

September 7, 2000
DO-00-031

MEMORANDUM

TO: Designated Agency Ethics Officials

FROM: F. Gary Davis
Acting Director

SUBJECT: Publication of Interim Rule Amending 5 C.F.R. § 2635.807(a), the Prohibition on Employee Receipt of Compensation for Outside Teaching, Speaking, and Writing

The Office of Government Ethics (OGE) has published an interim rule amending 5 C.F.R. § 2635.807(a), the prohibition on employee receipt of compensation for outside teaching, speaking, or writing that relates to official duties. See 65 Fed. Reg. 53650 (September 5, 2000). The amendment responds to the May 30, 1995 en banc decision by the United States Court of Appeals for the District of Columbia Circuit in Sanjour v. Environmental Protection Agency, 56 F.3d 85, as clarified in the April 14, 1998 decision on remand by the United States District Court for the District of Columbia, 7 F. Supp.2d 14.

Under section 2635.807(a), as amended, employees who are *not* "covered noncareer employees" as defined in 5 C.F.R. § 2636.303(a) will be able to accept travel expenses incurred in connection with teaching, speaking, or writing activities that are related to their official duties. "Covered noncareer employees," on the other hand, will remain subject to the travel expenses ban. The amendment, which does not affect forms of compensation other than travel expenses, codifies OGE's previously announced enforcement policy in response to the Sanjour litigation. See DAEOgram 98-034 (Nov. 25, 1998).

The rule was mistakenly published in the "Proposed Rules" section of the Federal Register. It is, however, an interim regulation, effective immediately. The 60-day period for submission of comments will end on November 6, 2000.

Please see the regulation (attached) for additional information.

Attachment