

Office of the Secretary, Interior

§ 20.602

form of government nor may an employee be a member of an organization that he or she knows advocates the violent overthrow of our constitutional form of government (5 U.S.C. 7311).

§ 20.508 Notary.

An employee is prohibited from charging fees for performance of any notarial act for any employee of the Federal Government who is acting in his or her official capacity, or for any person during the hours of such notary's service to the Government (E.O. 977, Nov. 24, 1908).

§ 20.509 Penalty mail and official stationery.

(a) An employee is prohibited from using any official envelope, label, or indorsement authorized by law, to avoid the payment of postage or registry fee on his or her private letter, packet, package, or other matter in the mail (18 U.S.C. 1719).

(b) Official Government envelopes and official letterhead stationery are Government property that may only be used for authorized purposes. Employees' use of Government envelopes to mail their own personal job applications is not authorized.

§ 20.510 Fraud or false statements in a Government matter.

An employees shall not, in any matter within the jurisdiction of any department or agency of the United States, knowingly or willfully falsify, conceal or cover up by any trick, scheme, or device a material fact, or make any false, fictitious, fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry (18 U.S.C. 1001). Special attention is required in the certification of time and attendance reports, applications for employment, request for travel reimbursement, and purchase orders and receiving forms.

§ 20.511 Carrying of firearms.

Employees, except those specifically designated to perform enforcement, police or other official duties requiring the use of firearms, are prohibited from carrying or having in their possession

firearms on property under the control of the Secretary. Employees who are officially stationed in parks, refuges, Indian reservations, other Tribal lands or other wilderness areas which are known to be inhabited by wild animals, are permitted, when on those lands, to carry and use firearms for personal protection as permitted by existing policy or as authorized by the park, refuge or area supervisor. Notwithstanding this paragraph, employees who are not on official duty may carry firearms on Departmental lands under the same conditions and in accordance with procedures and authorizations established for members of the general public.

§ 20.512 Labor practices.

Employees are prohibited from striking against the Government of the United States (5 U.S.C. 7311). Additional information regarding affiliation with employee organizations is found in the Department Manual, Part 370, Chapter 711, Labor Management Relations.

Subpart F—Disciplinary and Remedial Actions

§ 20.601 General.

This subpart deals with disciplinary actions and remedial actions for violations, or potential violations, of conflict of interest laws or of the regulations in this part or in 5 CFR part 2635 or 5 CFR part 3501. Disciplinary action may include oral or written warning or admonishment, reprimand, suspension, reduction in grade or pay, removal from position or removal from office. Such action shall be taken in accordance with Departmental policies and procedures, applicable statutes, Executive Orders, regulations, and any applicable collective bargaining agreement provisions. Disciplinary action may be imposed independently from and without prior application of remedial actions, including those remedial actions listed in § 20.602.

§ 20.602 Remedial action.

(a)(1) Remedial action should normally be considered only after attempts to obtain voluntary resolution

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have failed. Voluntary resolution may include:

- (i) Voluntary divestiture;
- (ii) Voluntary conversion to securities which are not prohibited, or the holding of which would not violate law or regulation; or
- (iii) Voluntary reassignment to another position.

(2) If the bureau Ethics Counselor decides that remedial action is required, such action shall be initiated within a reasonable time, usually 90 days.

(b) Remedial action may include:

(1) *Reassignment or disqualification of the employee.* It may be possible for the employee to be reassigned to another job, or to be disqualified from performing particular duties. Although the number of cases where this remedy can be used should be rare, the possibility should be explored before divestiture of an interest is ordered.

(2) *Waiver.* (i) The Designated Agency Ethics Official (DAEO) is authorized to make a written advance determination pursuant to 18 U.S.C. 208(b)(1) waiving the prohibitions of 18 U.S.C. 208(a) for any Department employee except the Secretary and those employees in the same organization as the DAEO, i.e., the Department's Office of Policy, Management and Budget. The Secretary or the Deputy Secretary shall issue individual waivers pursuant to 18 U.S.C. 208(b)(1) for employees in the Office of Policy, Management and Budget.

(ii) In the case of a special Government employee serving on an advisory committee within the meaning of the Federal Advisory Committee Act, 5 U.S.C. App. (including an individual being considered for an appointment to such a position), the DAEO, after review of the financial disclosure report filed by the individual pursuant to the Ethics in Government Act of 1978, 5 U.S.C. App., is authorized to certify in writing that the need for the individual's services outweighs the potential for a conflict of interest created by the financial interest involved.

(iii) The DAEO may grant a waiver under 5 CFR 3501.103(e) from the regulatory restrictions at 5 CFR 3501.103 (b) and (c).

(3) *Divestiture of the interest.* An employee may be required to divest an in-

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terest, including outside employment, that is prohibited by law or regulation. Divestiture of the interest shall be ordered in all situations where it is determined by the appropriate official that there is no other satisfactory remedy. Evidence of divestiture must be provided in the form of broker's sale receipt or other appropriate document.

NOTE TO PARAGRAPH (b)(3): It may be possible in certain cases for the tax consequences of divestiture to be delayed, if the interest is sold pursuant to a certificate of divestiture issued before the sale by the Director, U.S. Office of Government Ethics. See 5 CFR part 2634, subpart J.

(c) *Authority to order remedial action.*

(1) Each bureau Ethics Counselor is authorized to order remedial actions within his or her bureau. The advice of the appropriate Regional Solicitor, the Associate Solicitor—Division of General Law, or the Designated Agency Ethics Official or his or her designee may be sought before such an order is issued. This authority to order remedial action may not be redelegated.

(2) The Deputy Assistant Secretary for Policy is authorized to order remedial actions for employees within the Office of the Secretary, except that the Secretary shall order remedial actions in situations involving the Deputy Secretary.

(d) An employee who fails to comply with an order for remedial action is considered to be in violation of this part and shall be subject to disciplinary action.

§ 20.603 Appealing an order for remedial action.

(a) *When and how to appeal.* An employee has the right to appeal an order for remedial action under § 20.602, and shall have 30 days from the date of the remedial action order to exercise this right before any disciplinary action may be initiated. For appeals of remedial orders issued under § 20.602, the procedures described in 370 DM 771 may not be used in lieu of or in addition to those of this section. Each appeal shall be in writing and shall contain:

(1) The basis for appeal;

(2) Fact(s) supporting the basis; and

(3) The telephone number where appellant can be reached to discuss facts pertinent to the appeal.