

Timeline of request for Klein ethics waiver based on records released to Energy Policy Advocates:

Jan 26 email from Klein to DOI Designated Agency Ethics Official (DAEO) Heather Gottry: “state AG offices w/agreements [specifically, attorney/client agreements per another Klein email] were MA, WA, MN, NY, and MD.”

Feb 4 email from Gottry to Klein: “we consulted with OGE [U.S. Office of Government Ethics] regarding the scope of your “covered relationship” with your former clients through the State Impact Center for purposes of the recusal in 5 C.F.R. § 2635.502(a). OGE advised that your “covered relationship” extends to the entire state and is not limited to only the Office of the Attorney General. They reached this conclusion based on the high level scope and significant impact that the work of the Office of the Attorney General has in a state. In our discussion, they noted that this analysis was consistent with their approach for former State Attorney Generals who have joined the Executive Branch and were not persuaded that there was a material distinction under 5 C.F.R. § 2635.502(a) between employment and a client relationship.”

Feb 5, 2021 email from Gottry: “We are also considering whether it may be appropriate to grant Ms. Klein an authorization for her 502 client recusals.”

Feb 8 email to Gottry from her team: “Thank you Heather, received! I will review and then get back to you about setting up a time to discuss Ms. Klein’s .502 recusals.”

Feb 9 email from Klein to Gottry: “Just checking in on the status of the draft authorization that we discussed.”

Feb 10 email from Gottry to Klein: “We are still working on drafting and scoping the authorization we discussed. OGE has requested that we coordinate with them on the authorization as well as any limitations established by the authorization.”

Feb 10 email from Gottry: “Would you and Stephanie like to schedule a call to discuss our thinking on a possible 502 authorization?” [Stephanie refers to Stephanie Nonluecha, OGE Program Analyst]

Feb 10 email from Gottry to HHS ethics official: “I was talking with OGE about the scope of a 502 recusal from several states for a potential nominee and they mentioned that they had recently worked with you on a similar issue for Becerra.”

Feb 12 email from Gottry: “We are still assessing the 502 recusal and welcome the opportunity to review the samples we discussed.”

Feb 12 email from Gottry to OGE: “Margaret – Hello! As promised, attached please find our first draft of an EA for Klein. We modeled Section 2 on the Becerra EA and are happy to discuss any feedback.” [Margaret is Margaret Yukins, Assistant Counsel at OGE]

Feb 12 email from Klein to Gottry: “Just checking in on this again – I think there’s eagerness to move things along!”

Feb 12 email from Gottry to Klein: “We also had a long discussion with your OGE reviewers last evening and they would like us to consider the approach reflected in Becerra Ethics Agreement to a 502

authorization, which I have attached for your reference. We are drafting an ethics agreement today that OGE will need to review and provide input on. They also will be sending us sample 502 authorizations that they recommend we use as a model when an authorization is needed.”

Feb 12 email from Gottry to Klein: “Attached please find the first draft of your ethics agreement that we shared with OGE for their review. The draft includes required language from OGE’s 2020 Ethics agreement guide we will likely not be able to request edits to their standard language. Additionally, OGE generally requests that agencies not share draft ethics agreements with potential nominees until they have signed off on a draft, but we would like your input on the non-standard language in Section 2 discussing potential authorizations. It is modeled after the language in the Becerra ethics agreement and modified to reflect that the covered relationship is with former clients as well as a former employer. As drafted, we would be signaling that you could receive authorizations for: (1) new particular matters involving specific parties in which your former clients are or represent a party; and (2) existing particular matters involving specific parties in which your former clients are or represent a party and which you did not participate personally and substantially in while serving as the Deputy Director of the State Impact Center.” [Emphasis added]

Feb 17 email from Gottry to OGE: “We welcome feedback on the updated 502 language and pulled from the examples you kindly provided.”

April 7 email from DOI ethics Attorney Advisor Matt Parsons to Klein: “To date, we identified current recusals with the following entities: American University; George Washington Middle School PTA; Invariant LLC (*sic*); PT Fund, Inc. (Presidential Transition Team); State Energy & Environmental Impact Center, NYU School of Law; **State of Massachusetts; and State of Washington.**” [emphasis added – notably missing are NY, MD, MN which Klein initially identified as former clients].