

SPECIFIC DUTIES UNDER THE STANDARDS OF CONDUCT

(all short references are to 5 CFR 2635)

Agency Designee The first commanding officer or supervisor above the grade of GS-11 in the chain of command or supervision of the employee concerned.

.102(b) Definition: Any employee who, by agency regulation, has been delegated authority to make determinations or give approval under the Standards of Conduct. (X-ref .105(c)(2)(i))

.204(g)(3)(i) Shall make written finding of agency interest in the personal acceptance of free attendance at a widely attended gathering.

.204(g)(3)(ii) Has the power to make blanket determination that agency interest allows a category of employees to accept free attendance at a widely attended gathering.

.204(g)(6) May authorize spouse acceptance of free attendance at a widely attended gathering

.205(a)(2) May decide how to dispose of improper perishable gift (note: all supervisors have this power)

.402(C)(2) May require written disqualification in resolving conflicting financial interest under 18 USC 208 (note: all supervisors have this power)

.402(d)(2) May waive 18 USC 208 conflict which is not likely to affect the integrity of the Government (note: hiring or appointing authority exercises this power)

.402(d)(3) May waive 18 USC 208 conflict for Special Government Employees serving on an advisory committee (note: all appointing authorities exercise this power)

.403(b) May determine that an individual employee may not acquire or hold a specific class of financial interests

.502(a);(c);(d) May authorize, upon independent finding, participation in matters which, although not violating 18 USC 208, would otherwise raise questions about the employee's impartiality

.502(a)(1) May provide advice to employees on whether an outside interest or relationship creates an appearance of impropriety

.502(e)(2) May require written disqualification in resolving appearance of impropriety (note: all supervisors have this power)

.604(c) May require written disqualification while "seeking employment" (note: all supervisors have this power)

.605(b) May authorize participation in matters where "seeking employment" would otherwise create appearance of impropriety

.606(b) May extend period of disqualification after "seeking employment" has ended

Agency Ethics Official An individual appointed in writing by the DAE0, or by the head of a command or organization, who has been delegated the authority to assist in managing the ethics program and provide ethics advice (aka "Ethics Counselor")

.102(c) Definition: Has been delegated authority to carry out agency ethics program

.107(b) May give authoritative advice on the Standards of Conduct

.204(d)(1) Must make written determination that awards in excess of \$200 in value are bona fide part of a program of established recognition

.204(d)(2) Must make written determination that acceptance of an honorary degree would create an appearance of impropriety

.205(a)(2) May decide how to dispose of improper perishable gift (note: all supervisors have this power)

.205(c) May provide qualified immunity from adverse actions to employees who seek advice on disposition of improper gifts

.402(c)(2) May require written disqualification in resolving conflicting financial interest under 18 USC 208 (note: all supervisors have this power)

.502(a)(1) May provide advice to employees on whether an outside interest or relationship creates an appearance of impropriety

.502(e)(2) May require written disqualification in resolving appearance of impropriety (note: all supervisors have this power)

.602(a)(2) May provide advice to employees on post-employment restrictions (including 18 USC 207, 5 CFR 2637; 2641, 41 USC 423, 10 USC 2397b)

.604(c) May require written disqualification while "seeking employment" (note: all supervisors have this power)

2636.103(b) May provide advisory opinion on whether honorarium prohibition applies to a specific activity

10 USC 2397a(e) May issue written opinion on whether a covered defense official must file a report (DD Form 1787), or is disqualified from participation in certain procurement functions

10 USC 2397b(e)(4) May issue a written opinion that this statute does not prohibit compensation from a specific defense contractor

41 USC 423(k) Shall, within 30 days of written request, provide written opinion on whether this statute precludes engaging in a specific activity

Designated Agency Ethics Official (or designee) An employee appointed in writing to administer agency ethics program

.102(c) DAEO and various designees are also agency ethics officials

.107(a) Responsible for managing agency ethics program

.805(c) May authorize, in coordination with DoJ, service as an expert witness which might otherwise violate 18 USC 205 or 18 USC 207

2634.201(f) Reviewing official (DAEO or alternate) may grant 45 extension for filing SF 278

2634.204(a) May determine that filer will serve less than 60 days in a given year and not have to file SF 278

2634.602 SF 278s are filed with DAEO

2634.604(a) SF 278s must be reviewed within 60 days after filing

2634.604(b) SF 278s are to be reviewed for facial completeness and apparent conflicts

2634.604(b) When SF 278s are incomplete:

- (1) Reviewer must request info by date certain (usually no more than 90 days)
- (2) Must give filer notice & opportunity to respond
- (3) Must pursue remedies to resolve conflicts
- (4) Must notify head of agency if in noncompliance

2634.605(b) DAEO must maintain list of 278 filers in non-compliance

2634.803(d) DAEO may enter into ethics agreements to resolve conflicts of interest (should this power be expressly delegated to Ethics Counselors?)

2638.203 {b) DAEO duties in managing agency ethics program are:

- (1) Liaison with OGE
- (2) Maintain financial disclosure system
- (3) Personally review Presidential appointee disclosures
- (4) Report ethics violations
- (5) Maintain agency ethics education program
- (6) Maintain counseling program
- (7) Keep records of advice rendered
- (8) Enforce ethics rules
- (9) Periodically evaluate/audit agency ethics
- (10) Liaison with IG

2638.204 May delegate powers to deputy ethics officials (as used by OGE "deputy ethics officials" includes alternate DAEOs, agency ethics officials, and Ethics Counselors)

2638.702 In managing the agency ethics training program, DAEO must:

- (1) ensure it is legally correct
- (2) ensure qualified trainers are available
- (3) submit an annual training plan to OGE.

2641.201(d) DAEO can request exemption of positions, or revocation of exemption, from 18 USC 207(c) coverage

Head of Agency

.102(b) Determinations relating to the conduct of the agency head, or actions which must be taken by agency head, must be done in consultation with the DAEO

.102(i) Definition: "Head of Agency" means head of agency

.503(c) Waiver of conflict created by extraordinary payments from former employers shall be in writing and given only by the head of agency. However, this waiver authority may be delegated.

2634.605(b) Must maintain list of SF 278 filers in noncompliance

2638.202(a);(b) Is personally responsible for agency ethics program, and shall make sufficient resources available for the program, and select the DAEO.

NOTE! The headnote summaries of these sections have been condensed and simplified. However, the greatest extent possible, the operative verbs and objects in the regulations have been

SPECIAL GOVERNMENT EMPLOYEES UNDER OGE RULES

.102(h) Definition of "employee" includes special government employees (SGE)

.102(1) Definition of "SGE" incorp from 18 USC 202(a), i.e., on temp duty not to exceed 130 days per year

.202(c)(4) "Public official" under 18 USC 801 (bribery) includes SGEs

.204(e)(2) Example 1 For gifts based on outside relationships, SGEs may accept gifts (even from DoD contractors) so long as It is not given for work done as an SGE

.402(d)(3) SGEs who are members of advisory committees may get 18 USC 208 waivers

.603(b)(3)Example 5 SGE used as an example of how sending a resume is not negotiating for employment (implying that SGEs are subject to 18 USC 208 conflicts on this issue)

.604(c) SGE used as an example of when duties would conflict Example 4 with negotiating for employment

801(d) Summarizes four statutes in which SGEs mentioned

.805(a) Restriction on service as an expert witness only applies to SGEs on the same particular matter in which they served as a federal official

.805(b) SGE must get agency permission to act as expert witness in a matter involving agency where SGE was employed if the SGE is a Presidential appointee, serves on a statutory commission, or has served more than 60 days in a given year

.807(a) SGE prohibited from receiving compensation for speaking, teaching or writing about official duties

.807(a)(2)(i)(E)(4) Teaching, speaking, and writing do not relate to SGE official duties when the SGE comments on matters of official agency policy, agency operations, agency programs, general subject matter concerning an industry or economic sector, or matters to which to employee was assigned during the previous year (unless the employee has served more than 60 days during the previous year and 60 days during the 3ubsequent year). In other words, the restriction on SGEs compensation for teaching, speaking or writing is limited to the same particular matter in which they were involved personally and substantially. See examples 7, 8, 9.

.808(c) SGE may engage in fund-raising in a personal capacity and may solicit a prohibited source, if the prohibited source is not directly affected by the SGE's duties