

## § 2.5

## 4 CFR Ch. I (1-1-09 Edition)

not improve their performance to meet required standards.

(7) Employees should be provided effective education and training in cases in which such education and training would result in better organizational and individual performance.

(8) Employees should be protected against arbitrary action, personal favoritism, or coercion from partisan political purposes and prohibited from using their official authority or influence for the purpose of interfering with or affecting the results of an election or a nomination for election.

(9) Employees should be protected against reprisal for the lawful disclosure of information which the employee reasonably believes evidences: a violation of any law, rule or regulation; or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

### § 2.5 Prohibited personnel practices.

Any GAO employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority engage in the following prohibited personnel practices.

(a) *Discrimination.* GAO employees shall not discriminate for or against any employee or applicant for employment—

(1) On the basis of race, color, religion, sex, or national origin, as prohibited under section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000 e-16);

(2) On the basis of age, as prohibited under section 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631, 633a);

(3) On the basis of sex, as prohibited under section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d));

(4) On the basis of handicapping condition, as prohibited under section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791); or

(5) On the basis of marital status or political affiliation, as prohibited under any law, rule, or regulation.

(b) *Recommendations or statements.* GAO employees shall not solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under

consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of—

(1) An evaluation of the work performance, ability, aptitude, or general qualifications of such individual, or

(2) An evaluation of the character, loyalty, or suitability of such individual.

(c) *Political activity.* GAO employees shall not coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in such political activity.

(d) *Compete for employment.* GAO employees shall not deceive or willfully obstruct any person with respect to such person's right to compete for employment.

(e) *Influencing competition.* GAO employees shall not influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment.

(f) *Preference or advantage.* GAO employees shall not grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.

(g) *Relatives.* GAO employees who are serving as public officials (as defined in section 3110(a)(2) of title 5, United States Code) shall not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a GAO position any individual who is a relative (as defined in section 3110(a)(3) of title 5, U.S. Code) of such employee.

(h) *Reprisals.* GAO employees shall not take or fail to take a personnel action with respect to any employee or applicant for employment as a reprisal for—

(1) A disclosure of information by an employee or applicant which the employee or applicant reasonably believes evidences—

(i) A violation of any law, rule, or regulation, or

(ii) Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs; or

(2) A disclosure to the General Counsel of the GAO Personnel Appeals Board of information which the employee or applicant reasonably believes evidences—

(i) A violation of any law, rule, or regulation, or

(ii) Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

(i) *Reprisals for appeals.* GAO employees shall not take or fail to take any personnel action against any employee or applicant for employment as a reprisal for the exercise of any appeal right granted by any law, rule, or regulation.

(j) *Discrimination for conduct.* GAO employees shall not discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others; except that nothing in this paragraph shall prohibit an agency from taking into account in determining suitability or fitness any conviction of the employee or applicant for any crime under the laws of any State, or the District of Columbia, or of the United States.

(k) *Other personnel actions.* GAO employees shall not take or fail to take any other personnel action if the taking of or failure to take such action violates any law, rule or regulation implementing, or directly concerning, the merit system principles described in §2.4.

(l) *Information to the Congress.* Nothing in this section shall be construed to authorize the withholding of informa-

tion from the Congress or the taking of any personnel action against an employee who discloses information to the Congress.

**§ 2.6 Veterans' preference.**

(a) GAO will provide preference, for any individual who would be a preference eligible in the executive branch, in a manner and to an extent consistent with preference eligibles in the executive branch.

(b) Appeals from preference decisions will be heard by the GAO Personnel Appeals Board.

**PART 3—EMPLOYMENT**

Sec.

3.1 Appointment, promotion, and assignment.

3.2 Oath of office.

3.3 Assignments to and from States.

AUTHORITY: 31 U.S.C. 732.

SOURCE: 45 FR 68376, Oct. 15, 1980, unless otherwise noted.

**§ 3.1 Appointment, promotion, and assignment.**

Employees of GAO shall be appointed, promoted and assigned solely on the basis of merit and fitness, but without regard to the provisions of title 5, United States Code, governing appointments and other personnel actions in the competitive service.

**§ 3.2 Oath of office.**

The provisions of subchapter II of chapter 33 of title 5, U.S. Code, and Office of Personnel Management implementing regulations apply to Government Accountability Office employees.

**§ 3.3 Assignments to and from States.**

The provisions of subchapter VI of chapter 33 of title 5, U.S. Code, and Office of Personnel Management implementing regulations apply to Government Accountability Office employees.

**PART 4—EMPLOYEE PERFORMANCE AND UTILIZATION**

Sec.

4.1 Training.

4.2 Performance appraisal.

4.3 Removal for unacceptable performance.

4.4 Incentive awards.