

§ 2638.704

5 CFR Ch. XVI (1–1–12 Edition)

NOTE TO PARAGRAPH (a): If the agency does not give the employee the Standards and any agency supplemental standards to keep, the complete text of both must be readily available in the employee's immediate office area.

(b) *Contact persons.* The agency must give the employee the names, titles, and office addresses and telephone numbers of the designated agency ethics official and other agency officials available to advise the employee on ethics issues.

(c) *One hour to review.* The agency must give the employee at least one hour of official duty time to review the items described above. This one-hour requirement may be reduced by any amount of time the employee receives verbal ethics training in the same 90-day period.

§ 2638.704 Annual ethics training for public filers.

(a) *Covered employees.* Each calendar year, agencies must give verbal ethics training to employees who are required by 5 CFR part 2634 to file public financial disclosure reports.

(b) *Content of training.* Agencies are encouraged to vary the content of verbal training from year to year but the training must include, at least, a review of:

- (1) The Principles;
- (2) The Standards;
- (3) Any agency supplemental standards;
- (4) The Federal conflict of interest statutes; and
- (5) The names, titles, and office addresses and telephone numbers of the designated agency ethics official and other agency ethics officials available to advise the employee on ethics issues.

(c) *Length and presentation of training.* Employees must be given at least one hour of official duty time for verbal training. The training must be:

- (1) Presented by a qualified instructor; or
- (2) Prepared by a qualified instructor and presented by telecommunications, computer, audiotape, or videotape.

(d) *Availability of qualified instructor.* A qualified instructor must be available during and immediately after the training. Qualified instructors are:

- (1) The designated agency ethics official;
- (2) The alternate agency ethics official;
- (3) A deputy agency ethics official;
- (4) Employees of the Office of Government Ethics (OGE) designated by OGE; and
- (5) Persons whom the designated agency ethics official (or his or her designee) determines are qualified to respond to ethics questions raised during the training.

Example 1 to paragraph (d): An agency provides annual ethics training for public filers in a regional office by establishing a video conference link between the regional office and a qualified instructor in the headquarters office. The video link provides for direct and immediate communication between the qualified instructor and the employees receiving the training. Even though the qualified instructor is not physically located in the room where the training occurs, the qualified instructor is available.

Example 2 to paragraph (d): The agency described in the preceding example provides videotaped training instead of training through a video conference link. The employees viewing the videotape are provided with a telephone at the training site and the telephone number of a qualified instructor who is standing by during and immediately after the training to answer any questions. Under these circumstances, a qualified instructor is available.

Example 3 to paragraph (d): In the preceding example, if no telephone had been provided at the training site or if a qualified instructor was not standing by to respond to any questions raised, there would not be a qualified instructor available. Merely providing the phone number of the qualified instructor would not satisfy the requirement that a qualified instructor be available.

(e) *Exceptions.* Verbal training without a qualified instructor available or written training prepared by a qualified instructor will satisfy the verbal training requirement for a public filer (or group of public filers) if one hour of official duty time is provided for the training and:

- (1) The designated agency ethics official (or his or her designee) makes a written determination that it would be impractical to provide verbal training with a qualified instructor available; or
- (2) The employee is a special Government employee.

Example to paragraph (e)(1): The only public filer in the American Embassy in Ulan

Bator, Mongolia is the Ambassador. Because of the difference in time zones and the uncertainty of the Ambassador's schedule, the designated agency ethics official for the State Department is justified in making a written determination that it would be impractical to provide the Ambassador with verbal training. In this case, the Ambassador may receive written training prepared by a qualified instructor.

§ 2638.705 Annual ethics training for other employees.

(a) *Covered employees.* Each calendar year, agencies must train the following employees:

- (1) Employees appointed by the President;
- (2) Employees of the Executive Office of the President;
- (3) Employees defined as confidential filers in 5 CFR 2634.904;
- (4) Employees designated by their agency under 5 CFR 2634.601(b) to file confidential financial disclosure reports;
- (5) Contracting officers, as defined in 41 U.S.C. 423(f)(5); and
- (6) Other employees designated by the head of the agency or his or her designee based on their official duties.

NOTE TO PARAGRAPH (a): Employees described above who are also public filers must receive ethics training as provided in § 2638.704.

(b) *Content of training.* The requirements for the contents of annual training are the same as the requirements in § 2638.704(b).

(c) *Length and presentation of training.* The training for covered employees must consist of:

- (1) A minimum of one hour of official duty time for verbal training at least once every three years. The verbal training must be presented by a qualified instructor or prepared by a qualified instructor and presented by telecommunications, computer, audiotape, or videotape; and
- (2) An amount of official duty time the agency determines is sufficient for written training in the years in which the employee does not receive verbal training. The written training must be prepared by a qualified instructor. The employee's initial ethics orientation may satisfy the written training requirement for the same calendar year.

(d) *Exceptions.* Written ethics training prepared by a qualified instructor will satisfy the verbal training requirement for a covered employee (or group of covered employees) if sufficient official duty time is provided for the training and:

- (1) The designated agency ethics official (or his or her designee) makes a written determination that verbal training would be impractical;
- (2) The employee is a special Government employee expected to work 60 or fewer days in a calendar year;
- (3) The employee is an officer in the uniformed services serving on active duty for 30 or fewer consecutive days; or
- (4) The employee is designated under paragraph (a)(6) of this section to receive training.

§ 2638.706 Agency's written plan for annual ethics training.

(a) The designated agency ethics official (or his or her designee) is responsible for directing the agency's ethics training program. The designated agency ethics official (or his or her designee) must develop a written plan each year for the agency's annual training program.

(b) The written plan must be completed by the beginning of each calendar year.

(c) The written plan must contain:

- (1) A brief description of the agency's annual training.
- (2) Estimates of the number of employees who will receive verbal training according to the following table:

Employees who will receive verbal training	Number
(i) Public filers.	
(ii) Employees other than public filers.	

(3) An estimate of the number of employees who will receive written training according to the following table:

Employees who will receive written training	Number
Employees other than public filers who will receive training under § 2638.705(c)(2).	

(4) Estimates of the number of employees who will receive written training instead of verbal training according to the following table: