§ 2636.304 The 15 percent limitation on outside earned income.

(a) Limitation applicable to individuals who are covered noncareer employees on January 1 of any calendar year. A covered noncareer employee may not, in any calendar year, receive outside earned income attributable to that calendar year which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule under 5 U.S.C. 5313, as in effect on January 1 of such calendar year. The effective date of a change in the rate for level II of the Executive Schedule shall be the date on which a new rate of basic pay for level II first becomes applicable to any level II position.

NOTE: Notwithstanding the 15 percent limitation described in this section, a covered noncareer employee who is a Presidential appointee to a full-time noncareer position is prohibited by section 102 of Executive Order 12674, as amended, from receiving any outside earned income for outside employment or any other activity performed during that Presidential appointment.

Example 1. A former college professor received an appointment to a noncareer Senior Executive Service position on November 1, 1991. The rate of basic pay in effect for Executive Level II on January 1, 1991 was $125,100. For the 61 day period from November 1, 1991 through December 31, 1991, the amount of outside income he may earn is limited to $3,129. That amount is determined as follows:

Step 1. The rate of basic pay for Executive Level II as in effect on January 1 of that year ($125,100) is divided by 365. That quotient is $342;

Step 2. The dollar amount determined by Step 1 ($342) is then multiplied by the 61 days the employee held the covered noncareer position. That product is $20,862;

Step 3. The dollar amount determined by Step 2 ($20,862) is multiplied by .15 or 15 percent. The product ($3,129) is the maximum outside earned income the employee may have in the particular year attributable to the period of his service in a covered noncareer position.

(c) Computation principle. For purposes of any computation required by this section, any amount of $.50 or more shall be rounded up to the next full dollar and any amount less than $.50 shall be rounded down to the next full dollar.

(d) Year to which outside earned income is attributable. Regardless of when it is paid, outside earned income is attributable to the calendar year in which the services for which it is paid were provided.

§ 2636.305 Compensation and other restrictions relating to professions involving a fiduciary relationship.

(a) Applicable restrictions. A covered noncareer employee shall not:

(1) Receive compensation for:
(i) Practicing a profession which involves a fiduciary relationship; or
(ii) Affiliating with or being employed to perform professional duties by a firm, partnership, association, corporation, or other entity which provides professional services involving a fiduciary relationship; or
(2) Permit his name to be used by any firm, partnership, association, corporation, or other entity which provides professional services involving a fiduciary relationship.

Example 1. A covered noncareer employee of the White House Office who is an attorney...
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Example 1. In view of the standards of the profession which require a licensed real estate broker to act in the best interests of his clients, the selling of real estate by a licensed broker involves the practice of a profession involving a fiduciary relationship.

Example 2. A covered noncareer employee may receive the customary fee for serving as the executor of his mother's estate, provided he does not violate the applicable limitation on the amount of outside earned income he may receive. Although the executor of an estate has fiduciary obligations, serving as an executor in these circumstances does not involve the practice of a profession and, therefore, is not prohibited. He could not, however, serve for compensation as attorney for the estate.


§ 2636.306 Compensation restriction applicable to service as an officer or member of a board.

(a) Applicable restriction. A covered noncareer employee shall not receive compensation for serving as an officer or member of the board of any association, corporation or other entity. Nothing in this section prohibits uncompensated service with any entity.

(b) Definition. For purposes of this section, the phrase "association, corporation or other entity" is not limited to for-profit entities, but includes nonprofit entities, such as charitable organizations and professional associations, as well as any unit of state or local government.

Example 1. A covered noncareer employee of the Environmental Protection Agency may not serve with compensation on the board of directors of his sister's closely-held computer software corporation.

Example 2. A covered noncareer employee of the Department of the Navy may serve without compensation as an officer of a charitable organization that operates a hospice.

Example 3. A covered noncareer employee of the Coast Guard appointed to serve as a member of the board of education of the county in which she is a resident may not receive compensation for that service.

§ 2636.307 Requirement for advance authorization to engage in teaching for compensation.

(a) Authorization requirement. A covered noncareer employee may receive compensation for teaching only when specifically authorized in advance by the designated agency ethics official.