



United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

May 11, 2006

DO-06-015

MEMORANDUM

TO: Designated Agency Ethics Officials

FROM: Marilyn L. Glynn
Acting Director

SUBJECT: Publication of proposed rule to clarify the status of
IPA detailees

Today, the Office of Government Ethics (OGE) is publishing in the Federal Register a proposed rule to amend 5 C.F.R. part 2635, the "Standards of Ethical Conduct for Employees of the Executive Branch." [71 Federal Register 27427](#). The proposed rule would clarify the detailees to an agency from a State or local government or other organization, under the Intergovernmental Personnel Act (IPA), 5 U.S.C. § 3374, are covered by the Standards.

The proposed rule reflects the 2001 amendments to the IPA, which subjected IPA detailees to the Ethics in Government Act of 1978 (EIGA), including the regulatory authority of OGE in Title IV of the EIGA. See National Defense Authorization Act for Fiscal Year 2002, Pub. L. No. 101-107, § 1117, December 28, 2001. Prior to the 2001 amendments, IPA detailees generally were not subject to the EIGA, and OGE had advised agencies that IPA detailees were not subject to certain provisions of 5 C.F.R. part 2635. OGE is proposing to clarify that IPA detailees now are covered "employees" for purposes of part 2635. Accordingly, the proposed rule would amend the definition of employee in § 2635.102(h) to include IPA detailees.

The proposed rule also addresses the status of IPA detailees for purposes of agency supplemental regulations, issued under section 2635.105. OGE realizes that some agencies already have promulgated supplemental regulations upon the express understanding that IPA detailees would not be covered. OGE understands that some of these agencies may have included certain restrictions, such as certain prohibited holdings or

Designated Agency Ethics Officials

Page 2

outside activities, that may not be necessary or appropriate for IPA detailees at those agencies. Consequently, OGE is proposing to amend section 2635.105 to provide that IPA detailees are covered by restrictions in a supplemental agency regulation to the extent that the regulation expressly so provides. Agencies wishing to cover IPA detailees would need to amend those regulations; in the interim, as described in the preamble to the proposed rule, those agencies would be permitted to continue to obtain compliance with supplemental restrictions through agreements governing the terms of the IPA detail.

Agencies and the public are invited to comment on the proposed rule. Written comments must be received before July 10, 2006.