

## § 2634.606

shall inform the Director. When necessary and appropriate, the Director may modify the rule of that paragraph for a nominee or a class of nominees with respect to a particular department or agency.

### § 2634.606 Updated disclosure of advice-and-consent nominees.

(a) *General rule.* Each individual described in § 2634.201(c) who is nominated by the President for appointment to a position that requires advice and consent of the Senate, shall, at or before the commencement of the first Senate committee hearing to consider the nomination, submit to the committee an amendment to the report previously filed under § 2634.201(c) and transmit copies of the amendment to the designated agency ethics official referred to in § 2634.605(c)(1) of this subpart and to the Office of Government Ethics, which shall update, through the period ending no more than five days prior to the commencement of the hearing, the disclosure of information required with respect to receipt of:

(1) Outside earned income; and

(2) Honoraria, as defined in § 2634.105(i).

(b) *Additional certification.* In each case to which this section applies, the Director of the Office of Government Ethics shall, at the request of the committee considering the nomination, submit to the committee an opinion letter of the nature described in § 2634.605(c)(3) of this subpart concerning the updated disclosure. If the committee requests such a letter, the expedited procedure provided by § 2634.605(c) of this subpart shall govern review of the updated disclosure, which shall be deemed a report filed for purposes of that paragraph.

### § 2634.607 Advice and opinions.

To assist employees in avoiding situations in which they might violate applicable financial disclosure laws and regulations:

(a) The Director of the Office of Government Ethics shall render formal advisory opinions and informal advisory letters on generally applicable matters, or on important matters of first impression. See also subpart C of part 2638 of this chapter. The Director shall

## 5 CFR Ch. XVI (1–1–03 Edition)

insure that these advisory opinions and letters are compiled, published, and made available to agency ethics officials and the public. Good faith reliance on such opinions shall provide a defense to any penalty or sanction provided by this part for fact situations indistinguishable in all material aspects from those in the opinion.

(b) Designated agency ethics officials will offer advice and guidance to employees as needed, to assist them in complying with the requirements of the Act and this part on financial disclosure.

## Subpart G—Penalties

SOURCE: 57 FR 11824, Apr. 7, 1992, unless otherwise noted.

### § 2634.701 Failure to file or falsifying reports.

(a) *Referral of cases.* The head of each agency, each Secretary concerned, or the Director of the Office of Government Ethics, as appropriate, shall refer to the Attorney General the name of any individual when there is reasonable cause to believe that such individual has willfully failed to file a public report or information required on such report, or has willfully falsified any information (public or confidential) required to be reported under this part.

(b) *Civil action.* The Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information required by filers of public reports under subpart B of this part. The court in which the action is brought may assess against the individual a civil monetary penalty in any amount, not to exceed \$10,000, as provided by section 104(a) of the Act, for any such violation occurring before September 29, 1999, as adjusted effective September 29, 1999 to \$11,000 for any such violation occurring on or after that date, in accordance with the inflation adjustment procedures prescribed in the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended.