

Agency Ethics Official for review by employees.

§ 19.735-106 Interpretation and advisory service.

(a) Requests for interpretative rulings concerning the applicability of 5 CFR parts 2635 and 3901, and this part, may be submitted through the employee's supervisor to the General Counsel, who is the Commission's Designated Agency Ethics Official pursuant to the delegation of authority at 47 CFR 0.251(a).

(b) At the time of an employee's entrance on duty and at least once each calendar year thereafter, the Commission's employees shall be notified of the availability of counseling services on questions of conflict of interest and other matters covered by this part, and of how and where these services are available.

§ 19.735-107 Disciplinary and other remedial action.

(a) A violation of the regulations in this part by an employee may be cause for appropriate disciplinary action which may be in addition to any penalty prescribed by law.

(b) The Chairman will designate an officer or employee of the Commission who will promptly investigate all incidents or situations in which it appears that employees may have engaged in improper conduct. Such investigation will be initiated in all cases where complaints are brought to the attention of the Chairman, including: Adverse comment appearing in publications; complaints from members of Congress, private citizens, organizations, other Government employees or agencies; and formal complaints referred to the Chairman by the Designated Agency Ethics Official.

(c) The Inspector General will be promptly notified of all complaints or allegations of employee misconduct. The Inspector General will also be notified of the planned initiation of an investigation under this part. Such notification shall occur prior to the initiation of the investigation required by paragraph (a) of this section. The Inspector General may choose to conduct the investigation in accordance with the rules in this part. Should the In-

spector General choose to conduct the investigation, he will promptly notify the Chairman. In such case, the Inspector General will serve as the designated officer and be solely responsible for the investigation. In carrying out this function, the Inspector General may obtain investigative services from other Commission offices, other governmental agencies or non governmental sources and use any other means available to him in accordance with Public Law 100-504 or the Inspector General Act of 1978, as amended, 5 U.S.C. Appendix. The Inspector General will be provided with the results of all investigations in which he chooses not to participate.

(d) The employee concerned shall be provided an opportunity to explain the alleged misconduct. When, after consideration of the employee's explanation, the Chairman decides that remedial action is required, he shall take remedial action. Remedial action may include, but is not limited to:

- (1) Changes in assigned duties;
- (2) Divestiture by the employee of his conflicting interest;
- (3) Action under the Commission's Ethics Program resulting in one of the following actions:

(i) When investigation reveals that the charges are groundless, the person designated by the Chairman to assist in administration of the program may give a letter of clearance to the employee concerned, and the case will not be recorded in his Official Personnel Folder;

(ii) If, after investigation, the case investigator deems the act to be merely a minor indiscretion, he may resolve the situation by discussing it with the employee. The case will not be recorded in the employee's Official Personnel Folder;

(iii) If the case administrator considers the problem to be of sufficient importance, he may call it to the attention of the Chairman, who in turn may notify the employee of the seriousness of his act and warn him of the consequences of a repetition. The case will not be recorded in the employee's Official Personnel Folder, unless the employee requests it;

(iv) The Chairman may, when in his opinion circumstances warrant, establish a special review board to investigate the facts in a case and to make a full report thereon, including recommended action; or

(v)(A) If the Chairman decides that formal disciplinary action should be taken, he may prepare for Commission consideration a statement of facts and recommend one of the following:

(1) *Written reprimand.* A formal letter containing a complete statement of the offense and official censure;

(2) *Suspension.* A temporary non pay status and suspension from duty; or

(3) *Removal for cause.* Separation from cause in case of a serious offense.

(B) Only after a majority of the Commission approves formal disciplinary action will any record resulting from the administration of this program be placed in the employee's Official Personnel Folder; or

(4) Disqualification for a particular assignment.

(e) Remedial action, whether disciplinary or otherwise, shall be effected in accordance with any applicable laws, Executive orders, and regulations.

Subpart B—Employee Responsibilities and Conduct

§ 19.735–201 Outside employment and other activity prohibited by the Communications Act.

Under section 4(b) of the Communications Act, at 47 U.S.C. 154(b)(2)(A)(iv), no employee of the Commission may be in the employ of or hold any official relation to any person significantly regulated by the Commission under that Act. In addition, the Commissioners are prohibited by section 4(b) of the Communications Act, at 47 U.S.C. 154(b)(4), from engaging in any other business, vocation, profession, or employment.

NOTE: Under the Supplemental Standards of Ethical Conduct for Employees of the Federal Communications Commission, at 5 CFR 3901.102, professional employees of the Commission must obtain approval before engaging in the private practice of the same profession as that of the employee's official position, whether or not for compensation.

§ 19.735–202 Financial interests prohibited by the Communications Act.

(a) No Commissioner shall have a pecuniary interest in any hearing or proceeding in which he participates. (47 U.S.C. 154(j).)

(b)(1) Section 4(b) of the Communications Act, at 47 U.S.C. 154(b)(2)(A), provides:

No member of the Commission or person employed by the Commission shall:

(i) Be financially interested in any company or other entity engaged in the manufacture or sale of telecommunications equipment which is subject to regulation by the Commission;

(ii) Be financially interested in any company or other entity engaged in the business of communication by wire or radio or in the use of the electromagnetic spectrum;

(iii) Be financially interested in any company or other entity which controls any company or other entity specified in clause (i) or clause (ii), or which derives a significant portion of its total income from ownership of stocks, bonds, or other securities of any such company or other entity; or

(iv) Be employed by, hold any official relation to, or own any stocks, bonds, or other securities of, any person significantly regulated by the Commission under this act; except that the prohibitions established in this subparagraph shall apply only to financial interests in any company or other entity which has a significant interest in communications, manufacturing, or sales activities which are subject to regulation by the Commission.

(2) To determine whether an entity has a significant interest in communications related activities that are subject to Commission regulations, the Commission shall consider, without excluding other relevant factors, the criteria in section 4(b) of the Communications Act, at 47 U.S.C. 154(b)(3). These criteria include:

(i) The revenues and efforts directed toward the telecommunications aspect of the business;

(ii) The extent of Commission regulation over the entity involved;

(iii) The potential economic impact of any Commission action on that particular entity; and

(iv) The public perception regarding the business activities of the company.

(3)(i) Section 4(b) of the Communications Act, at 47 U.S.C. 154(b)(2)(B)(i), permits the Commission to waive the prohibitions at 47 U.S.C. 154(b)(2)(A).