

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## OFFICE OF GOVERNMENT ETHICS

### 5 CFR Part 2635

RIN 3209-AA04

#### Widely Attended Gatherings Gifts Exception Under the Standards of Ethical Conduct for Employees of the Executive Branch

**AGENCY:** Office of Government Ethics (OGE).

**ACTION:** Proposed rule.

**SUMMARY:** The Office of Government Ethics proposes to revise the gift exception contained in the Standards of Ethical Conduct for Employees of the Executive Branch to permit employees to accept invitations to certain widely attended gatherings from persons other than the sponsors of those events and to clarify that only those events attended by large number of persons qualify as widely attended gatherings. The Office of Government Ethics also proposes to permit authorization for a guest, other than the employee's spouse, to accompany the employee to a widely attended gathering or to an event at which the employee is assigned to participate as a speaker, panelist or other information presenter at which other guests will be in attendance. These proposed changes would provide more flexibility in attendance at such events while preserving agencies' ability to monitor compliance by their employees.

**DATES:** Comments by agencies and the public are invited and are due by August 14, 1995.

**ADDRESSES:** Office of Government Ethics, Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917, Attention: Mr. Gressman.

**FOR FURTHER INFORMATION CONTACT:** William E. Gressman, Office of Government Ethics; telephone: 202-523-5757; FAX: 202-523-6325.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On August 7, 1992, the Office of Government Ethics published the Standards of Ethical Conduct for Employees of the Executive Branch (Standards) for codification at 5 CFR part 2635. See 57 FR 35006-35067, as corrected at 57 FR 48557 and 57 FR 52583, with additional grace period extensions for certain existing agency provisions at 59 FR 4779-4780 and 60 FR 6390-6391. The Standards, which took effect on February 3, 1993, set uniform ethical conduct standards applicable to all executive branch personnel. They include regulations implementing the gift restrictions contained in 5 U.S.C. 7353 and section 101(d) of Executive Order 12674 as modified by Executive Order 12731. In accordance with those authorities, § 2635.204 sets forth exceptions to § 2635.202(a), which provides that, in the absence of an exception, an employee shall not directly or indirectly solicit or accept a gift from a prohibited source or a gift that is given because of the employee's official position.

One of several exceptions set forth in § 2635.204 is the exception at § 2635.204(g)(2) by which an employee may accept a sponsor's unsolicited gift of free attendance at all or part of a widely attended gathering. Unlike the de minimis exception at § 2635.204(a) for unsolicited gifts having a market value of \$20 or less per occasion (with a calendar year aggregate limit of \$50), § 2635.204(g)(2) imposes no limitation on the market value of the gifts of free attendance that may be accepted. While the tickets or other fees for attendance at such gatherings ordinarily cost much less, this exception would permit acceptance of free attendance at events for which the ticket price exceeds even \$1,000. In part to ensure that prohibited sources do not use this exception to provide lavish entertainment to employees of the agencies with which they do business or otherwise interact, § 2635.204(g)(2) specifies that an invitation to a widely attended gathering can be accepted only if it is from the sponsor of the event.

On March 9, 1993, shortly after the Standards first took effect, the White House declared a six-month suspension of application to press dinners of that portion of § 2635.204(g)(2) that limits acceptance of invitations to widely

attended gatherings to those issued by the sponsor of the event. During that six-month period, executive branch officials were authorized to attend press dinners as guests of individuals or organizations other than the sponsor of the event, if the event otherwise met the conditions of the widely attended gathering exception. On December 21, 1993, with another round of press association events in the offing, the White House issued a memorandum to all agency heads once again temporarily suspending administrative enforcement of the rule affecting widely attended gatherings solely as it relates to dinners sponsored by news associations for which admission for executive branch officials is paid by news organizations.

In a letter of December 21, 1993 addressed to OGE, the White House asked OGE to consider a revision to § 2635.204(g)(2) to provide that an employee may accept an invitation received directly from a news organization to attend a widely attended gathering sponsored by a news association where there has been a determination that the employee's attendance is in the interest of the agency. In the alternative, the White House suggested that OGE might wish to consider revising § 2635.204(g)(2) to provide an exemption for invitations to a broader range of widely attended gatherings from persons other than the sponsors of those events. The White House specified in its memorandum of the same date that the suspension was to extend until August 1, 1994, or until such later date as OGE responded to its request for revision of § 2635.204(g)(2). This proposed rule is the first step in OGE's response to the White House request. Thus, the suspension effected by the White House's most recent memorandum of December 21, 1993 will extend until OGE has issued an interim or final rule determination as to this matter after receiving and reviewing comments in response to this notice of proposed rulemaking.

In asking that OGE treat the press differently than others for purposes of permitting employees to attend press association events, the White House expressed the view that the press is not like other individuals, organizations or entities. The press, it suggested, provides the public with access to the institution of Government and, thus, functions on behalf of the greater public