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Source of document: Drug Enforcement Administration
Freedom of Information and Privacy Act Unit
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Springfield, Virginia 22152
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[DEA Freedom of Information Act Portal \(PAL\)](#)

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U.S. Department of Justice
Drug Enforcement Administration
FOIA and Privacy Act Section
8701 Morrissette Drive
Springfield, Virginia 22152

February 17, 2021

Case Number: 20-00226-F

Subject: DEA Standards of Conduct and Disciplinary Offenses and Penalties Guide

This letter responds to your Freedom of Information Act/Privacy Act (FOIA/PA) requests dated January 25, 2020, addressed to the Drug Enforcement Administration (DEA), FOIA/PA Section, seeking access to information regarding the above subject. As we informed you in our July 30, 2020 correspondence, we aggregated the two requests you submitted on January 25, 2020 and processed them under this case number.

After reviewing your request, we conducted a search for responsive records pertaining to the above subject. To search for responsive records, we queried the DEA Human Resources Division. As a result of our query, we were able to identify records pertaining to the subject of your request.

Certain materials identified during the processing of your request will be released to you. The portions withheld are exempt from disclosure pursuant to the FOIA, 5 U.S.C. § 552, and/or the PA, 5 U.S.C. § 552a. Please refer to the list enclosed with this letter that identifies the authority for withholding the deleted material, which is indicated by a mark appearing in the block next to the exemption. An additional enclosure with this letter explains these exemptions in more detail. The agency documents you requested are enclosed with this letter.

The rules and regulations of the DEA applicable to FOIA requests are contained in the Code of Federal Regulations, Title 28, Part 16, as amended. They are published in the Federal Register and are available for inspection by members of the public.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

You may contact our FOIA Public Liaison at (571) 776-2300 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at ogis@nara.gov; telephone at (202) 741-5770; toll free at 1-877-684-6448; or facsimile at (202) 741-5769.

If you are not satisfied with DEA's determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

If you have any questions regarding this letter, you may contact Paralegal Patricia West at (571) 776-3684.

Sincerely,

**ANGELA
HERTEL**

Digitally signed by
ANGELA HERTEL
Date: 2021.02.17
07:25:47 -05'00'

Angela D. Hertel, Chief
Legal and External Affairs Unit
Freedom of Information and Privacy Act Section

Number of pages released: 59

APPLICABLE SECTIONS OF THE FREEDOM OF INFORMATION AND/OR PRIVACY ACT:

**Freedom of Information Act
5 U.S.C. § 552**

**Privacy Act
5 U.S.C. § 552a**

(b)(1) (b)(5) (b)(7)(C)

(d)(5) (k)(2)

(b)(2) (b)(6) (b)(7)(D)

(j)(2) (k)(5)

(b)(3) (b)(7)(A) (b)(7)(E)

(k)(1) (k)(6)

(b)(4) (b)(7)(B) (b)(7)(F)

Enclosures

2735 EMPLOYEE RESPONSIBILITIES AND DEA'S STANDARDS OF CONDUCT

TR 20-04, 3/11/20 Contents

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Exhibit 1/2735 Standards of Conduct Annual Employee Certification

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Exhibit 3/2735.15 Addendum for Outside Employment

***2735.10 References**

A. Statutory Authorities.

1. 18 U.S.C. §§ 202-209: Prohibition against bribery, graft, and conflicts of interest.
2. 31 U.S.C. § 1349(b): Authorizing a penalty of suspension of at least 30 days up to and including removal for willful misuse of an OGV.
3. 5 U.S.C. §§ 7321-7326: Restrictions on political activities for federal employees (The Hatch Act).
4. Other applicable statutes: e.g., 5 U.S.C. § 7342; 17 U.S.C. § 101; 31 U.S.C. § 1344, 18 U.S.C. § 930.

B. Regulatory Authorities.

1. 5 C.F.R. Part 2635: Standards of conduct for employees of the executive branch.
2. 5 C.F.R. Part 735: Employee responsibilities and conduct.
3. 5 C.F.R. Part 3801: Supplemental standards of conduct for employees of the Department of Justice.
4. 28 C.F.R. Part 45: Employee responsibilities.
5. Other applicable regulations: e.g., 5 C.F.R. § 2638; 41 C.F.R. § 102-42.10; 5 C.F.R. Part 630, Subpart I.

C. Other authorities.

1. Executive Order 12674 as amended by Executive Order 12731: Principles of ethical conduct.
2. Executive Order 13513
3. Department of Justice Order 2740.1A
4. Department of Justice Order 1732.2
5. Department of Justice Order 1792.1

2735.11 General Provisions

A. Purpose of DEA's Standards of Conduct

1. To provide guidance and a framework in which DEA personnel may embody and uphold DEA's Core Values:
 - a. Dedication to upholding the Constitution of the United States and the Rule of Law.
 - b. Respect and compassion for those we protect and serve.
 - c. Faithful and effective service to our country and its citizens.

- d. Devotion to our core mission of enforcing the nation's drug laws and enhancing public health, safety, and national security.
 - e. Uncompromising personal, professional, and institutional integrity.
 - f. Accountability to ourselves, our agency, and those we serve.
 - g. Leadership and courage in our profession, communities, and lives.
 - h. Commitment to diversity and excellence.
2. To inform personnel of standards of conduct expected of them as DEA employees and of the potential penalties imposed for breaches of such standards.
 3. To set forth standards of behavior which will protect and grow the reputation of the DEA with the American public.
 4. To ensure DEA's law enforcement mission is not impeded, restricted, or otherwise adversely influenced by employee misconduct.

B. Scope of DEA's Standards of Conduct

1. **Effective Date.** This policy becomes effective as of the date of its publication. The prior provisions of Section 2735 of the DEA Personnel Manual, dated July 21, 2015, will remain in effect until that time, and for any administrative action initiated for violations of the Standards of Conduct that occurred prior to the effective date of this policy.
2. Except where specifically excluded, the Standards of Conduct apply to all employees, including Task Force Officers (TFOs) and special government employees, as defined in 18 U.S.C. § 202(a). Pursuant to the Guideline for Establishing State and Local Task Forces, Task Force officers shall adhere to DEA policies and procedures. Failure to adhere to DEA policies and procedures shall be grounds for dismissal from the Task Force.

NOTE: Although contract employees are expected to embody the same ethical standards of conduct as government employees, specific requirements for contract employees are outlined in the On-site Contractor Responsibilities document, and/or incorporated into the applicable security clause within the contract, available at (b)(2)

(b)(2) and are also further detailed in the Contracting Officer's Representative (COR) Handbook, Section 8.4.1 – Contractor Employees.

C. DEA's Disciplinary System

1. Disciplinary action is intended to promote the efficiency of the Federal service by, among other things, correcting unacceptable behavior and actions by a DEA employee; serving as a deterrent, both to the disciplined employee and to other employees; and upholding public trust in the DEA and its employees. DEA's disciplinary process is designed to obtain adherence to DEA's Standards of Conduct and other DEA policies and procedures. It, therefore, imposes progressively severe penalties to rehabilitate

disciplined employees, including removal from the Federal service for those employees who cannot be effectively rehabilitated or for conduct that is so egregious that a single act warrants removal.

2. The absence of a standard or regulation covering a specific act does not mean that such an act is condoned, permissible, or would not result in disciplinary/adverse action. Federal regulations and DEA policies broadly prohibit acts which tend to discredit DEA or its employees. 5 C.F.R. § 735.203; Executive Order 12674.

3. Violation of any provision of DEA's Standards of Conduct may subject the employee involved to appropriate disciplinary/adverse action, including removal. An employee's misconduct may also violate state or federal law. Discipline pursuant to one set of rules does not preclude prosecution or discipline under another.

4. The commission of four (4) acts of misconduct within a two (2) year period may be grounds for the removal of the employee, regardless of the nature of the offenses committed.

2735.12 Responsibilities

A. Chief Counsel - In accordance with U.S. Department of Justice (DOJ) Human Resources Order 1200.1, Chapter 11-1(B)(3) and 5 C.F.R. §§ 2638.202 and 2638.203, the Chief Counsel (CC) has been delegated the responsibility and authority to manage DEA's Ethics Program, to include advising on employee conduct that implicates the conflict of interest laws, and ethics laws and regulations. All ethics, outside employment/activities and Hatch Act questions should be sent to the Office of Chief Counsel, Ethics and Standards of Conduct Unit (CCE) at cc-ethics@doj.gov.

B. Supervisors. It is the responsibility of DEA's supervisors, in addition to their duties and responsibilities as employees of this agency, to:

1. Set and maintain high standards of personal conduct as an example to employees. Supervisory personnel will be held to a higher standard of conduct given their status as managers. Failure to act in response to a situation that the supervisor was or should have been aware of may subject the supervisor to disciplinary action or other appropriate measures.

2. Ensure that the work-areas and personnel assigned under the supervisor's authority are free of sexual harassment and discrimination or other acts of employee misconduct and that personnel assigned under the supervisor's authority conduct themselves without regard to the personal characteristics or identifying traits of others (e.g., race, color, religion, sex, sexual orientation, gender identification, national origin, age, or handicap). Further, supervisors will ensure that all personnel assigned under their authority are informed of DEA's policy prohibiting sexual harassment and discrimination and receive training on a continuing basis with respect to their rights and responsibilities.

3. Review and take appropriate action on complaints of sexual harassment and other discrimination. Every supervisor shall advise each employee who comes to the supervisor with a report or complaint of sexual harassment of the avenues of redress

provided by paragraphs 2713.3 and 2713.4 of the Personnel Manual.

4. Ensure that all employees under their authority are informed of DEA's Standards of Conduct.
5. Report all suspected employee violations of DEA's Standards of Conduct to the Office of Professional Responsibility (OPR). Upon notification of allegations of misconduct, OPR will provide guidance to field and/or headquarters (HQ) managers for further action. A preliminary investigation should not be conducted prior to reporting an allegation of misconduct to OPR, as set forth in the Planning and Inspection Manual Section 8307.
6. Observe and monitor the conduct, performance, and/or actions of personnel under their authority for potential substance abuse problems. Where appropriate, make referrals to the appropriate agency, or other supervisory officials, as necessary.

C. All DEA Employees. DEA personnel, as members of the law enforcement community, occupy positions of trust. It is the responsibility of all DEA employees to:

1. Refrain from engaging in any criminal, infamous, dishonest, or notoriously disgraceful conduct or other conduct prejudicial to DEA, to DOJ, or to the United States Government. This includes any conduct that indicates that an employee failed to exercise good judgment either on or off duty. DEA personnel shall always conduct themselves in a professional manner and observe the DEA Standards of Conduct, as well as applicable orders, policies, regulations, and laws of DEA, DOJ, and the federal government.
2. Refrain from conduct or omissions in their off-duty hours which will impact, influence, impede, or adversely affect their DEA responsibilities.
3. All DEA employees shall avoid any actions that create the appearance that they are violating the law or the ethical standards set forth in the DEA Standards of Conduct, or in any applicable orders, policies, regulations, and laws of DEA, DOJ, and the federal government.
4. Certify that they have read and understand the DEA Standards of Conduct, as embodied in Section 2735 of the Personnel Manual by signing the Standards of Conduct Annual Employee Certification, Form DEA-343 (See Exhibit 1/2735.12).
 - a. New employees are required to read these Standards of Conduct, which are provided to them during orientation, and certify that they have read and understand them.
 - b. On an annual basis, all DEA employees are required to re-certify that they have read and understand these Standards of Conduct.
5. Consult, as appropriate, with his/her immediate or second-line supervisor, the Office of Chief Counsel, or OPR when in doubt about any provision of DEA's Standards of Conduct.

6. Report, as appropriate (to OPR, supervisory chain), alleged violations of DEA's Standards of Conduct, as well as alleged violations of applicable orders, policies, regulations, and laws of DEA, DOJ and the federal government, by other DEA employees, including DEA supervisors, without fear of retaliation.
7. Understand that the DEA Standards of Conduct are the prescribed minimum acceptable behavioral guidelines for DEA personnel. These standards are not to be considered all-inclusive and may be supplemented by DEA as necessary. These standards may be amended, modified, interpreted, or supplemented through the issuance of policy directions, instructions, orders, or other similar guidance as may be issued from time to time by the appropriate management personnel. Such guidance, when issued, shall continue in effect until rescinded or until it expires on its own terms.

2735.13 Conflicting Financial Interests

A. Disqualifying Financial Interests.

1. Under 18 U.S.C. § 208 and 5 C.F.R. § 2635.402, an employee is prohibited from participating personally and substantially in an official capacity in any particular matter in which, to his/her knowledge, he/she or any person whose interests are imputed to him/her, has a financial interest, if the particular matter will have a direct and predictable effect on that interest. In other words, an employee cannot participate in most official matters that may affect that employee's personal financial interests or those financial interests imputed to the employee.

2. Definitions. For the purposes of this section, the following definitions apply:

a. Imputed Interests. The following imputed financial interests would be treated the same as the employee's own financial interests: the employee's spouse; the employee's minor child; the employee's general partner; an organization or entity in which the employee serves as officer, director, trustee, general partner or employee; and a person with whom the employee is negotiating for or has an arrangement concerning prospective employment. See 5 C.F.R. § 2635.402(b)(2).

Example: The spouse of Diversion Investigator (DI) Doe is employed by Pharmaceutical Company XYZ. In addition to receiving a salary, DI Doe's spouse participates in a profit-sharing bonus plan with the company. DI Doe cannot participate in any particular matters that Pharmaceutical Company XYZ has before DEA.

b. Personal and Substantial. To participate personally means to participate directly. It includes the direct and active supervision of a subordinate in the matter. To participate substantially means that the employee's involvement is of significance to the matter. Personal and substantial participation includes an employee participating through decision, approval, disapproval, recommendation, investigation or the rendering of advice in a particular matter. See 5 C.F.R. § 2635.402(b)(4).

Example: Intelligence Research Specialist (IRS) Doe provides analytical support to a Special Agent investigating an organization suspected of drug trafficking. IRS Doe is participating personally and substantially in this investigation.

c. Particular Matter. The term particular matter encompasses only matters that involve deliberation, decision, or action that is focused upon the interests of specific persons, or a discrete and identifiable class of persons, including, but not limited to, a judicial or other proceeding, investigation, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, or arrest. See 5 C.F.R. § 2635.402(b)(3).

Example #1: Special Agent (SA) Smith is investigating a bank for money laundering. SA Smith's spouse works at the bank. The investigation is a particular matter. SA Smith should not work on the investigation without first consulting with the Office of Chief Counsel, Ethics and Standards of Conduct Unit.

Example #2: Diversion Investigator (DI) Jones has been asked to assist in drafting regulations that will affect the pharmaceutical industry. XYZ Pharma will be affected by these regulations. DI Jones owns stock in XYZ Pharma. Because a regulation is a particular matter, DI Jones should not participate in this matter without first consulting with the Office of Chief Counsel, Ethics and Standards of Conduct Unit.

d. Direct and Predictable Effect. A particular matter will have a direct effect on a financial interest if there is a close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the financial interest, whether or not it occurs immediately. A particular matter will have a predictable effect if there is a real, as opposed to a speculative possibility that the matter will affect the financial interest. The dollar amount of the gain or loss is immaterial. See 5 C.F.R. § 2635.402(b)(1).

Example: A Diversion Investigator, who has been assigned to investigate a pharmaceutical company for diverting controlled substances, owns stock in this company. Because the investigation will affect the financial interest of the company, the DI should not participate in the investigation without first consulting with the Office of Chief Counsel, Ethics and Standards of Conduct Unit.

3. Disqualification. An employee shall disqualify him/herself from participating in a particular matter in which, to his/her knowledge, he/she or a person whose interests are imputed to him/her has a financial interest, if the particular matter will have a direct and predictable effect on that interest. Disqualification is accomplished by not participating in the particular matter.

Example #1: An individual purchases a cell phone with service from XYZ company. He then starts conducting drug trafficking business with the phone. Phil's Group identifies the dirty phone and decides to request a T-III on this line. DEA serves XYZ company with the Court's Order for XYZ to perform the interception. For this service, XYZ company bills DEA for reasonable expenses. Phil, who owns stock in XYZ, should not sign a DEA 19

for line costs for the T-III without first consulting with the Office of Chief Counsel, Ethics and Standards of Conduct Unit because he may have to disqualify himself from this official matter.

Example #2: Mary, a Group Supervisor, signs a DEA-19 authorizing the purchase of four Blackberry devices for \$4,000 from XYZ Phone Company. DEA Headquarters originally awarded the contract to XYZ. Mary owns stock in XYZ Phone Company. Prior to signing the DEA-19, Mary should consult with the Office of Chief Counsel, Ethics and Standards of Conduct Unit because she may need to disqualify herself from this matter.

B. Negotiating for Employment Post-DEA.

A DEA employee is prohibited from participating personally and substantially in any official matters that have a direct and predictable effect on the financial interests of a prospective employer with whom he/she is seeking employment. This law not only applies to the decision-maker but also other employees who are personally and substantially involved in the matter such as through making a recommendation or providing advice in the matter. Personal participation includes the direct and active supervision of the participation of a subordinate in the matter.

Example: DEA recently awarded a linguist services contract to Language Services. Group Supervisor (GS) Bill did not participate in any official matters regarding the award of the contract; however, he reviews vouchers and signs DEA Form 19s authorizing payment for services under this contract. GS Bill could not send a resume or engage in employment discussions with Language Services until he recused himself from any official matters involving this contract.

Because this is a very complicated area of the law, a DEA employee should not send a resume to, or discuss employment with, a prospective employer without first consulting with the Office of Chief Counsel, Ethics and Standards of Conduct Unit if:

1. DEA has official dealings (e.g., contract, investigation) with the prospective employer;
2. The official dealings may affect the financial interests of the prospective employer; and
3. The DEA employee is currently working on, or supervising those official dealings involving that prospective employer.
4. A DEA employee should also contact the Office of Chief Counsel, Ethics and Standards of Conduct Unit if he/she is overseeing the assignments of, or assigns work to, contract employees of the prospective employer.

Supervisors and other personnel involved in the process for obtaining contract services for DEA should familiarize themselves with the statutory prohibitions on former government and the Office of Acquisition and Relocation Management (FA) policy for vetting former DEA employees to support a Department of Justice or DEA contract. (See 5 C.F.R. § 2641 and 18 U.S.C. 207, and "Former Employment or Assignment with DEA" clause DEA-2852-203-70 at

(b)(2) under "Other Provisional Clauses."). DEA employees may be subject to disciplinary action for failing to follow this policy and other procurement procedures.

2735.14 Impartiality in Performing Official Duties

A. Appearance of Conflict.

DEA employees must avoid participating in official matters that will raise an appearance of a conflict under 5 C.F.R. § 2635.502, even when there is no actual violation of the criminal conflict of interest statute described in paragraph 2735.13. Under §2635.502, where an employee knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of his/her household, or an employee knows that a person with whom he/she has a covered relationship is, or represents a party, to a particular matter, the DEA employee should ask the following question: Under the circumstances, would a reasonable person with knowledge of the relevant facts question the employee's impartiality if he/she participated in the matter? If the answer to the question is yes, then the employee should not participate in the matter unless he/she has informed the appropriate agency designee (Administrator or Chief Counsel) of the appearance problem and received authorization from the agency designee to participate in the matter under 5 C.F.R. §§ 2635.502(c) and (d).

1. In considering whether a relationship would cause a reasonable person to question his/her impartiality, a DEA employee may seek the assistance of his/her supervisor or the Office of Chief Counsel, Ethics and Standards of Conduct Unit.

2. A covered relationship includes:

a. A person, other than a prospective employer (see 5 C.F.R. § 2635 (Subpart F)), with whom the employee has or seeks a business, contractual or other financial relationship that involves other than a routine consumer transaction;

b. A person who is a member of the employee's household, or who is a relative with whom the employee has a close personal relationship;

c. A person for whom the employee's spouse, parent or dependent child is, to the employee's knowledge, serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee;

d. Any person for whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee; or

e. An organization, other than a political party, in which the employee is an active participant. Payment of dues or solicitation of financial support does not, in itself, constitute active participation.

See 5 C.F.R. § 2635.502(b).

Example: Jack has been selected to participate in a technical evaluation panel. The panel will be reviewing bids for IT services. One of the companies submitting a bid is XYZ. Prior to starting at DEA six months earlier, Jack was a consultant for XYZ. Jack

should not participate in the panel until he has had an opportunity to consult with the Office of Chief Counsel, Ethics and Standards of Conduct Unit.

B. Disqualification Arising from Personal or Political Relationship

1. Under 28 C.F.R. § 45.2, employees are prohibited from participating in a criminal investigation or prosecution if they have a personal or political relationship with:

a. Any person or organization substantially involved in the conduct that is the subject of the investigation or prosecution; or

b. Any person or organization which they know has a specific and substantial interest that would be directly affected by the outcome of the investigation or prosecution.

2. An employee assigned to or otherwise participating in a criminal investigation or prosecution who believes that his/her participation may be prohibited by Paragraph 1, above, shall report the matter and all attendant facts and circumstances to his/her supervisor. The supervisor will comply with the requirements of 28 C.F.R. § 45.2(b) to determine whether the employee should continue participating in a criminal investigation or prosecution.

3. For the purposes of this section:

a. Political relationship means a close identification with an elected official, a candidate (whether or not successful) for elective, public office, a political party, or a campaign organization, arising from service as a principal advisor thereto or a principal official thereof.

b. Personal relationship means a close and substantial connection of the type normally viewed as likely to induce partiality. An employee is presumed to have a personal relationship with his or her father, mother, brother, sister, child, and spouse. Whether relationships (including friendships) of an employee to other persons or organizations are "personal" must be judged on an individual basis with due regard given to the subjective opinion of the employee.

C. Use of Nonpublic Information.

An employee shall not engage in a financial transaction using nonpublic information, nor allow the improper use of nonpublic information to further his/her own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure. Non-public information includes DEA sensitive information (e.g., information that may compromise an ongoing investigation or prosecution, provide an unfair advantage to a company competing for a DOJ/DEA contract, or reveal the identities of confidential sources (CSs) or DEA Special Agents (SAs) or Task Force Officers(TFOs)) as well as the items identified in 5 C.F.R. § 2635.703.

2735.15 Gifts from Outside or Non-Federal Sources

A. An employee shall not accept a gift from a prohibited source. A DEA employee also shall not accept a gift given because of his/her official position.

1. For the purposes of this section, the following definitions apply:

a. Gift includes any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value, including but not limited to gifts of training, transportation, local travel, lodging, and meals.

Modest items of food and refreshments, such as soft drinks, coffee and donuts, and food offered other than as part of a meal are not gifts. Other modest items include greeting cards and items with little intrinsic value, such as plaques, certificates, and trophies, which are intended solely for presentation, are also not gifts. (See 5 C.F.R. §§ 2635.203(b)(1)-(7) for other examples of items that are not considered gifts). Therefore, the gift prohibition in Paragraph A does not apply to such items.

b. Prohibited source means any person who:

i. Is seeking official action by the employee's agency;

ii. Does business or seeks to do business with the employee's agency;

iii. Conducts activities regulated by the employee's agency;

iv. Has interests that may be substantially affected by the performance or nonperformance of the employee's official duties; or

v. Is an organization a majority of whose members are those identified in (i) through (iv) in this definition (e.g., a trade association whose members are primarily pharmaceutical companies) is a prohibited source.

B. Exceptions to the prohibition in Paragraph A are identified and described in 5 C.F.R. § 2635.204 and include, but are not limited to, the following:

1. Employees may accept unsolicited gifts, even if offered by a prohibited source, if the market value of the gift is \$20 or less per occasion and no more than \$50 from one source during a calendar year. This exception does not apply to gifts of cash or of investment interests such as stock, bonds, or certificates of deposit.

2. An employee may accept a gift given under circumstances which make it clear that the gift is motivated by a family relationship or personal friendship rather than the position of the employee. Relevant factors in making such a determination include the history of the relationship and whether the friend personally pays for the gift.

C. Even if an exception identified in Paragraph B, above, or 5 C.F.R. § 2635.204 applies to an employee, an employee shall not accept a gift if:

1. It is given in return for being influenced in the performance of an official act;
2. The employee solicits or coerces the offering of a gift;
3. The employee accepts gifts from any source on a basis so frequently that a reasonable person would be led to believe the employee is using his or her public office for private gain; or
4. It is given in violation of applicable procurement policies regarding participation in vendor promotional training.

Example 1. A friend who works for a prohibited source offers to buy a DEA employee a \$15 lunch. At the time of the offer, the DEA employee has a \$2 million dollar contract solicitation pending before her in which the prohibited source is one of the competing vendors. The employee should decline the lunch as someone may infer that the lunch is being offered in return for being influenced in the performance of an official act.

Example 2. An Administrative Officer (AO) routinely deals with vendors who provide information about new company products. The meetings occur twice a month during lunchtime and the representatives provide sandwiches and a soda. The market value of these gifts to the AO is less than \$6 per lunch and the aggregate value from any one representative is less than \$50. The AO should either decline the lunches or pay for them. A reasonable person could believe that he would be using his public office for private gain by accepting multiple gifts from vendors in a short time period.

D. Proper Disposition of Prohibited Gifts.

1. If an employee is offered a gift from a non-Federal source, to include local and state law enforcement agencies in excess of \$20, he/she should consult with the Office of Chief Counsel, Ethics and Standards of Conduct Unit prior to, or as soon as practicable after, accepting the gift. If an employee is offered travel reimbursement from a non-federal source to a training conference or similar event, or from a foreign government to testify in a foreign court, the employee must consult with the Ethics and Standards of Conduct Unit prior to accepting the travel reimbursement.

2. In general, employees cannot accept a gift from a foreign government. Under the Foreign Gifts Act (5 U.S.C. § 7342), a DEA employee may accept and retain a gift of minimal value tendered and received as a souvenir or mark of courtesy from a foreign official or government. Minimal value is defined in 41 C.F.R. § 102-42.10. ("Minimal value" is \$375 as of October 2016). Because this amount is subject to regular adjustments, employees should consult the current version of this regulation to determine the definition of minimal value. When it appears that to refuse a gift of more than minimal value would likely cause offense or embarrassment, or would otherwise

adversely affect the foreign relations of the U.S., an employee may accept a tangible gift of more than minimal value. Under these circumstances, the gift is deemed to have been accepted on behalf of the U.S. Gifts valued in excess of minimal value as defined by 41 C.F.R. § 102-42.10 are considered Government property and the Office of Administration, Property Management Unit (SAOP) will determine the disposition of such gifts. Employees are required to report to their supervisor each occasion where gifts, decorations, or gratuities (including travel expenses) are received from foreign officials or governments which have an estimated value of \$50 or more. This reporting requirement extends to gifts received by an employee's family members. Supervisors will monitor the frequency of occasions when an employee has received gifts from a foreign government and should contact the Office of Chief Counsel, Ethics and Standards of Conduct Unit, for guidance in instances where an employee, or the employee's family, has received multiple gifts during a calendar year from a foreign government and/or where the nature or frequency of the gifts raises concern.

2735.16 Gifts Between Employees

A. Employees may not give gifts to a supervisor or solicit a contribution from another employee for a gift to a supervisor. An employee may not accept gifts from an employee receiving less pay than him/herself, unless the two employees are not in a supervisor-subordinate relationship, and there is a personal relationship between the two employees that would justify the gift. See 5 C.F.R. § 2635.301-2635.303.

Note that this section does not apply to contract employees. Contract employees are prohibited sources for purposes of these rules, and DEA employees should refer to paragraph 2735.15 above and 5 C.F.R. § 2635.204 to determine under what circumstances they can accept a gift from a contract employee.

B. Exceptions.

Exceptions to the prohibition in this paragraph are identified and described in 5 C.F.R. § 2635.304 and include, but are not limited to, the following:

1. On an occasional basis, including any occasion when gifts are traditionally given or exchanged, such as birthdays and holidays, the following may be given to a supervisor or accepted from a subordinate or another employee receiving less pay.
 - a. Items, other than cash, with an aggregate market value of \$10 or less per occasion;
 - b. Items such as food and refreshments to be shared in the office among several employees (voluntary contributions may be solicited for these items)*; DEA employees are not authorized under these rules to buy a supervisor a meal at an eating establishment to celebrate his or her birthday.
 - c. Personal hospitality provided at a residence which is of a type and value customarily provided by the employee to personal friends;

d. Items given in connection with the receipt of personal hospitality if the items are of a type and value customarily given on such occasions;

Example: A supervisor invites employees in his unit to a barbeque. One of the supervisor's employees may give him a \$25 bottle of wine. Note, the supervisor could not accept this gift if one of his contract employees presented it to him. See paragraph 2735.15 above and 5 C.F.R. § 2635.204.

e. Leave transferred under the voluntary leave transfer program (5 C.F.R. Part 630, Subpart I) to an employee who is not an immediate supervisor.

2. Special Infrequent Occasions. A gift appropriate to the occasion may be given to a supervisor or accepted from a subordinate or other employee receiving less pay:

a. In recognition of infrequently occurring occasions of personal significance such as marriage, illness, or the birth or adoption of a child.

b. Upon occasions that terminate the supervisor-subordinate relationship, such as retirement, resignation or transfer.

c. An employee may solicit voluntary contributions of nominal amounts from fellow employees for an appropriate gift to a supervisor and an employee may make a voluntary contribution of a nominal amount to an appropriate gift to a supervisor for special infrequent occasions.

Because birthdays and the December holidays are not considered special, infrequent occasions, employees shall not solicit contributions for such gifts. Employees may individually give such gifts to a supervisor, provided the gift is valued no more than \$10 as explained in paragraph 2735.16(B)(1)(a) above.

2735.17 Outside Employment or Activities

A. Teaching, Speaking and Writing.

1. An employee of DEA cannot accept a fee or remuneration from an outside source for a public appearance, a speech, a lecture, or a publication that relates to the employee's official duties, as set forth in 5 C.F.R. § 2635.807, to include content that originated from official data or ideas which are not public information. Employees offered compensation to speak at an event are strongly encouraged to first seek an ethics opinion from the Office of Chief Counsel, Ethics and Standards of Conduct Unit, prior to accepting said compensation to ensure the proposed speech does not violate the ethics rules or DOJ/DEA policy.

2. An employee shall not engage in teaching, writing or lecturing (with or without compensation) that is dependent on information obtained as a result of his/her government employment except when either: (1) that information has been made

available to the general public, or (2) the Deputy Attorney General gives written authorization for the use of non-public information on the basis that the use is in the public interest. See 5 C.F.R. § 2635.807 for additional guidance and prohibitions.

3. The Copyright Act of 1976 provides that any article, manuscript or other writing prepared by an officer or employee of the United States government as part of that person's official duties is a "work of the United States Government." The act further provides that such "government works" cannot be granted a copyright. 17 U.S.C. § 101.

B. Employment Outside of DEA.

1. Outside Employment. DEA employees are prohibited from engaging in any outside employment without the express written approval of a senior DEA Headquarters official as designated in paragraph 2735.17(B)(7) below, and in accordance with the procedures in this Section. 5 C.F.R. § 3801.106.

2. Definition of Outside Employment. Outside employment means any form of employment, business relationship or activity, involving the provision of personal services whether or not for compensation, other than in the discharge of official duties. It includes, but is not limited to, services as a lawyer, officer, director, trustee, employee, agent, consultant, contractor, or general partner. Speaking, writing, and serving as a fact witness are excluded from this definition, so long as they are not combined with the provision of other services that do fall within this definition, such as the practice of law. Employees who wish to engage in compensated speaking and writing should review paragraph 2735.17(A) above and 5 C.F.R. § 2635.807.

3. Exclusions.

a. Outside employment does not include the ownership of stocks and bonds and an employee's personal management of investments of this kind.

b. Outside employment does not include the ownership of income producing real estate, as long as the employee does not in any manner utilize official time or facilities to manage such property. The management of real estate owned by third parties, however, is considered outside employment. This includes any employment as a "Resident Manager" of an apartment building or complex, even though the only pay received is in the form of reduced personal rent of the employee.

c. Participation in the Military Reserve or National Guard is not considered outside employment and does not require prior DEA approval.

d. Certain volunteer activities are not considered outside employment. Services must be truly voluntary, result in no compensation to the employee, and be provided on the employee's own time. They cannot interfere or be inconsistent with the employee's federal job duties.

e. Some acceptable volunteer activities are coaching and leading youth activities, donating time to nonprofit activities, helping senior citizens or disadvantaged persons, community programs, Parent Teacher Associations, fraternal, veteran or religious activities.

f. Factors to be considered in determining whether a voluntary activity constitutes outside employment include:

- i. time required to participate;
- ii. duties and responsibilities; and
- iii. fiduciary responsibility or obligations associated with the activity.

g. Although writing is excluded from the definition of outside employment, an employee wishing to publish a book or otherwise disseminate a writing to the public that relates to the employee's official duties, or is on a subject within the employee's discipline or inherent area of expertise, must first forward the manuscript for prepublication review. The point of contact for such a review is the DEA National Media Affairs Section.

h. DEA personnel who seek to engage in volunteer activities such as those listed above in subparagraphs d. and e. need not obtain the approval required in paragraph 7 below.

4. Prohibitions.

a. No employee shall engage in any outside employment which will create or appear to create a conflict of interest in the nature of those described in 18 U.S.C. § 208, 5 C.F.R. §§ 2635.402 and 2635.502, 5 C.F.R. § 3801, or 28 C.F.R. § 45.2; reflect adversely upon DOJ or DEA; or in any manner, interfere with availability or the proper and effective performance of the duties of his/her position.

b. No employee may engage or participate in outside employment which involves or requires that he/she carry, handle, or possess a firearm in association or fulfillment of that outside employment (e.g. firearm instructor, hunting guide, retail gun dealer, custom designer of weapons, security guard).

c. No employee may engage or participate in outside employment which involves or requires the execution or performance of law enforcement duties or quasi-law enforcement duties.

d. No employee may engage or participate in outside employment which involves the practice of law unless waived in accordance with the standards set forth in 5 C.F.R. § 3801.106(b).

e. If an employee seeks to serve in a position in an outside organization in his/her official capacity (i.e., as part of his/her official duties), there are restrictions. There are also restrictions for serving on a board of directors, or as a fiduciary, in a personal capacity, if the organization is related to DEA or its mission. Contact the Office of Chief Counsel, Ethics and Standards of Conduct Unit, for guidance on these restrictions before accepting an offer to serve in any of these positions.

5. Use of Appropriated Funds. Employees who have secured approval to engage in outside employment are not authorized to use appropriated funds or items purchased or leased through the expenditure of appropriated funds in furtherance of their outside employment. While not all inclusive, use of the following items are prohibited in the pursuit of non-DEA outside employment activities:

- a. Government office space.
- b. Government vehicles or Government-furnished transportation.
- c. Other Government employees, including courier or messenger services.
- d. Franked envelopes or franked mail stickers.
- e. Computer hardware and software, wireless mobile devices, reproduction equipment, bulletin boards, or telephone service.
- f. Any other item or service purchased with appropriated funds.

6. Specific Restrictions on Outside Employment.

- a. SES Employees. Employees in the SES require the approval of the Administrator before they may engage in outside employment. Any SES employee engaged in outside employment must report it on his/her annual U.S. Office of Government Ethics (OGE) Public Financial Disclosure Report (OGE-278(e)).
- b. Special Agents. DEA Special Agents occupy positions that place a high premium on their time and attention. Special Agents are paid availability pay and are subject to being called to duty 24 hours a day. Outside employment by Special Agents is generally prohibited. Note there may be requests for outside employment that would have a limited effect on the Agent's availability and would not otherwise conflict with his/her official duties. Such requests will be considered for possible approval.
- c. Subject to the general guidelines and restrictions on outside employment, Special Agents in an indefinite suspension status may request permission to

participate in those types of outside employment which would generally not be approved under section b above if they were in a pay status.

d. Requests from employees require a review by the immediate supervisor who, at his/her discretion and after conducting a review of the application, may favorably recommend requests for outside employment that do not conflict with the above restrictions.

e. Generally, an outside employment request should not exceed 20 hours per calendar week. If the outside employment request exceeds 20 hours per calendar week, the supervisor should regularly assess the impact to avoid any negative consequences on the employee's official duties. Note that the 20 hour restriction does not apply in teaching or similar positions where time is generally required to prepare for teaching a class, provided official time and resources are not used for such preparation.

7. Request and Authorization for Outside Employment.

a. All DEA employees must have received the appropriate approvals prior to engaging in outside employment. To obtain prior approval, an employee must present a DEA Form 478 (See Exhibit 2/2735.17) to his/her immediate supervisor and obtain approval signatures up to the Special Agent in Charge (SAC), Regional Director (RD), Country Attaché (CA), Laboratory Director (LD), or Headquarters Office Head (HOH), etc. level. The employee will have to sign the Addendum to the DEA Form 478 (See Exhibit 3/2735.17) in which he/she certifies that he/she will not violate the ethics rules/agency policy while conducting outside employment (e.g., using government resources, use an official government vehicle, doing business with other federal agencies). The supervisory chain (up to the SAC/HOH-level) will recommend approval or disapproval on the form and forward it to the Human Resources Division (HR), Employee Relations Unit.

b. The following senior officials are responsible for final approval/disapproval:

- i. For SES requests, the Administrator.
- ii. For Special Agent (1811) requests, the Deputy Administrator, or SES designee.
- iii. For Diversion Investigator (1801) requests, the Assistant Administrator for Diversion, or SES designee.
- iv. For Intelligence Research Specialist (132) requests, the Chief of Intelligence, or SES designee.

v. For Chemists (1320) requests, the Assistant Administrator for Operational Support, or SES designee.

vi. For requests from all other employees, other than those listed above in i.-v., the Deputy Assistant Administrator, HR, or SES designee.

c. Employees stationed at foreign posts of duty must obtain the written approval of the Ambassador before submitting a DEA Form 478 through the DEA approval officials listed in paragraph 7b, above. The Ambassador's written approval must be attached to the DEA Form 478.

d. The Office of Chief Counsel shall provide a legal review for outside employment requests submitted by the following employees, or for the following outside employment positions (Note the request must be submitted to the Ethics and Standards of Conduct Unit even if the requestor obtained a legal opinion independent of this process):

i. SES employees, employees in series 1811, 1801, 132, 1320, supervisors and attorneys; or

ii. Teaching positions; fiduciary positions in outside organizations, to include, but not limited to, board of director positions, officers, or trustees; general partnerships; DEA registrants; or positions related to the employee's official duties (e.g., fire arms instructor, teaching self-defense classes).

e. Any employee approved for outside employment must review training materials prepared by the Office of Chief Counsel each year they are approved to participate in this activity and certify that they have reviewed this material.

f. Only after this process is complete may an employee begin his or her outside employment.

8. The senior DEA Headquarters Officials identified in paragraph 2735.17(B)(7)(b)(i-vi), above, may revoke an employee's previously approved participation in outside employment when continued participation is deemed to create or appear to create a conflict of interest, e.g., violate any of the provisions in paragraph 4 or 5, above, reflect adversely upon DEA or DOJ, in any manner interfere with availability or the proper and effective performance of the duties of the employee's position, or violate the DEA Standards of Conduct, the laws of the United States, or the regulations governing Executive Branch, and DOJ employee activities. Revocation of an employee's previously approved participation in outside employment shall be effective upon written notice to the employee. A copy of such notice shall be forwarded to HR, Employee Relations Unit, and maintained by the employee's Office Head.

9. Decisions to approve, deny or revoke outside employment are final and not subject to grievance procedures.

10. Annual Requirement.

a. Employees who maintain outside employment with the same outside employer, in the same or similar capacity as previously approved, must submit a new request on DEA Form 478 annually between January 1 and January 31. Changes in outside employment must be approved prior to beginning the new employment.

b. DEA personnel are specifically cautioned that inaccurate or untruthful submissions made in support of, concurrent with, an application for outside employment may result in disciplinary action and/or denial of the outside employment application.

C. Raising Funds and Conducting Other Solicitations at the Workplace.

1. Employees may engage in fundraising in their personal capacity (i.e., off-duty), subject to restrictions in paragraph C.4., below. The Combined Federal Campaign (CFC) is the only authorized solicitation of government personnel in the federal workplace on behalf of charitable organizations. The use of official time and government resources, to include using government email systems, to encourage participation in CFC is permissible. See paragraph C.5., below, for additional guidance regarding CFC.

2. Outside of CFC, the use of official time and government resources, to include using government communication systems to solicit funds in support of a nonprofit organization, is prohibited even if the cause is related to the agency's mission. This prohibition applies to all nonprofit organizations apart from the CFC, including, but not limited to, the DEA Survivors Benefit Fund (SBF), Association of Former Federal Narcotics Agents (AFFNA), Federal Drug Agents Foundation (FDAF), and similar nonprofit charitable organizations that support law enforcement officers and their families. The prohibition of the use of official time and government resources includes the sale of items to support such organizations. Also, federal employees may not use or permit the use of their official title, position, or any authority associated with their public office to further a fundraising effort.

Informal office funds are activities of a limited scope, funded by DEA employees, to support unofficial activities or events that do not qualify for appropriated funds. The establishment, use, and management of these funds is permitted only when compliant with the Informal Office Funds Policy.

3. Publication of events sponsored by charitable organizations on electronic and other community bulletin boards is permissible so long as there is no association with DEA in the advertisement. Listing a DEA government address, email address or phone number as the point of contact constitutes "association with DEA" and is prohibited. Employees circulating information about these events among their friends at the workplace is permissible as long as such interactions do not interfere with or otherwise impede official business.

4. Fundraising rules prohibit DEA employees from soliciting funds from subordinates or entities that do business with DEA, that are DEA registrants, or that otherwise have

official dealings with DEA. This prohibition precludes an employee from soliciting funds from those entities even when acting in his/her personal capacity (where there is no use of official title or letterhead). More appropriately, a non-federal employee who is also a member of the non-profit organization should make the solicitation to prospective donors.

5. Although CFC is the only authorized solicitation of government personnel in the federal workplace on behalf of charitable organizations, the following restrictions and considerations apply:

- a. Soliciting donations (monetary or nonmonetary) from private organizations/companies for any CFC-related event or activity is prohibited.
- b. Fundraising events for CFC are no longer permissible in the workplace, although employees may hold events to encourage participation in the CFC, such as kick-off rallies or other campaign awareness events. Events such as raffles, auctions, bake sales, sporting events, "jeans/jersey days," and other such events to raise funds are not permissible.
- c. Employees may donate to the CFC based on annual campaign guidance issued by the Office of Personnel Management and the Department of Justice. Any CFC event and associated prize or gift must be approved in advance by CCE.
- d. DEA employees cannot directly solicit contract employees for CFC donations. Contract employees must not be included in an office email that solicits donations.

6. The following types of solicitation are permissible and may be conducted during duty hours at the workplace:

- a. Solicitation of funds for the illness or death of a current or retired employee or their family member, as long as it is a one-time, voluntary donation; it is of a type/value appropriate to the occasion (e.g., announcing in an email that a family is requesting donations to a charity in lieu of flowers is appropriate but employees must not solicit on behalf of a charity in that email); and there is limited personal use of official resources/time so as not to interfere with job performance or incur additional cost to the government.
- b. Solicitations in support of office funds for holiday parties/special infrequent occasions (births/marriages) as long as membership in the fund is voluntary; an employee can withdraw at any time; there is careful accounting for the funds; and there is limited personal use of official resources/time so as not to interfere with job performance or incur additional cost to the government. Contract employees cannot be solicited to support such funds.

c. Solicitation of nonmonetary items, such as toys or clothing, as long as contributions are voluntary and there is limited personal use of official resources/time so as not to interfere with job performance or incur additional cost to the government. For example, a DEA office, through an agency-wide email message, may solicit coats in support of a coat drive for at-risk children. However, soliciting cash to purchase the coats is not permissible.

7. The restrictions set forth above do not prohibit DEA employees from advertising, or participating in, SBF, AFFNA, or FDAF fundraisers or events sponsored by other nonprofit organizations, or even raising funds on behalf of these organizations, as long as they do so in their unofficial capacity (i.e., on their own time).

Employees with questions or seeking guidance pertaining to fundraising and other workplace solicitations should contact the Office of Chief Counsel, Ethics and Standards of Conduct Unit, at CC-Ethics@usdoj.gov.

2735.18 Misuse of Official Position

A. Misuse of Office and Coercion. DEA personnel will not:

1. Use his/her official position for private gain.
2. Coerce or give the appearance of coercing any person to provide financial benefit to himself/herself or to another person through the use of his or her office.
3. Use his/her official position to give preferential treatment to another individual.
4. Attempt to bribe or intimidate public officials and/or witnesses.
5. Conduct unauthorized or illegal searches of premises, automobiles, or persons or deny or violate the Constitutional rights of others.
6. Embezzle, steal, purloin, sell, convey, or dispose of, in an unauthorized manner, any record, voucher, money, substance, or thing of value to the United States.
7. Use his/her position to sell, collect for personal use, or otherwise dispose of controlled substances in an unauthorized manner.
8. Use his/her position to tamper with or remove any evidence purchased, seized, or otherwise in possession of DEA or one of its employees.
9. Solicit or otherwise engage in personal business transactions which involve or give the appearance of involving the use of official time or facilities.

10. Glean or garner information not available to the general public and use that information for nonofficial purposes. This includes conducting a search in a database that an employee has access to due to his/her employment with DEA.

11. Obstruct or attempt to obstruct an official investigation, inquiry, or other matter of official interest.

12. Contact or in any way attempt to influence the DEA Deciding Officials, the DEA Board of Professional Conduct or any other person or entity who has before him/her a pending disciplinary matter or attempt to influence the process involving a disciplinary matter through indirect communications or pressure.

13. Distribute or disclose information not available to the general public for nonofficial purposes.

B. Use of Government Property

1. All employees are required to properly use and protect all equipment and supplies issued to or used by them. DEA personnel are to safeguard property in their possession, control, or work-area. Government property will only be used for officially approved purposes and will not be used for personal use or benefit, except for such de minimus use which involves negligible or no expense to the Government and does not interfere with or otherwise impede official business. **This limited authority, i.e., to make de minimus use of government property or materials, does not permit an employee to access administratively controlled information for his/her personal use or to access informational databases.**

2. Government mail privileges may only be used for the following (in addition to the forwarding of official correspondence):

a. The forwarding of a job application to DEA Headquarters (HQ) for a DEA vacancy and/or for DEA's annual application rating process.

b. The submission of an employee grievance in accordance with Section 2771, DEA Grievance Procedures.

c. The forwarding of a response to a proposed adverse action to DEA's Deciding Official (HRO) in accordance with Personnel Manual Section 2752, Discipline, Adverse Actions and Appeals. However, DEA mailing privileges shall not be used to file appeals to the Merit Systems Protection Board or other adjudicatory body or to correspond with an employee's representative or attorney.

d. Communicating with or forwarding pertinent information to EEO counselors or investigators or filing initial appeals with the Equal Employment Opportunity Commission or the DOJ Complaints Adjudication Office.

3. Use of Government Computer Systems.

a. DOJ Order 2740.1A states that:

- i. Use of government computer systems, including but not limited to Internet e-mail, departmental email, word processing systems, and connections to Internet sites, is subject to the same restrictions on use as are other government-furnished resources provided for the use of employees. See 5 C.F.R. §§ 2635.101(b)(9) and 2635.704.
- ii. While government computer systems are provided for official use, some personal use of government computer systems is permitted in accordance with existing policy on personal use of government property, where there is negligible cost to the government and no interference with official business. See 28 C.F.R. § 45.4.

b. DOJ Order 2740.1A explicitly prohibits the following activities on government computers and computer systems during working or non-working hours:

- i. Downloading and/or installing any program, software or executable file on government computers, unless approved with government IT security policy.
- ii. Non-official use that could cause congestion, delay, or disruption of service to any government system or equipment. For example, electronic greeting cards, video, sound or other large file attachments can degrade the performance of the entire network, and should not be viewed or sent on government computers. Accessing continuous data streams (such as viewing streaming video or listening to streaming audio/radio on a media website) could also degrade the performance of the entire network and is inappropriate when not for official purposes.
- iii. Use for commercial purposes or in support of "for-profit" activities or in support of other outside employment or business activity (e.g., consulting for pay, sales or administration of business transactions, sale of goods or services).
- iv. Sending out solicitations, participating in any lobbying activity, or engaging in prohibited political activity.
- v. Unauthorized use for posting agency information to external newsgroups, bulletin boards or other public forums. This includes: any use that could create the perception that the communication was made in one's official capacity as a Federal Government employee without appropriate agency approval, or uses at odds with the agency's mission or positions.

c. DOJ Order 2740.1A also prohibits the following activities on government computers and computer systems during working and non-working hours, except when conducting legitimate departmental business with the express prior permission of the employee's Component Head, Deputy Component Head or Field Office Head:

- i. Use of Internet sites that result in an additional charge to the government.
- ii. Using government office equipment for activities that are illegal, inappropriate, or offensive to fellow employees or to the public. Such activities include: hate speech, or material that ridicules others on the basis of race, creed, religion, color, sex, disability, national origin, or sexual orientation.
- iii. The creation, download, viewing, storage, copying, or transmission of sexually explicit or sexually oriented materials or other materials related to illegal gambling, illegal weapons, terrorist activities, and any other illegal activity.
- iv. Any use to circumvent security controls on government or other external systems.
- v. Knowingly using anonymizer sites (anonymizer sites hide the user's identity from the Internet site being visited; however, in doing so, they also bypass the blocking mechanism designed to protect government systems from malicious Internet sites).
- vi. Knowingly visiting malicious resources or sites.
- vii. Using peer-to-peer (P2P) file sharing sites on the Internet (e.g., sites dedicated to downloading audio or video files), or using IP telephony sites.
- viii. Any otherwise prohibited activity.

b. DEA email systems and email addresses may not be used to establish or register non-business accounts with websites including, but not limited to, social media, dating, gambling, e-commerce, news feeds, and blogs.

c. Employees will also safeguard and protect Personally Identifiable Information (PII). PII is information that can be used to distinguish or trace an individual's identity such as name, address, or phone number, that is linked or linkable to a specific individual. PII also includes sensitive data, which if lost, compromised, or disclosed without authorization, could result in substantial harm, embarrassment, inconvenience, or unfairness to an individual. Categories of

information considered to be sensitive PII data include, but are not limited to: Social Security Number (SSN), Alien Registration Number, health information, or financial information.

d. The above guidance on use of government computers systems does not constitute the full spectrum of employee requirements. Employees are expected to be familiar with, and comply with the DEA Information Technology Rules of Behavior.

4. Use of Government Credit Cards. Government issued credit cards are for official government business only. Improper, fraudulent, abusive, or negligent use of government issued credit cards is prohibited. Additionally, government issued credit cards should be reconciled in a timely manner in accordance with DEA, DOJ, and other applicable policy and procedures. See Financial and Acquisition Management Policy Manual, and paragraph 2735.19 (C) below.

C. Purchase of Seized Property. No employee of DEA shall purchase, directly or indirectly, from the Department of Justice or its agents, property forfeited to the United States and no employee shall use property which has been purchased, directly or indirectly, from the Department of Justice or its agents by the employee's spouse, or minor children. See 5 C.F.R. § 3801.104 for further restrictions. Further, no employee may disclose to another person any information concerning such property (i.e., appraised value, etc.) which would give that person an advantage over other prospective bidders at auction.

D. Employee Political Activity. Political activity is "an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group." For purposes of the Hatch Act (5 U.S.C. §§ 7321-7326), DEA employees are divided into two categories: "less restricted" and "further restricted." "Further restricted" employees include all Senior Executive Service (SES) personnel and Administrative Law Judges. By Departmental policy, political appointees, including the DEA Administrator and Deputy Administrator, are also considered "further restricted" employees. "Further restricted" employees are subject to all limitations that apply to "less restricted" employees and also have some additional limitations. Further restricted employees should seek specific guidance from the Office of Chief Counsel, the Ethics and Standards of Conduct Unit, before engaging in any partisan political activity. All other DEA employees are considered "less restricted" employees. Less restricted DEA employees may generally take an active part in most partisan political activities outside the workplace in their personal capacity. Less restricted employees with questions on political activity may also contact the Ethics and Standards of Conduct Unit.

1. Less restricted DEA personnel can:

- a. Run as an independent candidate in a nonpartisan election as long as all other candidates are running as independent candidates.
- b. Register and vote as they choose.

- c. Assist in voter registration drives.
- d. Express opinions about candidates and issues.
- e. Contribute money to political campaigns.
- f. Attend, and speak at, political fund-raising functions.
- g. Attend and be active at political rallies and meetings.
- h. Join and be an active member of a political party or club.
- i. Sign nominating petitions.
- j. Campaign for or against referendums, constitutional amendment and ordinances.
- k. Campaign for or against candidates in partisan elections.
- l. Distribute campaign literature in partisan elections (but not on duty).
- m. Hold office in political clubs or parties.

2. DEA personnel cannot:

- a. Run as a candidate in a partisan election.
- b. Use their official authority to influence or interfere with an election.
- c. Collect political contributions unless both individuals are members of the same union (if one exists) or employee organization and the one solicited is not subordinate of the other.
- d. Knowingly solicit or discourage the political activity of any person who has business before the agency.
- e. Engage in political activity while on duty.
- f. Engage in political activity while in uniform.
- g. Engage in political activity while in an official vehicle or in the federal workplace. This prohibition includes sending or forwarding political emails, blogging, tweeting, posting on social media from a non-government account or using a personal device in the workplace.
- h. Solicit political donations from the general public. This prohibition includes

sending a link that directs someone to the donation/contribution page of a political party, partisan candidate, or partisan political group's website and "Liking," "Sharing" or "Retweeting" a post that seeks political contributions.

i. Wear political buttons or display other campaign items in the federal workplace.

j. Sponsor a political fundraiser.

k. Allow official title to be used in fundraising or other political activities.

l. Solicit political contributions in a speech given at a political fundraiser.

m. Solicit, accept or receive uncompensated volunteer services from a subordinate.

n. Use the Internet or other government property to engage in any political activity.

2735.19 Use of Official Government Vehicles

Official Government vehicles (OGVs) shall only be used for official purposes. (31 U.S.C. 1349(b)). The term official purposes will be interpreted strictly and will not be construed to encompass the mingling of official business with personal business unless permitted by Section 2735.19(G) as use incidental to home-to-work authorization. Use of an OGV for transportation of employees between their domiciles and places of employment can only be justified when affirmatively authorized by statute, as in 31 U.S.C. § 1344.

A. The term Official Government Vehicles includes not only those vehicles assigned to DEA's fleet but also those vehicles which may be leased and rented and/or loaned to DEA by other agencies and entities to include vehicles rented or obtained pursuant to an agency travel orders, acquired under a government credit card or under the terms and conditions of the government car rental contract with various car rental companies. This term also includes aircraft and other modes of transportation.

B. An OGV may only be assigned to, or operated by, an employee who possesses a valid operator's license issued by the state or country in which the employee is permanently stationed and/or has his/her principal place of residence. It is the responsibility of the employee to obtain and maintain a valid state or country operator's permit. The license must be in the operator's possession at all times while driving an OGV.

C. OGVs shall be operated safely and prudently at all times. DEA personnel shall drive defensively and shall exercise due care in the operation of a vehicle. Except in exigent enforcement activities, DEA personnel shall obey all regulations, statutes, ordinances, and/or other applicable guidance in their operation of a vehicle. Even in exigent enforcement operations, vehicles shall be operated with due regard for the safety and preservation of human life.

NOTE: DEA employees shall not engage in text messaging when driving an OGV, or when driving a privately-owned vehicle (POV) while on official government business, or when using electronic equipment supplied by the government while driving. (See Executive Order 13513).

D. An employee who willfully uses or authorizes the use of an OGV for other than official purposes is subject to disciplinary/adverse action. Title 31 U.S.C. § 1349(b) and/or the DEA Guide for Disciplinary Offenses and Penalties provide a minimum 30-day suspension for an employee who willfully uses or authorizes the use of any official government-owned or leased motor vehicle or aircraft for other than official purposes.

E. For the purpose of this section, willful is the voluntary and conscious use of an OGV with knowledge or reckless disregard of whether the use was for other than authorized purposes.

F. While not all encompassing, listed below are some examples of instances wherein the use of an OGV is not authorized:

1. Using an OGV to visit relatives, friends, acquaintances, etc., when such visits are not conducted for official business purposes.
2. Using an OGV to transport any individual when such individual is not in an official business capacity.
3. Transporting unauthorized persons, including transporting children to and from school or a spouse or friend to and from work even though the school or place of work is on the regular route to the operator's official duty station.
4. Using the OGV for the express purpose of transporting or towing of personal property when not related to official business, i.e., transporting furniture, gardening equipment and the like or towing boats and/or trailers.
5. Permitting an unauthorized person to operate an OGV.
6. Using an OGV solely for commuting purposes or for transportation between a person's residence. Storage of an OGV at an employee's residence is permissible only when authority is obtained in accordance with the Agents Manual, Section 6124, and the Administrative Manual, Subsection 0326.
7. Traveling to and stopping at a drinking establishment when not in the interest of official business. General discussions of official business relating to enforcement activities conducted in a bar or cocktail lounge do not constitute official business.
8. Operating an OGV when not performing official duties (such as on weekends, holidays or on leave).
9. Operating an OGV while under the influence or after the consumption of alcohol.

10. Leaving the scene of an accident, or not cooperating with appropriate authorities conducting an investigation of an accident or other vehicle-related incident or inquiry.

G. Authorization for home-to-work use of an OGV is in the best interest of the government for certain employees and the penalties for unauthorized use and/or misuse of an OGV can result in serious disciplinary action. However, in keeping with the President's directive on conserving gasoline and because many DEA employees work irregular hours and are subject to being recalled to duty at any time, in some circumstances, it is both in the interest of the agency and efficient to permit incidental personal use of an OGV. Accordingly, an employee who is using an OGV for an official purpose, including home-to-work transportation when authorized, is permitted to interrupt that official use to make brief stops for personal needs (such as picking up dry cleaning, hospital visitation, or stopping by a convenience store, bank, school or work out facility), so long as the stop is reasonable in distance and time and does not impair the mission of the agency. Similarly, an employee on a meal break may use an assigned OGV to travel to an eating establishment in the vicinity of the duty station or assignment.

As set forth in Agents Manual Subsection 6124.34, when an employee is in a temporary duty status (TDY), use of an OGV or a rental vehicle rented for official purposes is authorized to include transportation between places where the employee's presence is required incident to official business. In this instance, the use of an OGV is limited to the nearest available place in the local area to obtain services of suitable eating places, drug stores, barber shops, places of worship, dry cleaning/laundry facilities and similar places necessary for the sustenance, comfort or health of the employee to foster continued efficient performance of government business.

H. Use of OGV to Attend Social Functions as DEA Liaison.

1. The DEA Standards of Conduct currently forbid DEA employees to use OGVs to travel to such events, such as retirement parties, "except when officially representing DEA." Violation of this prohibition is subject to the mandatory minimum 30-day suspension. If attendance at quasi-official functions of another law enforcement agency would promote and contribute to DEA's continued effectiveness in the law enforcement community, then, as detailed below, specific DEA personnel may be authorized to attend such functions. Managerial employees should not be discouraged from authorizing employees to use OGVs to attend these functions as described.

2. SACs or RDs (or, as appropriate, CAs/LDs/HOHs) can give advance written authorization for using an OGV to attend retirement parties and other quasi-official functions in their official capacities, to CAs, ASACs, RACs, Organized Crime and Drug Enforcement Task Force (OCDETF) Coordinators, Public Information Officers (PIOs), and other employees whose primary assigned duties involve liaison with other agencies. The Chief of Operations can provide authorization to SACs and RDs. This authority is, however, limited to attendance at functions of other agencies as an official representative of DEA, and does not include attendance at internal DEA social functions.

I. Alcohol-related incidents involving DEA employees operating an OGV or privately-owned vehicle (POV). In addition to any disciplinary/adverse action imposed pursuant to Title 31 U.S.C. § 1349(b) and/or the DEA Guide for Disciplinary Offenses and Penalties, if a report or

investigation uncovers alcohol consumption by a DEA employee in violation of paragraph 2735.19(F)(9) above, such incidents will be handled as follows:

1. The employee's SAC, RD or CA will immediately suspend the certification for the privilege of home-to-work utilization of an OGV for any employee involved in an alcohol-related incident operating an OGV or POV.
2. This suspension will remain in effect until such time that the SAC, RD or CA feels confident that the offense is atypical of the employee's normal conduct and that recidivism is unlikely. In no event shall the suspension of the home-to-work driving certification be less than 60 days. In reaching this decision, the Employee Assistance Program (EAP), EAP Clinician, or other agency designated health official may be contacted.
3. The suspension of an individual's home-to-work certification will be reported to Headquarters, (attention: OPR, Board of Professional Conduct (HRB), and the Health Services Unit (HRLH)). When an individual's home-to-work driving privileges are restored, reasons supporting the decision shall be articulated via memorandum to HRB. This memorandum to HRB will be for informational purposes only, but HRB can request additional information if deemed appropriate.
4. SACs, RDs and CAs are accountable for carefully exercising good judgment in making these determinations. Employees should contact HR for additional guidance as needed.

J. Use of OGV's in foreign areas. As provided in Agents Manual Section 6124.38, while in a foreign country and in an official capacity, DEA personnel are under the full authority of the U.S. Ambassador. This shall include any instructions provided by the Ambassador governing the use of DEA vehicles, but only to the point that they do not conflict with DEA policies. The Comptroller General has ruled that the Ambassador, absent a bonafide emergency situation, may not direct or manage the utilization of vehicles not owned by the Department of State. DEA policy regarding the transportation of dependents in an OGV will apply to use in a foreign country, except as modified below:

1. If the employee is assigned to a Post of Duty (POD) that does not have suitable public transportation, has no provisions for vehicle rental, and a personally-owned vehicle is justifiably unavailable for use, then the transportation of dependents via an OGV for the fulfillment of basic needs, e.g., shopping for food, transport to a school, may be deemed in the best interest of the government and therefore allowable.
2. If the employee is assigned to a POD that is experiencing a high degree of civil unrest or terrorism to the point that the transport of dependents via an OGV is deemed safer than any alternative means, then this will be deemed in the best interest of the government, and therefore allowable.

3. In either of the foregoing situations, written approval from the CA will be required. Except in exigent circumstances, approval will be in advance. If approval is given, it will be only for a specific period of time and circumstance deemed necessary.

(b)(7)(F)

5. All employees should be aware that even if prior permission is granted to use an OGV to transport dependents in a particular overseas duty location, all other provisions of the Standards of Conduct remain in effect. If there is any possibility that the OGV will be needed for enforcement work, permission to transport dependents should not be sought and will not be granted. Neither the Country Attaché nor any other official can authorize dependents to operate an OGV. DEA personnel assigned to foreign areas who operate OGVs, remain subject to all statutes, regulations, rules and policies governing the operation of OGVs.

Additional policy and procedures are set forth in Agents Manual Subsection 6124.38 (Use in Foreign Country).

(b)(7)(F)

3. The employee is assigned to a foreign post of duty where public transportation or rental vehicles are either unavailable or would create an unacceptable security concern and a personally owned vehicle (POV) is either temporarily or indefinitely unavailable for use (e.g. during completion of repair work, pending arrival from CONUS, difference in vehicle design, inability to obtain diplomatic license plates, excessive purchase/operating expense, or any other reason that would make the use of a POV a security concern).

2735.20 Conduct Prejudicial to the Government

A. Gambling, Betting, and Lotteries. DEA personnel shall not engage or participate in gambling, betting, or management of lotteries while on government-owned or leased property or while on official duty, except in the maintenance of an undercover identity or in agency-approved fund raising activities. See 5 C.F.R. § 735.201.

B. DEA Records and Official Information. Employees will comply with all applicable regulations, guidance, and policy regarding the safe-guarding, review, and removal of documents by DEA personnel, the maintenance of personal papers by DEA personnel, and the security and integrity of official records. No employee shall:

1. Intentionally destroy, mutilate, remove, falsify, conceal, alter, or make an unauthorized copy of any Government record for his/her own purposes.
2. Make a false or fraudulent statement or create any false document.
3. Use information which directly or indirectly comes to that employee by reason of his/her employment with DEA for financial gain for himself/herself or for another person or make any other improper use of such information.
4. Communicate, furnish, transmit, or otherwise divulge privileged, administratively controlled or classified information to an unauthorized person; **or disclose any national security information, other classified information, or other sensitive but unclassified information maintained by the DEA in violation of the Classified Information Nondisclosure Agreement (SF 312), Reporting Responsibilities/Nondisclosure Agreement (DEA-487); or any other applicable policy, directive, or agreement.**
5. Acquire, distribute, or maintain (either intentionally or in a negligent manner) administratively controlled, privileged, or classified information from another agency, person, or entity under false pretenses.
6. Fail to comply with preservation requirements of all DEA records and official information, including electronic communications (See Agents Manual, Section 6211).

C. Employee Indebtedness. No employee is to fail, without good reason, to honor in a proper and timely manner all debts acknowledged by him/her to be valid, reduced to judgment by a court, or imposed by law, and instead shall provide satisfactory settlement thereof.

D. Employee Truthfulness. DEA personnel, as members of the law enforcement community, must be at all times candid and truthful in the performance of their duties.

1. DEA personnel, when directed to do so by appropriate authority or during the scope of their official duties, must testify or respond to questions under oath as required. This duty to respond fully and truthfully applies during administrative interviews and any other official agency business and is applicable whether the employee concerned is providing a statement about his/her own misconduct, the misconduct of others, observed facts, past recollections, opinions, or is providing a written or oral communication upon which a trier of fact or other similar body or forum will or may have cause on which to rely or consider.
2. DEA personnel will testify truthfully in all matters and will always be honest and forthright in any statement, communication, or testimony they author, provide, condone, or otherwise cause others to rely upon.
3. DEA personnel will recount and provide all facts, data, information, and any other form of evidence in a truthful and fully responsive manner. DEA personnel will not omit or distort facts or other information when questioned or when authoring, completing, reviewing, or assisting in the drafting of reports or other official documents. DEA personnel will ensure documents are accurate and complete. Documents requiring signature shall not be signed unless read and confirmed as accurate. It is incumbent upon the employee to ensure that any and all information he/she provides, whether orally or in writing, is accurate and complete.
4. In criminal matters in which the employee may be criminally prosecuted for his/her misfeasance or malfeasance, the employee may exercise his/her right against self-incrimination as afforded under the United States Constitution. In all other matters, the employee must respond fully to questions posed by appropriate personnel.
5. DEA employees in series 1811, 1801, 132, and 1320 have a heightened duty to ensure information or testimony they provide under oath (or affirmation) in written or oral form is accurate, complete, and truthful. Documents executed under penalty of perjury or in matters of official interest shall always be accurate and shall not be signed unless read and are confirmed as accurate.
6. A DEA employee will not knowingly permit others to create, promulgate, communicate, distribute, or condone false, inaccurate, or incomplete testimony, statements, or other written or oral communication.

E. Lack of Candor.

1. DEA employees will not omit or conceal information that in the circumstances should have been disclosed in order to make a written or oral statement accurate and complete. Knowing failure to be forthright includes, but is not limited to, omission or concealment in employment and official documents or other matters under official investigation.
2. DEA employees will not permit a known falsehood to continue unreported or

unchallenged, or provide non-responsive answers to properly authorized officials such as supervisory personnel, prosecutors, or agency investigators.

F. Employee Participation in a Riot or Civil Disorder.

1. DEA personnel will not participate or incite any act of civil disorder against any instrument of a local or state government or against the federal government if the purpose or aim of such disorder is to undermine competent civil authority, cause anarchy, or disrupt the administration of justice or the delivery of traditional governmental services. While DEA personnel retain their constitutional rights in their private capacities to free speech and assembly, DEA personnel must be aware that, as government employees, their actions are viewed and examined by others with great scrutiny and their participation in an act of civil disorder may erode the general public's confidence in the actions of a government's duly elected or appointed officials.

2. DEA personnel convicted of a felony (any offense for which imprisonment is authorized for a term exceeding 1 year) by any federal, state or local court of competent jurisdiction in connection with an act of civil disorder will, on the date of their conviction becoming final, be proposed for removal from their position with DEA. This penalty covers, but is not limited to, conviction of felony for:

- a. Inciting a riot or civil disorder.
- b. Organizing, promoting, encouraging, or participating in a riot or civil disorder.
- c. Insurrection.
- d. Aiding or abetting any person in inciting, organizing, promoting, or encouraging civil disorder.

G. Unlawful Use of a Firearm. A DEA employee who has been authorized by the Administrator to carry a firearm shall not unlawfully brandish, threaten another person(s) with, or discharge a firearm.

H. Use of Intoxicating Beverages or Drugs. Intoxicants deprive individuals of the normal clearness of intellect and personal control which a person would otherwise possess. As such, the use of such substances while on duty is inherently inconsistent with the mission of this agency.

1. DEA personnel will not consume or be under the influence of intoxicants in DEA offices or on Government property designated for the conduct of official business.
2. DEA personnel will not consume or be under the influence of intoxicants during their official duty hours.
3. DEA personnel will not consume or be under the influence of intoxicants while

operating an OGV.

4. Off-duty DEA personnel subject to recall to duty shall not permit themselves to be rendered unavailable for duty through the consumption of intoxicants.

5. DEA personnel shall not use a controlled substance except such controlled substances as may be prescribed to the employee by a duly licensed medical professional for treatment of illness or condition or as contained in an over-the-counter medication.

6. Positions in DEA are designated critical-sensitive, national security positions. As such, individuals with drug and/or alcohol abuse problems, may be precluded from employment with DEA, based on their inability to meet the criteria for obtaining the requisite security clearance (See DOJ Order 2610.2B, and Public Law 91-616 and 92-255).

DOJ Order 1200.1, Chapter 7-1 allows employees with alcohol or drug problems to seek assistance under the Employee Assistance Program (EAP). A manager or supervisor may suggest that an employee seek EAP services when the employee's performance, conduct, or attendance has begun to deteriorate, or when the manager or supervisor learns information that suggests that the EAP might be of assistance to the employee. A manager or supervisor may also formally refer an employee to the EAP. A formal EAP referral is in writing, is usually verbally communicated to the employee, and states the performance, conduct, or attendance reasons why the referral is necessary. It is mandatory for a supervisor to formally refer an employee to the EAP when notified of a positive drug screen.

As a condition of employment with DEA, employees must maintain their eligibility to access National Security Information (NSI). If an employee can no longer maintain their eligibility to NSI and his/her security clearance is revoked, he/she can no longer meet the conditions for employment and will be removed.

7. The phrase "under the influence" includes, but is not limited to, all of the publicly known and commonly accepted conditions and degrees of being under the influence (such as unsteady gait, slurred speech, fixed stare, loss of muscular control, strong odor of alcohol), but also includes any employee who has consumed alcoholic beverages or drugs to any extent - whether they are legally intoxicated under applicable state law or not, except as may be duly and specifically authorized for an undercover operation. There is no requirement that an employee's degree of impairment be determined with scientific accuracy by appropriate testing or that, if such testing is conducted, that the blood alcohol of the employee be at or above a certain level.

I. Unprofessional Conduct.

1. Every DEA employee is responsible for behaving in a professional manner appropriate to the setting, and in a civil and courteous manner toward other DEA employees and the general public. Employees will be mindful that their conduct and

demeanor reflects directly upon DEA and will ensure that their actions do not reflect unfavorably upon DEA. Employees are prohibited from acting in a manner which brings disgrace or disfavor upon DEA or in a manner that will cause the general public to question, ridicule or attack the efforts of this agency or its personnel.

2. DEA employees are prohibited from associating with individuals known or suspected to be involved in illegal drug trafficking or other criminal activity in other than a strictly professional capacity. This prohibition also applies to CSs and former CSs. Extrinsic social, financial or business contacts with individuals of this nature are expressly prohibited. DEA employees are to strictly maintain only the highest standards of conduct with respect to informants, known criminals, or with individuals engaged in criminally violative activity.

3. Occasionally, an employee may have a family member who has been arrested, charged or convicted for criminal activity. Employees are not required to sever ties with family members and may assist in the rehabilitative process, with supervisory notification. Nevertheless, employees are expected to conduct themselves in a manner that is above reproach when interacting with such family members. This includes taking particular care in safeguarding DEA information and avoiding situations where the DEA employee could be implicated in criminal activity. Employees may not associate with family members who are engaged in or suspected of engaging in ongoing criminal activity.

4. DEA employees are prohibited from soliciting or engaging in prostitution, even in foreign countries or other jurisdictions where it is not criminalized. For purposes of this section, "prostitution" is defined as "the act or practice of engaging in sexual activity for money or its equivalent; commercialized sex."

5. DEA employees are prohibited from engaging in any sexual activity while on government leased or owned property, in an OGV, or any other inappropriate location, or while on duty.

J. Unauthorized Recording of Employee Conversations. DEA employees are prohibited from recording conversations of another individual without the mutual consent of all parties, except in the conduct of bona fide official investigations under the auspices of the Office of Professional Responsibility (OPR) or other appropriate organization.

K. Unauthorized Possession of a Firearm in a Federal Facility. Title 18 U.S.C. § 930 prohibits the carrying or possession of any firearm or other dangerous weapon within Federal facilities, unless an exemption applies. Only active duty SAs and law enforcement officers (LEOs) in the lawful performance of their official duties, Federal officials, or members of the Armed Forces, if authorized by law, are exempt. Retired SAs, retired LEOs, non-active duty law enforcement personnel, and all other civilian employees and contractors are prohibited from entering Federal facilities with a firearm or other dangerous weapon. Violators of this statute can be fined and/or legally imprisoned.

L. **Discrimination.** No employee may discriminate against any employee, applicant for employment, or person dealing with DEA on official business because of race, color, religion, sex, sexual orientation, gender identification, national origin, age or handicap.

M. **Sexual Harassment and Other Unprofessional Conduct.** Sexual harassment is a form of employee misconduct which undermines the integrity of the employment relationship. It destroys morale and interferes with the work productivity of its victims and the victim's coworkers. Every DEA employee is responsible for assuring that the work place is free from sexual harassment. Sexual harassment, as defined in Subsection 2713.3, is a violation of federal law and of DEA's Standards of Conduct.

N. **Quid Pro Quo Harassment.** Quid pro quo harassment is a form of sexual harassment that is prohibited by federal law and DEA's Standards of Conduct.

1. Unwelcome sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an employee's employment or (2) submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting the individual.

2. A supervisor who uses explicit or implicit coercive sexual behavior to control, influence, or affect the career, salary, or job of an employee is engaging in sexual harassment. While not all encompassing, listed below are some examples of conduct which could constitute sexual harassment and could result in appropriate disciplinary/adverse action, up to and including demotion to a non-supervisory position or removal.

- a. Giving or promising personnel actions in exchange for sexual favors.
- b. Taking or threatening personnel actions because an individual refuses to engage in sexual conduct.
- c. Requiring an employee to tolerate sexually offensive behavior in order to retain the job.

O. **Hostile or Offensive Work Environment.** The creation or fostering of a hostile work environment is a form of sexual harassment that is prohibited by federal law and DEA's Standards of Conduct.

Unwelcome sexual advances, requests for sexual favors, and other verbal and physical conduct of a sexual nature also constitute sexual harassment when the conduct has the purpose or effect of affecting or interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment, whether the activity is carried out by a supervisor or a co-worker. Sexual harassment may be found when the conduct, considered in context, would be intimidating, hostile, or offensive to a reasonable person, regardless of whether the actor intended to offend. Either gender can commit sexual harassment. While not all encompassing,

listed below are examples of instances which could result in appropriate disciplinary/adverse action.

1. Displaying 'pinup' calendars, sexually demeaning pictures, or graffiti in the work place.
2. Leaving offensive material on an employee's desk.
3. Deliberate or repeated unwelcome sexually-explicit remarks, jokes, or teasing.
4. Maintaining or tolerating an office atmosphere pervaded by sexual slurs, insults, or innuendos.
5. Subjecting another employee to repeated unwelcome pressure for dates.
6. Requiring or pressuring employees to dress or behave in a sexually suggestive manner.
7. Arranging for or permitting sexually-explicit entertainment in a work related context, at or away from the work-place.
8. Using or tolerating unwelcome, demeaning or inappropriate terms of address.
9. Ostracizing, or tolerating ostracism, of members of one gender by members of the other.
10. Repeated or deliberate unwelcome intentional contact with an individual's intimate body areas is sexual harassment (and may also be a criminal offense under applicable state law and/or an assault subject to mandatory reporting to OPR under Section 8308 of the Planning and Inspection Manual).

P. Retaliation. DEA employees are prohibited from taking any reprisal action against another employee for exercising the right to file a report, such as an allegation to OPR, a report of noncompliance to DEA's Office of Compliance, a complaint of discrimination (including sexual harassment), a grievance, a complaint of whistleblowing, or an appeal. Engaging in an act of retaliation may subject the responsible employee to appropriate disciplinary/adverse action, independent of the merit of the complaint, grievance, or appeal. While not all encompassing, listed below are some examples of actions which, if taken as a result of the exercise of a protected right, could be considered acts of reprisal subject to disciplinary action:

1. Inconsistent enforcement or increased severity of enforcement of existing rules, regulations, and policies, such as requiring the complainant to meet more stringent standards than other similarly situated employees.
2. Depriving a complainant of existing assignments, duty station, responsibilities, privileges, or fringe benefits.

3. Ostracism or verbal harassment of a complainant.

Q. Employee Dress. DEA personnel on official duty will present a businesslike appearance at all times. Except when authorized by their supervisor to use another mode of dress because of the nature of their regular job duties or as a result of the need to perform a special task or for other circumstance (e.g., firearms/tactical or other enforcement-related training; surveillance; undercover duties), employees will adhere to the dress standards described herein. Male employees will wear dress shirts, ties and slacks. Suits or sport jackets will be worn when dealing with the public. Female employees will wear conservative dresses, dress slacks or skirts and sweaters or blouses. All employees will be neat and well-groomed, and exercise proper hygiene in the workplace. DEA personnel will dress professionally when called to testify or are otherwise representing DEA in an official capacity.

R. Employee Hours of Work. DEA employees are expected to report and be at their posts of duty during their regularly scheduled hours of work, except for authorized periods of leave and holidays. DEA employees shall be at their assigned post of duty at the beginning of their shift of duty and shall remain at that post throughout the day, except for such breaks as may be authorized by supervisory personnel for the employee's comfort or meals. DEA employees are not permitted to independently adjust their shifts or posts of duty without supervisory approval.

S. Insubordination. DEA employees shall follow the lawful orders, directions, and policies of supervisors, managers, on-scene commanders, and/or more senior officials, as well as all policies, procedures, regulations, and laws which govern their conduct or duties. DEA employees shall similarly obey the lawful directions or commands of acting supervisory or management personnel.

T. Release of DEA Information to the Media. All media inquiries, requests for interviews, and requests for release of DEA information will be coordinated through the SAC and the Division Public Information Officer, or through the Office of Congressional and Public Affairs in accordance with Agents Manual Section 6326. This process ensures consistent messaging to the public, as well as prevents unauthorized disclosure of information which may compromise investigations or sensitive programs. Additional guidance on interacting with the media can be found on the Congressional and Public Affairs page on Webster at

(b)(2)

2735.21 Reporting Requirements to and Cooperation with the Office of Professional Responsibility

A. Occurrences an Employee Must Report to His or Her Supervisor.

In accordance with the Planning and Inspection Manual Section 8306.3 (Reporting Possible Violations and Complaints), DEA employees are required to promptly report to their supervisor or directly to OPR, any activity or situation that the employee believes to be improper, illegal, or otherwise in violation of any of the DEA Standards of Conduct. Upon receiving the notification from the DEA employee, or other source regarding the employee, the supervisor is responsible for reporting the occurrence to OPR as set forth in the Planning and Inspection Manual Section

DEA SENSITIVE

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8307. If applicable, the notification to OPR should clearly indicate if the arrest or allegation was self-reported by the employee. OPR will inform the Office of Security Programs (IS) where allegations or violations have potential to impact the DEA employee's security clearance.

1. DEA employees are required to inform their supervisor whenever they discharge a firearm, as set forth in Section 6122 of the Agents Manual, except when authorized at a firing range or other area in which firearms training is conducted.

2. DEA employees are required to immediately self-report through their chain of command to the SAC, RD, or HOH any arrests and allegations pertaining to on/off duty misconduct of the employee. If the initial notification is made orally, the employee must provide written notification to their supervisor as soon as possible. Written notification may be in the form of an email. At the same time, it is also the employees' responsibility to self-report arrests and allegations pertaining to on/off duty misconduct to the Deputy Chief Inspector, Office of Security Programs (DCI-IS) via e-mail at:

(b)(2); (b)(7)(E)

This written notification to the DCI-IS of the arrest or misconduct allegation is provided for security clearance adjudication purposes only and should only contain the specific arrest information or allegation, not the details surrounding these issues.

3. DEA employees are required to immediately inform their supervisor of any infraction, including minor traffic violations, with an OGV. However, minor traffic violations while operating a non-government vehicle, such as parking violations or other traffic violations involving a fine or collateral of \$500 or less, need not be reported.

4. DEA employees are required to immediately inform their supervisor of any instance in which they are questioned by law enforcement authorities under circumstances suggesting they might be under investigation for or suspected of a potential crime.

5. DEA employees are required to immediately inform their supervisor of any instance in which they have reason to believe that a spouse, domestic partner, or dependent child is suspected of committing any felony or any drug-related offense. Similarly, a DEA employee must immediately report to their supervisor any instance in which they have reason to believe that someone residing in the same residence as the employee, regardless of relationship, is suspected of committing any felony or any drug-related offense.

6. Any other illegal activity or other misconduct must be reported and is not limited to the above instances.

B. Reporting Situations Which Reflect on the Integrity of an Employee or on DEA. Allegations or complaints regarding infractions of DEA's Standards of Conduct must be reported to the proper DEA authorities.

1. DEA employees who have information which indicates or suggests that another DEA employee is engaged in improper or illegal activities in violation of DEA's Standards of

Conduct are required to immediately report such information to their supervisor or directly to OPR as set forth in the Planning and Inspection Manual Section 8308.

The following integrity and security matters must be reported to OPR for investigation:

- a. Sale, purchase, possession or otherwise unauthorized disposition of any narcotic or dangerous drug by any DEA employee.
- b. Tampering with or unauthorized removal from official custody of any evidence purchased, seized, or otherwise in the possession of any DEA employee.
- c. Disclosure of official DEA information to any unauthorized person, any person known or suspected to be involved in drug trafficking or other criminal activity. Examples of such information include, but are not limited to, the following:
 - i. Identifying CSs.
 - ii. Identifying investigative targets, regardless of the stage of investigation.
 - iii. Identifying defendants prior to arrest.
 - iv. Identifying undercover agents, regardless of their official affiliation.
 - v. Disclosing classified information.
 - vi. Compromise of a DEA investigation, facility, informant, or witness.
 - vii. Unauthorized disclosure of information obtained from DEA computer systems.
- d. Disclosure to any unauthorized person of corporate trade secrets or confidential business information developed during official activities.
- e. Participating in unauthorized or illegal searches of premises, automobiles or persons, arrests, electronic intercepts, or use of excessive force.
- f. Soliciting or accepting any bribe, fee or gratuity in connection with any official matter, including any offer of a bribe or gratuity to any DEA employee.
- g. Extortion.
- h. Embezzlement, misappropriating money or property, or failure to properly account for money, personal property, or any other item for which officially responsible.
- i. Misprision or the failure to report to supervisors of DEA a violation of any law

enforced by DEA, or fraud committed by anyone against the government.

j. Perjury or false statements concerning official matters, including false documentation, alteration, forgery or unauthorized destruction of official reports.

k. Use of narcotics or dangerous drugs designated by the Controlled Substances Act except as prescribed by a physician in the treatment of a diagnosed medical condition.

l. Improper use of official position, badge, credential, and actual or implied authority.

m. Indictment, arrest or imminent arrest, holding for investigation, or detaining for questioning of any DEA employee.

n. Any non-official association or financial transaction by DEA employees with informants, defendants, or persons known or suspected to be involved in the narcotics traffic or in any other criminal activity.

o. Any improper association or financial transaction by DEA employees with defense attorneys, bondsmen or any other persons closely associated with DEA defendants.

p. Obstruction of justice.

q. Receiving or taking into custody any monies or other items except as specifically authorized by law or DEA order.

r. Violation of any federal laws or regulations restricting various political activities.

s. Any discharge of a firearm by a DEA employee (whether on or off duty) or officer of another agency during a joint investigation with DEA. Excluded from this are discharges of a sporting firearm in a recreational situation or a firearm discharged during training or practice on a firing range as set forth in Planning and Inspection Manual Section 8308.4 and Agents Manual Section 6122.5.

t. Any assault on a DEA employee, a DEA employee's family stemming from a job-related circumstance, a DEA CS, or a DEA TFO stemming from a job-related circumstance as set forth in Planning and Inspection Manual Section 8308.4.

u. Accusations that a DEA employee violated an individual's civil rights.

v. Unauthorized destruction or disposal of hazardous waste.

2. Additionally, the following matters are also to be reported to OPR. Upon review, OPR will determine the appropriate action to be taken as set forth in Planning and Inspection Manual Section 8308.2.

- a. Death of any DEA employee.
- b. Loss or theft of:
 - i. Badges (DEA and predecessor agencies).
 - ii. Credentials (DEA and predecessor agencies).
 - iii. Firearms (DEA issue and authorized personal firearms for official use).
 - iv. Official funds and/or seized or recovered funds.
 - v. Property seized as a result of a lawful search.
 - vi. Evidence in DEA custody or in transit via the mail or common carrier. In those cases involving loss, theft, destruction, etc., of government property see Administrative Manual Subchapters 031 or 0327 (conveyances only).
- c. Unauthorized outside employment.
- d. Information which adversely reflects on the integrity of an employee of another Federal, state or local agency. OPR in concert with appropriate HQ elements will determine whether to refer the information to another agency at the SAC level or whether referral will be at the HQ level (Agents Manual Section 6341[DEA/FBI Guidelines (March 12, 1982)]).
- e. Integrity and security matters involving any federal, state or local officer assigned to a DEA Task Force. OPR will conduct and/or coordinate any necessary investigation in cooperation with the appropriate agency.
- f. Any unusual incidents which occur during arrest or search situations, which in the judgment of the SAC should be reported to OPR.
- g. Appropriate accidents involving the operation of a government owned, rented or leased vehicle, in accordance with the provisions of Administrative Manual Subchapter 0327.4.
- h. Information of U.S. police corruption and all drug investigations directed at law enforcement officials.
- i. The use of any unauthorized firearm or weapon while on official duty.

3. DEA employees are prohibited from making an allegation of misconduct or misfeasance against another DEA employee or any other individual, without a reasonable basis.

C. Cooperation with the Office of Professional Responsibility

1. A DEA employee under investigation for misconduct by the Office of Professional Responsibility may be required to submit to an interview by OPR. See Section 8302(D) of the Planning and Inspection Manual.

2. A DEA employee, after being advised that his/her answers or evidence gained by reason of his/her answers cannot be used against him/her in any criminal proceeding (See Exhibit 1 of Planning and Inspection Manual Section 8313), must submit to the interview and fully and truthfully answer the questions posed by OPR investigators.

3. A DEA employee, after being advised that his/her answers may tend to incriminate him/her (See Exhibit 2 of Planning and Inspection Manual Section 8313), but who intends to answer the questions posed by OPR investigators, must do so fully and truthfully.

4. A DEA employee, who has been advised in accordance with subsections C(2) and/or C(3) above, who knowingly and willfully provides false statements of information in response to questions posed by an OPR investigator may be criminally prosecuted for such action. Further, any knowing and willful false statements provided during the course of the interview, and any information or evidence resulting therefrom, may be used during the course of any disciplinary proceedings, which could result in disciplinary/adverse action, including dismissal.

2735.22 Penalty Guidelines

Appendix 2735 is a partial listing of offenses and the corresponding possible penalties that may be imposed for certain types of offenses. These penalties are in addition to any applicable penalty prescribed by law. (See Table of Penalties)*

*Revision

**Addition

DEA Guide for Disciplinary Offenses and Penalties

Appendix TR 20-05, 4/10/20

The purpose of discipline is to be corrective, not punitive. In furtherance of this goal, it is the policy of the DEA that discipline be administered in a constructive, progressive, and consistent manner. All disciplinary actions must be supported by facts and evidence, the preponderance of which supports the disciplinary action to be taken.

This **Guide to Disciplinary Offenses and Penalties** is intended to provide information and guidance concerning the type of penalty that may result from a particular act of misconduct. Personnel involved in DEA's disciplinary system evaluate each incident on a case-by-case basis; however, and consider a number of factors in determining the appropriateness of a penalty. This Guide is but one factor to be considered. Accordingly, depending upon the circumstances of a particular case, the actual penalty imposed for an act of misconduct may be greater or lesser than that stated in this Guide.

This **Guide** is to be used to assist the Board of Professional Conduct and Division/Office Proposing Officials in proposing the appropriate penalties. It is also to be used by the Deciding Officials in determining the appropriateness of a particular penalty. While this guide does not cover every possible offense, it does cover those offenses that commonly occur within the DEA.

The Guide lists offenses by category for formal disciplinary actions which become a matter of record in the employee's official personnel folder. For each offense, it indicates the range of suggested penalties for a first, second, or subsequent offense. The Guide does not address oral warnings, counseling letters, cautions, etc. as they are forms of pre-disciplinary actions.

F. The Guide is divided into 11 sections:

- I. Attendance Issues
- II. Fiscal Issues
- III. False Statements or Incorrect Official Documents
- IV. Harassment/Discrimination
- V. Law Enforcement Specific Offenses
- VI. Failure to Follow
- VII. Negligent Work
- VIII. Health & Safety Issues
- IX. Security Issues
- X. Supervisory Misconduct
- XI. Conduct Prejudicial to the DEA/DOJ

All management proposals must be reviewed by the HR Employee Relations Office prior to issuance. All proposals for actions that can be appealed must be reviewed by Chief Counsel prior to issuance.

I. Attendance Issues

Type of Misconduct	Explanation of Offense	Penalty for First Offense	Penalty for Second Offense	Penalty for Third Offense
a. Unexcused or unauthorized absence on scheduled day of work (AWOL in increments of 15 minutes or more)	To include absences of 8 hours or less to absences of 8 hours or more of AWOL. (Note: This absence does not have to be consecutive.) Also includes tardiness relating to reporting for duty, returning from lunch or break, and returning from an authorized absence from the workstation.	Reprimand to 5-day Suspension	5- to 14-day Suspension	14-day Suspension to Removal
b. Recurring excessive unexcused or unauthorized absence	To include absences of five consecutive days or more	14-day Suspension to Removal	Removal	
c. Violation of leave restrictions	A violation of properly imposed leave restrictions can be charged in addition to AWOL	Reprimand to 5-day Suspension	5- to 14-day Suspension	14-day to Removal
d. Improper use of sick leave for any reason other than permitted under DEA Personnel Manual 2630	Involves an employees' use of sick leave for reasons other than that which is authorized. For example: for a family vacation.	Reprimand to 5-day Suspension	5- to 14-day Suspension	14-day to Removal
e. Failure to report for duty as detailed, transferred, or reassigned	This is not limited to employees who are under a mobility agreement. [<i>Ramos v. Federal Aviation Administration</i> , 4 M.S.P.R. 388, 4 M.S.B.P. 446 (1980); <i>Boykin v. United States Postal Service</i> , 1995 U.S. App. LEXIS 2183 (Fed. Cir. 1995) (nonprecedential decision)]	Removal		

II. Fiscal Issues

Type of Misconduct	Explanation of Offense	Penalty for First Offense	Penalty for Second Offense	Penalty for Third Offense
a. Submission of falsely stated travel vouchers time and attendance, or other fiscal documents or their supporting documentation	Falsification occurs when an employee knowingly or in reckless disregard for the truth or with a conscious purpose to avoid learning the truth provides false information or withholds information with the intent to deceive or defraud. These elements can be established by direct or circumstantial evidence.	Reprimand to Removal	Removal	
b. Failure to properly review the submission of travel vouchers, time and attendance, credit card statements, or other fiscal documents and their supporting documentation	To include those who are responsible for the review and approval of fiscal documents (including: acting supervisor).	Reprimand to 30-day Suspension	30-day Suspension to Removal	Removal
c. Failure to properly expend allocated resources		Reprimand to 14-day Suspension	14-day Suspension to Removal	Removal
d. Expenditure of allocated funds in excess of funds available		14-day Suspension to Removal	Removal	
e. Unauthorized and/or improper use of property, government funds, or any other thing of value coming into an employee's custody as a result of employment		Official reprimand to 10-day suspension	10-day suspension to removal	15-day suspension to removal
f. Misuse of government issued credit card for other than authorized purposes	To include using the card for personal purchases while in a travel status, extending authorized stay at hotel. An extensive list of prohibitions is listed in the credit card policy	Reprimand to 14-day Suspension	14-day Suspension to Removal	Removal

III. False Statements or Incorrect Official Documents

Type of Misconduct	Explanation of Offense	Penalty for First Offense	Penalty for Second Offense	Penalty for Third Offense
a. Falsification, misrepresentation, or concealment of information or fact(s) in connection with an official government document or in any other official statement, oral or written	To include: employment document or other matters under official investigation. Falsification occurs when an employee knowingly or in reckless disregard for the truth or with a conscious purpose to avoid learning the truth provides false information or withholds information with the intent to deceive or defraud. These elements can be established by direct or circumstantial evidence.	Reprimand to Removal	Removal	
b. **Lack of Candor**	**Omission or concealment of information, that under the circumstances, should have been disclosed in order to make a written or oral statement accurate and complete. Knowing failure to be forthright. This charge includes, but is not limited to: omission or concealment of information in employment actions, official documents or statements, or matters under official investigation. **	**Reprimand to Removal**	**Removal**	

IV. Harassment/Discrimination

Type of Misconduct	Explanation of Offense	Penalty for First Offense	Penalty for Second Offense	Penalty for Third Offense
a. Sexual Harassment	Making unwelcome or unwanted sexual advances, requesting sexual favors, or engaging in other verbal or physical conduct of a sexual nature.	5-day Suspension to Removal*	14-day Suspension to Removal	Removal

b. Unprofessional or inappropriate conduct of a sexual nature	To include: teasing, jokes, actions, gestures, display of materials or remarks of a sexual nature	Reprimand to Removal	14-day to Removal	Removal
c. Retaliation against an employee resulting from or in connection with an allegation of sexual harassment	Any person who has been found to have engaged in the act of retaliation	Removal		
d. Creating and/or fostering a hostile working environment by any discriminatory activity	To include: intimidating employees by speech, behavior, gestures, etc. A hostile environment is created when the conduct is sufficiently severe or pervasive as to affect a term, condition or privilege of employment.	5-day Suspension to Removal	14-day Suspension to Removal	Removal
e. Discrimination against an employee or applicant for employment because of race, color, sex, religion, national origin, age, disability, or sexual orientation. Retaliation against an employee having engaged in a protected activity or in reprisal for the exercise of an appeal right granted by any law, rule or regulation or for engaging in whistle blowing	Discrimination in the Federal government is prohibited by, among other laws and regulations, Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex, or national origin; the Equal Pay Act of 1963, which protects men and women who perform substantially equal work in the same establishment from sex-based wage discrimination; the Age Discrimination in Employment Act of 1967, which protects individuals who are 40 years of age or older; Title I and Title V of the Americans with Disabilities Act of 1990, which prohibit employment	Removal		

V. Law Enforcement Specific Offenses

Type of Misconduct	Explanation of Offense	Penalty for First Offense	Penalty for Second Offense	Penalty for Third Offense
a. Improper association with a convicted felon, confidential source and/or persons connected with criminal activity.	All DEA employees are held accountable for this type of behavior.	Reprimand to Removal	Removal	
b. Unintentional and improper discharge of a firearm		Reprimand to 5-day Suspension	5- to 14-day Suspension	14-day Suspension to Removal
c. Intentional and improper discharge of a firearm		14-day Suspension to Removal	Removal	
d. Improper or unauthorized use or possession of a firearm or other weapon	To include accidentally or unintentionally bringing a weapon into the building ,in vehicle, purse, brief case. etc.	1-day Suspension to Removal	Removal	
e. Loss of a DEA issued badge or credential		Reprimand to 2-day Suspension	2- to 7-day Suspension	7- to 14-day Suspension
f. Loss of a DEA issued firearm	For example: a firearm that is stolen from an employee's OGV	Reprimand to 5-day Suspension	5- to 14-day Suspension	14-day to Removal

g. Intentional, reckless or negligent violation of rules governing searches and seizures	For example: A violation is 'intentional' when the act is foreseen and desired, and this foresight and desire resulted in the act through the operation of the doer's will. This can be proven by direct or circumstantial evidence. A violation is in 'reckless disregard of the rules' when the act was undertaken with conscious indifference to its possible consequences. This is a lesser included offense of a charge of intentional violation of rules governing searches and seizures. A violation is 'negligent' when it occurs because the person committing the violation failed to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation. This is a lesser included offense of a charge of intentional violation of rules governing searches and seizures and of a charge of reckless disregard of rules governing searches and seizures	Reprimand to Removal		
h. Failure to secure or process evidence	For example: leaving evidence samples out overnight on lab work bench	Reprimand to 3-day Suspension	3- to 7-day Suspension	7- to 14-day Suspension
i. Failure to report integrity related issues through the Chain of Command or to the Office of Professional Responsibility in a timely fashion	All employees are required to report integrity related issues, to include: theft, unauthorized use of an Official Government Vehicle, falsifying documents, etc.	Reprimand to 3-day Suspension	3- to 7-day Suspension	7- to 14-day Suspension
j. Unauthorized interference with, refusing, or failing to submit to a properly ordered or authorized drug test	Including substituting, altering otherwise tampering with a urine sample	Removal		

k. Unauthorized failure or refusal to submit to a properly ordered physical examination or psychological examination	Only applies to those employees who are under medical standards as a condition of continued employment	Removal		
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VI. Failure to Follow

Type of Misconduct	Explanation of Offense	Penalty for First Offense	Penalty for Second Offense	Penalty for Third Offense
a. Failure to follow supervisory instructions	An employee's refusal or noncompliance with a supervisor's instruction to complete a task	Reprimand to 7-day Suspension	7- to 14-day Suspension	14-day Suspension to Removal
b. Failure to follow written or oral instructions	An employees noncompliance with agency rules, regulations, and/or policies	Reprimand to Removal	7- to Removal	14-day Suspension to Removal
c. **Failure to report integrity related issues through the Chain of Command or to the Office of Professional Responsibility in a timely fashion**	**All employees are required to report integrity related issues, to include: theft, falsifying documents.**	**Reprimand to 3-day Suspension**	**3- to 7-day Suspension**	**7- to 14-day Suspension**

VII. Negligent Work

Type of Misconduct	Explanation of Offense	Penalty for First Offense	Penalty for Second Offense	Penalty for Third Offense
a. Sleeping while on duty		Reprimand to 3-day Suspension	3- to 14-day Suspension	14-day Suspension to Removal
b. Inattention to duty	For example: an employee that has failed to pay attention to some detail of an assignment that has therefore caused some sort of problems or issue	Reprimand to 7-day Suspension	7- to 14-day Suspension	14-day Suspension to Removal

VIII. Health & Safety Issues

Type of Misconduct	Explanation of Offense	Penalty for First Offense	Penalty for Second Offense	Penalty for Third Offense
a. Failure to follow proper safety procedures, posted rules, signs, protective clothing and equipment procedures	For example: failing to wear the protective clothing as required for clan labs	Reprimand to 5-day Suspension	5- to 14-day Suspension	14-day Suspension to Removal
b. Failure to exercise proper hygiene in the workplace		Reprimand to 5-day Suspension	5- to 14-day Suspension	14 day Suspension to Removal

IX. Security Issues

Type of Misconduct	Explanation of Offense	Penalty for First Offense	Penalty for Second Offense	Penalty for Third Offense
a. Unauthorized disclosure of and/or failure to safeguard information protected by the Privacy Act, other official, sensitive, or classified (NSI) information	Including: Disclosure of and/or failure to prevent access to NSI or DEA Sensitive information to uncleared personnel or to persons not having a need-to-know; transmitting or transporting NSI or sensitive information improperly; failure to properly secure, store, or dispose of classified or DEA Sensitive information; discussing or transmitting NSI or DEA Sensitive information over non-encrypted systems	Reprimand to Removal	2-day Suspension to Removal	5-day Suspension to Removal
b. Failure to submit required reinvestigation forms within prescribed timeframe or to attend scheduled security briefing	Including: Failure or refusal to properly complete or submit the SF-86 in a timely manner; failure to respond to attempts by the Personnel Security Section or authorized investigators to obtain missing personal background information	Reprimand to 7-day Suspension	7- to 14-day Suspension	14-day Suspension to Removal

c. Inability to meet the requirements of your position/ maintaining a clearance	Including: Failure or refusal to properly complete or submit the SF-86 in a timely manner; failure to respond to attempts by the Personnel Security Section or authorized investigators to obtain missing personal background information	Removal		
d. Failure to follow COMSEC regulations, safeguard COMSEC equipment, and/or exercise reasonable security precautions in the execution of COMSEC responsibilities	Including: Failure to report loss of COMSEC equipment; failure to use COMSEC equipment when required; borrowing or loaning of COMSEC equipment without proper authorization; leaving a Crypto key or other COMSEC labeled materials in areas accessible to non-authorized users.	Reprimand to Removal	2-day Suspension to Removal	5-day Suspension to Removal
e. Sharing of or failure to protect passwords, failure to follow IT security policy, and/or exploitation of DEA's IT systems in a manner which undermines established system security protocols	Including: Sharing or fraudulent use of another user's password; improperly safeguarding passwords; processing classified information on unclassified systems; hacking into IT systems; attempting to access system information without proper authorization; tampering with the integrity of IT system security configurations or data; adding peripheral devices or unauthorized software/hardware to DEA's IT systems.	Reprimand to Removal	2-day Suspension to Removal	5-day Suspension to Removal
f. Failure to follow, attempts to bypass, or careless disregard for established physical and/or facilities security measures	Including: Failure to escort uncleared visitors or allowing them improper access to DEA controlled Open Storage Area (OSA) or a Controlled Access Area (CAA); disclosing secure combinations or access codes to unauthorized personnel; failure to display or fraudulent use of building pass.	Reprimand to Removal	2-day Suspension to Removal	5-day Suspension to Removal

X. Supervisory Misconduct

Type of Misconduct	Explanation of Offense	Penalty for First Offense	Penalty for Second Offense	Penalty for Third Offense
a. Failure to properly supervise employees		Reprimand to 5-day Suspension	5- to 14-day Suspension	14-day Suspension to Removal
b. Failure to enforce DEA policies/ regulations		Reprimand to 5-day Suspension	5- to 14-day Suspension	14-day Suspension to Removal

XI. Conduct Prejudicial to the DEA/DOJ

Type of Misconduct	Explanation of Offense	Penalty for First Offense	Penalty for Second Offense	Penalty for Third Offense
a. Failure to honor just debts without good cause	To include: personal credit debt as well as failing to pay the full account balance on a government issued credit card within the allotted timeframe	Reprimand to 5-day Suspension	5- to 14-day Suspension	14-day Suspension to Removal
b. Damaging government property or the property of others		Reprimand to 14-day Suspension	14-day to Removal	Removal
c. Willful use or authorizing the use of any government owned or leased passenger vehicles, aircraft, or vessels for other than official purposes	Offense carries a mandatory penalty of *a 30 day* suspension as defined in 31 USC 1349(b), to include any use that is not authorized under DEA policy as permissible use of an OGV. *Under the influence is defined in the Standards of Conduct. See PM, section 2735.20. Use of alcohol and/or drugs will be considered an aggravating factor in the penalty imposed.*	30-day Suspension to Removal	60-day to Removal	Removal
d. Misuse of any government owned or leased passenger vehicles, aircraft, or vessels for other than official purposes.	Offense based on minor personal use of an OGV incidental to an authorized use	Reprimand to 5-day Suspension	5- to 10-day Suspension	15-day Suspension to Removal

e. Disrespectful or unprofessional conduct	To include: use of insulting, abusive or obscene language, angry outbursts, disrespectful comments, provoking quarrels, or inappropriate remarks	Reprimand to 7-day Suspension	7- to 14-day Suspension	14-day Suspension to Removal
f. Unauthorized refusal to cooperate in an official U.S. Government inquiry or investigation	Including refusal to answer work-related questions or attempting to influence others involved in the inquiry	Reprimand to Removal	Removal	
g. Refusal to cooperate in an administrative investigation	Including refusal to answer questions of Office of Professional Responsibility investigators or attempting to influence other involved in the inquiry	Removal		
h. Reporting for duty under the influence of *alcohol and/or drugs*	Under the influence is defined in the Standards of Conduct. See Personnel Manual, section 2735.20*	5-day Suspension to Removal	Removal	
i. Unauthorized possession of *alcohol and/or drugs* on government owned or leased property	(This does not include being in possession of an unopened gift or bottle of wine or alcoholic beverage)	5-day Suspension to Removal	Removal	
j. Engaging in unauthorized outside employment	Outside employment must be approved prior to its start	Reprimand to 3-day Suspension	3- to 7-day Suspension	7-day Suspension to Removal
k. Improper operation of an official vehicle	To include violating traffic regulations	Reprimand to 14-day Suspension	7- to 14-day Suspension	14-day Suspension to Removal
l. Misuse of position/ office	For example: the use of DEA systems to which you have access in connection with your position, to gain information for personal use. Obstructing an official investigation or inquiry by destroying or deleting information requested by investigators.	Reprimand to Removal	7-day Suspension to Removal	14-day Suspension to Removal
m. Improper use of official authority or credentials	To include the use of your official credentials in an attempt to be provided preferential treatment because of your position with the DEA	Reprimand to 7-day Suspension	7- to 14-day Suspension	14-day Suspension to Removal

n. Conduct unbecoming a DEA employee		Reprimand to Removal	7-day Suspension to Removal	14-day Suspension to Removal
o. Disorderly conduct, fighting, threatening or attempting to inflict bodily injury to another		Reprimand to 14-day Suspension	14-day to Removal	Removal
p. Gambling or unlawful betting on government owned or leased property	For example: placing bets on football pools, playing cards for profit on government owned or leased property	Reprimand to 5-day Suspension	5- to 14-day Suspension	14-day Suspension to Removal
q. Taking or attempting to take government property or the property of others without permission		14-day Suspension to Removal	Removal	
r. Unauthorized receiving of soliciting gifts or favors or bribes in connection with official duty		14-day Suspension to Removal	Removal	
s. Criminal, dishonest, infamous, or notoriously disgraceful misconduct		14-day Suspension to Removal	Removal	
t. Failure to report possible conflict of interests which relates to employee's position or duties	For example: having a financial interest in a company in which DEA is doing business and the employee stands to profit from his/her connection with the business	Reprimand to Removal	Removal	
u. Conduct which creates a reasonable belief that the employee has committed a crime for which a sentence of imprisonment may be imposed.		Indefinite Suspension to Removal	Removal	

v. Unauthorized use or possession of narcotics, dangerous drugs or marijuana		Removal		
w. Soliciting or engaging in prostitution, even in foreign countries or other jurisdictions where it is not criminalized		Removal		
x. Consensual Sexual Misconduct	Engaging in any sexual activity with a willing partner(s) in an inappropriate location (such as government spaces, government vehicles) or while on duty.	5-day Suspension to Removal	14-day Suspension to Removal	Removal
y. **Poor Judgment**	**To include any conduct that indicates that an employee failed to exercise good judgment either on or off duty.**	**Reprimand to 5-day Suspension*	**5 to 14-day Suspension*	**14-day Suspension to Removal**
z. **Making an Allegation of Misconduct Without a Reasonable Basis**	**Making an allegation of misconduct or misfeasance against another DEA employee or any other individual, without a reasonable basis.**	**Reprimand to Removal**	**7-day Suspension to Removal**	**14-day Suspension to Removal**
aa. **Unauthorized recording of a DEA employee's conversation**	**Recording conversation of another individual without the mutual consent of all parties, except in the conduct of bona fide official investigations under the auspices of the Office of Professional Responsibility (OPR) or other appropriate organization.**	**Reprimand to Removal**	**7-day Suspension to Removal**	**14-day Suspension to Removal**

****Addition**

***Revision**