welcome to a quick start guide introduction to ethics legal geography If you are watching this video you have probably been recently assigned ethics duties for the first time in an executive branch agency If so welcome to the executive branch ethics program This video will be especially helpful to those new to ethics who do not have formal legal education though if you're a lawyer new to ethics this may be helpful to you as well In any case let's get started In this video we will discuss the differences between laws and regulations the laws that establish the ethics program the regulations that establish the ethics program the laws that govern ethical conduct of federal employees and the regulations governing the ethical conduct of federal employees

Starting at the very beginning what are the differences between laws and

regulations first laws are passed by Congress and signed by the president The type of law we are most concerned with in the ethics program is statutory law Statutory federal laws are housed in the United States Code The United States Code is organized into more than 50 titles covering everything from agriculture to voting In the ethics program most of the laws we rely upon day-to-day appear in two titles The first is title five government organization and employees This is where we find the ethics and government act codified in chapter 131 of title 5 The second is title 18 crimes and criminal procedure Title 18 is where we find much of the federal criminal law for the United States In the ethics program we are most likely to look to title 18 to find the criminal conflict of interest laws We find the criminal conflict of interest laws in chapter 11 of title 18 You can think of the title as the state in which a law is located and the chapter as the zip code in which a particular law is to be found Getting more specific if we know the title and section of a particular provision this is like having the specific address of that authority So if we see an authority referenced like 18 US code section 208 we know that it is in the United States code so it is a law that is in title 18 so it is likely a criminal law and that it is in section 208 Putting it all together we can locate the criminal conflict of interest law acts affecting a personal financial interest By decoding citations we can find the text of laws that help us perform various ethics tasks like advising employees or implementing financial disclosure requirements Okay so that's a brief introduction to laws What about regulations unlike laws regulations are issued by executive branch agencies Congress often gives executive branch agencies the ability to make rules in some area or domain For example the ethics and government act a law gives the office of government ethics the ability to make regulations implementing the financial disclosure system We find these regulations issued by executive branch agencies in the code of federal regulations The code of federal regulations is like the United States code organized into about 50 titles covering everything from agriculture to transportation The ethics regulations we use daily are found in title five of the code of federal regulations Similar to the titles in the United States Code the title in the code of federal regulations functions like the state in which a provision lives We can also look to the chapter which functions like a zip code And from there the regulations are further divided into parts subparts and sections Much like the laws in the US code if we know the section and the title we can locate a specific provision So if we see an authority referenced like 5CFR

2635.101 we know that it is a regulation because of the reference to the code of federal regulations or CFR We know that our rule is in title 5 and then we know that it is in section 2635101

Putting it all together we can find 5CFR 2635101 basic obligations of public service 5CFR 2635 contains the standards of conduct for employees of the executive branch We'll talk a little bit more about these later When it comes to the laws and regulations that we use as ethics officials it can be helpful to think of them in two groups The first group are those that establish and govern the executive branch ethics program You can think of these as the rules that tell OGE and agency ethics programs which activities to undertake like advising employees collecting financial disclosure reports and providing ethics training They mostly tell agencies what to do The second group of laws and regulations are those that apply to federal employees as individuals They include criminal laws that prevent federal employees from working on government matters where they have a financial conflict of interest or regulations that limit ways federal employees can use official time and resources These provisions may result in penalties for individual federal employees that violate them For the criminal laws they may be criminal penalties like fines or prison for the regulations They may carry administrative penalties like suspensions or termination Let's take a look at the first group Those establishing and governing the ethics program The Ethics and Government Act first passed in 1978 and amended several times since is the core statutory authority for the executive branch ethics program It established OG and its authorities to make ethics rules conduct oversight and advise and educate agencies It established the financial disclosure systems and the requirement that each agency have an ethics program and finally that those programs must be led by a designated agency ethics official and an alternate both must be appointed by the agency head OG has used the rulemaking authority to establish regulations implementing the ethics and government act The regulations in 5 CFR 2634 implement both public and confidential financial disclosure systems as well as the rules for qualified trusts and certificates of devestature A note if these terms are new to you the Institute for Ethics and Government contains specific courses on each of these topics We invite you to give them a look In 5 CFR 2638 OG has also issued regulations that implement the parts of the Ethics and Government Act having to do with OG's authorities and responsibilities as well as those of agency ethics programs In 5CFR 2638 you'll find the duties and responsibilities of ethics officials to do things like administer financial disclosure programs advise employees on ethics rules provide ethics training submit reports to OG and all of the other assorted tasks that comprise an executive branch ethics program You will also find OG's authorities and responsibilities including reviewing various financial disclosure reports issuing ethics rules interpreting those rules advising and training agency ethics officials on ethics rules conducting various kinds of oversight reporting on agency compliance and the various other tasks required of OE by the ethics and government act This law the ethics and government act and the regulations implementing it 5CFR parts 2634 and 2638 make up the foundations of the executive branch ethics program and its administration The relationship between the law which was passed by Congress and the regulations that OG has issued implementing parts of that law are relatively straightforward The regulations issued by OGE add definitions instructions examples and other helpful details to the general requirements set out by the law The collection of laws and regulations that govern employee conduct are not so straightforward So let's take a look Wow this is much more complicated The universe of ethics rules that apply to federal employees is much more complex There are a series of laws and regulations some dating back more than a hundred years that together form the ethics rules for which OGE and agency ethics programs have responsibility These don't include ethics related rules like those governing political activity by federal employees contracting rules or travel rules So let's work through this chart and see if we can make sense of this constellation of authorities Starting in the top left corner we find a familiar authority the Ethics and Government Act In addition to all of the provisions that apply to OG and the ethics program there is a provision in the Ethics and Government Act that applies to certain federal employees themselves as individuals It is a restriction on outside earned income and activities for certain non-career officials If we follow the line down we can see that OG has implemented this restriction through a regulation at 5CFR 2636 Moving to the right on the top row we find title 18 You will recall that title 18 of the US code is where we find criminal laws including the criminal conflict of interest laws These form a large portion of the restrictions on federal employees and are implemented to various degrees in OG regulations Starting with 18 USC sections 203 and 205 which are bans on federal employees making certain representations on behalf of others before the government and accepting compensation for such representational activities They are included by reference in the standards of conduct for employees of the executive branch but do not have their own individual implementing

regulations Next 18 USC 207 contains the post-employment restrictions for former government officials Section 207 does have its own implementing regulations and those regulations can be found in 5 CFR 2641 And then 18 USC 208 the criminal bar on participating in certain government matters in which an employee has a financial interest It is codified in both its own implementing regulation 5CFR 2640 and in subpart D of the standards of conduct at 5 CFR 2635 Ethics officials should be sure to consult both regulations when advising on section 208 Finally among the criminal conflict of interest statutes is 18 USC section 209 which bars federal employees from being paid by anyone but the government for their federal duties This section also does not have a specific implementing regulation but is included by reference in the standards of conduct for employees of the executive branch at 5CFR 2635 That leaves just two more authorities on our chart Executive Order 12674 is the primary reason we have a standard of conduct It directed OG to create the standards and set forth the basic principles of ethical service that serve as the framework for those regulations Finally 5 USC 7353 is a law that contains restrictions on federal employees receiving gifts from outside sources It is also folded into the standards of conduct at 5CFR 2635 particularly in subpart B These are the most referenced ethics laws and regulations for executive branch ethics officials Understanding how they fit together and how they've been created over the history of our country is helpful for charting your professional development as an ethics official So this is definitely not everything you need to know to be an effective ethics official Essentially this video is a table of contents for the knowledge base of an effective ethics official You can find courses on each and all of these topics in the Institute for Ethics and Government's on demand library We encourage you to pick an authority and start digging in or alternatively learning topically about each authority as it comes up in your daily work One way or another you will need to become fluent in all of these authorities to be fully competent as an executive branch ethics official We hope this video helps you start your learning journey Thank you for watching and welcome to the executive branch ethics