

§ 73.735-306

45 CFR Subtitle A (10-1-03 Edition)

§ 73.735-306 Sexual harassment.

Sexual harassment is deliberate unsolicited verbal comments, gestures, or physical contact of a sexual nature which are unwelcome. Sexual harassment is unacceptable conduct and is expressly prohibited. In addition, supervisors and managers are prohibited from taking or promising personnel actions in exchange for sexual favors, or failing to take an action because an employee or applicant for employment, refuses to engage in sexual conduct. This same prohibition applies to relationships between Department personnel who take or recommend action on a grant or contract and the grantee or contractor. Those employees who wish to file a complaint of sexual harassment should contact the Office of Equal Employment Opportunity (EEO) within their respective agencies for guidance. (Time frames for pursuing a charge alleging sexual harassment are the same as for any other complaint based on allegations of sex discrimination.)

§ 73.735-307 Use of official information.

(a) The public interest requires that certain information in the possession of the Government be kept confidential, and released only with general or specific authority under Department or operating component regulations. Such information may involve the national security or be private, personal, or business information which has been furnished to the Government in confidence. In addition, information in the possession of the Government and not generally available may not be used for private gain. The following paragraphs set forth the rules to be followed by Department employees in handling information in official files or documents:

(1) *Classified information.* Employees who have access to information which is classified for security reasons in accordance with Executive Order 12065 are responsible for its custody and safekeeping, and for assuring that it is not disclosed to unauthorized persons. See the Department's Security Manual, Part 3 for details.

(2) *Security and investigative information.* Security and investigative data

received from Government agencies or other sources for official use only within the Department or developed under a pledge of confidence is not to be divulged to unauthorized persons or agencies.

(3) *Information obtained in confidence.* Certain Department units (e.g., Food and Drug Administration, and the Social Security Administration) obtain in the course of their program activities certain information from businesses or individuals which they are forbidden by law from disclosing. These statutory prohibitions are found in 21 U.S.C. 331j, and 18 U.S.C. 1905. Each employee is responsible for observing these laws.

(4) *Use of information for private gain.* Government employees are sometimes able to obtain information about some action the Government is about to take or some other matter which is not generally known. Information of this kind shall not be used by the employee to further his or her or someone else's private financial or other interests. Such a use of official information is clearly a violation of a public trust. Employees shall not, directly or indirectly, make use of, or permit others to make use of, for the purpose of furthering any private interest, official information not made available to the general public.

(b) The Privacy Act provides criminal penalties for an employee who willfully discloses individually identifiable information from records, disclosure of which is prohibited by that Act. 5 U.S.C. 552a(i).

Subpart D—Financial Obligations

§ 73.735-401 General provisions.

(a) The Department considers the indebtedness of its employees to be a matter of their own concern. However, employees shall not by failure to meet their just financial obligations reflect adversely on the Government as their employer. Employees are expected to pay each just financial obligation in a proper and timely manner. A "just financial obligation" is one acknowledged by the employee or reduced to judgment by a court, or one imposed by law such as Federal, State, or local

taxes. "In a proper and timely manner" is a manner which the Department determines does not, under the circumstances, reflect adversely on the part of an employee in meeting his or her financial obligations, particularly those that relate to support of the employee's family, to payment of Federal, State, or local taxes, or to payments to tax-supported institutions such as a city or State hospital, or educational institution. If for some reason an employee is unable to pay these obligations promptly, he or she is expected to make satisfactory arrangements for payment and abide by these arrangements.

(b) Disciplinary action may be considered when an employee has handled his or her financial affairs in such a way that:

(1) Action on complaints received from creditors requires the use of a considerable amount of official time, or

(2) It appears that financial difficulties are impairing the employee's efficiency on the job, or

(3) Because of the employee's financial irresponsibility, the attitude of the general public toward the Department may be adversely affected; and the employee after counseling does not make arrangements to meet his or her financial obligations.

Subpart E—Gifts, Entertainment, and Favors

§ 73.735-501 Prohibited acceptance of gifts, entertainment, and favors.

(a) Except as provided in §§ 73.735-502 and 73.735-506, an employee shall not directly or indirectly solicit or accept anything of monetary value, including gifts, gratuities, favors, entertainment or loans from a person who the employee knows, or should know because of the nature of the employee's work:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with the employee's principal operating component, or sub-unit thereof; or with a component of the Department with respect to which the employee has official duties;

(2) Conducts operations or activities that are regulated by the employee's principal operating component, or sub-

unit thereof or by a component of the Department with respect to which the employee has official duties; or

(3) Has interests that may be substantially affected by the performance or non-performance of the employee's official duties.

(b) Employees may not designate a person or an organization, including charitable or non-profit organizations, to accept any gift which an employee is prohibited from accepting directly.

§ 73.735-502 Permissible acceptance of gifts, entertainment, and favors.

(a) An employee may accept a gift, gratuity, favor, entertainment, loan or similar favor of monetary value which stems from a family relationship such as that between the employee and his or her parents, spouse or children, if it is clear that the relationship is the motivating factor.

(b) Loans from banks or other financial institutions may be accepted on customary terms.

(c) Unsolicited advertising or promotional material such as pens, note pads, calendars and similar items of nominal intrinsic value may be accepted.

(d) An employee may accept food or refreshment of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or on an inspection tour only if the employee is properly in attendance and there is not a reasonable opportunity to pay.

Example 1: Employee is on the premises of Company participating in a meeting at a normal mealtime. A representative of Company provides a meal for all meeting participants from a Company facility and there is no established method for payment. Employee may accept.

Example 2: Employee is on the premises of Company and he or she goes outside for lunch with a representative of the Company. The representative offers to pay the bill. Since it is practical for the employee to pay for his or her own meal, the employee may not accept.

(e) An employee may also accept food or refreshment of nominal value on infrequent occasions if the food and/or refreshment is offered to all participants or attendees of a meeting or convention.