

THE WHITE HOUSE
WASHINGTON

January 25, 1971

ADMINISTRATIVELY RESTRICTED

MEMORANDUM FOR RICHARD LITTELL
 GENERAL COUNSEL
 POSTAL RATE COMMISSION

FROM JOHN W. DEAN, III
 COUNSEL TO THE PRESIDENT

SUBJECT Postal Rate Commission -
 Standards of Conduct Regulation



Pursuant to our telephone conversation of this date and your request, attached please find a copy of the initial draft of the proposed Standards of Conduct Regulation applicable to the Postal Rate Commission.

This draft has been a subject of analysis by a task force, and the final proposal may include extensive modifications.

As we discussed, by Executive mandate the final determination of the contents of this Regulation is vested exclusively in the Civil Service Commission. Therefore, any recommendations of the Postal Rate Commission would not be in any way binding upon the Civil Service Commission. However, if after your review you desire to make any informal comments regarding this draft, I would suggest that they be presented to and discussed with my assistant, Fred Fielding (456-2397).

Thank you.

Department of Justice
Washington, D.C. 20530

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MEMORANDUM FOR HONORABLE JOHN W. DEAN, III
Counsel to the President

Re: Proposed Standards of Conduct Regulations for the Postal Rate Commission

At your request, we have reviewed the Standards of Conduct Regulations for the Postal Rate Commission which the Civil Service Commission prepared and circulated in September. In addition, we have reviewed the comments of the Post Office Department, attached to the memorandum of November 3 from Louis A. Cox, Deputy General Counsel, relating to these proposed standards. Except for a few matters to be discussed below, we have no objection to the suggestions made by the Post Office Department, which on the whole involve policy decisions to be ironed out by the Civil Service Commission and the Post Office Department. In addition, we attach comments, chiefly of a technical character, which the Civil Service Commission and the Post Office Department may wish to consider.

Section 305 (pp. 3-4, Post Office Comments).

The standards proposed by the Civil Service Commission in § 3000.735-305(a), (b) (p. 16, Commission draft), relating to "Salary payable only by United States" in substance embody the prohibitions of 18 U.S.C. 209(a) and the various exceptions thereto contained in 18 U.S.C. 209(b) (*i.e.*, "bona fide pension, retirement, group life ... insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer"). The Post Office Department recommends elimination of the reference to "profit-sharing" and "stock bonus" benefits which would otherwise be available under 18 U.S.C. 209(b). We question the desirability of this recommendation.

Section 209 was designed to prevent a public official from being paid by anyone other than the Government for doing his government job. Its purpose was to assure that the employee would not be under obligation to anyone other than the Government. At the same time Congress recognized that many persons of competence would be unwilling to enter government service if they had to surrender vested rights under company plans and programs which constituted their economic security. Section 209(b) was the compromise for permitting corporate executives and other persons to preserve such security while in government service. Congress, of course, recognized that permitting an employee to retain his vested profit-sharing and stock bonus rights, meant that such an employee would, under a formula that was fixed, continue to participate in the net profits of his prior employers' operations each year while he served in the Government. It seems to us that if, in the view of Congress, this was the right balance to strike for employees in various departments and agencies, including the federal regulatory agencies, for similar considerations the same standard should properly govern employees in the Postal Rate Commission. Moreover, although 18 U.S.C. 209(b) would permit continued participation in vested profit-sharing and stock bonus plans, 18 U.S.C. 208(a) would bar the employee from participating in a matter in which, to his knowledge, he has a financial interest, for example, one involving a company in which he has a profit-sharing or stock bonus plan. If this interest was not deemed substantial enough to have an effect on the integrity of his services, the Commission under 18 U.S.C. 208(b) could give him an ad hoc exemption and in such a case his disqualification would not be required. On the other hand, it would appear to be an unnecessary condition for employment by the Postal Rate Commission to require its employees to renounce in advance such stock bonus and profit-sharing interests provided by prior employers whose matters may never even be involved before the Commission.

Section 307(e)(3) (p. 6, Post Office Comments).

The Postal Service would delete § 3000.735-307(e)(3) (p. 21, Commission draft), which would permit employees of the Postal Rate Commission to participate in the affairs of, or accept an award from, "a charitable, religious, professional, social, fraternal, nonprofit educational or recreational public service, or civic organization". The Postal Service feels that while such participation may be warranted in the case of most governmental agencies, it would not be justified in the case of the Postal Rate Commission, since nonprofit organizations may have a substantial interest in mail classifications and rates.

We think that this recommendation is unobjectionable to the extent that it relates to "awards" from such nonprofit organizations. However, to the extent that the recommendation contemplates prohibition of participation in the affairs of the various organizations named, it is unclear and seems to us unwise. If one belongs to a church organization, is a member of the Boy Scouts of America, the National Education Association or the Elks Club, presumably that is a form of participation in a nonprofit organization. More direct participation would arise if the employee happens to be an officer or a member of a committee of the organization. Presumably, under the Post Office recommendation, the employee would be required to terminate these associations as a condition for employment with the Postal Rate Commission.

It seems to us that participation in such organizations should be encouraged in the public interest for all government employees. In addition, the risks of a conflict of interest would not appear to be so great as to justify imposing such a stringent condition. Apart from that, we would doubt that in the operations of the Postal Rate Commission its employees would unduly favor nonprofit organizations as a group because the employees happened to belong to local units of such organizations.

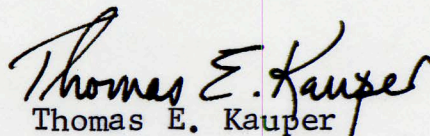
Section 402(f) (p. 8, Post Office Comments).

The Post Office Department objects to § 3000.735-402(f) (p. 38-39, Commission draft) which would relieve employees of submitting any information relating to their connection with, or interest in, "a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise." The Post Office recommends deletion of this provision upon the ground that "organizations of this kind may have very heavy involvement with the mails"

We think that this recommendation would represent a rather clear invasion of privacy, and that the necessity for it has not been demonstrated.

Section 402(j) (p. 8, Post Office Comments).

The Post Office Department objects to § 3000.735-402(j) (p. 40, Commission draft) which would require that statements of employment and financial interests should be kept in envelopes marked "Administratively Restricted--To Be Opened only by Authorized Reviewer." We do not feel that this requirement in section 402(j) imposes any great administrative burden. On the other hand, it represents some reasonable protection of confidentiality. We would defer to the experience of the Civil Service Commission.


Thomas E. Kauper

Acting Assistant Attorney General
Office of Legal Counsel

Technical Comments on Draft Regulations of
Civil Service Commission Prescribing Standards
of Conduct for the Postal Rate Commission

<u>Page</u>	<u>Section</u>	
	3000.735-	
1	Preamble	"No." is usually inserted after "Executive Order" e.g., "Executive Order No. 11222"
3	101	Fourth sentence, delete "of the Postal Rate Commission" as unnecessary.
6	203(a)	Last sentence, substitute "liaison with" for "designee to" the Civil Service Commission.
7	203(c)(d)	We suggest that 30 or 45 days be substituted for 90 days.
7	203(e)	Reference should be "Executive Order Nos. 11222 and _____"
8	204(c)	Spelling "Confidential" in next to last line.
10	301(a)	Insert "or" between "private" and "financial" in third line.
11	301(d)	Delete "Chapter 11 of the Criminal Code" as unnecessary. Insert "voiding transactions," after "dismissal from office."
17	306(c)	Spelling "Chairman" in last sentence.
21	307(e)(1)	Insert comma after "bona fide reimbursement".
22	307(h)	Substitute "outside" for "future" in first line.
24	312(e)	Add at end: "Acceptance of a forwarding or finder's fee from such person shall be deemed to be within the foregoing prohibition."

Page Section
3000.735-

25-6	313	Substitute "prohibitions" for "provisions" in fourth line. Delete "The prohibition against" at the beginning of each subparagraph. Insert after subparagraph (l), the following new paragraph (m): "deceit in an examination or personnel action in connection with government employment (18 U.S.C. 1917)." Change subparagraph (m) to (n) and delete: "The tax imposed on certain employees (e.g., Presidential appointees, employees excepted under Schedule C, employees in GS-16 or above or a comparable pay level) who knowingly engage in". The deleted portion simply describes applicability as defined by the cited statutes, 26 U.S.C. 4941, 4946.
40	402(k)	We suggest 3 or 4 years rather than two years as a reasonable time to keep records of financial statements. Destruction of statements after two years may mean the records would be destroyed while a case is pending.
41	404(b)	Insert "of §3000.735-402" after "and (k)".
43	502	Last line on page, "persons" should be plural.

TITLE 39 - POSTAL SERVICE

Chapter III - Postal Rate Commission

Subchapter A - Personnel

PART 3000 - STANDARDS OF CONDUCT

Pursuant to and in conformity with Executive Order of September , 1970 (F.R.); Executive Order 11222 of May 8, 1965, 3 CFR 1964-1965, Comp., p. 306; Title 5, Chapter I, Part 735 of the Code of Federal Regulations; and sections 201 through 209 of Title 18 of the United States Code, Title 39 of the Code of Federal Regulations is amended by adding a new Chapter III composed of Subchapter A and Part 3000. The new Part 3000 contains the Standards of Conduct regulations applicable to the Postal Rate Commission prepared and issued by the Civil Service Commission pursuant to Executive Order .

PART 3000 - STANDARDS OF CONDUCT

Subpart A - Policy and Purpose

Sec.

3000.735-101 Policy.

3000.735-102 Purpose.

Subpart B - General Provisions

3000.735-201 Definitions.

3000.735-202 Special Government employees; applicability of part.

3000.735-203 Counseling and advisory services.

3000.735-204 Responsibilities of employees.

3000.735-205 Disciplinary action.

Subpart C - Conflicts of Interest and Ethical Conduct

Sec.

- 3000.735-301 Conflicts of interest.
- 3000.735-302 Financial interests.
- 3000.735-303 Additional prohibitions - regular employees.
- 3000.735-304 Exemptions and exceptions from prohibitions of conflict of interest statutes.
- 3000.735-305 Salary payable only by the United States.
- 3000.735-306 Gifts, entertainment, and favors.
- 3000.735-307 Outside employment and other activity.
- 3000.735-308 Use of Government services and property.
- 3000.735-309 Misuse of official information.
- 3000.735-310 Indebtedness.
- 3000.735-311 Gambling, betting, and lotteries.
- 3000.735-312 General standards of conduct; prejudicial conduct.
- 3000.735-313 Miscellaneous statutory provisions.
- 3000.735-314 Statutory provisions prescribed for the Commission.
- 3000.735-315 Conduct and responsibilities of special Government employees.
- 3000.735-316 Additional prohibitions - special Government employees.

Subpart D - Reporting Outside Employment and Financial Interests

- 3000.735-401 General standards.
- 3000.735-402 Reporting employment and financial interests - regular employees.
- 3000.735-403 Reporting employment and financial interests - special Government employees.
- 3000.735-404 Reporting employment and financial interests - detailees.

Sec.

3000.735-405 Reviewing statements; remedial action.

* Subpart E - Ex parte Communications

3000.735-501 Ex parte communications prohibited.

3000.735-502 Public record of ex parte communications.

AUTHORITY: The provisions of this Part 3000 issued under Executive Order 11222 of May 8, 1965, 3 CFR 1964-1965 Comp., p. 306; Executive Order of September 1970, F.R. ; and 5 CFR Part 735.

Subpart A - Policy and Purpose

§ 3000.735-101 Policy.

X The Postal Rate Commission has been entrusted with the vital responsibility of protecting the public interest in the critical area of establishing and adjusting rates of postage, fees for postal services, and classifications of mail. Essential to the accomplishment of the mission of the Postal Rate Commission is the confidence of the American public in the honesty and integrity of the Commissioners and employees of the Commission. That confidence is dependent on the conduct of the Commissioners and employees of the Commission which must at all times be unquestionably free from taint or suspicion of partiality, favoritism, or any indicia of conflicting interests. It is, accordingly, the policy of the Postal Rate Commission that the Commissioners and employees of the Commission shall at all times maintain the highest standards of official and personal conduct and shall scrupulously avoid every situation which may result in an actual or apparent loss of the complete

independence and impartiality which is essential to command the respect and confidence of the American public. By reason of the particular trust imposed on the Commissioners and employees of the Postal Rate Commission they have a positive obligation to inform themselves of the policy in this section and the standards of conduct in this Part 3000 and to live within the letter and spirit of that policy and those standards.

§ 3000.735-102 Purpose.

(a) This Part 3000 sets forth the standards of conduct required of Commissioners, employees, and special Government employees of the Postal Rate Commission. In addition, the standards of conduct in this Part are applicable to members of the uniformed services and employees of other Government agencies who are serving on assignment or detail in the Postal Rate Commission, but the applicability of this Part to such members and employees does not relieve them of their responsibilities under the regulations of the service or agency from which they were assigned or detailed.

(b) This part reflects prohibitions and requirements imposed by the laws of the United States. However, the paraphrased restatements of the laws contained in this Part are designed for informational purposes only and in no way constitute an interpretation or construction thereof that is binding on the Government. Moreover, this Part does not purport to paraphrase or enumerate all restrictions and requirements imposed by law, Executive order, regulation or otherwise upon Federal officers and employees and former Federal officers and employees. The omission of a reference to any such restriction or requirement in no way alters the legal

effect of that restriction or requirement and any such restriction or requirement continues to be applicable to officers and employees and former officers and employees in accordance with its terms. Furthermore, attorneys employed by the Postal Rate Commission are subject to the Code of Professional Responsibility of the American Bar Association.

Subpart B - General Provisions

§ 3000.735-201 Definitions.

In this part:

(a) "Commission" means the Postal Rate Commission.

(b) "Commissioner" means a Commissioner of the Postal Rate Commission, including the Chairman of the Commission.

(c) "Employee" or "regular employee" means an employee and a Commissioner of the Commission, but does not include a special Government employee.

(d) "Special Government employee" means an officer or employee of the Commission who is retained, designated, appointed, or employed to perform with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, temporary duties, either on a full-time or intermittent basis.

(e) "Person" means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

(f) "Counselor" means the official of the Commission designated in § 3000.735-203 to carry out the responsibilities referred to in that section

and in § 735.105(a) of the regulations of the Civil Service Commission (5 CFR 735.105(a)).

(g) "United States Postal Service" or "Postal Service" means the United States Postal Service established under Title 39, United States Code, by the Postal Reorganization Act, Public Law 91-375, 84 Stat. 719, and, prior to the effective date of the establishment of the United States Postal Service, means the Post Office Department.

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

§ 3000.735-202 Special Government employees; applicability of part.

Except where specifically provided otherwise, or where limited in terms or by the context to regular employees, all provisions of this Part relating to employees are applicable/^{also}to special Government employees.

§ 3000.735-203 Counseling and advisory services.

(a) The [General Counsel] of the Commission is the Counselor for the Commission. The Counselor shall advise employees as to the applicability and interpretation of this Part, and laws and regulations, referred to in this Part, to factual situations for the purpose of aiding employees in avoiding conflicts of interest situations or acts or conduct that may reflect adversely on the Commission. The Counselor shall serve as the Commission's designee to the Civil Service Commission on matters covered by this Part and on related laws and regulations.

(b) Communications between the Counselor and an employee shall be confidential, except as determined by the Chairman of the Commission.

(c) The Counselor shall notify all employees and special Government employees of the availability of counseling services, and of how and where such services are available. Such notification shall be made within 90 days after the effective date of this Part and periodically thereafter. In the case of a new employee or special Government employee appointed after the date of such notification, notification shall be given at the time of his entrance on duty.

(d) The Counselor shall have copies of this Part distributed to each employee and special Government employee within 90 days after the effective date thereof. In the case of a new employee or special Government employee entering on duty after the date of such distribution, a copy shall be furnished at the time of his entrance on duty.

(e) The Counselor shall maintain copies of Executive Order 11222 and , applicable regulations of the Civil Service Commission, the statutes referred to in this Part, and necessary explanatory materials including Part 735 of the Federal Personnel Manual for examination by employees and special Government employees during regular business hours.

§ 3000.735-204 Responsibilities of employees.

(a) Each employee and special Government employee has a positive obligation to read and become familiar with this Part and with House Concurrent Resolution 175, 85th Congress, 2d Session, 72 Stat. B12, the "Code of Ethics for Government Service", which is attached to this Part as Appendix A.

(b) An employee or special Government employee who is uncertain as to the application of any regulation in this Part, or of any provision of law, to any particular situation in which he is or may be involved, is obligated to contact the Counselor for advice and guidance. If an employee or special Government employee believes that the application of any regulation in this Part, or any provision of law, will cause him undue hardship, he should consult the Counselor as to the possibility of obtaining a waiver or other relief under § 3000.735-302(f) or § 3000.735-304.

(c) An employee or special Government employee shall report immediately to the Counselor (1) any instance in which a person either within or outside the Commission uses or attempts to use a bribe, undue influence, or coercion to induce or attempt to induce the employee to act or neglect to act in regard to his official responsibilities, and (2) any information that causes him to believe that there has been a violation of a Federal criminal statute, the regulations in this Part, or any law or regulation directly or indirectly related to the responsibilities of the Commission. A report made under this paragraph shall be prepared in triplicate and a copy shall be sent by the employee or special Government employee to (i) the Attorney General, Department of Justice, Washington, D. C. 20530, and (ii) to the Chairman, Civil Service Commission, Washington, D. C. 20415. The report shall be sent in a sealed envelope clearly marked "Administratively Confidential -- To Be Opened by Addressee Only".

§ 3000.735-205 Disciplinary action.

(a) A violation of any provision of this Part by an employee or special Government employee may be cause for appropriate disciplinary action which may be in addition to any penalties prescribed by law.

(As to other remedial action in cases where an employee's or special Government employee's financial interests result in a conflict or apparent conflict of interest, see § 3000.735-405(b).)

(b) Any disciplinary or remedial action taken pursuant to this Part shall be effected in accordance with applicable laws, Executive orders, and regulations.

§ 3000.735-301 Conflicts of interest.

(a) A criminal conflict of interest may exist when an employee, his spouse, minor child, partner, or person with whom he is associated or is negotiating for future employment has a personal, private, financial interest in a matter that involves his official duties or responsibilities.

(b) The maintenance of public confidence in the Commission clearly demands that an employee take no action which would constitute the use of his official position to advance his personal or private interests or those of his spouse, child, or person with whom he is negotiating for future employment. It is equally important that each employee avoid becoming involved in situations which present the possibility, or even the appearance, that his official position might be used to the private advantage of himself, his spouse, child, or person with whom he is negotiating for future employment.

(c) Neither the pertinent statutes nor the standards of conduct prescribed in this part are to be regarded as entirely comprehensive. Each employee must, in each instance involving a personal or private interest in a matter which also involves his duties and responsibilities as an employee, make certain that his actions do not have the effect or the appearance of the use of his official position for the furtherance of his own interests or those of his family or a person with whom he is negotiating for future employment. An employee should never act on an official matter for the Commission when there exists a personal interest incompatible with the unbiased exercise of official judgment.

(d) The principal statutory provisions relating to bribery, graft, and conflicts of interest are contained in Chapter 11 of the Criminal Code, 18 U.S.C. 201-224. Severe penalties are provided for violations, including, variously, fine, imprisonment, dismissal from office, and disqualification from holding any office of honor, trust, or profit under the United States.

(e) Employees shall at all times, in both their official and private lives, conduct themselves so as to exemplify the highest standards of integrity. An employee shall avoid any action, whether or not specifically prohibited by law or regulation including this part, which might result in, or create the appearance of:

- (1) Using public office for private gain;
- (2) Giving preferential treatment to any person;
- (3) Impeding official efficiency or economy;
- (4) Losing complete independence or impartiality;
- (5) Making a Commission decision outside official channels; or
- (6) Affecting adversely the confidence of the public in the integrity

of the Commission.

§ 3000.735-302 Financial interests.

(a) An employee shall not, either directly or indirectly, own any stock, bond, security, or other obligation of a business or commercial entity or person which has a substantial or greater than usual interest in the duties and responsibilities of the Commission or the Postal Service because of the effect on that entity or person of rates of postage, fees for postal services, the classification of mail, or the operation of the Postal Service.

(b) An employee shall not participate personally and substantially as a Government employee in a particular matter in which, to his knowledge, he has a financial interest (18 U.S.C. 208(a)), except as provided in paragraph (e) of this section.

(c) For the purposes of this section:

(1) An employee participates personally and substantially in a particular matter through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise;

(2) A particular matter is a judicial or other proceeding, application, request for ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter; and

(3) A financial interest is the interest of the employee himself or his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment.

(d) An employee may not have financial interests which

(1) Establish a substantial personal or private interest in a particular matter which involves his duties and responsibilities as an employee, except as provided in paragraph (f) of this section or § 3000.735-304; or

(2) Are entered into in reliance upon, or as a result of, information obtained through his employment; or

(3) Result from active and continuous trading (as distinguished from the making of bona fide investments) which is conducted on such a scale as to interfere with the proper performance of his duties or as to create the appearance of speculative dealings. Frequency of trading,

the use of credit, and particularly transactions to take advantage of short-term price fluctuations, are significant indications of speculative dealings.

(e) Aside from the restrictions prescribed or cited in this part, employees are free to engage in lawful financial transactions to the same extent as private citizens. Employees should be aware that the financial interests of their wives or minor children and blood relatives who are full-time residents of their households, and interests of partners or a person with whom they are associated or are negotiating for future employment, may be regarded, for the purpose of this section, as financial interests of the employees themselves.

(f) An employee who has a financial interest in a particular matter which is within the scope of his official duties shall make a full disclosure of that interest to the Counselor in writing. He shall not participate in such matter unless and until he receives a written determination by the Chairman of the Commission pursuant to section 208 of Title 18, United States Code, that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect of him. If the Chairman of the Commission does not make such a determination, he shall direct such remedial action as may be appropriate under the provisions of § 3000.735-405(b).

(g) This section does not apply to special Government employees, who are subject to the provisions of § 3000.735-314.

§ 3000.735-303 Additional prohibitions - regular employees.

(a) In addition to the disqualifications described in § 3000.735-302, a regular employee is subject to the following major prohibitions.

(1) He may not, except in the discharge of his official duties, represent anyone else before a court or Government agency in a matter in which

the United States is a party or has an interest. This prohibition applies both to paid and unpaid representation of another (18 U.S.C. 203 and 205).

(2) He may not, after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207(a)).

(3) He may not, for 1 year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibility during the last year of his Government service (18 U.S.C. 207(b)). (This temporary restraint is permanent if the matter is one in which he participated personally and substantially. See subparagraph (2) of this paragraph.)

(4) He may not receive any salary, or supplementation of his Government salary, from a private source as compensation for his services to the Government (18 U.S.C. 209). (See § 3000.735-305.)

(b) Exemptions or exceptions from the prohibitions described in paragraph (a) of this section are permitted under certain circumstances. For the method of obtaining such exemptions or exceptions, see § 3000.735-304. § 3000.735-304 Exemptions and exceptions from prohibitions of conflict of interest statutes.

(a) Nothing in this part prohibits an employee, if it is not otherwise inconsistent with the faithful performance of his duties, from acting without compensation as agent or attorney for any person in a disciplinary, loyalty, or other Federal personnel administration proceeding involving such person.

(b) Nothing in this part prohibits an employee from acting, with or without compensation, as agent or attorney for his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary, except in those matters in which he has participated personally and substantially as a Government employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which are the subject of his official responsibility, as defined in section 202(b) of Title 18 of the United States Code, provided the Chairman of the Commission approves.

(c) Nothing in this part prohibits an employee from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.

(d) In addition to the exemptions and exceptions described in this section and in § 3000.735-302(e), the conflict of interest statutes permit certain exemptions and exceptions in specific circumstances. The procedure for effecting such exemptions or exceptions is as follows:

(1) Any regular employee or special Government employee who desires approval or certification of his activities as provided for by section 205 of Title 18, United States Code, shall make application therefor in writing to the Counselor.

(2) A former employee, including a former special Government employee, who desires certification with regard to his activities under section 207 of Title 18, United States Code, shall make application therefor in writing to the Counselor.

(3) The Counselor shall report promptly to the Chairman of the Commission and the Chairman of the Civil Service Commission all matters reported to

him under this part which require consideration of approvals, certifications, or determinations provided for in section 205, 207, or 208 of Title 18, United States Code.

§ 3000.735-305 Salary payable only by United States.

(a) No employee, other than a special Government employee or an employee serving without compensation, shall receive any salary, or any contribution to or supplementation of salary, as compensation for his services as an employee, from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality (18 U.S.C. 209).

(b) Nothing in this part prohibits an employee from continuing to participate in a bona fide pension, retirement, group life, health, or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer, nor from accepting contributions, awards, or other expenses under Chapter 41 of title 5, United States Code, relating to employee training.

§ 3000.735-306 Gifts, entertainment, and favors.

(a) Except as provided in paragraphs (b) and (c) of this section, an employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of value from a person who

(1) Has, or is seeking to obtain, contractual or other business or financial relations with the Commission or the Postal Service,

(2) Conducts operations or activities which are regulated or controlled by the Commission, or

(3) Has interests which may be substantially affected by the performance or nonperformance of his official duty or the duties and responsibilities of the Commission.

(b) Notwithstanding paragraph (a) of this section, an employee may

(1) Accept a gift, gratuity, favor, entertainment, loan, or other thing of value from a close personal friend, parent, spouse, child, or other close relative when the circumstances make it clear that the family or personal relationships involved are the motivating factors; and

(2) Participate (together with his wife or a member of his immediate family) in an inaugural flight, a ship launching, or similar event, and accept meals, accommodations, and entertainment incidental thereto, provided the invitation is addressed to the Chairman of the Commission and the employee is selected for such participation by the Chairman after a determination that his participation is in the interest of the Commission and the Government.

(c) In an instance in which an employee, due to circumstances beyond his control, cannot graciously and without undue embarrassment decline food or refreshment at a meeting or gathering where he is properly in attendance as a part of his official responsibilities, he shall, within 48 hours thereafter, submit a written report to the Counselor concerning the matter with an explanation as to why declination was not reasonable. The Counselor shall personally review each report submitted under this paragraph and when the acceptance of the food or refreshment was not justified, or when such acceptances by one particular employee are frequent, the Counselor shall submit a written report on the matter to the Chairmen of the Commission and the Civil Service Commission with a recommendation for corrective action.

(d) A gift to or from an official superior or a subordinate fellow employee is regulated by § 3000.735-314(1).

(e) A gift or gratuity, the receipt of which is prohibited by paragraph (a) of this section or § 3000.735-314(1), shall be returned to the donor with a written explanation why the return is necessary. A copy of the written explanation shall be submitted to the Counselor for filing in the employee's Official Personnel Folder. When return of a gift is not possible, the gift or gratuity shall be submitted to the Counselor with a written explanation why the return is not feasible. The Counselor shall turn the gift or gratuity over to a public or private charity or charitable institution and make a record of its disposition.

(f) The Constitution (Art. 1, sec. 9, par. 8) prohibits an employee's acceptance from a foreign government, except with the consent of Congress, of any emolument, office, or title. The Congress has provided for the receipt and disposition of foreign gifts and decorations in 5 U.S.C. 7342 which applies to each employee by reason of § 3000.735-314(k). See also Executive Order 11320, 31 F.R. 15789, and the regulations pursuant thereto in 22 CFR Part 3 (as added, 32 F.R. 6569). Any such gift or thing which cannot appropriately be refused shall be submitted to the Counselor for transmittal to the State Department.

§ 3000.735-307 Outside employment and other activity.

(a) An employee whose annual rate of basic compensation from the Commission is \$20,000 or more shall not engage in any outside employment or professional practice, either on a paid or unpaid basis, other than teaching, lecturing, or writing as provided in paragraph (d) of this section.

(b) An employee shall not engage in outside employment or professional practice, either on a paid or unpaid basis, with or for a person whose business or other interests (1) are substantially dependent on, or may be affected by, postal rates, fees, or classifications, or (2) are

substantially dependent on providing property, a product, or service to, or for use in connection with, the Postal Service. The proscription in this paragraph applies whether the employee is employed by or associated with another person or is in business or practice by himself.

(c) An employee shall not engage in outside employment or other outside activity not clearly compatible with the full and proper discharge of the duties and responsibilities of his employment with the Commission. Incompatible activities include, but are not limited to.

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of value in circumstances in which acceptance may result in, or create the appearance of, a conflict of interest, including the receipt of any thing of value for the sale or leasing of real or personal property to the Commission or the Postal Service or for service as a consultant to a contractor or other person who has, or who the employee knows is apt to have, business with the Commission or the Postal Service;

(2) Outside employment which tends to impair the employee's mental or physical capacity to perform his Commission duties and responsibilities in an acceptable manner,

(3) Outside employment or activity that is likely to result in criticism of, or cause embarrassment to, the Commission;

(4) Contracting with the Government either directly or through an organization controlled or directed by Government employees, except when advance, express, written permission is obtained from the Counselor on the basis of a finding that the case is exceptional in that the needs of the Government cannot reasonably be otherwise obtained (see 41 CFR 1-1.302-3),

(5) Outside employment or activity including the endorsement of a commercial or business product, which involves the use or exploitation of

the employee's official title, role, position, or authority, or the use of Government resources such as space, personnel, supplies, equipment, or vehicles, or

(6) Outside employment or activity involving Federal taxes if the work on such taxes extends beyond the mere preparation of a tax return or the furnishing of information to the Internal Revenue Service obtained solely from the records of a taxpayer. An employee shall not become involved either directly or indirectly in advocating a taxpayer's position, other than his own or that of his spouse.

(d) Within the limitations imposed by this section, employees are encouraged to engage in teaching, lecturing, and writing. However, an employee shall not, either on a paid or unpaid basis, engage in teaching, lecturing, or writing, including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Civil Service Commission or Board of Examiners for the Foreign Service, or for appointment in the United States Postal Service or the Commission, that is dependent on information obtained as a result of his employment with the Commission, except when that information has been made available to the general public or will be made available on request, or when the Counselor gives written authorization for the use of nonpublic information on the basis that the use is in the public interest. In addition, a Commissioner shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the Commission or the United States Postal Service, or which draws substantially on official data or ideas which have not become part of the body of public information.

(e) Neither this section nor § 3000.735-306 precludes an employee from

(1) Receipt of bona fide reimbursement unless prohibited by law or given under conditions that would compromise or appear to compromise the integrity of the employee or the Commission, for actual expenses for travel and such other necessary subsistence as is compatible with this Part and for which no Government payment or reimbursement is made. However, an employee may not be reimbursed, and payment may not be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor may an employee be reimbursed by a person for travel on official business under agency orders when reimbursement is proscribed by Decision B-128527 of the Comptroller General, 46 Comp. Gen. 689. (See § 3000.735-313(m) regarding reimbursement by a private foundation.) When an employee travels on official business he should use commercial transportation at Government expense and not accept free transportation from any person. In the event commercial transportation is not reasonably available for the needed travel, an employee may accept private transportation provided the person providing such transportation is reimbursed therefor at the standard commercial rate.

(2) Participation in the activities of national or State political parties not proscribed by law. (See § 3000.735-314(d) through (j) regarding proscribed political activities.)

(3) Participation in the affairs of, or acceptance of an award for a meritorious public contribution or achievement given by, a charitable, religious, professional, social, fraternal, nonprofit educational or recreational, public service, or civic organization.

(f) An employee who wishes to engage in outside employment or activity, including teaching, lecturing, or writing, shall obtain the prior written approval of the Counselor. A request for such approval shall be submitted to the Counselor in writing with sufficient description of the employment or activity to enable him to make an informed determination as to whether a conflict of interests or the appearance of a conflict of interests may be involved. A record of approval or disapproval made under this paragraph shall be filed in the employee's Official Personnel Folder. As a matter of general policy, outside or private professional work or practice (e.g., legal or accounting activities) by employees is discouraged and only in unusual circumstances will it be approved.

(g) The Commission may employ a person on extended leave of absence from a private employer when that is the way most advantageous to the Commission to obtain a needed, highly-qualified employee. When it is proposed to employ such a person, a written statement of the exact conditions of the leave of absence shall be submitted to the Counselor for an advance determination as to employability in the light of the conflicts of interest statutes and this Part. If employed, such an employee shall not be allowed to handle or have access to, either directly or indirectly, confidential business data of the private employer's competitors. The necessity for the continued employment of such an employee shall be reviewed annually by the Counselor.

(h) An employee who discusses or negotiates for future employment with any person which has business or other interests of the type described in paragraph (b) of this section, shall report that discussion or negotiation to the Counselor within 24 hours after the discussion or negotiation.

(i) This section does not apply to special Government employees who are subject to the provisions of § 3000.735-315.

§ 3000.735-308 Use of Government services and property.

An employee shall not directly or indirectly use, or allow the use of, Government services or property of any kind, including property leased to the Government, for other than officially approved activities. An employee has a positive duty to protect and conserve Government property including equipment, supplies, and other property entrusted or issued to him.

§ 3000.735-309 Misuse of official information.

(a) An employee shall not, particularly for the purpose of furthering a private interest, directly or indirectly use, or allow the use of, official information obtained through or in connection with his Government employment which has not been made available to the general public, except as provided in § 3000.735-307(d) relating to teaching, lecturing, and writing.

(b) An employee shall not divulge restricted official information outside the Commission, except as permitted under the instructions pertaining thereto and at the time authorized for its release.

§ 3000.735-310 Indebtedness.

An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee, or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which the Commission determines does not, under the circumstances, reflect adversely on the Commission as his employer. In the event of dispute between an employee and an alleged creditor, this section does not require the Commission to determine the validity or amount of the disputed debt.

§ 3000.735-311 Gambling, betting, and lotteries.

An employee shall not participate, while on Government-owned or leased property or while on duty for the Commission, in any gambling activity, including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket.

§ 3000.735-312 General standards of conduct; prejudicial conduct.

(a) An employee shall conduct himself on the job in such a manner that the work of the Commission is efficiently accomplished and courtesy, consideration, and promptness are observed in dealings with the Congress, the public, and other governmental agencies.

(b) An employee shall conduct himself off the job in such a manner as not to reflect adversely on the Commission or the Federal service.

(c) An employee, whether on or off the job, shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Commission or the Federal service.

(d) An employee shall not, other than as required by his official duties, recommend or suggest the use of any non-Governmental person offering services as an intermediary, consultant, agent, attorney, expediter, specialist, or the like for the purpose of assisting in any negotiations, transactions, or other business with the Commission or the United States Postal Service.

(e) Discrimination on the basis of race, color, religion, sex, or national origin is conduct prejudicial to the Government. An employee, while acting in his official capacity, shall not directly or indirectly authorize, permit, or participate in any action, event, or course of conduct which subjects any person to discrimination, or results in any person being discriminated against, on the basis of race, color, religion, sex, or national origin.

§ 3000.735-313 Miscellaneous statutory provisions.

Each employee shall acquaint himself with each statute that relates to his ethical and other conduct as an employee of the Commission and of the Government. In particular, attention of employees is directed to the following statutory provisions which are applicable to employees of the Commission

(a) Chapter 11 of Title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the employees concerned.

(b) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(c) The prohibitions against striking (5 U.S.C. 7311, 18 U.S.C. 1918).

(d) The prohibitions against (1) the disclosure of classified information (18 U.S.C. 798) and (2) the disclosure of confidential information (18 U.S.C. 1905).

(e) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719).

(f) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(g) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(h) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(i) The prohibitions against (1) embezzlement of Government money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

(j) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(k) The prohibitions concerning political solicitations and contributions (18 U.S.C. 602, 603, 607, and 608).

(l) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

(m) The tax imposed on certain employees (e.g., Presidential appointees, employees excepted under Schedule C, employees in GS-16 or above or a comparable pay level) who knowingly engage in self-dealing with a private foundation (26 U.S.C. 4941, 4946). "Self-dealing" is defined in the statute to include certain transactions involving an employee's receipt of pay, a loan, or reimbursement for travel or other expenses from, or his sale to or purchase of property from, a private foundation.

§ 3000.735-314 Statutory provisions prescribed for the Commission.

Pursuant to 39 U.S.C. 3604(d), and as authorized by 39 U.S.C. 410, the following regulations are prescribed for employees of the Commission on the basis of the statutory authority identified in each paragraph

(a)(1) For the purpose of this paragraph--

(i) "public official" means an employee in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals, or to recommend individuals for appointment, employment, promotion, or advancement, in connection with employment in the Commission; and

(ii) "relative" means, with respect to a public official, an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife,

father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(2) A public official may not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position in the Commission in which he is serving or over which he exercises jurisdiction or control any individual who is a relative of the public official. An individual may not be appointed, employed, promoted, or advanced in or to a civilian position in the Commission if such appointment, employment, promotion, or advancement has been advocated by a public official, serving in or exercising jurisdiction or control over the Commission, who is a relative of the individual.

(3) An individual appointed, employed, promoted, or advanced in violation of this paragraph is not entitled to pay, and money may not be paid from the Treasury as pay to an individual so appointed, employed, promoted, or advanced.

(4) The Civil Service Commission may prescribe regulations authorizing the temporary employment, in the event of emergencies resulting from natural disasters or similar unforeseen events or circumstances, of individuals whose employment would otherwise be prohibited by this paragraph.

(5) This paragraph shall not be construed to prohibit the appointment of an individual who is a preference eligible as defined in 5 U.S.C. 2108 in any case in which the passing over of that individual on an employment list will result in the selection for appointment of an individual who is not a preference eligible. (Source 5 U.S.C. 3110.)

(b) An individual may not accept or hold a position with the Commission if he participates in a strike against the Commission, the Government of

the United States, or the government of the District of Columbia.

(Source: 5 U.S.C. 7311.)

(c)(1) An individual convicted by any Federal, State, or local court of competent jurisdiction of--

(i) inciting a riot or civil disorder;

(ii) organizing, promoting, encouraging, or participating in a riot or civil disorder,

(iii) aiding or abetting any person in committing any offense specified in subdivision (i) or (ii); or

(iv) any offense determined by the Chairman of the Commission to have been committed in furtherance of, or while participating in, a riot or civil disorder,

shall, if the offense for which he is convicted is a felony, be ineligible to accept or hold any position in the Commission for the five years immediately following the date upon which his conviction becomes final. Any such individual holding a position in the Commission on the date his conviction becomes final shall be removed from such position.

(2) For the purpose of this paragraph, "felony" means any offense for which imprisonment is authorized for a term exceeding one year. (Source 5 U.S.C. 7313.)

(d) An employee is not obligated, by reason of his employment, to contribute to a political fund or to render political service, and he may not be removed or otherwise prejudiced for refusal to do so. (Source. 5 U.S.C. 7321.)

(e) An employee may not use his official authority or influence to coerce the political action of a person or body. (Source 5 U.S.C. 7322.)

(f) An employee may not request or receive from, or give to, another employee of the Commission, an officer or employee of a Government agency other than the Commission, a Member of Congress, or an officer of a uniformed service a thing of value for political purposes. An employee who violates this paragraph shall be removed from the Commission. (Source 5 U.S.C. 7323.)

(g)(1) An employee may not--

(i) use his official authority or influence for the purpose of interfering with or affecting the result of an election; or

(ii) take an active part in political management or in political campaigns. For the purpose of this subparagraph, the phrase "an active part in political management or in political campaigns" means those acts of political management or political campaigning which were prohibited on the part of employees in the competitive service (as defined in 5 U.S.C. 2102) before July 19, 1940, by determinations of the Civil Service Commission under the rules prescribed by the President.

(2) An employee to whom subparagraph (1) of this paragraph applies retains the right to vote as he chooses and to express his opinion on political subjects and candidates. (Source 5 U.S.C. 7324.)

(h) An employee who violates paragraph (g) of this section shall be removed from his position, and funds appropriated for the position from which removed thereafter may not be used to pay the employee. However, if the Civil Service Commission finds by unanimous vote that the violation does not warrant removal, a penalty of not less than 30 days' suspension without pay shall be imposed by direction of the Civil Service Commission. (Source 5 U.S.C. 7325.)

(i) Paragraph (g) of this section does not prohibit political activity in connection with--

(1) an election and the preceding campaign if none of the candidates is to be nominated or elected at that election as representing a party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected; or

(2) a question which is not specifically identified with a National or State political party or political party of a territory or possession of the United States.

For the purpose of this paragraph, questions relating to constitutional amendments, referendums, approval of municipal ordinances, and others of a similar character, are deemed not specifically identified with a National or State political party or political party of a territory or possession of the United States. (Source: 5 U.S.C. 7326.)

(j) The Civil Service Commission may prescribe regulations permitting employees to whom paragraph (g) applies to take an active part in political management and political campaigns involving the municipality or other political subdivision in which they reside, to the extent that the Civil Service Commission considers it to be in their domestic interest, when--

(1) the municipality or political subdivision is in Maryland or Virginia and in the immediate vicinity of the District of Columbia, or is a municipality in which the majority of voters are employed by the Government of the United States; and

(2) the Civil Service Commission determines that because of special or unusual circumstances which exist in the municipality or political subdivision it is in the domestic interest of the employees and individuals to permit that political participation. (Source: 5 U.S.C. 7327.)

(k)(1) For the purpose of this paragraph --

(i) "foreign government" means a foreign government and an official agent, or representative thereof;

(ii) "gift" means a present or thing, other than a decoration, tendered by or received from a foreign government; and

(iii) "decoration" means an order, device, medal, badge, insignia, or emblem tendered by or received from a foreign government.

(2) An employee may not request or otherwise encourage the tender of a gift or decoration.

(3) Congress consents to --

(i) the accepting and retaining by an employee of a gift of minimal value tendered or received as a souvenir or mark of courtesy; and

(ii) the accepting by an employee of a gift of more than minimal value when it appears that to refuse the gift would be likely to cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States. However, a gift of more than minimal value is deemed to have been accepted on behalf of the United States and shall be deposited by the donee for use and disposal as the property of the United States under regulations prescribed under 5 U.S.C. 7342.

(4) Congress consents to the accepting, retaining, and wearing by an employee of a decoration tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the Commission and the concurrence of the Secretary of State. Without this approval and concurrence, the decoration shall be deposited by the donee for use and disposal as the property of the United States under regulations

prescribed under 5 U.S.C. 7342. (Source: 5 U.S.C. 7342).

(1) an employee may not--

(1) solicit a contribution from another employee for a gift to an official superior;

(2) make a donation as a gift to an official superior; or

(3) accept a gift from an employee receiving less pay than himself.

An employee who violates this paragraph shall be removed from the Commission. (Source: 5 U.S.C. 7351). However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(m) An employee who habitually uses intoxicating beverages to excess may not be employed in the Commission. (Source: 5 U.S.C. 7352).

(n) Passenger motor vehicles and aircraft owned by the Commission or the Government shall be used exclusively for official purposes; and "official purposes" shall not include the transportation of employees between their domiciles and places of employment, except in cases of medical officers on out-patient medical service and except in cases of employees engaged in field work the character of whose duties makes such transportation necessary and then only as to such latter cases when the same is approved by the Chairman of the Commission. An employee who willfully uses or authorizes the use of any passenger motor vehicle or aircraft owned by the Commission or the Government, or of any passenger motor vehicle or aircraft leased by the Commission or the Government, for other than official purposes or otherwise violates the provisions of this paragraph shall be suspended without compensation, for not less than one month, and shall be suspended for a longer period or removed from the Commission if circumstances warrant. (Source: 31 U.S.C. 638a(c)(2)).

(o) It shall be unlawful for any employee to communicate in any manner or by any means, to any other person whom the employee knows or has reason to believe to be an agent or representative of any foreign government or an officer or member of any Communist organization as defined in 50 U.S.C. 782(5), any information of a kind which shall have been classified by the President (or the Chairman of the Commission, the Postmaster General, or the head of an executive agency as defined in 5 U.S.C. 105 with the approval of the President) as affecting the security of the United States, knowing or having reason to know that such information has been so classified, unless the employee shall have been specifically authorized by the President or the Chairman of the Commission to make such disclosure of such information. An employee who violates this paragraph is subject to the penalties provided in 50 U.S.C. 783 and legal actions under this paragraph are governed by that section. (Source: 50 U.S.C. 783.)

(p) When there is in effect a final order of the Subversive Activities Control Board determining any organization to be a Communist-action organization or a Communist-front organization, it shall be unlawful for any member of such organization, with knowledge or notice of such final order of the Board in seeking, accepting, or holding any office or employment with the Commission, to conceal or fail to disclose the fact that he is a member of such organization; or to hold an office or employment with the Commission. Also, it shall be unlawful for any employee of the Commission, with knowledge or notice of such final order of the Subversive Activities Control Board, to contribute funds or services to such organization; or to advise, counsel or urge any person, with knowledge or notice that such person is a member of such organization, to perform, or to omit to perform, any act if such act or omission would constitute a violation of any provision of this paragraph. (Source. 50 U.S.C. 784.)

§ 3000.735-315 Conduct and responsibilities of special Government employees.

(a) A special Government employee shall not use his employment with the Commission for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or another person, particularly one with whom he has family, business, or financial ties.

(b) A special Government employee shall not use inside information obtained as a result of his employment with the Commission for private gain for himself or another person whether by direct action on his part or by counsel, recommendation, or suggestion to another person, particularly one with whom he has family, business, or financial ties. For the purposes of this section, "inside information" means information obtained under Government authority which has not become part of the body of public information.

(c) A special Government employee who engages in teaching, lecturing, or writing, whether for or without compensation, shall not for such purposes make use of information obtained as a result of his employment with the Commission, except when that information has been made available to the general public or will be made available on request, or when the Counselor gives written authorization for the use of nonpublic information on the basis that such use is in the public interest.

(d) A special Government employee shall not use his employment with the Commission to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or another person, particularly one with whom he has family, business, or financial ties.

(e) Except as provided in paragraph (f) of this section, a special Government employee, while so employed or in connection with his employment, shall not receive or solicit from a person having business with the Commission anything of value as a gift, gratuity, loan, entertainment, or

favor for himself or another person, particularly one with whom he has family, business, or financial ties.

(f) Notwithstanding paragraph (c) of this section, a special Government employee shall be allowed the same latitude as is authorized for regular employees by paragraphs (b) and (c) of § 3000.735-306.

(g) Attention of special Government employees is directed to the provisions of § 3000.735-202, making the provisions of this Part generally applicable to their activities.

§ 3000.735-316 Additional prohibitions - special Government employees.

(a) In addition to the disqualification described in § 3000.735-302, a special Government employee is subject to the following major prohibitions.

(1) He may not, except in the discharge of his official duties

(i) Represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest and in which he has at any time participated personally and substantially for the Government (18 U.S.C. 203 and 205), or

(ii) Represent anyone else in a matter pending before the Commission unless he served there no more than 60 days during the previous 365 (18 U.S.C. 203 and 205). He is bound by this restraint despite the fact that the matter is not one in which he has ever participated personally and substantially.

(2) He may not, after his employment with the Commission has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government (18 U.S.C. 207(a)).

(3) He may not, for 1 year after his employment with the Commission has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibility during the last year of his employment with the Commission (18 U.S.C. 207(b)). (This temporary restraint is permanent if the matter is one in which he participated personally and substantially. See subparagraph (2) of this paragraph.)

(b) Exemptions or exceptions from the prohibitions described in paragraph (a) of this section are permitted under certain circumstances; for the method of obtaining such exemptions or exceptions, see § 3000.735-304.

Subpart D - Reporting Outside Employment and Financial Interests

§ 3000.735-401 General Standards.

The provisions in this Subpart D are in addition to the general standards relative to outside employment and other activity in § 3000.735-307. Regardless of whether or not a regular employee is required to file a statement of employment and financial interests under this subpart, a regular employee shall not engage in outside employment without obtaining the approval of the Counselor required by § 3000.735-307(f).

§ 3000.735-402 Reporting employment and financial interests - regular employees.

(a) Each Commissioner and the Counselor shall file a statement of employment and financial interests with the Chairman of the United States Civil Service Commission, Washington, D.C. 20415. The statement shall be submitted on the date of entrance on duty on a form and in a manner prescribed by the Chairman of the Civil Service Commission.

(b)(1) At the time of entrance on duty of an employee designated in paragraph (h) of this section, he shall submit a statement of employment and financial interest (referred to hereinafter in this subpart as the "statement") as provided in subparagraph (2) of this paragraph on the form "Confidential Statement of Employment and Financial Interests - Regular Employees" which shall be furnished by the Counselor. Changes in, or additions to, the information contained in an employee's statement shall be reported in a supplementary statement as of June 30 each year. If no changes or additions occur, a negative report is required. Notwithstanding the filing of the supplementary statement required by this subparagraph, each employee shall at all times avoid

acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts-of-interest provisions of 18 U.S.C. 208 or this Part.

(2) The statement shall be submitted in duplicate, the original to the Counselor and the copy to the Chairman of the Civil Service Commission, Washington, D.C. 20415. The statement shall be submitted in an envelope marked "Administratively Restricted -- To Be Opened Only By Authorized Reviewer".

(c) When completing a statement, an employee shall include both his own employment and financial interests, debts, and interests in real property and those of his spouse, minor child, and other member of his immediate household. For the purpose of this paragraph "member of his immediate household" means a full-time resident of the employee's household who is related to him by blood.

(d) Precise amounts of financial interests, indebtedness, and the value of real property need not be included on a statement; however, when the reviewer determines that such precise amounts are needed to make an adequate review, the employee shall disclose the precise amounts.

(e) If any information required to be included on a statement or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit the information in his behalf, except when the trust is a blind, no-control trust in which case a copy of the trust shall be submitted for review.

(f) This section does not require an employee to submit any information relating to his connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public

or a similar organization service, civic, or political organization/not conducted as a business enterprise. For the purpose of this section, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement.

(g) The statements and supplementary statements required of employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement by an employee does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law, order, or regulation.

(h) Each of the following designated employees shall submit a statement:

(1) An employee, other than a Commissioner and the Counselor who file separately under paragraph (a) of this section, who is paid basic compensation at a rate equivalent to or greater than the first step of grade GS-13.

(2) An employee not required to submit a statement under subparagraph (1) of this paragraph whose position is listed in Appendix B to this Part as a position which has been determined to have duties and responsibilities which require the incumbent to report employment and financial interests in order to avoid involvement in a possible conflicts-of-interest situation and to carry out the purpose of law, Executive order, and this Part (5 CFR 735.403(c)).

(i) An employee who believes that his position has been improperly included as one requiring the submission of a statement is entitled to

obtain a review of his complaint under the Commission's grievance procedure.

(j)(1) The Counselor shall hold each statement of employment and financial interests in confidence. The Counselor is responsible for maintaining the statement in confidence and shall not allow access to, or allow information to be disclosed from, a statement except to carry out the purpose of this subpart. The Counselor may not disclose information from a statement outside the Commission except as the Civil Service Commission or the Chairman of the Commission may determine for good cause shown.

(2) Statements shall be kept in envelopes marked "Administratively Restricted--To Be Opened Only by Authorized Reviewer". These envelopes shall be kept in a locked file or safe.

(k) A statement and any supplementary statements thereto shall be destroyed (1) two years after the employee is separated from the position which required the submission of the statement, (2) or two years after the employee leaves the Commission, or (3) when a position is deleted from Appendix B, two years after such deletion. The Counselor shall report to the Chairman of the Civil Service Commission when a statement and supplementary statements are destroyed.

§ 3000.735-403 Reporting employment and financial interests - special Government employees.

(a) At the time of appointment each special Government employee shall submit a statement as provided in § 3000.735-402(b)(2) on the form "Confidential Statement of Employment and Financial Interests --

Special Government Employees" which shall be furnished by the Counselor. A special Government employee shall keep his statement current during the period of his employment and shall submit a supplementary statement at the time of any reappointment. A negative report will suffice for the supplementary statement if no changes have occurred since the submission of the statement.

(b) Paragraphs (c), (d), (e), (f), (g), (j), and (k) of § 3000.735-402 are applicable to statements submitted under this section.

§ 3000.735-404 Reporting employment and financial interests - detailees.

(a) When a member of the uniformed services or an employee of a Government agency other than the Commission is assigned or detailed to the Commission to perform duties of a type that would require the submission of a statement if performed by an employee of the Commission, the individual so assigned or detailed (referred to in this section as a "detailee") shall submit a statement as provided in § 3000.735-402(b)(2) on the form "Confidential Statement of Employment and Financial Interests-- Regular Employee" which shall be furnished by the Counselor. The detailee shall submit the statement at the start of the detail and shall submit supplementary statements as required under § 3000.735-402(b)(1).

(b) Paragraphs (c), (d), (e), (f), (g), (i), (j), and (k), are applicable to statements submitted under this section.

§ 3000.735-405 Reviewing statements; remedial action.

(a) Each statement submitted under this subpart shall be reviewed by the Counselor and by the Chairman of the Civil Service Commission, or the designee of the Counselor or the Chairman of the Civil Service Commission.

The review is for the purpose of determining whether there exists a conflict, or appearance of conflict, between the interests of the employee or special Government employee concerned and the performance of his service for the Commission. If either the Counselor or the Chairman of the Civil Service Commission, or the designee of either, believes that such a conflict or appearance of conflict exists, the Counselor shall provide the employee with an opportunity to explain the conflict or appearance of conflict. If the Counselor concludes that remedial action should be taken, he shall refer the statement to the Chairman of the Commission, through the Chairman of the Civil Service Commission, with his recommendation for such action. The Chairman of the Commission, after consideration of the employee's explanation and such investigation as he considers appropriate, shall direct appropriate remedial action if he considers it necessary. If the Counselor concludes that remedial action is not necessary he may, with the concurrence of the Chairman of the Civil Service Commission, close the matter. If the Chairman of the Civil Service Commission concludes that remedial action is necessary, he shall recommend such action to the Chairman of the Commission.

(b) Remedial action pursuant to paragraph (a) of this section, or by reason of the violation of any provision in this Part, may include, but is not limited to:

- (1) Changes in assigned duties.
- (2) Divestment by the employee of his conflicting interest.
- (3) Disqualification for a particular action.
- (4) Exemption pursuant to § 3000.735-302(f).

(5) Disciplinary action. (See § 3000.735-205.)

(6) Termination of assignment or detail in the case of a detailee under § 3000.735-404.

Subpart E - Ex parte Communications

§ 3000.735-501 Ex parte communications prohibited.

An employee shall not, either in an official or unofficial capacity, participate in any informal or ex parte communication -- either oral or written -- with any person regarding a matter that is pending before the Commission or a matter that by reason of its relationship with the duties and responsibilities of the Commission is likely to become pending before the Commission. A matter is "pending before the Commission" when it is the subject of a proceeding controlled by rules adopted by the Commission under 39 U.S.C. 3624(b).

§ 3000.735-502 Public record of ex parte communications.

As informal or ex parte communications (either oral or written) may occur inadvertently notwithstanding § 3000.735-501, the employee who receives such a communication, shall -- within two workdays after the receipt of such a communication -- prepare a written report concerning the communication. The report shall identify the employee and the person or persons who participated in the ex parte communication; the circumstances which resulted in the communication; the substance of the communication; and the relationship of the communication to a matter pending or likely to become pending before the Commission. A copy of the report shall be submitted to each party in a matter pending before the Commission and to such Government agencies and person as may be reasonably expected to become

~~parties in a matter likely to become pending before the Commission.]~~

The report is a public record of the Commission and a copy thereof shall be available to any member of the public on request.

Effective Date: This Part shall be effective upon publication in the Federal Register.

United States Civil Service Commission

James C. Spry
Executive Assistant to
the Commissioners

January 28, 1971

MEMORANDUM FOR: RICHARD LITTELL
GENERAL COUNSEL
POSTAL RATE COMMISSION

FROM: JOHN W. DEAN, III
COUNSEL TO THE PRESIDENT

SUBJECT: Standards of Conduct Regulations -
Postal Rate Commission

Attached is a copy of the most recent draft of Postal Rate Commissions' Standard of Conduct regulations, which is provided for your information on the same basis as the former draft.

JWD:FFF:bav

January 25, 1971

MEMORANDUM FOR: JOHN W. DEAN

FROM: FRED F. FIELDING

SUBJECT: Postal Rate Commission - Standards
of Conduct Regulations

Richard Littell, the newly appointed General Counsel for the Postal Rate Commission, has requested that the Commission be given the opportunity to review the proposed regulations on standards of conduct, and to make any comments deemed appropriate. His position is as follows:

- a) Even though the Commission's comments would have no binding effect, they should have the right to suggest input in the regulations that would govern them.
- b) If the Commissioners are to be bound by these regulations once enacted, they should have some idea at this time of what will be expected of them so as to avoid problems from the outset.

Mr. Littell complained that this was the only Commission that did not write its own regulations. I advised him of the Executive mandate that these regulations be prepared independently of the Commission, but he seems to feel this is unrealistic and/or unfair. When advised that the regulations were not in final form, he noted that he did not only want to comment on the final draft, but also wanted to see the earlier drafts and others' comments thereon.

Mr. Littell has been badgering Karl Ruediger about this for a week, and Karl has refused his request on the basis of the policy we have set forth.

I told Littell I would bring his request to your attention for a final resolution.

FYI: Littell apparently was formerly a counsel for the CAB; he also requested that despite the language of the E.O., we immediately provide him with a "bootleg" copy, in "the time-honored tradition of the government." His request was denied. Littell's number is: 177-6001.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

SEP 14 1970

Honorable John N. Mitchell
Attorney General
Washington, D. C. 20530

Dear Mr. Attorney General:

There is enclosed, pursuant to the provisions of Executive Order No. 11030 of June 19, 1962, as amended, a proposed Executive order entitled "Providing for the Regulation of Conduct for the Postal Rate Commission and Its Employees."

The proposed order would provide for the establishment of special procedures for the regulation of the conduct of the Postal Rate Commission and its employees. The Commission was established by subchapter I of chapter 36 of title 39, United States Code (Public Law 91-375, approved August 12, 1970).

Under the provisions of Public Law 91-375, the Commission and its employees are subject to the same rules and regulations governing the conduct of other officers and employees of the executive branch (39 U.S.C. 410 and 3604(d)). However, because of the nature of the Commission's responsibilities and to insure complete independence and impartiality of the Commission's activities, proceedings, and decisions, special standards of conduct regulations for the Commission are considered to be desirable.

The proposed order would require the Civil Service Commission to prepare such regulations. The order would provide that such regulations are not to be limited by the terms of Executive Order No. 11222 of May 8, 1965, prescribing standards of ethical conduct for Government officers and employees, and shall include provision for concurrent filing of financial disclosure statements with the Postal Rate Commission and the Civil Service Commission; strict control of ex parte contacts between employees of the Commission and individuals having, or likely to have, business with the Commission; complete prohibition against receipt of honoraria, gifts, entertainment, and like favors from individuals having, or likely to have, business with the Commission; and filing of special reports with regard to offers of bribes or attempted use of undue influence, and violations of any law or regulations related to the Commission's responsibilities.

The proposed order would direct the Civil Service Commission to publish the standards of conduct regulations within 30 days from the effective date of the order.

The proposed order was submitted by the Chairman of the Civil Service Commission with a letter of September 4, 1970 (original and copy enclosed). The Chairman states that the order was prepared at the request of John W. Dean III, Counsel to the President, with the cooperation of Louis A. Cox, Deputy General Counsel of the Post Office Department, and Thomas E. Kauper, Deputy Assistant Attorney General, Office of Legal Counsel.

The proposed order has the approval of the Director of the Office of Management and Budget.

Sincerely,

(Signed) James P. Bradley

Acting General Counsel

Enclosures