

§ 1400.735-60

29 CFR Ch. XII (7-1-10 Edition)

73 of title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608.

(q) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

(r) Penalties: The following table, copied from the Federal Personnel Manual, lists maximum penalties for some of the more serious offenses.

Prohibition	Statute and United States Code	Maximum penalty
A-1. Gifts to official superiors	5 U.S.C. 7351	Removal.
A-2. Conflicts of interest:		
a. Receiving compensation in relation to claims contracts, etc.	18 U.S.C. 203	\$10,000 fine; 2 years imprisonment or both; and removal.
b. Prosecuting claims against and other matters affecting the Government.	18 U.S.C. 205	\$10,000 fine; 2 years imprisonment or both.
c. Prosecuting claims involving matters connected with former duties—disqualification of partners.	18 U.S.C. 207	\$10,000 fine; 2 years imprisonment or both.
d. Interested persons acting as Government agents.	18 U.S.C. 208	\$10,000 fine; 2 years imprisonment or both.
e. Salaries from other than Government sources.	18 U.S.C. 209	\$5,000 fine; 1 year imprisonment or both.
A-3. Lobbying with appropriated funds	18 U.S.C. 1913	\$500 fine; 1 year imprisonment or both; and removal.
A-4. Denial of rights to petition Congress	5 U.S.C. 7102	No specific penalty provided.
A-5. Failure to make return or report	18 U.S.C. 2075	\$1,000 fine.
A-6. Disloyalty and striking	5 U.S.C. 7311; 18 U.S.C. 1918.	\$1,000 fine, 1 year and a day imprisonment or both; and removal.
A-7. Employment of member of proscribed communist organization.	50 U.S.C. 784 et seq	\$10,000 fine; 5 years imprisonment or both; and removal.
A-8. Disclosure of classified information	18 U.S.C. 798; 50 U.S.C. 783.	\$10,000 fine; 10 years imprisonment or both; and removal.
A-9. Disclosure of confidential information	18 U.S.C. 1905	\$1,000 fine; 1 year imprisonment or both; and removal.
A-10. Habitual use of intoxicants to excess	5 U.S.C. 7352	Removal.
A-11. Misuse of Government vehicles	31 U.S.C. 638a(c)	Removal.
A-12. Misuse of franking privilege	18 U.S.C. 1719	\$300 fine.
A-13. Deceit in examinations and personnel actions.	5 U.S.C. 1917	\$1,000 fine; 1 year imprisonment or both.
A-14. Fraud and false statements	18 U.S.C. 1001	\$10,000 fine; 5 years imprisonment or both.
A-15. Unlawful mutilating or destroying public records.	18 U.S.C. 2071(b)	\$2,000 fine; 3 years imprisonment or both; and removal.
A-16. Bribery and graft:		
a. Bribery of public officials	18 U.S.C. 201	\$20,000 fine or three times the money or thing received, whichever is greater; 15 years imprisonment or both; and removal.
b. Acceptance or solicitation to obtain appointive office.	18 U.S.C. 211	\$1,000 fine; 1 year imprisonment or both.
A-17. Counterfeiting and forgery of transportation requests.	18 U.S.C. 508	\$5,000 fine; 10 years imprisonment or both.
A-18. Embezzlement and theft:		
a. Taking money, property, or records	18 U.S.C. 641	\$10,000 fine; 10 years imprisonment or both.
b. Failure to render accounts for public money.	18 U.S.C. 643	Fine equal to amount embezzled; imprisonment not more than 10 years or both.
c. Wrongfully converting property of another ..	18 U.S.C. 654	Same as penalty immediately above.
A-19. Taking or using papers related to claims	18 U.S.C. 285	\$5,000 fine; 5 years imprisonment or both.

Subpart F—Disciplinary Actions and Penalties

§ 1400.735-60 Disciplinary actions.

The Service shall take prompt disciplinary action against an employee committing prohibited activity, or whose conduct is prejudicial to the best interests of the Service, or of a nature to bring discredit to it. There are four

major types of disciplinary action possible, following the above proceedings.

(a) *Reprimand*. An official reprimand usually shall be issued to an employee or special Government employee for a first offense which is not serious.

(b) *Suspension*. Under Civil Service and Federal Mediation and Conciliation Service regulations, an employee or special Government employee may

be suspended without pay during the course of an investigation of alleged criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct. Also, an employee may be suspended without pay for a definite period of time because of some offense of a less serious nature for which more drastic action is not justified.

(c) *Demotion.* When such action will "promote the efficiency of the Service," an employee or special Government employee may be demoted because of some offense for which more drastic action is not justified.

(d) *Separation.* The Service is responsible for the prompt dismissal of unsatisfactory, incompetent, or unfit employees. Separation (dismissal or removal) can be the penalty for a single breach of conduct that is extremely serious in nature.

§ 1400.735-61 Notice to and appeal of employee.

The Director of Administrative Management will prepare charges and institute proceedings, which in all cases will be in accordance with Civil Service procedures for disciplinary actions against status employees. Such proceedings will include notification to the employee of his appeal rights.

APPENDIX TO PART 1400—CODE OF PROFESSIONAL CONDUCT FOR LABOR MEDIATORS

PREAMBLE

The practice of mediation is a profession with ethical responsibilities and duties. Those who engage in the practice of mediation must be dedicated to the principles of free and responsible collective bargaining. They must be aware that their duties and obligations relate to the parties who engage in collective bargaining, to every other mediator, to the agencies which administer the practice of mediation, and to the general public.

Recognition is given to the varying statutory duties and responsibilities of the city, State and Federal agencies. This code, however, is not intended in any way to define or adjust any of these duties and responsibilities, nor is it intended to define when and in what situations mediators from more than one agency should participate. It is, rather, a personal code relating to the conduct of the individual mediator.

This code is intended to establish principles applicable to all professional medi-

ators employed by city, State or Federal agencies or to mediators privately retained by parties.

I. *The responsibility of the mediator to the parties.* The primary responsibility for the resolution of a labor dispute rests upon the parties themselves. The mediator at all times should recognize that the agreements reached in collective bargaining are voluntarily made by the parties. It is the mediator's responsibility to assist the parties in reaching a settlement.

It is desirable that agreement be reached by collective bargaining without mediation assistance. However, public policy and applicable statutes recognize that mediation is the appropriate form of governmental participation in cases where it is required. Whether and when a mediator should intercede will normally be influenced by the desires of the parties. Intercession by a mediator on his own motion should be limited to exceptional cases.

The mediator must not consider himself limited to keeping peace at the bargaining table. His role should be one of being a resource upon which the parties may draw and, when appropriate, he should be prepared to provide both procedural and substantive suggestions and alternatives which will assist the parties in successful negotiations.

Since mediation is essentially a voluntary process, the acceptability of the mediator by the parties as a person of integrity, objectivity, and fairness is absolutely essential to the effective performance of the duties of the mediator. The manner in which the mediator carries out his professional duties and responsibilities will measure his usefulness as a mediator. The quality of his character as well as his intellectual, emotional, social and technical attributes will reveal themselves by the conduct of the mediator and his oral and written communications with the parties, other mediators and the public.

II. *The responsibility of the mediator toward other mediators.* A mediator should not enter any dispute which is being mediated by another mediator or mediators without first conferring with the person or persons conducting such mediation. The mediator should not intercede in a dispute merely because another mediator may also be participating. Conversely, it should not be assumed that the lack of mediation participation by one mediator indicates a need for participation by another mediator.

In those situations where more than one mediator is participating in a particular case, each mediator has a responsibility to keep the others informed of developments which are essential to a cooperative effort, and should extend every possible courtesy to his fellow mediator.

The mediator should carefully avoid any appearance of disagreement with or criticism of his fellow mediator. Discussions as