

### § 2638.311

the identity of any person involved is not disclosed. No deletion shall in any way affect the substance of the opinion.

(b) A copy of this version of the opinion shall then be made available for public inspection within 10 working days after the issuance of the opinion at the Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005-3917.

(c) The Director shall thereafter publish this version of the opinion.

[46 FR 2583, Jan. 9, 1981. Redesignated at 54 FR 50231, Dec. 5, 1989, and amended at 55 FR 27180, July 2, 1990]

### § 2638.311 Copies of published formal advisory opinions.

Each designated agency ethics official shall receive a copy of each published opinion. Copies will also be available to the public from the Office of Government Ethics upon request at no more than cost.

### § 2638.312 Referral of requests.

(a) If a designated agency ethics official receives a request for advice from a person and determines that the request may come within the criteria set forth in § 2638.303, he or she shall contact the Office of Government Ethics concerning the request before referring the request to the Office. If after such consultation the Office of Government Ethics determines that the request should be the subject of a formal advisory opinion, the designated agency ethics official shall notify the person making the request of that determination and request the person's permission to refer the request to the Office of Government Ethics.

(b) If the Director receives a request for an opinion which does not fulfill the criteria set forth in § 2638.303, he or she may:

(1) Furnish informational assistance to the person as provided in § 2638.305(a), or

(2) Refer the request to the appropriate designated agency ethics official.

(c) In all instances covered by paragraphs (a) and (b) of this section, a referral will not be made in the case of questions regarding possible future employment plans of an individual mak-

### 5 CFR Ch. XVI (1-1-03 Edition)

ing the request unless he or she is first notified and gives his or her consent or the request itself indicates that such a referral may be made.

### § 2638.313 Agency opinions.

If the designated agency ethics official issues a written opinion concerning the application of 18 U.S.C. 202-209, he or she shall transmit a copy of that opinion to the Office of Government Ethics.

### Subpart D—Correction of Executive Branch Agency Ethics Programs

SOURCE: 55 FR 1666, Jan. 18, 1990, unless otherwise noted.

### § 2638.401 In general.

The Director of the Office of Government Ethics has authority under subsections 402(b)(9) and 402(f)(1) of the Ethics in Government Act to order action to correct deficiencies in agency ethics programs. These procedures are intended to be used to correct deficiencies in agency ethics programs that are not being addressed adequately by the agency. They are not intended to be used to deal with cases involving individual employees or former employees. See subpart E of this part. For purposes of this section, an agency ethics program shall include those matters that are the responsibility of agency heads and designated agency ethics officials under subpart B of this part and shall include the requirements under part 2634 of this chapter and part 735 of this title to establish public and nonpublic financial disclosure systems. In implementing these procedures, the Director may use any authority contained in the Ethics Act.

### § 2638.402 Corrective orders.

(a) *Notice.* Where the Director has information indicating that an agency ethics program is not in full compliance with the requirements set forth in applicable statutes or regulations, the Director may issue a Notice of Deficiency to the designated agency ethics official and request an agency report under paragraph (b) of this section.