

## PART 3800 [RESERVED]

### PART 3801—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF JUSTICE

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AUTHORITY: 5 U.S.C. 301, 7301; 5 U.S.C. App.; 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; E.O. 12988, 61 FR 4739; 5 CFR 2635.105, 2635.203(a), 2635.403(a), 2635.701–2635.705, 2635.803, 2635.807(a)(2)(ii); and DOJ Order 1200.1, Chap 11–1.

SOURCE: 62 FR 23942, May 2, 1997, unless otherwise noted.

#### § 3801.101 General.

In accordance with § 2635.105 of this title, the regulations in this part apply to employees of the Department of Justice and supplement the Standards of Ethical Conduct for Employees of the Executive Branch in part 2635 of this title. In addition to the regulations contained in part 2635 of this title and in this part, employees are subject to the conduct regulations contained in part 735 of this title and 28 CFR part 45.

#### § 3801.102 Detailed or assigned special agents of certain Departmental components.

Notwithstanding a detail or assignment to another entity, any special agent of the Federal Bureau of Investigation or Drug Enforcement Administration who is subject to the regulations or standards of ethical conduct of that entity pursuant to § 2635.104 of this title shall also remain subject to the regulations in this part.

#### § 3801.103 Designation of separate Departmental components.

(a) Pursuant to § 2635.203(a) of this title, each of the following components is designated as a separate agency for purposes of the regulations contained in subpart B of part 2635 of this title governing gifts from outside sources, and, accordingly, § 2635.807 of this title governing teaching, speaking, and writing:

- Antitrust Division
- Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF)
- Bureau of Prisons (including Federal Prison Industries, Inc.)
- Civil Division
- Civil Rights Division
- Community Relations Service
- Criminal Division
- Drug Enforcement Administration
- Environment and Natural Resources Division
- Executive Office for Immigration Review
- Executive Office for United States Attorneys (The Executive Office for United States Attorneys shall not be considered separate from any Office of the United States Attorney for a judicial district, but only from other designated components of the Department of Justice.)
- Executive Office for United States Trustees (The Executive Office for United States Trustees shall not be considered separate from any Office of the United States Trustee for a region, but only from other designated components of the Department of Justice.)
- Federal Bureau of Investigation
- Foreign Claims Settlement Commission
- Immigration and Naturalization Service
- Independent Counsel appointed by the Attorney General
- INTERPOL
- National Drug Intelligence Center
- Justice Management Division
- Office of Information and Privacy
- Office of Intelligence Policy and Review
- Office of Community Oriented Policing Services
- Office of Justice Programs
- Office of the Pardon Attorney
- Office of Policy Development
- Offices of the United States Attorney (94) (Each Office of the United States Attorney for a judicial district shall be considered a separate component from each other such office.)
- Offices of the United States Trustee (21) (Each Office of the United States Trustee for a region shall be considered a separate component from each other such office.)
- Tax Division
- United States Marshals Service

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(b) Employees serving in positions within the Department but outside of the components designated in paragraph (a) of this section must continue to treat the entire Department of Justice as their employing agency for purposes of the gift rules of subpart B of part 2635 of this title and the application of the teaching, speaking and writing provisions found in §2635.807 of this title.

[62 FR 23942, May 2, 1997, as amended at 79 FR 44263, July 31, 2014]

**§ 3801.104 Purchase or use of certain forfeited and other property.**

(a) In the absence of prior approval by the agency designee, no employee shall purchase, directly or indirectly, from the Department of Justice or its agents property forfeited to the United States and no employee shall use property forfeited to the United States which has been purchased, directly or indirectly, from the Department of Justice or its agents by his spouse or minor child. Approval may be granted only on the basis of a written determination by the agency designee that in the mind of a reasonable person with knowledge of the circumstances, purchase or use by the employee of the asset will not raise a question as to whether the employee has used his official position or nonpublic information to obtain or assist in an advantageous purchase or create an appearance of loss of impartiality in the performance of the employee's duties. A copy of the written determination shall be filed with the Deputy Attorney General.

(b) No employee of the United States Marshals Service, Federal Bureau of Investigation, or Drug Enforcement Administration shall purchase, directly or indirectly, from his component, the General Services Administration, or the agent of either, property formerly used by that component and no such employee shall use property formerly used by his component which has been purchased, directly or indirectly, by his spouse or minor child from his component, the General Services Administration, or to the agent of either.

**5 CFR Ch. XXVIII (1-1-16 Edition)**

**§ 3801.105 Personal use of Government property.**

Employees are prohibited by part 2635 of this title from using Government property for other than authorized purposes. The Department rule authorizing limited personal use of Department of Justice office and library equipment and facilities by its employees is at 28 CFR 45.4.

**§ 3801.106 Outside employment.**

(a) *Definition.* For purposes of this section, *outside employment* means any form of employment, business relationship or activity, involving the provision of personal services whether or not for compensation, other than in the discharge of official duties. It includes, but is not limited to, services as a lawyer, officer, director, trustee, employee, agent, consultant, contractor, or general partner. Speaking, writing and serving as a fact witness are excluded from this definition, so long as they are not combined with the provision of other services that do fall within this definition, such as the practice of law. Employees who wish to engage in compensated speaking and writing should review §2635.807 of this title.

(b) *Prohibited outside employment.* (1) No employee may engage in outside employment that involves:

(i) The practice of law, unless it is uncompensated and in the nature of community service, or unless it is on behalf of himself, his parents, spouse, or children;

(ii) Any criminal or habeas corpus matter, be it Federal, State, or local; or

(iii) Litigation, investigations, grants or other matters in which the Department of Justice is or represents a party, witness, litigant, investigator or grant-maker.

(2) Where application of the restrictions of paragraph (b)(1) of this section will cause undue personal or family hardship; unduly prohibit an employee from completing a professional obligation entered into prior to Government service; or unduly restrict the Department from securing necessary and uniquely specialized services, the restrictions may be waived in writing based upon a determination that the

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activities covered by the waiver are not expected to involve conduct prohibited by statute or Federal regulation. Employees should refer to DOJ Order 1735.1 on obtaining waivers. The Order is available from the agency designee which, for purposes of this rule, shall be the Deputy Designated Agency Ethics Official for the component.

(c) *Prior approval for outside employment.* (1) An employee must obtain written approval before engaging in outside employment, not otherwise prohibited by paragraph (b) of this section that involves:

- (i) The practice of law; or
- (ii) A subject matter, policy, or program that is in his component's area of responsibility.

(2) Employees should refer to DOJ Order 1735.1 for procedures on obtaining prior approval. A waiver granted pursuant to paragraph (b)(2) of this section will be sufficient to satisfy this prior approval requirement.

(3) Approval shall be granted only upon a determination that the outside employment is not expected to involve conduct that is prohibited by statute or Federal regulation.

[62 FR 23942, May 2, 1997; 62 FR 31865, June 11, 1997]

**§ 3801.107 Additional rules for Bureau of Alcohol, Tobacco, Firearms, and Explosives employees.**

The following rules apply to the employees of the Bureau of Alcohol, To-

bacco, Firearms, and Explosives and are in addition to §§ 3801.101 through 3801.106:

(a) *Prohibited financial interests.* Except as provided in this section, no employee of ATF, or spouse or minor child of an ATF employee, shall have, directly or indirectly, any financial interest, including compensated employment, in the alcohol, tobacco, firearms or explosives industries. The term financial interest is defined in § 2635.403(c) of this title.

(b) *Waiver.* An agency designee, with the advice and legal clearance of the Deputy Designated Agency Ethics Official, may grant a written waiver of the prohibition in paragraph (a) of this section on a determination that the waiver is not inconsistent with part 2635 of this title or otherwise prohibited by law and that, in the mind of a reasonable person with knowledge of the particular circumstances, the financial interest will not create an appearance of misuse of position or loss of impartiality, or call into question the impartiality and objectivity with which ATF's programs are administered. A waiver under this paragraph (b) may require appropriate conditions, such as execution of a written disqualification.

[79 FR 44263, July 31, 2014]

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