

IMMIGRATION SUPPORT LETTERS

18 U.S.C. § 205 - Activities of officers and employees in claims against and other matters affecting the Government prohibits Federal employees from acting as an agent or attorney for anyone before any department, agency, court, court-martial, officer, or civil, military, or naval commission in connection with any covered matter in which the United States is a party or has a direct and substantial interest.

The Office of Government Ethics (OGE) has clarified that Federal employees who write and submit letters to the Federal Government in support of an alien applying for a change in immigration status will not typically violate [18 U.S.C. § 205](#).

OGE interprets section 205 to require the exercise of some control by the principal over the agent. Section 205 does not appear to apply in the case of a Federal employee submitting an immigration support letter. In order to act as another's agent, the principal must exercise at least some control over the agent. In the case of writing an immigration support letter, the author of the letter typically is free to write his personal opinion regarding the alien's abilities and character. Generally, a Federal employee who writes a immigration support letter and submits the letter to an arm of the Federal Government would not normally be "acting as agent or attorney" for another within the meaning of the statute.

In the unusual case where the alien did somehow exert control over the Federal employee in drafting and submitting the letter, the Federal employee would be the alien's agent for that purpose, and therefore would violate Section 205. Thus, when determining whether a Federal employee acted as another's agent for purposes of Section 205 by writing and submitting an immigration support letter, the critical factor to consider is whether the Federal employee was under the control of the alien on whose behalf the letter was submitted.

The writing of an immigration support letter may also implicate [5 C.F.R. § 2635.702](#), Use of Public Office for Private Gain, which prohibits a Federal employee from creating the appearance of Governmental sanction or endorsement of his/her or another's personal activities.

Therefore, a Federal employee may sign a letter of recommendation using his/her official title and/or agency letterhead **only in response** to a request for an employment recommendation or character reference, and based upon personal knowledge of the ability or character of an individual with whom s/he has dealt in the course of Federal employment, or whom s/he is recommending for Federal employment.