

§ 2636.301

5 CFR Ch. XVI (1–1–03 Edition)

Penalties Inflation Adjustment Act of 1990, as amended, or the amount of the compensation the individual received for the prohibited conduct, whichever is greater.

(b) *Disciplinary and corrective action.* An agency may initiate disciplinary or corrective action against an employee who violates any provision of this part, which may be in addition to any civil penalty prescribed by law. When an employee engages in conduct in good faith reliance upon an advisory opinion issued under § 2636.103 of this subpart, an agency may not initiate disciplinary or corrective action for violation of this part. Disciplinary action includes reprimand, suspension, demotion and removal. Corrective action includes any action necessary to remedy a past violation or prevent a continuing violation of this part, including but not limited to restitution or termination of an activity. It is the responsibility of the employing agency to initiate disciplinary or corrective action in appropriate cases. However, the Director of the Office of Government Ethics may order corrective action or recommend disciplinary action under the procedures at part 2638 of this subchapter. The imposition of disciplinary action is at the discretion of the employing agency.

[56 FR 1723, Jan. 17, 1991, as amended at 63 FR 43068, Aug. 12, 1998; 64 FR 47097, Aug. 30, 1999]

Subpart B [Reserved]

Subpart C—Outside Earned Income Limitation and Employment and Affiliation Restrictions Applicable to Certain Noncareer Employees

§ 2636.301 General standards.

A covered noncareer employee shall not:

(a) Receive outside earned income in excess of the 15 percent limitation described in § 2636.304 of this subpart;

(b) Receive compensation or allow the use of his name in violation of the restrictions relating to professions involving a fiduciary relationship described in § 2636.305 of this subpart;

(c) Receive compensation for serving as an officer or board member in violation of the restriction described in § 2636.306 of this subpart; or

(d) Receive compensation for teaching without having first obtained advance authorization as required by § 2636.307 of this subpart.

§ 2636.302 Relationship to other laws and regulations.

The limitations and restrictions contained in this section are in addition to any limitations and restrictions imposed upon an employee by applicable standards of conduct or by reason of any statute or regulation relating to conflicts of interest. Even though conduct or the receipt of compensation is not prohibited by this subpart, an employee should accept compensation or engage in the activity for which compensation is offered only after determining that it is otherwise permissible. In particular, a covered noncareer employee should accept compensation only after determining that its receipt does not violate section 102 of Executive Order 12674, as amended, which prohibits a covered noncareer employee who is also a Presidential appointee to a full-time noncareer position from receiving *any* outside earned income for outside employment or for any other activity performed during that Presidential appointment.

[56 FR 1723, Jan. 17, 1991, as amended at 63 FR 43069, Aug. 12, 1998]

§ 2636.303 Definitions.

For purposes of this section:

(a) *Covered noncareer employee* means an employee, other than a Special Government employee as defined in 18 U.S.C. 202, who occupies a position classified above GS-15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule, and who is:

(1) Appointed by the President to a position described in the Executive Schedule, 5 U.S.C. 5312 through 5317, or to a position that, by statute or as a matter of practice, is filled by Presidential appointment, other than: