

§ 2636.306

of a profession shall be considered a profession.

(2) *Profession which involves a fiduciary relationship* means a profession in which the nature of the services provided causes the recipient of those services to place a substantial degree of trust and confidence in the integrity, fidelity and specialized knowledge of the practitioner. Such professions are not limited to those whose practitioners are legally defined as fiduciaries and include practitioners in such areas as law, insurance, medicine, architecture, financial services and accounting. A covered noncareer employee who is uncertain whether a particular field of endeavor is a profession which involves a fiduciary relationship may request an advisory opinion under § 2636.103.

Example 1. In view of the standards of the profession which require a licensed real estate broker to act in the best interests of his clients, the selling of real estate by a licensed broker involves the practice of a profession involving a fiduciary relationship.

Example 2. A covered noncareer employee may receive the customary fee for serving as the executor of his mother's estate, provided he does not violate the applicable limitation on the amount of outside earned income he may receive. Although the executor of an estate has fiduciary obligations, serving as an executor in these circumstances does not involve the practice of a profession and, therefore, is not prohibited. He could not, however, serve for compensation as attorney for the estate.

[56 FR 1723, Jan. 17, 1991, as amended at 58 FR 69176, Dec. 30, 1993]

§ 2636.306 Compensation restriction applicable to service as an officer or member of a board.

(a) *Applicable restriction.* A covered noncareer employee shall not receive compensation for serving as an officer or member of the board of any association, corporation or other entity. Nothing in this section prohibits uncompensated service with any entity.

(b) *Definition.* For purposes of this section, the phrase "association, corporation or other entity" is not limited to for-profit entities, but includes non-profit entities, such as charitable organizations and professional associations, as well as any unit of state or local government.

Example 1. A covered noncareer employee of the Environmental Protection Agency may not serve with compensation on the board of directors of his sister's closely-held computer software corporation.

Example 2. A covered noncareer employee of the Department of the Navy may serve without compensation as an officer of a charitable organization that operates a hospice.

Example 3. A covered noncareer employee of the Coast Guard appointed to serve as a member of the board of education of the county in which she is a resident may not receive compensation for that service.

§ 2636.307 Requirement for advance authorization to engage in teaching for compensation.

(a) *Authorization requirement.* A covered noncareer employee may receive compensation for teaching only when specifically authorized in advance by the designated agency ethics official.

(b) *Definition.* For purposes of this section "teaching" means any activity that involves oral presentation or personal interaction, the primary function of which is to instruct or otherwise impart knowledge or skill. It is not limited to teaching that occurs in a formal setting, such as a classroom, but extends to instruction on an individual basis or in an informal setting.

(c) *Request for authorization.* An employee may request authorization to engage in compensated teaching activities by forwarding a written request to the designated agency ethics official. The request shall describe the employee's official duties, the subject matter of the teaching activity, the entity sponsoring the course, and the student, class or audience to be taught. In addition, it shall set forth the terms of the compensation arrangement and identify the source of the payment. The request shall be accompanied by any contract or employment agreement and any literature describing, publicizing or otherwise promoting the class, classes or course.

(d) *Standard for authorization.* Compensated teaching may be approved by the designated agency ethics official only when:

(1) The teaching will not interfere with the performance of the employee's official duties or give rise to an appearance that the teaching opportunity was extended to the employee principally because of his official position;