

## CHAPTER XLII—DEPARTMENT OF LABOR

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## PART 5200 [RESERVED]

### PART 5201—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF LABOR

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SOURCE: 61 FR 57284, Nov. 6, 1996, unless otherwise noted.

#### § 5201.101 General.

In accordance with 5 CFR 2635.105, the regulations in this part apply to employees of the Department of Labor (Department) and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635.

#### § 5201.102 Designation of separate agency components.

(a) *Separate agency components of the Department of Labor.* Pursuant to 5 CFR 2635.203(a), each of the ten components of the Department listed below is designated as an agency separate from each of the other nine listed components and, for employees of that component, as an agency distinct from the remainder of the Department. However, the components listed below are not deemed to be separate agencies for purposes of applying any provision of 5 CFR part 2635 or this part to employees of the remainder of the Department:

- (1) Benefits Review Board;
- (2) Employees Compensation Appeals Board;
- (3) Mine Safety and Health Administration (MSHA);
- (4) Veterans' Employment and Training Service;
- (5) Occupational Safety and Health Administration (OSHA);

(6) Employee Benefits Security Administration (EBSA);

(7) Bureau of International Labor Affairs;

(8) Bureau of Labor Statistics;

(9) Employment and Training Administration (ETA); and

(10) Employment Standards Administration (ESA).

(b) *Separate agency subcomponents of ESA.* Pursuant to 5 CFR 2635.203(a), each of the four subcomponents of the Employment Standards Administration (ESA) listed in this paragraph is designated as an agency separate from each of the other three listed components and, for employees of that subcomponent, as an agency distinct from the remainder of ESA. However, the components listed in this paragraph are not deemed to be separate agencies for purposes of applying any provision of 5 CFR part 2635 or this part to employees of the remainder of ESA:

- (1) Wage and Hour Division;
- (2) Office of Federal Contract Compliance Programs;
- (3) Office of Workers Compensation Programs; and
- (4) Office of Labor-Management Standards.

(c) *Definitions*—(1) *Remainder of the Department* means employees in the Office of the Secretary and any other employee of the Department not in one of the 10 components designated as separate agencies in paragraph (a) of this section.

(2) *Remainder of ESA* means employees in the Office of the Assistant Secretary for Employment Standards and any other ESA employee not in one of the four subcomponents designated as separate agencies in paragraph (b) of this section.

(d) *Applicability of separate agency designations.* The designations in paragraphs (a) and (b) of this section identify an employee's "agency" for purposes of:

- (1) Determining when a person is a prohibited source within the meaning of 5 CFR 2635.203(d) for purposes of applying the regulations at subpart B of 5 CFR part 2635 governing gifts from outside sources;

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(2) Determining whether teaching, speaking or writing relates to the employee's official duties within the meaning of 5 CFR 2635.807(a)(2)(i); and

(3) Determining when a person is a prohibited source for purposes of applying the regulations at 5 CFR 2635.808(c) governing fundraising in a personal capacity.

*Example 1:* An employee of the Mine Safety and Health Administration attends a Saturday football game together with an employee of the Office of the Solicitor. By coincidence, they are seated next to a contract consultant to the Employment and Training Administration. They talk about the game and describe their jobs and personal interests to their new seat-mate. The consultant states that he and his wife will not be able to attend next week's game and would like to give their very expensive tickets to people who will really enjoy them. The MSHA employee may accept the ticket. MSHA is designated as a separate agency under § 5201.102, and the ETA contractor is not a prohibited source of gifts for MSHA employees. The contractor is not regulated by and has no business dealings with MSHA. The Solicitor's Office employee may not accept the gift. The ETA contractor is a prohibited source for Solicitor's Office employees because the Solicitor's Office is a part of the "Remainder of the Department of Labor." Any source which is prohibited for any component of the Department of Labor is a prohibited source for employees in the "Remainder."

[61 FR 57284, Nov. 6, 1996, as amended at 68 FR 16398, Apr. 3, 2003]

### § 5201.103 Fundraising activities.

Notwithstanding 5 CFR 2635.808(c)(1)(i), an employee of any separate agency component listed in this section may, in a personal capacity, personally solicit funds from a person who is a prohibited source if person is a prohibited source for employees of the component only under 5 CFR 2635.203(d)(3) because the person conducts activities regulated by the component:

- (a) The Wage and Hour Division;
- (b) The Office of Federal Contract Compliance Programs;
- (c) The Remainder of the Employment Standards Administration, as defined in § 5201.102(c);
- (d) Occupational Safety and Health Administration;
- (e) Employee Benefits Security Administration;

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(f) Veterans' Employment and Training Service; and

(g) The Remainder of the Department of Labor, as defined in § 5201.102(c).

*Example 1:* A training official in the Mine Safety and Health Administration is president of the local branch of her college alumni association. The association is seeking used computers from local businesses to upgrade the college's language lab. The employee may not seek a contribution from the vice president of a mining company which is regulated by MSHA. Even though the mining company is not currently under investigation, it is a prohibited source for the employment because it is subject to MSHA regulation and MSHA is not one of the agency components designated as separate for the purpose of fundraising in a personal capacity.

*Example 2:* A typist in the Employee Benefits Security Administration raises money for a local homeless shelter during his off-duty hours. He may seek a contribution from a firm that is regulated by EBSA under the Employee Retirement Income Security Act but may not seek contributions from one that he knows is currently under investigation for a violation of the Act. While firms regulated by an agency would ordinarily be prohibited sources for purposes of an employee's fundraising in a personal capacity, § 5201.103 provides that employees of EBSA and the other separate agency components listed in that section may seek charitable contributions from an entity that is a prohibited source only because its activities are subject to regulation by that separate agency component. On the other hand, the employee may not engage in fundraising from a person who he knows is a prohibited source for any other reason, such as an ongoing enforcement action.

*Example 3:* An employee of the Employment and Training Administration may seek charitable contributions from a firm currently under investigation by the Occupational Safety and Health Administration (OSHA). ETA does not regulate this firm and has had no dealings or business with it of any kind. Since ETA has been designated as a separate agency under § 5201.102, ETA employees need only consider their own official duties and activities and those of ETA in determining whether a person is a prohibited source for purposes of their fundraising in a personal capacity. The fact that a person may be a prohibited source of direct and indirect gifts for OSHA employees is not relevant in this instance.

[61 FR 57284, Nov. 6, 1996, as amended at 68 FR 16398, Apr. 3, 2003]