

§ 2.1

29 CFR Subtitle A (7-1-12 Edition)

Subpart A—General

SOURCE: 32 FR 11035, July 28, 1967, unless otherwise noted.

§ 2.1 Employees attached to regional offices.

No person who has been an employee of the Department and attached to a Regional office of any bureau, board, division, or other agency thereof, shall be permitted to practice, appear, or act as attorney, agent, or representative before the Department or any branch or agent thereof in connection with any case or administrative proceeding which was pending before such Regional office during the time of his employment with the Department, unless he shall first obtain the written consent thereto of the Secretary of Labor or his duly authorized representative.

§ 2.2 Employees attached to Washington office.

No person who has been an employee of the Department and attached to the Washington office of any bureau, board, division, or other agency thereof, shall be permitted to practice, appear, or act as attorney, agent, or representative before the Department or any branch or agent thereof, in connection with any case or administrative proceeding pending before such bureau, board, division, or other agency during the time of his employment with the Department, unless he shall first obtain the written consent thereto of the Secretary of Labor or his duly authorized representative.

§ 2.3 Consent of the Secretary.

The consent of the Secretary or his duly authorized representative may be obtained as follows:

The applicant shall file an application in the form of an affidavit. Such application, directed to the Secretary should:

- (a) State the former connection of the applicant with the Department;
- (b) Identify the matter in which the applicant desires to appear, and
- (c) Contain a statement to the effect that the applicant gave no personal consideration to such matter while he was an employee of the Department.

The application will be denied if the statements contained therein are disproved by an examination of the files, records, and circumstances pertaining to the matter, or if, in the opinion of the Secretary or his duly authorized representative, the public interest so requires. If the Secretary or his duly authorized representative is satisfied that the applicant gave no personal consideration to the matter in question while employed by the Department, and if he is satisfied that it is lawful and consistent with the public interest to do so, he may grant his consent, in writing, to the request of the applicant, subject to such conditions, if any, as he deems necessary and desirable. Any function of the Secretary under this section may be performed by the Under Secretary of Labor.

§ 2.6 Claims collection.

(a) *Authority of Department; incorporation by reference.* The regulations in this section are issued under section 3 of the Federal Claims Collection Act of 1966, 31 U.S.C. 952. They incorporate herein and supplement as necessary for Department operation all provisions of the Joint Regulations of the Attorney General and the Comptroller General set forth in 4 CFR chapter II, which prescribe standards for administrative collection of civil claims by the Government for money or property, for the compromise, termination, or suspension of collection action, with respect to claims not exceeding \$20,000, exclusive of interest, and for the referral of civil claims by the Government to the Government Accountability Office, and to the Department of Justice for litigation.

(b) *Designation.* The Assistant Secretary for Administration and Management, and such heads of the Administrations and Offices of the Department of Labor as he may designate for such purpose, is authorized to perform all of the duties and exercise all of the authority of the Secretary under the Federal Claims Collection Act of 1966, the aforementioned Joint Regulations of

the Attorney General and the Comptroller General, and the regulations in this section.

(Sec. 3, 80 Stat. 309; 31 U.S.C. 952)

[34 FR 9122, June 10, 1969, as amended at 72 FR 37098, July 9, 2007]

§ 2.7 Rulemaking.

It is the policy of the Secretary of Labor, that in applying the rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 553), the exemption therein for matters relating to public property, loans, grants, benefits or contracts shall not be relied upon as a reason for not complying with the notice and public participation requirements thereof except for all information-gathering procedures adopted by the Bureau of Labor Statistics.

[46 FR 35, Jan. 2, 1981]

§ 2.8 Final agency decisions.

Final agency decision issued under the statutory authority of the U.S. Department of Labor may be issued by the Secretary of Labor, or by his or her designee under a written delegation of authority. The Administrative Review Board, an organizational entity within the Office of the Secretary, has been delegated authority to issue final agency decisions under the statutes, executive orders, and regulations as provided in Secretary's Order 2-96, published on May 3, 1996.

[61 FR 19984, May 3, 1996]

Subpart B—Audiovisual Coverage of Administrative Hearings

SOURCE: 38 FR 5631, Mar. 2, 1973, unless otherwise noted.

§ 2.10 Scope and purpose.

This subpart defines the scope of audiovisual coverage of departmental administrative hearings. It describes the types of proceedings where such coverage is encouraged, defines areas where such coverage is prohibited (as in certain enforcement proceedings or where witnesses object) and areas where a decision concerning coverage is made after weighing the values involved in permitting coverage against the reasons for not permitting it.

§ 2.11 General principles.

The following general principles will be observed in granting or denying requests for permission to cover hearings audiovisually:

(a) Notice and comment and on-the-record rule making proceedings may involve administrative hearings. If such administrative hearings are held, we encourage their audiovisual coverage.

(b) Audiovisual coverage shall be excluded in adjudicatory proceedings involving the rights or status of individuals (including those of small corporations likely to be indistinguishable in the public mind from one or a few individuals) in which an individual's past culpable conduct or other aspect of personal life is a primary subject of adjudication, and where the person in question objects to coverage.

(c) Certain proceedings involve balancing of conflicting values in order to determine whether audiovisual coverage should be allowed. Where audiovisual coverage is restricted, the reasons for the restriction shall be stated in the record.

§ 2.12 Audiovisual coverage permitted.

The following are the types of hearings where the Department encourages audiovisual coverage:

(a) All hearings involving notice and comment and on-the-record rule making proceedings. The Administrative Procedure Act provides for notice of proposed rule making with provision for participation by interested parties through submission of written data, views, or arguments, with or without opportunity for oral presentation (5 U.S.C. 553). (In many cases the Department follows the above procedure in matters exempted from these requirements of 5 U.S.C. 553.) On-the-record rule making proceedings under 5 U.S.C. 556 and 557 are also hearings where audiovisual coverage of hearings is encouraged. Examples of hearings encompassed by this paragraph are:

(1) Hearings to establish or amend safety or health standards under the Occupational Safety and Health Act of 1970, 29 U.S.C. 651.

(2) Hearings to determine the adequacy of State laws under the Occupational Safety and Health Act of 1970.