

to isolate the former Government employee from other aspects of the matter, would be burdensome and impractical.

(c) *Certification authority.* Certification should take place at no lower level than the head of the agency, the deputy thereof, or in the absence of both, the acting agency head. Consultation with the Director shall precede any certification. The exemption takes place upon the execution of the certification, provided that it is transmitted to the FEDERAL REGISTER for publication.

(d) *Agency registry.* An agency may establish a registry for current employees, wherein the nature of their qualifications in one or more technical fields is certified after review by a supervisor, as a basis for establishing such qualifications in connection with, and to expedite, a later request for certification, should the necessity for such request arise.

**§ 2637.208 Testimony and statements under oath or subject to penalty of perjury.**

(a) *Statutory basis.* Section 207(h) provides:

“Nothing in this section shall prevent a former officer or employee from giving testimony under oath, or from making statements required to be made under penalty of perjury.”

(b) *Applicability.* A former Government employee may testify before any court, board, commission, or legislative body with respect to matters of fact within the personal knowledge of the former Government employee. This provision does not, however, allow a former Government employee, otherwise barred under 18 U.S.C. 207 (a), (b), or (c) to testify on behalf of another as an expert witness except: (1) To the extent that the former employee may testify from personal knowledge as to occurrences which are relevant to the issues in the proceeding, including those in which the former Government employee participated, utilizing his or her expertise, or (2) in any proceeding where it is determined that another expert in the field cannot practically be obtained; that it is impracticable for the facts or opinions on the same subject to be obtained by other means, and

that the former Government employee’s testimony is required in the interest of justice.

(c) *Statements under penalty of perjury.* A former Government employee may make any statement required to be made under penalty of perjury, such as those required in registration statements for securities, tax returns, or security clearances. The exception does not, however, permit a former employee to submit pleadings, applications, or other documents in a representational capacity on behalf of another merely because the attorney or other representative must sign the documents under oath or penalty of perjury.

**§ 2637.209 Partners of present or former Government employees.**

(a) *Scope.* Section 207(g) of 18 U.S.C. prohibits a partner of a current Government employee from acting as agent or attorney before the United States in a particular Government matter in which such Government employee participates, or did participate, personally and substantially. To the extent such section involves the activities of current Government employees and their partners, it is beyond the scope of these regulations.

(b) *Imputation.* Neither the Act nor these regulations impute the restrictions on former employees to partners or associates of such employees. Imputation of the restrictions of sections 207 (b)(ii) and (c) to partners of former employees would be inappropriate for the additional reason that section 207(b)(ii) itself restricts secondary-level activity, and section 207(c) is directed at the exercise of influence personal to the former Senior Employee.

**§ 2637.210 Officials of a State; officials of corporations created by an Act of Congress and public international organizations.**

For purposes of sections 207 (a), (b) and (c) of title 18 U.S.C.:

(a) An official whose powers are established by the constitution of any State of the United States does not act on behalf of “any other person” or “anyone” when acting in his or her official capacity, but rather constitutes the official authority of the State; and