

Determining Whether an Agency Needs a Supplemental Ethics Regulation

Does the Agency Want the Rule to be Legally Binding on its Employees?

If yes, then:

If no, then:

If unsure, then:

- Does the policy require modification or expansion of the Standards of Ethical Conduct?
- Does the policy regulate an area often reserved for supplemental agency regulations (e.g., outside activity limitations, prior approval requirements, prohibited holdings, designation of separate agency components)?

If no, then:

No Supplemental Agency Regulation is required.

If yes, then:

Does the agency have direct and specific authority to regulate ethics related policies internally?

If unsure, then:

- Does the policy fall under 5 C.F.R. § 2635.105(c)?
- Does the agency's enabling legislation provide authority to implement ethics regulations? (Unlikely)
- Did Congress specifically direct the agency to promulgate its own independent ethics regulations? (Unlikely)

If no, then:

Agency should initiate the Supplemental Agency Regulation Process.

OGE is always available for consultation regarding the supplemental agency regulation process.