

## Were Biden's Ethics Waivers for Labor Ties Justified?

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Soon after taking the oath of office in January, President Biden issued a sweeping ethics pledge for executive branch personnel. But shortly thereafter, the administration granted waivers to two labor leaders to allow them to serve in senior positions, drawing the ire of some conservatives along with charges of hypocrisy. "Labor's sizable personnel presence in the administration is driving policy," Axios reported on Friday. "And the president's appointment of top union officials to senior posts gives those unions powerful voices in the federal bureaucracy — even at the cost of strictly adhering to his own stringent ethics standards."

Nonetheless, ethics officials who spoke to *Government Executive* said they were generally not concerned about the waivers issued in the cases cited.

According to the *Axios* report, Celeste Drake, who was tapped to lead the newly created Made in America Office within the Office of Management and Budget, "was excused from ethics restrictions that would've barred her from communicating with her former employers, the AFL-CIO and Directors Guild of America," and "in March, the Office of Personnel Management waived ethics rules for its director of intergovernmental affairs, Alethea Predeoux, who had been the top lobbyist for the American Federation of Government Employees," the largest federal employee union.

Walter Shaub, former director of the Office of Government Ethics during the Obama administration, said "not all ethics waivers are bad." Now senior ethics fellow at the watchdog organization the Project on Government Oversight, Shaub cited a December 2020 post from POGO about the appropriate use of waivers for those coming from nonprofits.

"These [new] waivers are a good thing because they enable the administration to have strong ethics rules while creating important exceptions for individuals who worked in the public interest before entering government," he told *Government Executive*. "I would feel differently if these appointees came from for-profit businesses or an association of for-profit businesses, but that's not the case here. There's no danger that they could misuse their positions to help a former employer make a profit. Some have complained that they may share their former nonprofit

employers' views on issues, but the ethics restriction was never intended to regulate thought; it was intended to prevent an unfair competitive advantage in business.”

Jeff Hauser, executive director of The Revolving Door Project, an initiative of the Center for Economic and Policy Research, said his organization has consistently asserted: “We don't think ‘lobbying’ is worrisome as such. Indeed, we're often most concerned with non-lobbyists, since it's our view that much of the corporate influence game is conducted via institutions and individuals [who] never register as lobbyists.” (Hauser said he formerly worked with Drake at the AFL-CIO, but that does not impact the organization's view of the situation).

“People who have been lobbying to vindicate their personal view of what is in the broader public interest do not have conflicts of interest when they enter public service regardless of whether their past employer was a union, the Catholic bishops, or the Cato Institute,” he said. “The people we fear entering offices of public trust are people with mercenary instincts whose political actions are designed to maximize personal economic gain, rather than vindicating their view of what is best for society as a whole.”

Virginia Canter, chief ethics counsel for the watchdog group Citizens For Responsibility and Ethics in Washington, said the waivers were “appropriate” for Drake and Predeoux due to the reasons cited.

Based on his experience administering similar waivers under President Obama, “these are merited,” said Norm Eisen, senior fellow in Governance Studies at the Brookings Institution and former White House Special Counsel for Ethics and Government Reform. “My philosophy of granted waivers is that you should have tough rules and make occasional exceptions when there is a demonstrated need and that's what you have here.” Drake and Predeoux “have specific expertise that's important to do the job.” He also noted the Biden administration was transparent with posting the waivers online.

The administration has been “judicious and targeted” with its use of waivers overall, said Eisen. “It's a balancing act” between following the ethics rules and hiring qualified professionals able to advance the administration's policy goals. The administration has issued eight ethics waivers thus far, according to a [list](#) on the Office of Government Ethics's website.

Meredith McGehee, executive director of Issue One, a nonprofit seeking to reform the political system, offered a more nuanced view of the waivers. In a statement to *Government Executive*, she said she would like to see more information:

“Given President Biden's long record of support for labor, it's not surprising to see his administration granting waivers to these individuals. These appointees certainly appear to be qualified. An ethics waiver can be justified if it permits highly skilled individuals to bring special skills to work on issues they have lobbied on. In this case, however, it is not clear if their role is to focus on external relations with the labor community or to make policy or be in a regulatory position. There is a significant difference in those responsibilities. Transparency and disclosure regarding their work will prove critical to determining if the waivers were appropriate.”

When asked about the waivers during the briefing on Monday, White House Press Secretary Jen Psaki stated that Biden enacted “the most stringent ethics code ever adopted by any White House,” but “in the narrow circumstances when necessary and in the public's interest, the order authorizes agencies to grant limited waivers in consultation with White House Counsel's Office.”

She also noted that the president “has stood strong for unions throughout his career, and he's proud to have leading labor voices in the White House.” Besides the two individuals who received waivers, Biden recruited officials from unions for his transition team and then administration.

The waivers have drawn blistering criticism from some conservatives and anti-organized labor groups, however.

Alfredo Ortiz, president of the Job Creators Network, an advocacy group founded by the former CEO of Home Depot that works to prevent government policies from hindering economic freedom, told *Axios*, “It's no surprise that President Biden's union boss appointments have resulted in anti-worker policies like the [Protecting the Right to Organize] Act and the \$15 minimum wage.”

Also, National Republican Senatorial Committee Spokeswoman Katharine Cooksey told Fox News on Saturday, “The pattern of corruption between Democrats and big union bosses is obvious – just follow the money and follow the staff.”