

## § 60.2

(c) The Department does not indemnify or settle a personal damage claim before entry of an adverse verdict, judgment, or monetary award unless the Secretary determines that exceptional circumstances justify the earlier indemnification or settlement.

(d) Any payment under this part, either to indemnify a Department of Education employee or to settle a personal damage claim, is contingent upon the availability of appropriated funds.

(Authority: 20 U.S.C. 3411, 3461, 3471, and 3474)

### § 60.2 What procedures apply to requests for indemnification?

(a) When an employee of the Department of Education becomes aware that an action has been filed against the employee in his or her individual capacity as a result of conduct taken within the scope of his or her employment, the employee shall immediately notify the head of his or her principal operating component and shall cooperate with appropriate officials of the Department in the defense of the action.

(b) As part of the notification in paragraph (a) of this section or at a later time, the employee may request—

(1) Indemnification to satisfy a verdict, judgment, or award entered against the employee; or

(2) Payment to satisfy the requirements of a settlement proposal.

(c)(1) The employee's request must be in writing to the head of his or her principal operating component and must be accompanied by copies of the complaint and other documents filed in the action, including the verdict, judgment, award, settlement, or settlement proposal, as appropriate.

(2)(i) As used in this section, the term *principal operating component* means an office in the Department headed by an Assistant Secretary, a Deputy Under Secretary, or an equivalent departmental officer who reports directly to the Secretary.

(ii) The term also includes the Office of the Secretary and the Office of the Under Secretary.

(d) The head of the employee's principal operating component submits to the General Counsel, in a timely manner, the request, together with a recommended disposition of the request.

## 34 CFR Subtitle A (7-1-08 Edition)

(e) The General Counsel forwards to the Secretary for decision—

(1) The employee's request;

(2) The recommendation of the head of the employee's principal operating component; and

(3) The General Counsel's recommendation.

(Authority: 20 U.S.C. 3411, 3461, 3471, and 3474)

## PART 73—STANDARDS OF CONDUCT

Sec.

73.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

73.2 Conflict of interest waiver.

APPENDIX TO PART 73—CODE OF ETHICS FOR GOVERNMENT SERVICE

AUTHORITY: 5 U.S.C. 301, 7301; 18 U.S.C. 208; and E.O. 12674, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 3 CFR, 1990 Comp., p. 306.

SOURCE: 60 FR 5818, Jan. 30, 1995, unless otherwise noted.

### § 73.1 Cross-reference to employee ethical conduct standards and financial disclosure regulations.

Employees of the Department of Education are subject to the executive branch-wide Standards of Ethical Conduct at 5 CFR part 2635 and to the Department of Education regulation at 5 CFR part 6301 which supplements the executive branch-wide standards with a requirement for employees to obtain prior approval to participate in certain outside activities. In addition, employees are subject to the executive branch-wide financial disclosure regulations at 5 CFR part 2634.

### § 73.2 Conflict of interest waiver.

If a financial interest arises from ownership by an employee—or other person or enterprise referred to in 5 CFR 2635.402(b)(2)—of stock in a widely diversified mutual fund or other regulated investment company that in turn owns stock in another enterprise, that financial interest is exempt from the prohibition in 5 CFR 2635.402(a).

APPENDIX TO PART 73—CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in Government service should:

Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

Uphold the Constitution, laws, and regulations of the United States and of all governments therein and never be a party to their evasion.

Give a full day's labor for a full day's pay; giving earnest effort and best thought to the performance of duties.

Seek to find and employ more efficient and economical ways of getting tasks accomplished.

Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or herself or for family members, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of governmental duties.

Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of governmental duties.

Never use any information gained confidentially in the performance of governmental duties as a means of making private profit.

Expose corruption wherever discovered.

Uphold these principles, ever conscious that public office is a public trust.

(This Code of Ethics was unanimously passed by the United States Congress on June 27, 1980, and signed into law as Public Law 96-303 by the President on July 3, 1980.)

## **PART 74—ADMINISTRATION OF GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, AND OTHER NON-PROFIT ORGANIZATIONS**

### **Subpart A—General**

Sec.

- 74.1 Purpose.
- 74.2 Definitions.
- 74.3 Effect on other issuances.
- 74.4 Deviations.
- 74.5 Subawards.

### **Subpart B—Pre-Award Requirements**

- 74.10 Purpose.
- 74.11 Pre-award policies.
- 74.12 Forms for applying for Federal assistance.
- 74.13 Debarment and suspension.
- 74.14 Special award conditions.
- 74.15 Metric system of measurement.

74.16 Resource Conservation and Recovery Act.

74.17 Certifications and representations.

### **Subpart C—Post-Award Requirements**

#### **FINANCIAL AND PROGRAM MANAGEMENT**

- 74.20 Purpose of financial and program management.
- 74.21 Standards for financial management systems.
- 74.22 Payment.
- 74.23 Cost sharing or matching.
- 74.24 Program income.
- 74.25 Revision of budget and program plans.
- 74.26 Non-Federal audits.
- 74.27 Allowable costs.
- 74.28 Period of availability of funds.

#### **PROPERTY STANDARDS**

- 74.30 Purpose of property standards.
- 74.31 Insurance coverage.
- 74.32 Real property.
- 74.33 Federally-owned and exempt property.
- 74.34 Equipment.
- 74.35 Supplies and other expendable property.
- 74.36 Intangible property.
- 74.37 Property trust relationship.

#### **PROCUREMENT STANDARDS**

- 74.40 Purpose of procurement standards.
- 74.41 Recipient responsibilities.
- 74.42 Codes of conduct.
- 74.43 Competition.
- 74.44 Procurement procedures.
- 74.45 Cost and price analysis.
- 74.46 Procurement records.
- 74.47 Contract administration.
- 74.48 Contract provisions.

#### **REPORTS AND RECORDS**

- 74.50 Purpose of reports and records.
- 74.51 Monitoring and reporting program performance.
- 74.52 Financial reporting.
- 74.53 Retention and access requirements for records.

#### **TERMINATION AND ENFORCEMENT**

- 74.60 Purpose of termination and enforcement.
- 74.61 Termination.
- 74.62 Enforcement.

### **Subpart D—After-the-Award Requirements**

- 74.70 Purpose.
- 74.71 Closeout procedures.
- 74.72 Subsequent adjustments and continuing responsibilities.
- 74.73 Collection of amounts due.

APPENDIX A TO PART 74—CONTRACT PROVISIONS