

Office of Personnel Management

§ 735.202

CFR 1989 Comp. 215–218) as modified by Executive Order 12731 (55 FR 42547–42550; 3 CFR 1990 Comp. 306–311).

PART 735—EMPLOYEE RESPONSIBILITIES AND CONDUCT

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AUTHORITY: 5 U.S.C. 7301; 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.

SOURCE: 71 FR 46073, Aug. 11, 2006, unless otherwise noted.

EDITORIAL NOTE: Part 1001, added to this chapter at 31 FR 873, Jan. 22, 1966 and revised at 32 FR 11113, Aug. 1, 1967, 36 FR 6874, Apr. 9, 1971, 61 FR 36996, July 16, 1996, and 71 FR 43345, Aug. 1, 2006, supplements this part 735.

Subpart A—General Provisions

§ 735.101 Definitions.

In this part:

Agency means an Executive agency (other than the Government Accountability Office) as defined by 5 U.S.C. 105, the Postal Service, and the Postal Rate Commission.

Employee means any officer or employee of an agency, including a special Government employee, but does not include a member of the uniformed services.

Government means the United States Government.

Special Government employee means an officer or employee specified in 18 U.S.C. 202(a) except one who is employed in the legislative branch or by the District of Columbia.

Uniformed services has the meaning given that term by 5 U.S.C. 2101(3).

§ 735.102 What are the grounds for disciplinary action?

An employee's violation of any of the regulations in subpart B of this part may be cause for disciplinary action by the employee's agency, which may be in addition to any penalty prescribed by law.

§ 735.103 What other regulations pertain to employee conduct?

In addition to the standards of conduct in subpart B of this part, an employee shall comply with the standards of ethical conduct in 5 CFR part 2635, as well as any supplemental regulation issued by the employee's agency under 5 CFR 2635.105. An employee's violation of those regulations may cause the employee's agency to take disciplinary action, or corrective action as that term is used in 5 CFR part 2635. Such disciplinary action or corrective action may be in addition to any penalty prescribed by law.

Subpart B—Standards of Conduct

§ 735.201 What are the restrictions on gambling?

(a) While on Government-owned or leased property or on duty for the Government, an employee shall not conduct or participate in any gambling activity, including operating a gambling device, conducting a lottery or pool, participating in a game for money or property, or selling or purchasing a numbers slip or ticket.

(b) This section does not preclude activities:

(1) Necessitated by an employee's official duties; or

(2) Occurring under section 7 of Executive Order 12353 and similar agency-approved activities.

§ 735.202 What are the restrictions on conduct that safeguard the examination process?

(a) An employee shall not, with or without compensation, teach, lecture, or write for the purpose of the preparation of a person or class of persons for an examination of the Office of Personnel Management (OPM) or other agency to which examining authority

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has been delegated, or Board of Examiners for the Foreign Service that depends on information obtained as a result of the employee's Government employment.

(b) This section does not preclude the preparation described in paragraph (a) of this section if:

(1) The information upon which the preparation is based has been made available to the general public or will be made available on request; or

(2) Such preparation is authorized in writing by the Director of OPM, or his or her designee, or by the head of an agency to which examining authority had been delegated, or his or her designee, or by the Director General of the Foreign Service, or his or her designee, as applicable.

§ 735.203 What are the restrictions on conduct prejudicial to the Government?

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

PART 736—PERSONNEL INVESTIGATIONS

Subpart A—Scope

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Subpart B—Investigative Requirements

- 736.201 Responsibilities of OPM and other Federal agencies.

AUTHORITY: Pub. L. 93-579; (5 U.S.C. 552a).

SOURCE: 56 FR 18655, Apr. 23, 1991, unless otherwise noted.

Subpart A—Scope

§ 736.101 Purpose and definitions.

(a) *Purpose.* The purpose of this part is to specify certain requirements for personnel investigations conducted by OPM, and for those conducted under delegated authority from OPM. The requirements of this part apply to suitability and national security investiga-

tions conducted under parts 731 and 732 of this chapter; they also apply to investigations to determine eligibility or qualifications not covered in parts 731 and 732 of this chapter. The requirements of this part apply to employees in the civil service of the Executive Branch and to persons performing contract, voluntary or indirect services for the Federal Government, as set forth in subsection (b) below.

(b) *Definitions.* For the purposes of this part, (1) *Federal employment* includes the following range of services performed for the Federal government: (i) All employment in the competitive or excepted service or the Senior Executive Service in the Executive Branch; (ii) appointments, salaried or unsalaried, to Federal Advisory Committees or to membership agencies; (iii) cooperative work assignments in which the individual has access to Federal materials such as examination booklets, or performs service for, or under supervision of, a Federal agency while being paid by another organization such as a State or local government; (iv) volunteer arrangements in which the individual performs service for, or under the supervision of, a Federal agency; and (v) volunteer or other arrangements in which the individual represents the United States Government or any agency thereof.

(2) *Agency* means any authority of the Government of the United States, whether or not it is within or subject to review by another agency, and includes any executive department, military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government, or any independent regulatory agency.

(3) *Personnel investigation* means an investigation conducted by written or telephone inquiries or through personal contacts to determine the suitability, eligibility, or qualifications of individuals for Federal employment, for work on Federal contracts, or for access to classified information or restricted areas.

§ 736.102 Notice to investigative sources.

(a) The agency investigator will notify the source from whom information