

§ 2638.102

of the Code of Federal Regulations is sole and exclusive authority.

[46 FR 2583, Jan. 9, 1981. Redesignated at 54 FR 50231, Dec. 5, 1989, as amended at 65 FR 69657, Nov. 20, 2000; 72 FR 56242, Oct. 3, 2007]

§ 2638.102 General policies.

(a) The Office of Government Ethics (“the Office”) provides overall direction and leadership concerning executive branch policies related to preventing conflicts of interest. The head of each agency has primary responsibility for the administration of the “ethics in government” program within his or her agency. The Office carries out its leadership role by:

(1) Providing information on and promoting ethical standards in executive agencies;

(2) Consulting with agencies regarding their agency ethics programs and assisting them in interpreting ethics rules and regulations;

(3) Developing rules and regulations pertaining to conflicts of interests and standards of conduct;

(4) Monitoring compliance with the public and confidential financial disclosure requirements;

(5) Establishing a formal advisory opinion service; and

(6) Evaluating the effectiveness of programs designed to prevent conflicts of interests.

§ 2638.103 Agency regulations.

Each agency may, subject to the prior approval of the Office of Government Ethics, issue regulations not inconsistent with this part.

§ 2638.104 Definitions.

For the purposes of this part:

Act means the Ethics in Government Act of 1978 (Pub. L. 95–521, as amended).

Agency means any executive department, military department, Government corporation, independent establishment or agency, including the United States Postal Service and Postal Rate Commission.

Designated agency ethics official means an officer or employee who is designated by the head of the agency to coordinate and manage the agency’s ethics program in accordance with the provisions of § 2638.203 of this part.

5 CFR Ch. XVI (1–1–10 Edition)

Director means the Director of the Office of Government Ethics.

Executive branch includes each executive agency as defined in 5 U.S.C. 105 and any other entity or administrative unit in the executive branch. However, it does not include any agency, entity, office or commission that is defined by or referred to in 5 U.S.C. app. 109(8)–(11) of the Act as within the judicial or legislative branch.

Person includes an individual, partnership, corporation, association, government agency, or public or private organization.

[46 FR 2583, Jan. 9, 1981. Redesignated at 54 FR 50231, Dec. 5, 1989, as amended at 65 FR 69657, Nov. 20, 2000]

Subpart B—Designated Agency Ethics Official

§ 2638.201 In general.

Each agency shall have a designated agency ethics official who is the officer or employee designated by the head of the agency to administer the provisions of title I of the Act within that agency, to coordinate and manage the agency’s ethics program and to provide liaison to the Office of Government Ethics with regard to all aspects of such ethics program. The agency’s ethics program shall be designed to implement titles I, IV and V of the Act and regulations promulgated thereunder, Executive Order 12674 as modified (relating to principles of ethical conduct for officers and employees within the executive branch) and regulations promulgated thereunder, and other statutes and regulations applicable to agency ethics matters.

[46 FR 2583, Jan. 9, 1981. Redesignated at 54 FR 50231, Dec. 5, 1989, as amended at 65 FR 69657, Nov. 20, 2000]

§ 2638.202 Responsibilities of agency head.

(a) *In general.* The head of each agency is responsible for and shall exercise personal leadership in establishing, maintaining, and carrying out the agency’s ethics program. He or she shall make available to the ethics program sufficient resources (including investigative, audit, legal, and administrative staff as necessary) to enable the

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agency to administer its program in a positive and effective manner.

(b) *Selection of a designated agency ethics official.* The head of each agency shall appoint an individual to serve as the designated agency ethics official and an individual to serve in an acting capacity in the absence of the primary designated agency ethics official (alternate agency ethics official). In selecting these two individuals the head of an agency should ensure that the experience of such appointees in administrative, legal, managerial, or analytical work demonstrates the ability to—

(1) Review the financial disclosure reports submitted by officers or employees within the agency, assessing the application of conflict of interest laws and regulations to the information reported and counseling those officers or employees with regard to resolving actual or potential conflicts of interests, or appearances thereof;

(2) Review the financial disclosure reports submitted by Presidential appointees for confirmation purposes and counsel those appointees with regard to resolving potential conflicts of interest, or appearances thereof, before the confirmation hearing;

(3) Counsel agency personnel concerning ethics standards and programs;

(4) Counsel departing and former agency officials on post-employment conflict of interest standards;

(5) Assist managers and supervisors in understanding and implementing agency ethics programs;

(6) Administer a system for periodic evaluation of the ethics program; and

(7) Select deputy ethics officials if necessary and manage the ethics program through them.

(c) *Designation.* The head of each agency shall formally delegate functional authority to coordinate and manage the ethics program as set forth in § 2638.203 to the designated and alternate agency ethics officials. Within 30 days of any such delegation of authority the head of the agency shall submit to the Office of Government Ethics a formal written designation. The designation shall include:

(1) The names of the individuals so designated;

(2) The title of the position held by each designee; and

(3) A copy of the delegation of authority.

§ 2638.203 Duties of the designated agency ethics official.

(a) *In general.* The designated agency ethics official shall coordinate and manage the agency's ethics program. The program consists generally of:

(1) Liaison with the Office of Government Ethics;

(2) Review of financial disclosure reports;

(3) Initiation and maintenance of ethics education and training programs; and

(4) Monitoring administrative actions and sanctions.

(b) *Program elements.* In carrying out this program on behalf of the head of the agency, the designated agency ethics official shall ensure that:

(1) Close liaison with the Office of Government Ethics concerning the agency's ethics program is developed and maintained;

(2) An effective system and procedure for the collection, filing, review, and, when applicable, public inspection of the financial disclosure reports as required by title II of the Act, Executive Order 11222, and other applicable statutes and regulations is developed and properly administered;

(3) The financial disclosure reports of Presidential nominees to agency positions submitted prior to Senate confirmation hearings pursuant to § 2634.605(c) of part 2634 are certified personally by him or herself or alternate designated agency ethics official in his or her absence;

(4) All financial disclosure reports submitted by employees and filed in bureaus and regional offices, as well as those submitted and filed at the agency's headquarters, are properly maintained and effectively and consistently reviewed for conformance with all applicable laws and statutes;

(5) A list of those circumstances or situations which have resulted or may result in noncompliance with ethics laws and regulations is developed, maintained and published within the agency as required by § 206(b)(7) of the Act and made available for public inspection;