

§ 2638.601 In general.

Agencies are required by section 402(b)(10) of the Act to file such reports as the Director of the Office of Government Ethics deems necessary. Section 402(e) contains specific requirements for annual reports and for reporting cases referred for possible prosecution under 28 U.S.C. 535. Reporting requirements imposed under this subpart are in addition to any requirements for reports or opinions contained in part 735 of this title, parts 2633 through 2637 of this chapter, or otherwise under this chapter, and in other subparts of this part.

§ 2638.602 Annual agency reports.

(a) On or before February 1 of each year, each agency shall file with the Office of Government Ethics a report containing information about the agency's ethics program. Detailed reporting requirements will be specified in instructions to be issued by the Director in advance of the first day of the period to be covered by the annual report. Annual agency reports will cover the prior calendar year and, as a minimum, will include the following:

(1) The name, position, title and duties of each official who performs any or all of the duties of the designated agency ethics official or alternate;

(2) Statistics regarding public and nonpublic (confidential) financial disclosure report filings;

(3) A description and evaluation of the agency's program of ethics education, training and counseling, including the number of training courses given, the subject matters covered, training materials distributed and counseling services offered.

(b) Failure to timely file the report required by paragraph (a) of this section may be cause to invoke the procedures at subpart D of this part for correction of agency programs.

§ 2638.603 Reports of referral for possible prosecution.

(a) *In general.* Section 535 of title 28 of the United States Code imposes upon every agency a duty to report to the Attorney General any information, allegations or complaints relating to violations of title 18 of the United States Code involving Government officers

and employees, including possible violations of 18 U.S.C. 207 by former officers and employees. Guidelines issued by the Attorney General require reporting of such allegations or complaints to the local office of the appropriate investigative agency, the United States Attorney for the district in which the violation occurred or is occurring and the appropriate division of the Department of Justice.

(b) *Report of referral.* When any matter involving an alleged violation of Federal conflict of interest law is referred pursuant to 28 U.S.C. 535, the agency shall concurrently notify the Director of the Office of Government Ethics of the referral and provide a copy of the referral document, unless such notification or disclosure would otherwise be prohibited by law.

(c) *Disposition reports.* (1) Where there has been notice that the matter reported under paragraph (b) of this section will not be prosecuted, the agency shall promptly notify the Director of that fact, the date of the decision and any disciplinary or corrective action initiated, taken or to be taken by the agency.

(2) When the agency is notified or learns from the Department of Justice that an indictment has been handed up and signed or an information has been filed, the agency shall promptly report that fact to the Director. Thereafter, the agency shall promptly notify the Director of the final disposition of the prosecution and of any disciplinary or corrective action initiated, taken or to be taken by the agency.

(3) When disciplinary or corrective action is initiated or is to be taken, the agency will notify the Director of the final disposition of the matter.

[55 FR 1670, Jan. 18, 1990, as amended at 55 FR 21847, May 30, 1990]

Subpart G—Executive Agency Ethics Training Programs

SOURCE: 65 FR 7279, Feb. 14, 2000, unless otherwise noted.

§ 2638.701 Overview.

Each agency must have an ethics training program to teach employees about ethics laws and rules and to tell

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them where to go for ethics advice. The training program must include, at least, an initial agency ethics orientation for all employees and annual ethics training for covered employees.

§ 2638.702 Definitions.

For purposes of this subpart:

Agency supplemental standards means those regulations published by an agency in concurrence with the Office of Government Ethics under 5 CFR 2635.105.

Employee includes officers of the uniformed services and special Government employees, as defined in 18 U.S.C. 202(a).

Federal conflict of interest statutes means 18 U.S.C. 202–203, 205, and 207–209.

Principles means the Principles of Ethical Conduct, Part I of Executive Order 12674, as modified by Executive Order 12731.

Standards means the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR part 2635.

§ 2638.703 Initial agency ethics orientation for all employees.

Within 90 days from the time an employee begins work for an agency, the agency must do the following:

(a) *Ethics materials.* The agency must give the employee:

(1) The Standards and any agency supplemental standards to keep or review; or

(2) Summaries of the Standards, any agency supplemental standards, and the Principles to keep.

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