

§ 98.9

§ 98.9 Decision if hearing waived.

(a) If the former employee waives or, in accordance with § 98.5(b) of this part, is deemed to have waived a hearing under this part, the examiner shall, after review of the record as it exists, make a decision as to whether the former employee is in violation of 18 U.S.C. 207.

(b) In a decision under paragraph (a) of this section, the requirements of § 98.8 of this part apply.

§ 98.10 Appeal.

(a) Within 30 working days after receipt of a decision issued under § 98.8 or § 98.9 of this part, either the Departmental counsel or the former employee may appeal the decision to the Secretary.

(b) In making a decision on an appeal, the Secretary shall consider only the evidence admitted during the prior proceeding and contained in the record of that proceeding.

(c) If the Secretary modifies or reverses the initial decision, the Secretary shall specify the findings of fact and conclusions of law that are different from those of the examiner.

§ 98.11 Final administrative decision.

The final administrative decision under this part shall be:

(a) The decision of the examiner under § 98.8(b), if there is no appeal under § 98.10;

(b) The decision by the examiner under § 98.9, if a hearing is waived or is deemed to have been waived and there is no appeal under § 98.10; or

(c) The decision of the Secretary on an appeal under § 98.10.

Subpart B—Administrative Sanctions

§ 98.12 Administrative sanctions.

(a) The Secretary, in decisions under § 98.10 of this part, and the examiner, in decisions under § 98.8 and § 98.9 of this part, may impose an administrative sanction against a former employee who, after a final administrative decision under this part, is found to be in violation of 18 U.S.C. 207.

49 CFR Subtitle A (10–1–03 Edition)

(b) The administrative sanctions that may be imposed under subsection (a) of this section are:

(1) Prohibiting the former employee from making, on behalf of any other person except the United States, any formal or informal appearance before, or, with the intent to influence, any oral or written communication to, the Department of any of its administrations on any matter of business for a period not to exceed five years; or

(2) Taking other appropriate disciplinary action, such as a reprimand or suspension from participation in a particular matter or matters before the Department.

Subpart C—Judicial Review

§ 98.13 Judicial review.

Any former employee found to have violated 18 U.S.C. 207 by a final administrative decision under this part may seek judicial review of disciplinary action imposed under this part.

PART 99—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Subpart A—General

Sec.

99.735-1 Cross-reference to ethical conduct standards and financial disclosure regulations.

Subparts B–E [Reserved]

Subpart F—Responsibilities of the Government Employee and Special Government Employee Following Departure From Government Service

99.735-80 Applicability.

99.735-81 Post-employment duties and responsibilities.

APPENDIX A—CATEGORIES OF FINANCIAL INTERESTS EXEMPTED FROM THE PROHIBITIONS OF SECTION 208(A) OF TITLE 18, UNITED STATES CODE

APPENDIX B–D [RESERVED]

APPENDIX E—STATUTES REGULATING POST-EMPLOYMENT RESPONSIBILITIES OF GOVERNMENT AND SPECIAL GOVERNMENT EMPLOYEES

AUTHORITY: 49 U.S.C. 322; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.