

§ 521.47 Limitations.

(a) The notice of hearing with respect to a claim or statement must be served in the manner specified in § 521.8 within 6 years after the date on which such claim or statement is made.

(b) If the defendant fails to file a timely answer, service of a notice under § 521.10(b) shall be deemed notice of hearing for purposes of this section.

(c) The statute of limitations may be extended by agreement of the parties.

PART 525—ADMINISTRATIVE ENFORCEMENT PROCEDURES OF POST-EMPLOYMENT RESTRICTIONS

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AUTHORITY: 18 U.S.C. 207(j).

SOURCE: 45 FR 28, Jan. 2, 1980, unless otherwise noted.

§ 525.1 General.

The following procedures are hereby established with respect to the administrative enforcement of restrictions on post-employment activities (18 U.S.C. 207(a), (b) or (c)) and implementing regulations (44 FR 19987 and 19988, April 3, 1979) published by the Office of Government Ethics.

§ 525.2 Action on receipt of information regarding violation.

On receipt of information regarding a possible violation of the statutory or regulatory post-employment restrictions by a former employee and after determining that such information

does not appear to be frivolous, the Director or the Director's designee shall provide such information to the Director of the Office of Government Ethics and to the Criminal Division, Department of Justice. Any investigation or administrative action shall be coordinated with the Department of Justice to avoid prejudicing possible criminal proceedings. If the Department of Justice informs the Agency that it does not intend to institute criminal proceedings, such coordination shall no longer be required and the Director or his or her designee is free to decide whether to pursue administrative action.

§ 525.3 Initiation of administrative disciplinary proceeding.

Whenever the Director or the Director's designee determines after appropriate review that there is reasonable cause to believe that a former Government employee has violated the statutory or regulatory post-employment restrictions, an administrative disciplinary proceeding shall be initiated.

§ 525.4 Notice.

The Director or the Director's designee shall initiate an administrative disciplinary hearing by providing the former Government employee with notice of an intention to institute a proceeding and an opportunity for a hearing. Notice must include:

(a) A statement of allegations and the basis thereof sufficiently detailed to enable the former Government employee to prepare an adequate defense;

(b) Notification of the right to a hearing; and

(c) An explanation of the method by which a hearing may be requested.

§ 525.5 Failure to request hearing.

The Director may take appropriate action in the case of any former Government employee who has failed to request a hearing after receiving adequate notice.

§ 525.6 Appointment and qualifications of examiner.

When a former Government employee after receiving adequate notice requests a hearing, a presiding official (hereinafter referred to as "examiner")

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shall be appointed by the Director to make an initial decision. The examiner shall be a member of the bar of a State or of the District of Columbia, who is impartial and who has not participated in any manner in the decision to initiate the proceedings.

[46 FR 18972, Mar. 27, 1981]

§ 525.7 Time, date and place of hearing.

The examiner shall establish a reasonable time, date and place to conduct the hearing. In establishing a date, the examiner shall give due regard to the former employee's need for:

- (a) Adequate time to prepare a defense properly, and
- (b) An expeditious resolution of allegations that may be damaging to his or her reputation.

§ 525.8 Rights of parties at hearing.

A hearing shall include, at a minimum, the following rights for both parties:

- (a) To represent oneself or to be represented by counsel;
- (b) To introduce and to examine witnesses and to submit physical evidence (including the use of interrogatories);
- (c) To confront and to cross-examine adverse witnesses;
- (d) To present oral argument; and
- (e) To receive a transcript or recording of the proceedings on request.

[45 FR 28, Jan. 2, 1980, as amended at 46 FR 18972, Mar. 27, 1981]

§ 525.9 Burden of proof.

In any hearing the Agency shall have the burden of proof and must establish substantial evidence of a violation.

§ 525.10 Findings.

The examiner shall make a determination exclusively on matters of record in the proceeding and shall set forth in the written decision all findings of fact and conclusions of law relevant to the matters in issue.

§ 525.11 Appeal.

Within twenty days of the date of the initial decision, either party may appeal the decision to the Director. The Director shall base his or her decision on such appeal solely on the record of

the proceedings or those portions thereof cited by the parties to limit the issues.

§ 525.12 Finding of violation.

The Director shall take appropriate action in the case of an individual who is found in violation of the statutory or regulatory post-employment restrictions, after a final administrative decision.

§ 525.13 Appropriate action.

Appropriate actions mentioned in §§ 525.2 and 525.12 include:

- (a) Prohibiting the individual from making, on behalf of any other person (except the United States), any formal or informal appearance before, or with the intent to influence, any oral or written communication to, the Agency on any matter of business for a period not to exceed five years, which may be accomplished by directing Agency employees to refuse to participate in any such appearance or to accept any such communication.
- (b) Taking other appropriate disciplinary action.

§ 525.14 Judicial review.

Any person found to have participated in a violation of statutory or regulatory post-employment restrictions (18 U.S.C. 207(a), (b) or (c) or the regulations compiled in part 737 of title 5 of the Code of Federal Regulations) may seek judicial review of the administrative determination.

[46 FR 18972, Mar. 27, 1981]

§ 525.15 Delegation of authority.

The functions of the Director specified in §§ 525.2 through 525.6 are delegated to the General Counsel of the United States Information Agency. An examiner shall be delegated authority on an *ad hoc* basis.

§ 525.16 Administrative and secretarial support.

The Examiner shall be provided administrative and secretarial support by the Director of Personnel.

[45 FR 28, Jan. 2, 1980, as amended at 51 FR 11016, Apr. 1, 1986]