

Thomas F. Muther, Jr.  
Rebecca L. Story

Joshua L. Klinger  
Tiffany L. Malin

Natalie Birdow  
(Legal Assistant)



5132 W. 26th Avenue  
Denver, CO 80212

Phone: 303-986-0054  
Fax: 303-986-1137

**Thomas F. Muther**  
Tom@cofedlaw.com

**Comments to Proposed Rules by the Office of Government Ethics, 5 CFR Part 2635,  
Standards of Ethical Conduct for Employees of the Executive Branch; Proposed  
Amendments Limiting Gifts from Registered Lobbyists and Lobbying Organizations;  
Regulation Identification Number 3209-AA04**

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*Contact: Tom Muther, Minahan & Muther Law Firm, [tom@cofedlaw.com](mailto:tom@cofedlaw.com)*

The law firm of Minahan & Muther represents a large number of federal employee labor organizations. The firm wishes to comment on a number of provisions in proposed changes to 5 CFR Part 2635, and specifically to the fact that this rule as written could have the unintended consequence of restricting a labor organization's legal right to interact with its own members.

5 U.S.C. § 7102 guarantees federal employees the right to form, join, or assist any labor organization, including the right to engage in collective bargaining and to otherwise act for a labor organization in the capacity of a representative. It is common practice for federal employees who are engaged in Union representational functions to receive "gifts", as that term is defined, from the Union that they represent. These "gifts" come with the benefit of Union membership, as well as the duties required of Union stewards. For example, under the proposed definition, a "gift" could take the form of travel expense reimbursements incurred while performing representational duties; registration and food/beverages at union sponsored training and other events; monetary stipends for work performed outside of official duty hours; or Union t-shirts, hats, and pens. The majority of these "gifts" have a minimal monetary value, and are allowed under current law.

The proposed changes limiting gifts from registered lobbyists and lobbying organizations, without further clarification, can easily be interpreted to interfere with the employee rights enumerated in 5 U.S.C. § 7102. Many Unions representing federal employees are 501(c)(5) organizations. Therefore, these Unions appear to fall under the definition of "lobbyist organization" as described in 5 CFR 2635.203(h). Under this proposed change, a Union could not provide any "gift" to its own members. This term is so broad as to constitute a possible bar on compensation for a Union's federal employee representatives for expenses incurred as a result of representing the Union's interests at a grievance meeting, MSPB

hearing, arbitration hearing, and other related and necessary functions that our federal employee union representatives serve. Similarly, if the Union cannot provide representational training to its federal employee stewards and officers, the employee's ability to effectively represent the Union's interests will be eroded. This proposed change would essentially preclude a federal employee's ability to effectively represent the Union, as is their right under Chapter 71.

Based on the above addressed concerns, we request that a separate exclusion for federal labor organizations be established in the proposed regulations in order not to unduly interfere with federal employees' rights to represent labor organizations, as is their right under Chapter 71.

Proposed revisions would state:

§ 2635.203 Definitions

(h) Registered Lobbyist or lobbying organization . . . does not include:

(5) A federal labor union afforded exclusive recognition pursuant to 5 U.S.C. § 7111.