

## § 735.201

of those regulations may cause the employee's agency to take disciplinary action, or corrective action as that term is used in 5 CFR part 2635. Such disciplinary action or corrective action may be in addition to any penalty prescribed by law.

### Subpart B—Standards of Conduct

#### § 735.201 What are the restrictions on gambling?

(a) While on Government-owned or leased property or on duty for the Government, an employee shall not conduct or participate in any gambling activity, including operating a gambling device, conducting a lottery or pool, participating in a game for money or property, or selling or purchasing a numbers slip or ticket.

(b) This section does not preclude activities:

(1) Necessitated by an employee's official duties; or

(2) Occurring under section 7 of Executive Order 12353 and similar agency-approved activities.

#### § 735.202 What are the restrictions on conduct that safeguard the examination process?

(a) An employee shall not, with or without compensation, teach, lecture, or write for the purpose of the preparation of a person or class of persons for an examination of the Office of Personnel Management (OPM) or other agency to which examining authority has been delegated, or Board of Examiners for the Foreign Service that depends on information obtained as a result of the employee's Government employment.

(b) This section does not preclude the preparation described in paragraph (a) of this section if:

(1) The information upon which the preparation is based has been made available to the general public or will be made available on request; or

(2) Such preparation is authorized in writing by the Director of OPM, or his or her designee, or by the head of an agency to which examining authority had been delegated, or his or her designee, or by the Director General of the Foreign Service, or his or her designee, as applicable.

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#### § 735.203 What are the restrictions on conduct prejudicial to the Government?

An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

## PART 736—PERSONNEL INVESTIGATIONS

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AUTHORITY: Pub. L. 93–579; (5 U.S.C. 552a).

SOURCE: 56 FR 18655, Apr. 23, 1991, unless otherwise noted.

### Subpart A—Scope

#### § 736.101 Purpose and definitions.

(a) *Purpose.* The purpose of this part is to specify certain requirements for personnel investigations conducted by OPM, and for those conducted under delegated authority from OPM. The requirements of this part apply to suitability and national security investigations conducted under parts 731 and 732 of this chapter; they also apply to investigations to determine eligibility or qualifications not covered in parts 731 and 732 of this chapter. The requirements of this part apply to employees in the civil service of the Executive Branch and to persons performing contract, voluntary or indirect services for the Federal Government, as set forth in subsection (b) below.

(b) *Definitions.* For the purposes of this part, (1) *Federal employment* includes the following range of services performed for the Federal government: (i) All employment in the competitive or excepted service or the Senior Executive Service in the Executive Branch; (ii) appointments, salaried or unsalaried, to Federal Advisory Committees or to membership agencies;

(iii) cooperative work assignments in which the individual has access to Federal materials such as examination booklets, or performs service for, or under supervision of, a Federal agency while being paid by another organization such as a State or local government; (iv) volunteer arrangements in which the individual performs service for, or under the supervision of, a Federal agency; and (v) volunteer or other arrangements in which the individual represents the United States Government or any agency thereof.

(2) *Agency* means any authority of the Government of the United States, whether or not it is within or subject to review by another agency, and includes any executive department, military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government, or any independent regulatory agency.

(3) *Personnel investigation* means an investigation conducted by written or telephone inquiries or through personal contacts to determine the suitability, eligibility, or qualifications of individuals for Federal employment, for work on Federal contracts, or for access to classified information or restricted areas.

**§ 736.102 Notice to investigative sources.**

(a) The agency investigator will notify the source from whom information is requested, whether in person or by telephone, of the purpose for which the information is being sought and of the uses that may be made of the information. The interviewing agent must notify each person interviewed and each custodian of records contacted that all information provided, including the record source's identity, may be disclosed upon the request of the subject of the investigation.

(b) The interviewing agent may grant a pledge to keep confidential the identity of an information source upon specific request by the source. In addition, the agent has discretion to offer the source a pledge of confidentiality where the agent believes that such a pledge is necessary to obtain information pertinent to the investigation. A pledge of confidentiality may not be

assumed by the source. The interviewing agent may not suggest to a source that the source request confidentiality.

(c) Where information is requested by written inquiry, the form, instructions, or correspondence used by an agency will include: (1) Notification that all information furnished by the source, including the source's identity, except for custodians of law enforcement or educational records, may be disclosed upon the request of the subject of the investigation; and (2) Space for the information source to request a pledge that the source's identity will not be disclosed to the subject of the investigation; or (3) An offer to make special arrangements to obtain significant information which the source feels unable to furnish without a promise that the source's identity will be kept confidential.

(d) A pledge of confidentiality, if granted, extends only to the identity of the source, and to any information furnished by the source that would reveal the identity of the source.

**§ 736.103 Protecting the identity of a source.**

When a source is granted a promise that the source's identity will be kept confidential, the investigative agency and all other agencies that receive information obtained under the promise are required to take all reasonable precautions to protect the source's identity. Each agency will prepare for its investigators and agents implementing instructions consistent with this part.

**§ 736.104 Public availability of investigative files.**

(a) Investigative files are records subject to the Privacy Act and the Freedom of Information Act and are made available to requesters in accordance with the provisions of those Acts.

(b) Requests for investigative records are to be submitted to the Office of Personnel Management, Federal Investigations Processing Center, FOI/PA, Boyers, Pennsylvania 16018.

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**Subpart B—Investigative Requirements**

**§ 736.201 Responsibilities of OPM and other Federal agencies.**

(a) Unless provided otherwise by law, the investigation of persons entering or employed in the competitive service, or by career appointment in the Senior Executive Service, is the responsibility of OPM.

(b) Requests for delegated investigating authority. Agencies may request delegated authority from OPM to conduct or contract out investigations of persons entering or employed in the competitive service or by career appointment in the Senior Executive Service. Such requests shall be made in writing by agency heads, or designees, and specify the reason(s) for the request.

(c) Timing of investigations. Investigations required for positions must be initiated within 14 days of placement in the position except for: Positions designated Critical-Sensitive under part 732 of this chapter must be completed preplacement, or post-placement with approval of a waiver in accordance with § 732.202(a) of this chapter; and for positions designated Special-Sensitive under part 732 of this chapter must be completed preplacement.

**PART 752—ADVERSE ACTIONS**

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- 752.601 Coverage.
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- 752.603 Standard for action.
- 752.604 Procedures.
- 752.605 Appeal rights.
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AUTHORITY: 5 U.S.C. 7504, 7514, and 7543.

SOURCE: 74 FR 63532, Dec. 4, 2009, unless otherwise noted.

**Subpart A [Reserved]**

**Subpart B—Regulatory Requirements for Suspension for 14 Days or Less**

**§ 752.201 Coverage.**

(a) *Adverse actions covered.* This subpart covers suspension for 14 days or less.

(b) *Employees covered.* This subpart covers:

(1) An employee in the competitive service who has completed a probationary or trial period;

(2) An employee in the competitive service serving in an appointment which requires no probationary or trial period, and who has completed 1 year of current continuous employment in the same or similar positions under other than a temporary appointment limited to 1 year or less;

(3) An employee with competitive status who occupies a position under Schedule B of part 213 of this chapter;

(4) An employee who was in the competitive service at the time his or her position was first listed under Schedule A, B, or C of the excepted service and still occupies that position;

(5) An employee of the Department of Veterans Affairs appointed under section 7401(3) of title 38, United States Code; and

(6) An employee of the Government Printing Office.

(c) *Exclusions.* This subpart does not apply to a suspension for 14 days or less:

(1) Of an administrative law judge under 5 U.S.C. 7521;