

Department of State

§ 10.735–216

performed duties in a satisfactory manner, if such is the case. Also, an AID Mission Director may provide names of persons or firms from which a cooperating government may select an employee or firm to be used in some phase of the AID program.

(b) *Making personal recommendations.* An employee may make a personal recommendation in connection with the employment of any person, including present or former employees, their spouses and/or members of their families, except for employment in a position of trust or profit under the government of the country to which the employee is accredited or assigned (22 U.S.C. 806(b)): *Provided*, That the employee does not divulge any information concerning the person derived from official sources. When a letter of introduction or recommendation is written by an employee, precautionary measures should be taken to prevent its being construed as official correspondence and used by an unscrupulous individual to impress American or foreign officials. Accordingly, official stationery should not be used for this purpose. The letter may, however, show the recommending employee's status as an employee of the U. S. Government. Every personal letter of recommendation shall contain a statement clearly indicating that the letter constitutes a personal recommendation and is not to be construed as an official recommendation by the Government of the United States.

§ 10.735–214 Transmitting communications and gifts.

(a) *Correspondence.* In corresponding with anyone other than the proper official of the United States with regard to the public affairs of a foreign government, an employee shall use discretion and judgment to ensure that neither the United States nor the employee will be embarrassed or placed in a compromising position (22 U.S.C. 806(a)).

(b) *Communications.* An employee shall not act as an agent for the transmission of communications from private persons or organizations in foreign countries to the President or to Federal, State, or municipal officials in the United States. A chief of mission may, however, accept communications

of this nature and forward them to the Department of State for such further action as may be appropriate, whenever the chief of mission determines it to be clearly in the public interest to do so.

(c) *Gifts.* An employee shall not act as an agent for the transmission of gifts from persons or organizations in foreign countries to the President or to Federal, State, or municipal officials of the United States. However, principal officers may, according to regulations prescribed by the President, accept, and forward to the Office of Protocol of the Department of State, gifts made to the United States or to any political subdivision thereof by the Government to which they are accredited or from which they hold exequaturs. Employees shall not, without the approval of the Secretary of State, transmit gifts from persons or organizations in the United States to heads or other officials of foreign states.

§ 10.735–215 General conduct prejudicial to the Government.

(a) An employee shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

(b) An employee abroad is also obligated to obey the laws of the country in which the employee is present.

(c) An employee shall observe the requirements of courtesy, consideration, and promptness in dealing with or serving the public.

§ 10.735–216 Miscellaneous statutory provisions.

Each employee shall become acquainted with each statute that relates to the employee's ethical and other conduct as an agency employee of and of the Government.

(a) The attention of employees is directed to the following statutory provisions:

(1) House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the "Code of Ethics for Government Service."

(2) Chapter 11 of title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the employees concerned.

(3) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(4) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).¹

(5) The prohibitions against (i) the disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783); and (ii) the disclosure of confidential information (18 U.S.C. 1905).

(6) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352).

(7) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c)).

(8) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(9) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(10) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(11) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(12) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(13) The prohibition against (i) embezzlement of Government money or property (18 U.S.C. 641); (ii) failing to account for public money (18 U.S.C. 643); and (iii) embezzlement of the money or property of another person in the possession of an employee by reason of the employee's employment (18 U.S.C. 654).

(14) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(15) The prohibition against political activities in subchapter III of chapter 73 of title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608.

(16) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

(17) The prohibition against discrimination because of politics, race, religion, or color (22 U.S.C. 807).

(18) The prohibition against officers or employees accepting any honorarium in excess of \$2,000 or honoraria aggregating more than \$25,000 in any calendar year (sec. 112, Pub. L. 94-283, 90 Stat. 494 (2 U.S.C. 441)).

(b) The attention of consular officers is directed to the following statutory provisions:

(1) The provisions relating to the duty to account for fees received (22 U.S.C. 9, 812, 1194), liability for exaction of excessive fees (22 U.S.C. 1182, 1189), and liability for failure to collect proper fees (22 U.S.C. 1190).

(2) The provisions relating to liability for failure to give bond and for embezzlement (22 U.S.C. 1179), liability for embezzlement of fees or effects of American citizens (22 U.S.C. 1198), and liability for falsely certifying as to the ownership of property (22 U.S.C. 1200).

(3) The prohibition against profiting from dealings with discharged seamen (22 U.S.C. 1187).

(4) The provision relating to liability for failure to collect the wages of discharged seamen (46 U.S.C. 683).

§ 10.735-217 Requesting exceptions from certain statutory prohibitions.

(a) Any employee desiring a written advance determination that the prohibitions of 18 U.S.C. 208(a) do not apply will prepare a written request addressed to an appropriate agency official. For purposes of this section, the appropriate agency official is: The Deputy Under Secretary for Management for State, the Administrator for AID, and the Director for ICA. The request will describe the particular matter giving rise to the conflict of interest, the nature and extent of the employee's anticipated participation in the particular matter, and the exact nature and amount of the financial interest related to the particular matter.

(b) The employee will forward the request to the appropriate agency official through the immediate supervisor and the assistant agency head in charge of the organizational agency component to which the employee is assigned, or will be assigned in the case of a new employee. The assistant agency head

¹The Courts have stricken from the Code any prohibition against assertion of the right to strike on the basis that such an assertion is a protected right under the First Amendment to the Constitution.