



## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Office of the Secretary**

#### **45 CFR Part 73, 73a, and 73b**

#### **RIN 0991-AC40**

### **Standards of Conduct; Revocation of Superseded Regulations; Revision of Residual Provisions**

**AGENCY:** Office of the Secretary, Department of Health and Human Services.

**ACTION:** Final rule.

**SUMMARY:** The Department of Health and Human Services (Department or HHS) is revising and reissuing the Standards of Conduct, a set of substantive and procedural rules relating to conduct and employee responsibilities that augment the Standards of Ethical Conduct for Employees of the Executive Branch, the Supplemental Standards of Ethical Conduct for Employees of the Department of Health and Human Services, the Supplemental Financial Disclosure Requirements for Employees of the Department of Health and Human Services, the Employee Responsibilities and Conduct Regulation, and the Executive Branch Financial Disclosure regulations. The Department is removing provisions that have been superseded by these regulations or are otherwise obsolete or unnecessary to efficient administration. This final rule addresses conduct on Federal Government (Government) property and the use of Government funds or official information; restates existing standards for workplace courtesy; specifies rules for acceptance of gifts, travel, and employment from foreign governments and other non-Federal entities; provides notice of disciplinary actions available to address violations and prescribes the continuing employee obligation to report violations of rules or law to appropriate authorities. This revision adds a new section addressing Counter-Trafficking in Persons requirements in response to the Trafficking Victims Prevention and Protection Reauthorization Act of 2022 (P.L. 117-348). The rule also

continues and delineates restrictions on the political activity of commissioned officers of the United States Public Health Service, a category of employees not covered by the Hatch Act Reform Amendments of 1993, as amended.

**DATES:** This rule is effective **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

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**SUPPLEMENTARY INFORMATION:**

**I. Background**

This rule was first published in 1966, and was subsequently revised in 1981, 1986, and 1988. On August 7, 1992, the U.S. Office of Government Ethics (OGE) published the Standards of Ethical Conduct for Employees of the Executive Branch, which are codified at 5 CFR part 2635. See 57 FR 35006 (August 7, 1992), as amended. The Standards serve as the primary regulatory guidance on the standards of ethical conduct for officers and employees of the executive branch of the Government. The OGE Standards became effective on February 3, 1993, thus superseding many, but not all, of the regulations in the Department Standards of Conduct (45 CFR part 73) and the Food and Drug Administration Supplement (45 CFR part 73a). Subsequently, on July 30, 1996, the Department and OGE jointly published the Supplemental Standards of Ethical Conduct for Employees of the Department of Health and Human Services (5 CFR part 5501). See 61 FR 39755–39767 (July 24, 1997). These Supplemental Standards became effective upon publication, thus superseding many, but not all, of the regulations in the Department Standards of Conduct and the Food and Drug Administration Supplement that had not been superseded already by the OGE Standards. Furthermore, certain provisions in the Department Standards of Conduct and the Food and Drug Administration Supplement pertaining to employee financial disclosure, conflict of interest exemptions, and related matters have been superseded by the OGE regulations on

executive branch financial disclosure (5 CFR part 2634) and financial conflict of interest (5 CFR part 2640) and by HHS supplemental financial disclosure (5 CFR part 5502).

This rulemaking repeals parts 73 and 73a in their entirety and issues a new part 73. The new part 73 includes conduct rules previously published in part 73 that were not superseded and continue to be important to the efficient functioning of the Department and adds a new section on counter trafficking in persons as required by the Trafficking Victims Prevention and Protection Reauthorization Act of 2022. Many of the regulations have been revised because they were inconsistent with current legal standards implemented pursuant to other programmatic authorities.

Additionally, this rulemaking repeals part 73b, Debarment or Suspension of Former Employees. Part 73b was promulgated under the authority of the former 18 U.S.C. 207(j), which was repealed by the Ethics Reform Act of 1989, Sec. 101, Pub. L. 101–194, 103 Stat. 1716. Because 18 U.S.C. 207 no longer provides for debarment or suspension of former employees, part 73b is obsolete.

## **II. Analysis of the Regulations**

The following regulations will appear in the revised 45 CFR part 73:

### **Subpart A—General Provisions**

The provisions contained in subpart A state the purpose and applicability of the Standards. Subpart A also includes a definitions section. Unlike the repealed versions of parts 73 and 73a, the new version of part 73 does not exclude special Government employees (SGEs) from the definition of “employee” or from the various substantive provisions. Parts 73 and 73a formerly contained certain ethical restrictions, such as certain restrictions on outside activities (former subpart G) and financial interests (former subpart H), that were deemed unnecessary for SGEs; those ethical restrictions now have been superseded and no longer appear in the newly issued part 73, while the remaining provisions state generally applicable standards that are appropriately applied to all Department employees, including SGEs.

## **Subpart B—Conduct on the Job**

Subpart B (formerly subpart C) reissues several prior regulations governing various aspects of work-related conduct, updated with minor revisions. These include provisions governing courtesy and consideration, support for Department programs, use of funds, use of Government property, conduct in Federal buildings (including a cross-reference to applicable General Services Administration regulations), and miscellaneous work-related subjects. Conduct that is based on protected classes (i.e., race, color, religion, sex, national origin, age (40 and over) or sex) constitutes a violation of the Federal Sector Equal Employment Opportunity Regulation (29 CFR 1614), and thus falls within the purview of Title VII of the Civil Rights Act of 1964, as amended, and the HHS Office of Equal Employment Opportunity and Strategic Engagement and Partnerships. All other alleged harassment violations are covered by the HHS Anti-Harassment Policy and Procedures. A section on the use of official information was removed to avoid redundancy: Requirements on the use of official information are set forth in, for example, the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR part 2635), the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331), the criminal prohibition against disclosure of confidential government information (18 U.S.C. 1905), and the Privacy Act of 1974.

## **Subpart C—Counter Trafficking in Persons Requirements**

Subpart C is newly added in response to the Trafficking Victims Prevention and Protection Reauthorization Act of 2022 (P.L. 117-348), which was signed into law on January 5, 2023. Traffickers disproportionately exploit at-risk populations including individuals who have experienced or been exposed to other forms of violence (child abuse and maltreatment, interpersonal violence and sexual assault, community and gang violence) and individuals disconnected from stable support networks (runaway and homeless youth, unaccompanied children, persons displaced during natural disasters). Section 73.301 prohibits all employees from engaging in trafficking in persons during duty and non-duty hours. Section 73.302

specifies trafficking in persons training requirements for new and current employees, and refresher training requirements for all employees every two years. Section 73.303 addresses reporting requirements for employees for any suspected cases of trafficking in persons and any suspected misconduct, waste, fraud, or abuse relating to trafficking in persons.

#### **Subpart D—Gifts, Travel, and Employment**

Subpart D groups together provisions from the former part 73 governing gifts, travel, and outside employment with respect to subjects that are not covered by the OGE Standards or the HHS Supplemental Standards of Ethical Conduct. Section 73.401 covers acceptance of gifts and decorations from a foreign government. Section 73.402 covers receipt of cash or in-kind payment for official travel and related expenses from non-Federal sources; this section has been updated to account for the new authority under 31 U.S.C. 1353 and new Department implementing procedures as found in the Department of Health and Human Services Travel Policy Manual. Section 73.403 pertains solely to SGEs, and it indicates that SGEs must not simultaneously retain per diem payments from the Department and any other Federal agency for the same day.

#### **Subpart E—Political Activity**

Before the enactment of the Hatch Act Reform Amendments of 1993, each department or agency implemented the original Hatch Act in its own Standards of Conduct. Former subpart F of part 73 delineated the political activity restrictions for all HHS employees. However, the original Hatch Act and its subsequent amendments do not apply to commissioned officers of the Public Health Service. The subpart F regulations applied to Commissioned officers of the Public Health Service based on the authority of the Secretary of Health and Human Services (Secretary), 5 U.S.C. 301, to prescribe rules of conduct for Department employees and that of the Surgeon General of the Public Health Service, 42 U.S.C. 216, with the approval of the Secretary, to promulgate regulations necessary to the administration of the Public Health Service.

Following the Hatch Act Reform Amendments of 1993, the Office of Personnel Management (OPM) was empowered to issue uniform political activity regulations for employees of the Executive Branch that would supersede agency rules. Significant changes in the Hatch Act necessitated the creation of essentially two categories of employees for regulatory treatment: (1) those who were newly authorized to participate in partisan political activities off duty, away from the Government premises, and without any indication of a governmental connection, exemplified by the career and Schedule C employees, non-career Senior Executive Service (SES) officials, and Senate-confirmed Presidential appointees; and (2) those who remained subject to the highly restrictive standards that existed under prior law, such as the career SES employees, administrative law judges, members of boards of contract appeals, and specified employees at certain law enforcement and other agencies. The ensuing OPM regulations published at 5 CFR parts 733 and 734 rendered former subpart F of part 73 obsolete, with the exception of the continued applicability of the subpart to commissioned officers of the Public Health Service.

In reissuing and revising part 73, the political activity restrictions of former subpart F have been moved to a new subpart E. The regulations are modeled on the political activity provisions in subpart E of 5 CFR part 734 that are applicable to career SES employees and others who similarly remain under the restrictive standards of prior law. Although the new subpart E carries forward the rules previously applicable to uniformed service officers, the text has been updated to reflect amendments made to the Hatch Act. See Hatch Act Reform Amendments of 1993, sec. 2, Pub. L. 103–94, 107 Stat. 1004; Hatch Act Modernization Act of 2012, sec. 4, Pub. L. 112–230, 126 Stat. 1617; National Defense Authorization Act for Fiscal Year 2018, sec. 1097(k), Pub. L. 115–91, 131 Stat. 1615. The text has also been updated to reflect changes in Hatch Act interpretations by intervening court decisions and rulings of the United States Merit Systems Protection Board.

Section 73.501 clarifies that subpart E is applicable to the commissioned officers of the

Public Health Service on active or inactive duty. Following previous legal interpretations, the section clarifies that the Assistant Secretary for Health and the Surgeon General of the Public Health Service, as Senate-confirmed Presidential appointees, are not covered by the subpart. The Assistant Secretary for Health and the Surgeon General of the Public Health Service are accorded latitude to engage in partisan political activities to the same extent as other similarly situated political appointees. Although subpart E significantly impedes the ability of uniformed service officers to participate fully in the political process, section 73.502 outlines several activities in which the commissioned officers of the Public Health Service may lawfully participate. However, a detailed description of the prohibited political activities of those commissioned officers is contained in section 73.503. Both of these sections include illustrative examples for clarification. Section 73.504 lists certain permissible political activities for covered employees residing in designated localities in the Washington, DC metro area, and other municipalities with high concentrations of Federal employees, as, or on behalf of, an independent candidate running for election to a partisan political office in the municipality or political subdivision. Section 73.505 provides restrictions for covered employees residing in designated localities in the Washington, DC metro area, and other municipalities with high concentrations of Federal employees, involving political activities running as, or in support of, a representative of a political party for a local partisan political office. Any violation of this subpart is cause for disciplinary action under section 73.506.

#### **Subpart F—Disciplinary Action**

Subpart F (formerly subpart L) indicates that violations of the regulations in part 73, as well as conduct violations grounded in other regulations, including 5 CFR parts 735, 2634, 2635, 5501, and 5502, may be cause for disciplinary action. The general process for taking disciplinary action has been deleted because it is covered by internal Departmental guides. The former reference to the Code of Ethics for Government Service (Code) has been deleted; the statutory requirement to post the Code in Federal buildings was repealed by sec. 4(a),

Pub. L. 104–179 and the legislative history indicates that Congress no longer viewed the Code as adequately reflecting current ethical requirements for Executive Branch employees. See H. Rept. No. 104–595, at 8 (May 29, 1996). For similar reasons, the former Appendix B to part 73, which reproduced the Code in its entirety, also has been deleted.

### **Subpart G—Reporting Violations**

Former subpart M is reissued as subpart G. It contains regulations, updated with minor revisions, governing the responsibility of Department employees to report information concerning certain criminal violations (section 73.701) and noncriminal misconduct (section 73.702) to appropriate offices. Section 73.703 prohibits reprisals against individuals who make a complaint or report information pursuant to this subpart. A former section on referrals was removed. Paragraph (a) of former 45 CFR 73.735-1304, which addressed the Designated Agency Ethics Official referring any matter under the Standards to the Inspector General, has been superseded by 5 CFR § 2638.104 and has been removed. Paragraph (b) of former 45 CFR 73.735-1304, addressing referrals of criminal laws, is already addressed in the responsibilities of agency ethics officials regulation at (5 CFR 2638.104).

### **Former Subparts**

Former subpart B of part 73, Responsibilities, has been removed. Responsibilities are addressed in the Employee Responsibilities and Conduct regulations at 5 CFR part 735. The ethical obligations addressed in this former subpart have been superseded by OGE’s Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR part 2635). Former subpart D of part 73, Financial Obligations, has been removed. Employee financial obligations are addressed in OGE’s Standards of Ethical Conduct for Employees of the Executive Branch, Subpart A (5 CFR part 2635). Potential disciplinary measures are addressed in the Department’s Instruction 752, Corrective Action, Discipline and Adverse Actions.

Former subpart G of part 73, Outside Activities, has been removed. Outside activities are



addressed in OGE's Standards of Ethical Conduct for Employees of the Executive Branch, Subpart H (5 CFR part 2635), Limitations on Outside Earned Income, Employment and Affiliations for Certain Noncareer Employees (5 CFR part 2636), and in the Supplemental Standards of Ethical Conduct for Employees of the Department of Health and Human Services (5 CFR part 5501).

Former subparts H and I of part 73, Financial Interest and Reporting Financial Interests, respectively, have been removed. They have been superseded or pertain to the implementation of standards that have been superseded by OGE's regulations on financial conflicts of interest (5 CFR part 2640) and executive branch financial disclosures (5 CFR part 2634) and by the HHS supplemental financial disclosure regulation (5 CFR part 5502). Former subparts J and K of part 73, Provisions Relating to Experts, Consultants and Advisory Committee Members and Special Government Employees Other Than Consultants, respectively, have been removed. As noted earlier, Subpart A of part 73 no longer excludes SGEs from the definition of "employee" or from various substantive provisions. One provision under former subpart J, which indicates that SGEs must not simultaneously retain per diem payments from the Department and any other Federal agency for the same day, was moved into the new subpart C of part 73.

Former subpart N of part 73, Conduct and Responsibilities of Former Employees, has been removed. Post government employment restrictions are now addressed in OGE's Post-Employment Conflict of Interest Restrictions regulations (5 CFR part 2641).

### **Former Appendices A and B to Part 73**

The former Appendix A to part 73 was added to the Department Standards of Conduct in 1988. See 53 FR 4409-4411 (February 16, 1988). The purpose of the former Appendix A was to provide employees with a specific and more readily understood listing of many of the offenses for which disciplinary action may be taken. Since then, new policy guidelines have been issued covering such offenses. See, e.g., HHS Instruction 752, Corrective Action,

Discipline and Adverse Actions. As such, the former Appendix A has been deleted in its entirety. For reasons discussed above, former Appendix B has been deleted in its entirety as well.

#### **Former 45 CFR Part 73a**

Part 73a, the Food and Drug Administration (FDA) Supplement to the Department Standards of Conduct is being removed in its entirety. All substantive provisions in part 73a have been superseded by subsequent regulations (5 CFR parts 2634, 2635, 2640, 5501, and 5502), and all procedural or administrative provisions are deemed obsolete or unnecessary to the effective administration of the FDA.

#### **Former 45 CFR Part 73b**

Part 73b, the Department regulations on Debarment or Suspension of Former Employees, is being removed in its entirety. The statutory authority for debarment or suspension as a penalty for violation of the post-employment restrictions of 18 U.S.C. 207 was repealed in 1989. Ethics Reform Act of 1989, sec. 101, Pub. L. 101–194, 103 Stat. 1716 (November 30, 1989). Therefore, part 73b is obsolete.

### **III. Matters of Regulatory Procedure**

#### *Administrative Procedure Act*

The general proposed notice and comment rulemaking procedures of 5 U.S.C. 553 of the Administrative Procedure Act (APA) are not applicable because the provisions of this rule are “rules of agency organization, procedure, or practice” within the meaning of section 5 U.S.C. 553(b)(A) and involve a “matter relating to agency management and personnel” within the meaning of section 5 U.S.C. 553(a)(2). Therefore, publication in the Federal Register of a notice of proposed rulemaking and request for comments is not required. Furthermore, the Department has found that good cause exists under 5 U.S.C. 553(b) and (d) for waiving, as unnecessary, the general notice of proposed rulemaking and the 30-day delay in effective date as to this final rule. This rule primarily removes regulatory provisions that

are already superseded or obsolete and reissues regulations substantially the same as other regulations that are already in effect. The rule, including the newly added counter trafficking in persons requirements, imposes no obligation on parties outside the Federal Government and no advance notice is required to enable employees to come into compliance.

#### *Executive Orders 12866, 13563, and 14094*

Executive Orders 12866 (Regulatory Planning and Review), 13563 (Improving Regulation and Regulatory Review), and 14094 (Modernizing Regulatory Review) requires agencies to conduct a regulatory analysis for economically significant regulatory actions, assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches where the benefits of the rule “justify the costs.” The Department of Health and Human Services has determined that this rule is exempt from the requirements of Executive Orders 12866, and 13563, and is not subject to review by the Office of Management and Budget (OMB), inasmuch as its scope is limited to agency organization, management, or personnel matters. Pursuant to section 3(d)(3) of Executive Order 12866 and section 1(b) of Executive Order 13563, this rulemaking is not defined as a “regulation” or “rule” within the meaning of the orders and thus is not subject to the principles, procedures, or review specified in the Executive Orders.

#### *Executive Order 12988, Civil Justice Reform*

The Department of Health and Human Services has reviewed this rule as provided in section 3 of Executive Order 12988 and determines that this rule meets the applicable standards in the Executive Order.

#### *Regulatory Flexibility Act*

The Department of Health and Human Services has determined under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this regulation will not have a significant economic impact on a substantial number of small business entities because it affects only HHS employees.

### *Information Collection Requirements*

The Information collection requirements in this part are approved by the Office of Management and Budget and assigned OMB control number XXX-XXXX.

### *Congressional Review Act*

This rulemaking is not subject to the Congressional review requirements in 5 U.S.C. 801–808 because the term “rule,” within the meaning of the Act, does not include “any rule relating to agency management or personnel” or “any rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.”

### *Executive Order 13132, Federalism*

The Department of Health and Human Services has determined that this rule does not have “federalism implications” as defined by section 1(a) of Executive Order 13132. The rule does not have “substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government” and therefore is not subject to Executive Order 13132.

## **List of Subjects**

### **45 CFR Part 73**

Administrative practice and procedure, Conduct standards, Government employees, Government property, Political activities (Government employees).

### **45 CFR Part 73a**

Conflicts of interests.

### **45 CFR Part 73b**

Administrative practice and procedure.

For the reasons stated in the preamble, the Department of Health and Human Services amends 45 CFR subchapter A to read as follows:

1. Revise and republish part 73 to read as follows:

## **PART 73—STANDARDS OF CONDUCT**

### **Subpart A—General Provisions**

#### **Sec.**

73.101 Purpose.

73.102 Definitions.

73.103 Applicability.

### **Subpart B—Conduct on the Job**

#### **Sec.**

73.201 Courtesy and consideration for others.

73.202 Support of Department programs.

73.203 Use of Government funds.

73.204 Use of Government property.

73.205 Conduct in Federal buildings.

73.206 Other prohibitions.

### **Subpart C—Counter Trafficking in Persons Requirements**

#### **Sec.**

73.301 Prohibition.

73.302 Training.

73.303 Reporting.

### **Subpart D—Gifts, Travel, and Employment**

#### **Sec.**

73.401 Gifts and decorations from foreign governments.

73.402 Acceptance of travel and subsistence.

73.403 Payments to special Government employees from two sources.

### **Subpart E—Political Activity**

#### **Sec.**

73.501 Applicability.

73.502 Permitted activities.

73.503 Prohibited activities.

73.504 Designated localities—permitted local political activities for covered employees who reside in a municipality or political subdivision designated by the Office of Personnel Management.

73.505 Designated localities—prohibited local political activities for covered employees who reside in a municipality or political subdivision designated by the Office of Personnel Management.

73.506 Penalties.

### **Subpart F—Disciplinary Action**

#### **Sec.**

73.601 Disciplinary action.

### **Subpart G—Reporting Violations**

#### **Sec.**

73.701 Responsibility for reporting possible criminal violations.

73.702 Responsibility for reporting allegations of misconduct.

73.703 Prohibition of reprisals.

Authority: 5 U.S.C. 301.

## **Subpart A—General Provisions**

### **§ 73.101 Purpose.**

The Department of Health and Human Services Standards of Conduct (Standards) prescribe employee rules of conduct and procedure and provide for disciplinary action for the violation of the Standards and other rules, regulations, or laws governing Department employees. These Standards are separate from and additional to the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR part 2635), the Supplemental Standards of Ethical Conduct for Employees of the Department of Health and Human Services (5 CFR part 5501), the Supplemental Financial Disclosure Requirements for Employees of the Department of Health and Human Services (5 CFR part 5502), the Employee Responsibilities and Conduct regulations (5 CFR part 735), and the Executive Branch Financial Disclosure regulations (5 CFR part 2634).

### **§ 73.102 Definitions.**

*Commissioned officer* means either a commissioned officer of the Regular Corps or a commissioned officer of the Ready Reserve Corps of the Public Health Service.

*Department* and *HHS* mean the Department of Health and Human Services.

*Employee* means an officer of the Department or an individual who is employed by the Department. Status as an employee is unaffected by pay or leave status. The term includes:

- (1) Special Government employees;
- (2) Commissioned officers of the Public Health Service on active or inactive duty;
- (3) An HHS employee who is assigned to a non-Federal entity under the Intergovernmental Personnel Act of 1970, as amended (5 U.S.C. 3371–3376), whether on leave without pay or on detail; and
- (4) A non-Federal employee who is appointed to an HHS position or who is serving

on detail to HHS under the Intergovernmental Personnel Act of 1970, as amended.

(5) An HHS employee who is detailed to another Executive Branch agency or elsewhere within the Federal Government.

*Foreign government* means:

(1) Any unit of foreign government authority, including any foreign national, State, local, and municipal government, and their foreign equivalents;

(2) Any international or multinational organization whose membership is composed of any unit of foreign government described in paragraph (1) of this definition; or

(3) Any agent or representative of any such unit described in paragraph (1) of this definition or any organization described in paragraph (2) of this definition, while acting as such agent or representative.

*Gift* means a monetary or non-monetary present (other than a decoration) offered by or received from a foreign government.

*Government* means the United States Government.

*Inspector General* means the Office of Inspector General at the Department of Health and Human Services.

*Minimal value* means a retail value in the United States at the time of acceptance that is at or below the dollar value established by the General Services Administration pursuant to the Foreign Gifts and Decorations Act, 5 U.S.C. 7342(a)(5). This value is published by the General Services Administration in a Federal Management Regulation Bulletin at [www.gsa.gov/personalpropertypolicy](http://www.gsa.gov/personalpropertypolicy).

*Severe forms of trafficking in persons* has the meaning given at 22 U.S.C. 7102(11):

(1) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion or in which the person induced to perform such act has not attained 18 years of age; or



(2) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery.

*Sex trafficking* has the meaning given at 22 U.S.C. 7102(12): the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act.

*Special Government employee* means an officer or employee who, as specified in 18 U.S.C. 202(a), is retained, designated, appointed, or employed to perform temporary duties either on a full-time or intermittent basis, with or without compensation, on no more than 130 days during any consecutive 365-day period.

### **§ 73.103 Applicability.**

Unless otherwise indicated (see subpart D of this part), the Standards of this part apply to all employees as defined in § 73.102.

## **Subpart B—Conduct on the Job**

### **§ 73.201 Courtesy and consideration for others.**

(a) An employee's conduct on the job is, in all respects, of concern to the Federal Government. Courtesy, consideration, and promptness in dealing with the public must be shown in carrying out official responsibilities, and actions that deny the dignity of individuals or conduct that is disrespectful to others must be avoided. Employees must recognize that inattention to matters of common courtesy can adversely affect the quality of service the Department is responsible for providing. Where appropriate, courtesy to the public should be included in the standards for evaluating employee performance.

(b) Of equal importance is the requirement that courtesy be shown in day-by-day interaction with co-workers. Employees must be polite to and considerate of other employees and must respect their needs and concerns in the work environment.

### **§ 73.202 Support of Department programs.**

(a) When a Department program is based on law, Executive order, or regulation, every employee has a positive obligation to make the program function as efficiently and economically as possible and to support it as long as it is a part of recognized public policy. An employee may, therefore, properly make an address explaining a Department program, citing its achievements, defending it against uninformed or unjust criticism, or soliciting views for improving it.

(b) An employee must not, either directly or indirectly, use appropriated funds to initiate or support grassroots lobbying efforts aimed at influencing constituents to urge a Member of Congress to favor or oppose pending legislation, subject to such exceptions as are recognized to 18 U.S.C. 1913 or similar appropriation riders. This requirement does not apply to the official handling, through the proper channels, of matters relating to legislation in which the Department has an interest. Moreover, when authorized by an employee's supervisor, an employee is not prohibited from:

(1) Testifying, on request, as a representative of the Department on pending legislation or proposals before congressional committees; or

(2) Assisting congressional committees in drafting bills or reports on request, when it is clear that the employee is serving solely as a technical expert under the direction of committee leadership.

(c) All employees must be familiar with regulations and published instructions that relate to their official duties and responsibilities and must comply with those directives. This includes carrying out proper orders from officials authorized to give them.

(d) Employees are required to assist the Inspector General and other HHS investigative officials in the performance of their duties and functions. This requirement includes providing statements and evidence to investigators of the Inspector General or other HHS investigators authorized to conduct investigations into potential violations.

(e) In accordance with 5 U.S.C. 7211, employees, individually or collectively, may petition Congress or a Member of Congress and may furnish information to either House of Congress or to a committee or Member thereof, when acting in their personal capacities and not using Government time, funds, or property.

**§ 73.203 Use of Government funds.**

(a) An employee must not:

(1) Improperly use official travel;

(2) Improperly use payroll and other vouchers and documents on which Government payments are based;

(3) Take or fail to account for funds with which the employee is entrusted in the employee's official position; or

(4) Take other Government funds for personal use.

Violations of these prohibitions carry criminal penalties.

(b) In addition, employees must avoid wasteful actions or behavior in the performance of their assigned duties.

**§ 73.204 Use of Government property.**

(a) An employee must not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities or authorized purposes. An employee to whom Government property has been entrusted or issued, including equipment, supplies, and other property, has a positive duty to protect and conserve these public assets.

(b) Employees may have limited personal use of HHS information and information technology resources, including HHS email, systems, instant messaging tools, and Government-furnished equipment (e.g., laptops and mobile devices) only when the personal use will:

(1) Involve no more than minimal additional expense to the Government;

- (2) Be minimally disruptive to personnel productivity;
- (3) Not interfere with the mission or operations of the Department;
- (4) Not violate the Standards of Ethical Conduct for Employees of the Executive Branch, the Supplemental Standards of Ethical Conduct for Employees of the Department of Health and Human Services, the Hatch Act, or other applicable law or regulation; and
- (5) Comport with all applicable HHS directives and policies governing the use of information technology, including, but not limited to, the following Departmental issuance: HHS Rules of Behavior for the Use of HHS Information and IT Resources Policy or its successive iteration in effect at the time of the use.

(c) Employees may drive or use Government passenger motor vehicles or aircraft only on official business. In accordance with 31 U.S.C 1349(b), the use of a passenger motor vehicle or aircraft owned or leased by the Government for non-official purposes may result in suspension for at least one month or removal from the Federal service.

#### **§ 73.205 Conduct in Federal buildings.**

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

(b) An employee must not, while in or on Government-owned or Government-leased property or while on duty for the Government, solicit alms (including money and non-monetary items) and contributions, engage in commercial soliciting and vending, display or distribute commercial advertisements, or collect private debts.

(c) The prohibitions in paragraphs (a) and (b) of this section do not preclude:

- (1) Activities necessitated by an employee's law enforcement duties;
- (2) Participation in federally sponsored fundraising activities conducted pursuant to 5 CFR part 950, or similar HHS-approved activities; or

(3) Buying a lottery ticket at an authorized State lottery outlet for a lottery authorized by State law and conducted by an agency of a State within that State.

(d) The General Services Administration's Federal Management Regulations on "Conduct on Federal Property," codified under 41 CFR part 102-74, subpart C, apply to all property under the control of the General Services Administration, and those regulations are also applicable to all buildings and space under the control of this Department. The General Services Administration regulations prohibit, among other things, gambling, being intoxicated, and possession, distribution, or use of narcotic or dangerous drugs on the premises.

#### **§ 73.206 Other prohibitions.**

Employees must avoid any action, irrespective of whether it is specifically prohibited by this part, that might result in or create the appearance of:

- (a) Impeding Government efficiency or economy; or
- (b) Making a Government decision outside of official channels.

#### **Subpart C---Counter Trafficking in Persons Requirements**

##### **§ 73.301 Prohibition.**

Severe forms of trafficking in persons (i.e., human trafficking), as defined in § 73.102, is a public health issue that impacts individuals, families, and communities. Human trafficking for labor or commercial sex are federal crimes and include punishment up to life in prison (18 U.S.C. chapter 77). All Department employees are prohibited from engaging in severe forms of trafficking in persons during duty and non-duty hours.

##### **§ 73.302 Training.**

(a) HHS plays a vital role in efforts to counter trafficking in persons worldwide and federal law requires that all federal employees be sensitized to human trafficking and have

the tools necessary to prevent, recognize and address human trafficking offenses. All Department employees are required to complete HHS-prescribed training.

(1) All Department employees of record on the effective date of this part will complete initial training to raise overall awareness of human trafficking and its various manifestations, including labor and sex trafficking, and to inform employees of their obligations under this subpart.

(2) All Department employees hired after the effective date of this part must complete initial human trafficking training within 90 days of appointment.

(3) All Department employees must complete refresher human trafficking training every two years.

(b) Supervisors are required ensure that subordinates complete all required training. Employees who fail to complete required training may be deemed in violation of this policy and may be subject to disciplinary action as addressed in subpart F of this part.

### **§ 73.303 Reporting.**

All Department employees must report to the HHS Office of the Inspector General and agency trafficking in persons point of contact any suspected cases of severe forms of trafficking in persons and any suspected misconduct, waste, fraud, or abuse relating to severe forms of trafficking in persons (e.g., procuring a commercial sex act, using forced labor, denying access to immigration documents, using misleading recruitment of employees) that involve:

(1) HHS personnel; or

(2) HHS programs or other efforts funded by HHS or programs that involve HHS personnel; or

(3) The Department's contractors, sub-awardees, grantees, or cooperative agreement recipients. Employees who fail to report actual or suspected severe trafficking in persons cases may be deemed in violation of this policy and may be subject to disciplinary action as

addressed in subpart F of this part.

## **Subpart D—Gifts, Travel, and Employment**

### **§ 73.401 Gifts and decorations from foreign governments.**

(a) An employee may not request or otherwise encourage the tender of a gift or decorations from a foreign government or official of a foreign government.

(b) An employee may accept from a foreign government:

(1) A gift which is in the nature of medical treatment or an educational scholarship;

(2) A tangible gift of minimal value, as defined in § 73.102, tendered or received as a mark of courtesy;

(3) A tangible 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, the acceptance of such a gift would be on behalf of the United States and the gift would become the property of the United States. Employees should refer to internal Department guides for information regarding the disposition of a gift accepted under these circumstances.

(4) An employee may accept from a foreign government gifts of travel or expenses for travel (such as transportation, food, and lodging) taking place entirely outside the United States of more than minimal value, as defined in § 73.102, if such acceptance is appropriate, consistent with the interests of the United States, and approved by the travel approving authority) in accordance with the HHS Travel Policy Manual.

(5) An employee may accept, retain, and wear 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 Secretary or the Secretary's designee.

(c) An employee's spouse (unless they are separated) and dependents (within the meaning of section 152 of the Internal Revenue Code of 1986) are also subject to the

regulations in this section. However, if a member of an employee's family and household is employed by another agency of the Government, the offer or acceptance of a gift shall be treated under the regulations of that agency.

#### **§ 73.402 Acceptance of travel and subsistence.**

Employees may accept and may utilize accommodations, subsistence, and travel in cash or in-kind from a non-Federal source in connection with official travel for attendance at meetings, conferences, training in nongovernmental facilities or for performing advisory services, only if approved in accordance with the provisions of the HHS Travel Policy Manual. (5 U.S.C. 4111; 31 U.S.C. 1353; 42 U.S.C. 3506.)

#### **§ 73.403 Payments to special Government employees from two sources.**

The Department may not pay per diem to a special Government employee who also receives per diem pay for the same day from another Government agency (whether from within or from outside the Department). Erroneous payments in contravention of this provision will be subject to collection, and any special Government employee who willfully collects double payments may be barred from further employment.

### **Subpart E—Political Activity**

#### **§ 73.501 Applicability.**

(a) The regulations in this subpart apply to the commissioned officers of the Public Health Service on active or inactive duty, other than the Assistant Secretary for Health and the Surgeon General. For purposes of this subpart, these commissioned officers are referred to as "covered employees." Commissioned officers serving in the Ready Reserve Corps, not on active or inactive duty, should avoid inferences that their political activities imply or appear to imply official sponsorship, approval, or endorsement by the Department. All Department employees, including commissioned officers of the Public Health Service on active or inactive duty, are subject to the criminal provisions governing political activity contained in chapter 29 of title 18, United States Code (18 U.S.C. 592–611).



(b) An employee who is appointed by the President by and with the advice and consent of the Senate to serve in the position of Assistant Secretary for Health or Surgeon General of the Public Health Service, who may serve simultaneously as a commissioned officer of the Public Health Service, is not covered by this subpart. The Assistant Secretary for Health and the Surgeon General of the Public Health Service are executive agency employees:

(1) The duties and responsibilities of whose positions continue outside normal duty hours and while away from the normal duty post; and

(2) Who are appointed by the President by and with the advice and consent of the Senate (PAS) whose positions are located within the United States and who determine policies to be pursued by the United States in the nationwide administration of Federal laws; and, as such, irrespective of the appointees' status as commissioned officers, the Assistant Secretary for Health and the Surgeon General of the Public Health Service are subject to the political activity restrictions contained in subchapter III of chapter 73 of title 5, United States Code, and the implementing regulations in 5 CFR parts 733 and 734, that are applicable to other PAS positions within the Department, except the Inspector General.

(c) Each employee covered under this subpart is individually responsible for refraining from prohibited political activity and is accountable for political activity by another person acting as the employee's agent or under the employee's direction or control if the employee is thus accomplishing indirectly what the employee may not lawfully do directly and openly.

(d) Each employee covered under this subpart is subject to the subpart's restrictions, even where the covered employee is on paid leave, compensatory time off, credit hours, time off as an incentive award, or excused or authorized absence (including leave without pay), and even where the employee's resignation has been accepted. A separated employee who has received a lump-sum payment for annual leave is not subject to the restrictions during the

period covered by the lump-sum payment or thereafter if the payment has ended the individual's employment with the Federal Government and provided the individual does not return to Federal employment during that period. A covered employee is subject to the prohibitions contained in this subpart for 24 hours per day and is not permitted to take annual leave or a leave of absence to work with a political candidate, committee, or organization, or to become a candidate for office with the understanding that the employee will resign the employee's position if nominated or elected.

**§ 73.502 Permitted activities.**

(a) *Expression of an employee's individual opinion.* Each employee covered under this subpart retains the right to participate in any of the following political activities, as long as the activity is not performed in concert with a political party, a partisan political group, or a candidate for partisan political office:

(1) Express the employee's opinion as an individual privately and publicly on political subjects and candidates;

(2) Display a political picture, sign, sticker, badge, or button, as long as these items are displayed in accordance with the provisions of § 73.403(a);

(3) Sign a political petition as an individual;

(4) Be politically active in connection with a question that is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance, or any other question or issue of a similar character; and

(5) Otherwise participate fully in public affairs, except as prohibited by other Federal law, in a manner that does not compromise the employee's efficiency or integrity as an employee or the neutrality, efficiency, or integrity of the agency or instrumentality of the United States Government where the employee is employed.

*Example 1 to paragraph (a):* A covered employee may purchase airtime on a radio or television station personally to endorse a partisan political candidate. However, the employee

may not endorse such a candidate in a commercial or program that is sponsored by the candidate's campaign committee, a political party, or a partisan political group.

*Example 2 to paragraph (a):* A covered employee may address a political convention or rally but not on behalf of, or at the request of, a political party, a partisan political group, or an individual who is running for the nomination or as a candidate for election to partisan political office.

*Example 3 to paragraph (a):* A covered employee may print at the employee's own expense one thousand fliers that state that employee's personal opinion that a partisan political candidate is the best suited for the job. The employee may distribute the fliers at a shopping mall on the weekend. However, the employee may not distribute fliers printed by the candidate's campaign committee, a political party, or a partisan political group.

*Example 4 to paragraph (a):* A covered employee may place in the employee's yard a sign supporting a candidate for partisan political office.

*Example 5 to paragraph (a):* A covered employee may stand outside of a political party convention with a homemade sign that states the employee's individual opinion that one of the candidates for nomination is the best qualified candidate.

*Example 6 to paragraph (a):* A covered employee may wear a button with a partisan political theme when the employee is not on duty or at the place of work, provided that the employee is not in uniform.

(b) *Participation in elections.* Each employee covered under this subpart retains the right to:

(1) Register and vote in any election;

(2) Take an active part, in accordance with the provisions of § 73.404 and subject to the prohibitions in §§ 73.403 and 73.405, as an independent candidate, or in support of an independent candidate, in a partisan election in localities designated as permissible for such

activities by the Office of Personnel Management pursuant to 5 CFR 733.107.

(3) Take an active part, as a candidate or in support of a candidate, in a nonpartisan election; and

(4) Serve as an election judge or clerk, or in a similar position, to perform nonpartisan duties as prescribed by State or local law.

(c) *Participation in political organizations.* Each employee covered under this subpart retains the right to:

(1) Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization, or of a similar organization;

(2) Be a member of a political party or other partisan political group and participate in its activities to the extent consistent with this subpart and Federal law;

(3) Attend a political convention, rally, fund-raising function, or other political gathering; and

(4) Make a financial contribution to a political party, to a partisan political group, or to the campaign committee of a candidate for partisan political office.

*Example 7 to paragraph (b):* A covered employee may attend a political convention or rally solely as a spectator. However, the employee may not participate in demonstrations or parades that are sponsored by a political party, a partisan political group, or an individual who is running for nomination to be a candidate for partisan political office.

*Example 8 to paragraph (b):* A covered employee may attend a political party's annual barbecue, but an employee may not organize, distribute invitations to, or sell tickets to the barbecue.

(d) *Campaigning for a spouse or family member.* An employee covered under this subpart who is the spouse or family member of either a candidate for partisan political office, or a candidate for political party office, may appear in photographs of the candidate's

family that might appear in a political advertisement, a broadcast, campaign literature, or similar material. A spouse or a family member who is a covered employee also may attend political functions with the candidate. However, the spouse or family member may not distribute campaign literature or solicit, accept, or receive political contributions.

*Example 9 to paragraph (d):* A covered employee who is the spouse of a candidate for partisan political office may stand in the receiving line and sit at the head table during a political dinner honoring the spouse.

*Example 10 to paragraph (d):* A covered employee who is the daughter or son of a candidate for partisan political office may appear in a family photograph that is printed in a campaign flier, but the employee may not distribute the flier at a campaign rally.

### **§ 73.503 Prohibited activities.**

*(a) Participation in political activities while on duty, in uniform, in any room or building occupied in the discharge of official duties or using a Federal vehicle; prohibition.*

An employee covered under this subpart may not participate in political activities:

- (1) While the employee is on duty;
- (2) While the employee is wearing a uniform, badge, insignia, or other similar item that identifies the employing agency or instrumentality or the position of the employee;
- (3) While the employee is in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency or instrumentality of the United States; or
- (4) While using a Government-owned or Government-leased vehicle or while using a privately owned vehicle in the discharge of official duties.

*Example 1 to paragraph (a):* A covered employee who uses the employee's privately owned vehicle on a recurrent basis for official business may place a partisan political bumper sticker on the vehicle, as long as the bumper sticker is covered while the vehicle is being

used for official duties.

*Example 2 to paragraph (a):* A covered employee who uses the employee's privately owned vehicle on official business must cover any partisan political bumper sticker while the vehicle is being used for official duties if the vehicle is clearly identified as being on official business.

*Example 3 to paragraph (a):* A covered employee who uses the employee's privately owned vehicle only on an occasional basis to drive to another Federal agency for a meeting, or to take a training course, is not required to cover a partisan political bumper sticker on the vehicle.

*Example 4 to paragraph (a):* A covered employee may not place a partisan political bumper sticker on any Government-owned or Government-leased vehicle.

*Example 5 to paragraph (a):* A covered employee may place a bumper sticker on the employee's privately owned vehicle and park the vehicle in a parking lot of an agency or instrumentality of the United States Government or in a non-Federal facility for which the employee receives a subsidy from the employing agency or instrumentality.

*Example 6 to paragraph (a):* A covered employee may not wear partisan political buttons or display partisan political pictures, signs, stickers, or badges while the employee is on duty or at the place of work.

(b) [Reserved]

(c) *Use of official authority; prohibition.* An employee covered under this subpart may not use the employee's official authority or influence for the purpose of interfering with or affecting the result of an election.

(d) *Participation in political management and political campaigning; prohibitions.* An employee covered under this subpart may not take an active part in political management or in a political campaign, except as permitted by this subpart.

(e) *Participation in political organizations; prohibitions.* An employee covered under this subpart may not:

(1) Serve as an officer of a political party; as a member of a national, State, or local committee of a political party; or as an officer or member of a committee of a partisan political group; or

(2) Be a candidate for any of the positions listed in paragraph (e)(1) of this section;

(3) Organize or reorganize a political party organization or partisan political group;

(4) Serve as a delegate, alternate, or proxy to a political party convention; or

(5) Address a convention, caucus, rally, or similar gathering of a political party or partisan political group in support of or in opposition to a candidate for partisan political office or political party office, if the address is done in concert with a candidate, political party, or partisan political group.

(f) *Participation in political fundraising; prohibitions.* An employee covered under this subpart may not:

(1) Solicit, accept, or receive political contributions; or

(2) Organize, sell tickets to, promote, or actively participate in a fundraising activity of a candidate for partisan political office, of a political party, or of a partisan political group.

(g) *Participation in political campaigning; prohibitions.* An employee covered under this subpart may not:

(1) Take an active part in managing the political campaign of a candidate for partisan political office or a candidate for political party office;

(2) Campaign for partisan political office;

(3) Canvass for votes in support of or in opposition to a candidate for partisan political office or a candidate for political party office, if the canvassing is done in concert with a candidate, a political party, or partisan political group;

(4) Endorse or oppose a candidate for partisan political office or a candidate for

political party office in a political advertisement, broadcast, campaign literature, or similar material if the endorsement or opposition is done in concert with a candidate, political party, or partisan political group; or

(5) Initiate or circulate a partisan nominating petition.

(h) *Participation in elections; prohibitions.* An employee covered under this subpart may not:

(1) Be a candidate for partisan political office;

(2) Act as recorder, watcher, challenger, or similar officer at polling places in concert with a political party, a partisan political group, or a candidate for partisan political office;

(3) Drive voters to polling places in concert with a political party, a partisan political group, or a candidate for partisan political office.

**§ 73.504 Designated localities—permitted local political activities for covered employees who reside in a municipality or political subdivision designated by the Office of Personnel Management.**

An employee covered under this subpart who resides in a municipality or political subdivision designated by the Office of Personnel Management under 5 CFR 733.107 may:

(a) Run as an independent candidate for election to partisan political office in elections for local office in the municipality or political subdivision;

(b) Solicit, accept, or receive a political contribution as, or on behalf of, an independent candidate for partisan political office in elections for local office in the municipality or political subdivision;

(c) Solicit, accept, or receive uncompensated volunteer services as, or on behalf of, an independent candidate for local partisan political office, in connection with the local elections of the municipality or subdivision; and

(d) Take an active part in other political activities associated with elections for local



partisan political office and in managing the campaigns of candidates for election to local partisan political office in the municipality or political subdivision, but only as an independent candidate or on behalf of, or in opposition to, an independent candidate.

**§ 73.505 Designated localities—prohibited local political activities for covered employees who reside in a municipality or political subdivision designated by the Office of Personnel Management.**

(a) An employee covered under this subpart who resides in a municipality or political subdivision designated by the Office of Personnel Management under 5 CFR 733.107 may not:

- (1) Run as the representative of a political party for local partisan political office;
- (2) Solicit, accept, or receive a political contribution on behalf of an individual who is a candidate for local partisan political office and who represents a political party;
- (3) Knowingly solicit a political contribution from any Federal employee;
- (4) Accept or receive a political contribution from a subordinate;
- (5) Solicit, accept, or receive uncompensated volunteer services on behalf of an individual who is a candidate for local partisan political office and who represents a political party;
- (6) Solicit, accept, or receive uncompensated volunteer services from a subordinate for any political purpose; or
- (7) Take an active part in other political activities associated with elections for local partisan political office, when that participation occurs on behalf of a political party, a partisan political group, or a candidate for local partisan political office who represents a political party.

(b) An employee covered under this section may not participate in political activities:

- (1) While on duty;
- (2) While wearing a uniform, badge, or insignia that identifies the employing agency

or instrumentality or the position of the employee;

(3) While in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency or instrumentality of the United States

(4) While using a Government-owned or Government-leased vehicle; or

(5) While using a privately owned vehicle in the discharge of official duties.

(c) Candidacy for, and service in, a partisan political office must not result in neglect of, or interference with, the performance of the duties of the employee

(d) Candidacy for, and service in, a partisan political office must not create a conflict of interest or an apparent conflict of interest.

#### **§ 73.506 Penalties.**

(a) An employee covered under this subpart who violates the regulatory prohibitions contained in this subpart may be subject to the following:

(1) Disciplinary action consisting of removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, or reprimand;

(2) An assessment of a civil penalty not to exceed \$1,000; or

(3) Any combination of the penalties described in paragraph (a)(1) or (2).

In assessing a penalty, the discretion of the Surgeon General of the Public Health Service must be guided by applicable precedents of the Merit Systems Protection Board in its adjudication of cases arising under the Hatch Act Reform Amendments of 1993, as amended (5 U.S.C. 7321–7326).

(b) An employee covered under this subpart who violates any criminal or civil statute relating to political activity, including any criminal or civil counterpart to the regulatory prohibitions contained in this subpart, may be subject to the penalties specified in the applicable statute.

## **Subpart F—Disciplinary Action**

### **§ 73.601 Disciplinary action.**

Violations of the regulations contained in this part and parts 735, 2634, 2635, 5501, and 5502 of title 5 of the Code of Federal Regulations may be cause for disciplinary action, which may be in addition to any penalty prescribed by law.

## **Subpart G--Reporting Violations**

### **§ 73.701 Responsibility for reporting possible criminal violations.**

An employee who has information that the employee reasonably believes indicates a possible offense against the United States by an employee of the Department, or any other individual working on behalf of the Department, must immediately report the information to the employee's supervisor, to any management official, or directly to the Inspector General. Offenses covered by the preceding sentence include, but are not limited to, bribery, fraud, perjury, conflicts of interest, misuse of funds, equipment, or facilities, and other conduct by a government officer or employee, grantee, contractor, or other person that is prohibited by title 18 of the United States Code. Employees and supervisors must refer to part 752-1-50 of the Department's Instruction 752, Corrective Action, Discipline and Adverse Actions, or successive Departmental guidance, for procedures regarding the reporting and handling of such information.

### **§ 73.702 Responsibility for reporting allegations of misconduct.**

An employee who has information that the employee reasonably believes indicates the existence of an activity constituting:

- (a) A possible violation of a rule or regulation of the Department;
- (b) A possible violation of any noncriminal ethics statute or rule or regulation;
- (c) Mismanagement, a gross waste of funds, or abuse of authority; or
- (d) A substantial and specific danger to the public health and safety must immediately report this information to the employee's supervisor, any management official of the

Department, or in the case of paragraph (c) of this section and this paragraph (d), directly to the Inspector General. This section does not cover employee grievances, equal employment opportunity complaints, classification appeals, or other matters for which a formal government-wide review system has been established by the Federal Government.

**§ 73.703 Prohibition of reprisals.**

(a) Any employee authorized to take, direct others to take, recommend, or approve any personnel action must not, with respect to this authority, take or threaten to take any action against any employee as a reprisal for making a complaint or for providing any information pursuant to this subpart.

(b) Employees who believe that they have been threatened with a personnel action, any other action, or harassment, or believe that they have been harmed by any action as a reprisal for having made a complaint or providing information pursuant to this subpart may request the Inspector General to review their allegations. Whenever the Inspector General has reason to believe that the allegations may be true, the Inspector General must refer the matter to the Assistant Secretary for Administration (ASA) for appropriate action. The ASA may order a stay of any personnel action if the ASA determines that there are reasonable grounds to believe that the personnel action is being taken as a reprisal for making a complaint or for providing information pursuant to this subpart.

**PARTS 73a and 73b—[Removed]**

2. Under the authority of 5 U.S.C. 301, remove parts 73a and 73b.

**Robert F. Kennedy, Jr.,**

*Secretary,*

*Department of Health and Human Services.*