

§ 707.32 Special exemption.

Nothing in this part shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

§ 707.33 Other rights and services.

Nothing in this part shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under the Privacy Act.

PARTS 708–709 [RESERVED]**PART 710—ADMINISTRATIVE ENFORCEMENT PROCEDURES OF POST-EMPLOYMENT RESTRICTIONS**

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AUTHORITY: 18 U.S.C. 207; Pub. L. 115–254, sections 1401–1470.

SOURCE: 45 FR 5685, Jan. 24, 1980, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 710 appear at 84 FR 37752, Aug. 2, 2019.

§ 710.1 General.

The following procedures are hereby established with respect to the administrative enforcement of restrictions on post-employment activities (18 U.S.C. 207(a), (b) or (c) and implementing regulations (44 FR 19987 and 19988, April 3, 1979) published by the Office of Government Ethics.

§ 710.2 Action on receipt of information regarding violation.

On receipt of information regarding a possible violation of the statutory or regulatory post-employment restrictions by a former DFC employee and after determining that such information does not appear to be frivolous, the President of DFC or the President's designee shall provide such information to the Director of the Office of Government Ethics and to the Criminal Division, Department of Justice. Any investigation or administrative action shall be coordinated with the Department of Justice to avoid prejudicing possible criminal proceedings. If the Department of Justice informs DFC that it does not intend to institute criminal proceedings, such coordination shall no longer be required and DFC shall be free to pursue administrative action.

§ 710.3 Initiation of administrative disciplinary proceeding.

Whenever the President of DFC or the President's designee determines after appropriate review that there is reasonable cause to believe that a former DFC employee had violated the statutory or regulatory post-employment restrictions, an administrative disciplinary proceeding shall be initiated.

§ 710.4 Notice.

The President of DFC or the President's designee shall initiate an administrative disciplinary hearing by providing the former DFC employee with notice of an intention to institute a proceeding and an opportunity for a hearing. Notice must include:

(a) A statement of allegations and the basis thereof sufficiently detailed to enable the former employee to prepare an adequate defense;

(b) Notification of the right to a hearing; and

(c) An explanation of the method by which a hearing may be requested.

§ 710.5 Failure to request hearing.

The President of DFC may take appropriate action referred to in § 710.13

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in the case of any former DFC employee who has failed to make a written request to DFC for a hearing within 30 days after receiving adequate notice.

§ 710.6 Appointment and qualifications of examiner.

When a former DFC employee after receiving adequate notice requests a hearing, a presiding official (hereinafter referred to as "examiner") shall be appointed by the President of DFC to make an initial decision. The examiner shall be a responsible person who is a member of the bar of a State or of the District of Columbia, who is impartial and who has not participated in any manner in the decision to initiate the proceedings. The examiner may or may not be an DFC employee.

§ 710.7 Time, date and place of hearing.

The examiner shall establish a reasonable time, date and place to conduct the hearing. In establishing a date, the examiner shall give due regard to the former employee's need for:

- (a) Adequate time to prepare a defense properly; and
- (b) An expeditious resolution of allegations that may be damaging to the individual's reputation.

§ 710.8 Rights of parties at hearing.

A hearing shall include, at a minimum, the following rights for both parties to:

- (a) Represent oneself or be represented by counsel;
- (b) Introduce and examine witnesses and submit physical evidence (including the use of interrogatories);
- (c) Confront and cross-examine adverse witnesses;
- (d) Present oral argument; and
- (e) Receive a transcript or recording of the proceedings on request.

§ 710.9 Burden of proof.

In any hearing under this part, DFC shall have the burden of proof and must establish substantial evidence of a violation of the statutory or post-employment restrictions.

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§ 710.10 Findings.

The examiner shall make a determination exclusively on matters of record in the proceeding and shall set forth in the written decision all findings of fact and conclusions of law relevant to the matters in issue.

§ 710.11 Appeal.

(a) Within 20 days of the date of the initial decision, either party may appeal the decision to the President of DFC. The President's decision on such appeal shall be based solely on the record of the proceedings or those portions thereof cited by the parties to limit the issues.

(b) If the President modifies or reverses the examiner's decision, the President shall specify such findings of fact and conclusions of law as are different from those of the examiner.

(c) The decision of the President on appeal, shall constitute final administrative decision. An initial decision of the examiner which has not been appealed during the 20-day period provided shall become a final administrative decision on the twenty-first day.

§ 710.12 Finding of violation.

The President of DFC shall take appropriate action referred to in § 710.13 in the case of an individual who is found in violation of the statutory or regulatory post-employment restrictions, after a final administrative decision.

§ 710.13 Appropriate action.

Appropriate action includes:

(a) Prohibiting the individual from making, on behalf of any other person (except the United States), any formal or informal appearance before, or with the intent to influence, any oral or written communication to, DFC on any matter or business for a period not to exceed five years, which may be accomplished by directing DFC employees to refuse to participate in any such appearance or to accept any such communication.

(b) Taking other appropriate disciplinary action.

[45 FR 5685, Jan. 24, 1980; 49 FR 18295, Apr. 30, 1984]

§ 710.14 Judicial review.

Any person found to have participated in a violation of statutory or regulatory post-employment restrictions (18 U.S.C. 207(a), (b) or (c) or the regulations compiled at 44 FR 19987 and 19988, April 3, 1979) may seek judicial review of the administrative determination.

§ 710.15 Delegation of authority.

The functions of the President of DFC specified in §§ 710.2, 710.4 and 710.5 of this part are delegated to the General Counsel of DFC. An examiner shall be delegated authority on an *ad hoc* basis.

**PART 711—ENFORCEMENT OF
NONDISCRIMINATION ON THE
BASIS OF HANDICAP IN PRO-
GRAMS OR ACTIVITIES**

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AUTHORITY: 29 U.S.C. 794; Pub. L. 115–254, sections 1401–1470.

SOURCE: 53 FR 25882, 25885, July 8, 1988, unless otherwise noted.

§ 711.101 Purpose.

The purpose of this regulation is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of

handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

§ 711.102 Application.

This regulation (§§ 711.101–711.170) applies to all programs or activities conducted by the agency, except for programs or activities conducted outside the United States that do not involve individuals with handicaps in the United States.

§ 711.103 Definitions.

For purposes of this regulation, the term—

Assistant Attorney General means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

Auxiliary aids means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices.

Complete complaint means a written statement that contains the complainant's name and address and describes the agency's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

Facility means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

Historic preservation programs means programs conducted by the agency that