



United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
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August 28, 1998
DO-98-024

MEMORANDUM

TO: Designated Agency Ethics Officials

FROM: Stephen D. Pott
Director

SUBJECT: Part II of Proposed Minor Amendments to the Standards of Ethical Conduct

Over the past six years, the Office of Government Ethics (OGE) has provided interpretive advice to agency ethics officials on the application of the standards of ethical conduct (5 C.F.R. part 2635), as specific fact patterns have arisen. Based thereon, we have determined that selected provisions of the standards should be amended, in order to codify some of that advice and clarify regulatory meaning.

As indicated by DAEOgram DO-98-022 of August 7, 1998, proposed minor amendments to subpart B (Gifts From Outside Sources) of the standards of conduct were published at 63 Fed. Reg. 41476-41477 (August 4, 1998). Any comments on that proposed rulemaking are due at OGE by October 5, 1998. Now, at 63 Fed. Reg. 45415-45417 (August 26, 1998), OGE has published the remaining installment of proposed minor amendments to the standards, affecting subpart F (Seeking Other Employment) and subpart H (Outside Activities). Any comments on this most recent proposed rulemaking must be submitted to OGE not later than October 26, 1998.

The amendments to subpart F propose to codify our advice that coverage of this subpart extends to "personal and substantial participation" in a particular matter, where that matter would have a "direct and predictable" effect on the financial interests of a prospective employer. This is in keeping with our advice that the requirements of 18 U.S.C. § 208 control. When the standards of conduct were first issued in 1992, combining in subpart F the § 208 restrictions relating to negotiating for employment with the restrictions in Executive Order 12674 on seeking employment, our intent was to adopt the statutory scheme of coverage. The amendments now proposed will clarify that original intent.

The amendment to subpart H proposes to clarify the meaning of "receive" as used in connection with the ban on outside compensation for teaching, speaking or writing that relates to official duties. The new language specifically includes compensation that is deferred to the future for activities that are performed while an employee, and compensation that is paid in advance to an employee for activities to be performed in the future.

Please see the regulatory preamble for more details regarding these proposed changes.