

may request an advisory opinion under § 2636.103.

*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.

[56 FR 1723, Jan. 17, 1991, as amended at 58 FR 69176, Dec. 30, 1993]

**§ 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.

(b) *Definition.* For purposes of this section "teaching" means any activity that involves oral presentation or personal interaction, the primary function of which is to instruct or otherwise impart knowledge or skill. It is not limited to teaching that occurs in a formal setting, such as a classroom, but extends to instruction on an individual basis or in an informal setting.

(c) *Request for authorization.* An employee may request authorization to engage in compensated teaching activities by forwarding a written request to the designated agency ethics official. The request shall describe the employee's official duties, the subject matter of the teaching activity, the entity sponsoring the course, and the student, class or audience to be taught. In addition, it shall set forth the terms of the compensation arrangement and identify the source of the payment. The request shall be accompanied by any contract or employment agreement and any literature describing, publicizing or otherwise promoting the class, classes or course.

(d) *Standard for authorization.* Compensated teaching may be approved by the designated agency ethics official only when:

(1) The teaching will not interfere with the performance of the employee's official duties or give rise to an appearance that the teaching opportunity was extended to the employee principally because of his official position;

(2) The employee's receipt of compensation does not violate any of the limitations and prohibitions on honoraria, compensation or outside earned income contained in this part; and

(3) Neither the teaching activity nor the employee's receipt of compensation therefor will violate applicable standards of conduct or any statute or regulation related to conflicts of interests.

(e) *Determination and authorization.* The determination by the designated agency ethics official to grant or deny authorization to engage in teaching for compensation shall be in writing and shall be final. The authority of the designated agency ethics official to authorize compensated teaching may not be delegated to any person other than

## Office of Government Ethics

## § 2638.101

the alternate designated agency ethics official described in § 2638.202(b).

### PART 2638— EXECUTIVE BRANCH ETHICS PROGRAM

#### Subpart A—Mission and Responsibilities

Sec.

- 2638.101 Mission.
- 2638.102 Government ethics responsibilities of employees.
- 2638.103 Government ethics responsibilities of supervisors.
- 2638.104 Government ethics responsibilities of agency ethics officials.
- 2638.105 Government ethics responsibilities of lead human resources officials.
- 2638.106 Government ethics responsibilities of Inspectors General.
- 2638.107 Government ethics responsibilities of agency heads.
- 2638.108 Government ethics responsibilities of the Office of Government Ethics.

#### Subpart B—Procedures of the Executive Branch Ethics Program

- 2638.201 In general.
- 2638.202 Furnishing records and information generally.
- 2638.203 Collection of public financial disclosure reports required to be submitted to the Office of Government Ethics.
- 2638.204 Collection of other public financial disclosure reports.
- 2638.205 Collection of confidential financial disclosure reports.
- 2638.206 Notice to the Director of certain referrals to the Department of Justice.
- 2638.207 Annual report on the agency's ethics program.
- 2638.208 Written guidance on the executive branch ethics program.
- 2638.209 Formal advisory opinions.
- 2638.210 Presidential transition planning.

#### Subpart C—Government Ethics Education

- 2638.301 In general.
- 2638.302 Definitions.
- 2638.303 Notice to prospective employees.
- 2638.304 Initial ethics training.
- 2638.305 Additional ethics briefing for certain agency leaders.
- 2638.306 Notice to new supervisors.
- 2638.307 Annual ethics training for confidential filers and certain other employees.
- 2638.308 Annual ethics training for public filers.
- 2638.309 Agency-specific ethics education requirements.
- 2638.310 Coordinating the agency's ethics education program.

#### Subpart D—Correction of Executive Branch Agency Ethics Programs

- 2638.401 In general.
- 2638.402 Informal action.
- 2638.403 Formal action.

#### Subpart E—Corrective Action Involving Individual Employees

- 2638.501 In general.
- 2638.502 Violations of criminal provisions related to government ethics.
- 2638.503 Recommendations and advice to employees and agencies.
- 2638.504 Violations of noncriminal provisions related to government ethics.

#### Subpart F—General Provisions

- 2638.601 Authority and purpose.
- 2638.602 Agency regulations.
- 2638.603 Definitions.
- 2638.604 Key program dates.

AUTHORITY: 5 U.S.C. App. 101–505; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

SOURCE: 81 FR 76273, Nov. 2, 2016, unless otherwise noted.

#### Subpart A—Mission and Responsibilities

##### § 2638.101 Mission.

(a) *Mission.* The primary mission of the executive branch ethics program is to prevent conflicts of interest on the part of executive branch employees.

(b) *Breadth.* The executive branch ethics program works to ensure that public servants make impartial decisions based on the interests of the public when carrying out the governmental responsibilities entrusted to them, serve as good stewards of public resources, and loyally adhere to the Constitution and laws of the United States. In the broadest sense of the term, “conflicts of interest” stem from financial interests; business or personal relationships; misuses of official position, official time, or public resources; and the receipt of gifts. The mission is focused on both conflicts of interest and the appearance of conflicts of interest.

(c) *Conflicts-based program.* The executive branch ethics program is a conflicts-based program, rather than a solely disclosure-based program. While transparency is an invaluable tool for