

§ 2636.306

5 CFR Ch. XVI (1-1-05 Edition)

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;

(2) The employee's receipt of compensation does not violate any of the limitations and prohibitions on honoraria, compensation or outside earned income contained in this part; and

(3) Neither the teaching activity nor the employee's receipt of compensation therefor will violate applicable standards of conduct or any statute or regulation related to conflicts of interests.

(e) *Determination and authorization.* The determination by the designated agency ethics official to grant or deny authorization to engage in teaching for compensation shall be in writing and shall be final. The authority of the designated agency ethics official to authorize compensated teaching may not be delegated to any person other than the alternate designated agency ethics official described in §2638.202(b).

## PART 2637—REGULATIONS CONCERNING POST EMPLOYMENT CONFLICT OF INTEREST

### Subpart A—General Provisions

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- 2637.101 Purpose and policy.  
2637.102 Definitions.

### Subpart B—Substantive Provisions

- 2637.201 Restrictions on any former Government employee's acting as representative as to a particular matter in which the employee personally and substantially participated.
- 2637.202 Two-year restriction on any former Government employee's acting as representative as to a particular matter for which the employee had official responsibility.
- 2637.203 Two-year restriction on a former senior employee's assisting in representing as to a matter in which the employee participated personally and substantially.
- 2637.204 One-year restriction on a former senior employee's transactions with former agency on a particular matter, regardless of prior involvement.
- 2637.205 Limitation of restrictions of 18 U.S.C. 207(c) to less than that whole of a department or agency.
- 2637.206 Exemption for scientific and technological information.
- 2637.207 Exemption for persons with special qualification in a technical discipline.
- 2637.208 Testimony and statements under oath or subject to penalty of perjury.

- 2637.209 Partners of present or former Government employees.
- 2637.210 Officials of a State; officials of corporations created by an Act of Congress and public international organizations.
- 2637.211 Standards and procedures for designating senior employee positions pursuant to 18 U.S.C. 207(d).
- 2637.212 Administrative enforcement proceedings.
- 2637.213 Effective date of restrictions.
- 2637.214 Separate statutory agencies: Designations.
- 2637.215 Separate components of agencies or bureaus: Designations.
- 2637.216 "Senior Employee" designations.

AUTHORITY: 5 U.S.C. App. (Ethics in Government Act of 1978); 18 U.S.C. 207 (1988).

SOURCE: 45 FR 7406, Feb. 1, 1980; 45 FR 9253, Feb. 12, 1980, unless otherwise noted. Redesignated at 54 FR 50231, Dec. 5, 1989.

NOTE: The post-employment conflict of interest restrictions of 18 U.S.C. 207 were substantially revised effective January 1, 1991, by the Ethics Reform Act of 1989, Pub. L. 101-194, 103 Stat. 1716, with technical amendments enacted by Pub. L. 101-280, 104 Stat. 149 (1990). The Office of Government Ethics has published substantive guidance for the executive branch concerning the amended version of 18 U.S.C. 207 in part 2641 of this subchapter. This part 2637 will continue to provide guidance concerning the previous version of section 207, which will continue to apply to individuals terminating Government service prior to January 1, 1991.

EDITORIAL NOTE: The following index of paragraphs is provided for the convenience of the reader:

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(b) Consultation with the Attorney General.  
(c) Policy and limitations.
- 2637.102 Definitions.  
(a) Statutory definitions.  
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### Subpart B—Substantive Provisions

- 2637.201 Restrictions on any former government employee's acting as representative as to a particular matter in which the employee personally and substantially participated.  
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