongest, most reasonable basis" for determining whether a proposed executive action is legal or not. "He always did tremendous work."

Vinson & Elkins partner John Elwood, who worked with Engel at the OLC, agreed. "He will follow the law where it takes him," Elwood said. "People throw around the word 'brilliant,' but Steve is brilliant."

One example of independence that Engel showed during his time at the OLC came in 2007, when he determined that the Defense of Marriage Act, then in effect, would not prevent the nonbiological child of a partner in a Vermont civil union from receiving child's insurance benefits under the Social Security Act.

That was a time when same-sex marriage and civil unions were more controversial than they are now. But Engel determined that federal law allows insurance benefits to the child of a disabled parent when, under state law, the child would inherit as a son or daughter if the parent were to die without a will. Since Vermont law gave those in same-sex unions the same parental benefits as married couples, as Engel explained it, the answer was clear. "Eligibility turns upon the state's

recognition of a parent-child relationship, and specifically, the right to inherit as a child under state law,” he wrote.

At Dechert, he has handled a broad range of business litigation and has been involved in numerous appellate cases. Last year, he was counsel of record for Senate Majority Leader Mitch McConnell and 42 other senators who filed a brief against Obama administration immigration policy in *United States v. Texas*. He has also represented the Washington Legal Foundation and the Cato Institute in other amicus briefs.

Engel graduated from Harvard College in 1996 and received his law degree from Yale Law School in 2000. In 2001 and 2002 Engel clerked for Judge Alex Kozinski of the U.S. Court of Appeals for the Ninth Circuit, where he met his future wife, Susan Kearns. He went on to clerk for Justice Anthony Kennedy, and she clerked for Justice Antonin Scalia. After their clerkships, both worked at Kirkland & Ellis.