

(b) In no event will the Commission waive a provision of the Conduct Regulation which would permit a special Government employee to:

(1) Use his or her Government employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or another person, particularly one with whom he or she has family, business, or financial ties.

(2) Use inside information obtained as a result of his or her Government employment for private gain for himself or herself or another person either by direct action on his or her part or by counsel, recommendation, or suggestion to another person, particularly one with whom he or she has family, business, or financial ties. For purposes of this paragraph, *inside information* means information obtained under Government authority which has not become part of the body of public information.

(3) Use his or her Government employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or herself or another person, particularly one with whom he or she has family, business, or financial ties.

(4) Receive or solicit from a person having business with the Commission anything of value as a gift, gratuity, loan, entertainment, or favor for himself or herself or another person, particularly one with whom he or she has family, business or financial ties.

(c) Prior to entrance on duty, each special Government employee shall submit to the Director of Personnel a statement of employment and financial interests which contains such information as the Director of Personnel determines is relevant in the light of the duties the special Government employee is to perform and, if appropriate, the financial disclosure report as provided by title II of the Ethics in Government Act of 1978, Pub. L. 95-521. It shall be kept current throughout the period of employment by the filing of supplementary statements in accordance with the requirements of § 200.735-11(d). Statements shall be on the official form made available for this purpose through the Office of Personnel.

(d) The Commission may waive the requirement of paragraph (c) of this section in the case of a special Government employee who is not a *consultant* or an *expert*, as those terms are defined in chapter 304 of the Federal Personnel Manual (5 CFR 735.304), if the duties of the position are determined to be at a level of responsibility which does not require the submission of such statement to protect the integrity of the Commission.

§ 200.735-13 Disciplinary and other remedial action.

(a) Knowing participation in a violation of this subpart by persons not within the scope of the foregoing rules in this subpart shall likewise be deemed improper conduct and in contravention of Commission rules. Departure from any of the rules in this subpart by employees or special Government employees without specific approval may be cause for appropriate remedial and/or disciplinary action or, in the case of former members, employees, and special Government employees, for disqualification from appearing and practicing before the Commission, which may be in addition to any penalty prescribed by law.

(b) When there has been a departure from any of the rules of this subpart without specific approval or when a conflict of interest or an apparent conflict of interest on the part of an employee or special Government employee arises, the Director of Personnel may order immediate action to end such conflict or appearance of conflict of interest. Remedial action may include, but is not limited to (1) changes in assigned duties; (2) divestment by the employee or special Government employee of his conflicting interest; (3) disciplinary action; or (4) disqualification for a particular assignment. Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive Orders, and regulations. The Director of Personnel may refer any recommended action to the Commission. The employee may obtain review by the Commission of any action ordered

to be taken by the Director of Personnel. During the period of review, unless otherwise directed by the Commission, the action ordered by the Director of Personnel is stayed.

(c) Former members or employees who violate the post-employment restriction provisions of 18 U.S.C. 207(a), (b) or (c), which parallel the provisions of Rule 8(a), *supra*, will be subject to an administrative enforcement proceeding as set forth in Rule 102(e) of the Commission's Rules of Practice, §201.102(e) of this chapter, except that, when proceedings are brought to determine if violations of post-employment restrictions have occurred, denial of the privilege of appearing and practicing before the Commission will be based on a finding of violation of the provisions of Rule 8(a) and 18 U.S.C. 207 (a), (b) and (c). Procedures applicable to such administrative proceedings are to be found in the Commission's Rules of Practice, 17 CFR 201.100 *et seq.*

[45 FR 36064, May 29, 1980, as amended at 60 FR 32795, June 23, 1995]

§ 200.735-14 Employees on leave of absence.

The provisions of the rules in this subpart relative to employees of the Commission are applicable to employees on a leave with pay or a leave without pay status other than extended military service.

§ 200.735-15 Interpretive and advisory service.

(a) The General Counsel shall be designated *Counselor for the Commission* and shall serve as the Commission's delegate to the Office of Personnel Management on matters covered by the rules in this subpart. The General Counsel shall be responsible for coordinating the Commission's counseling services provided under this section and for assuring that counseling and interpretations on questions of conflicts of interest and other matters covered by the rules in this subpart are available to all members and employees.

(b) There shall be designated as Deputy Counselors the Director of Personnel, the Administrator of each regional office, and the person in charge of each branch office. The General

Counsel or his or her designee shall provide guidance to the Deputy Counselors for the purpose of achieving uniform interpretations of this subpart.

(c) A member, employee, or former member or employee may obtain advice or guidance on the application of the rules in this subpart from any Deputy Counselor or the General Counsel. In addition, any former member or employee seeking advice or an interpretation relating to the Ethics in Government Act shall submit his or her request to the General Counsel.

(d) The General Counsel and Deputy Counselors will treat information they receive pursuant to requests for advice or guidance under this Rule on a confidential basis, except that information they receive indicating a possible past violation of any provision of this Conduct Regulation or of the law will be brought to the attention of appropriate persons.

(e) The Director of Personnel shall furnish a copy of this Conduct Regulation (subpart M) to each member, employee and special Government employee immediately upon his or her entrance on duty and shall thereafter, annually, and at such other times as circumstances warrant, bring to the attention of each member, employee and special Government employee this Conduct Regulation (subpart M) and all revisions thereof.

(f) The Director of Personnel shall notify each member, employee and special Government employee at the time of entrance on duty, and from time to time thereafter, of the availability of counseling services and of how and where these services are available.

§ 200.735-16 Delegation.

Any official responsibility assigned to a person in a particular position pursuant to this subpart may be delegated by such person to any other person.

§ 200.735-17 Administration of the conduct regulation.

Under the general direction of the Executive Director, the Director of Personnel is responsible for the day-to-day administration of this conduct regulation except where otherwise provided.