UNITED STATES OF AMERICA	)	
	)	
v.	)	**GOVERNMENT RESPONSE TO DEFENSE MOTION TO COMPEL WITNESSES**
	)	
Manning, Bradley E.	)	
PFC, U.S. Army,	)	
HHC, U.S. Army Garrison,	)	**Enclosure 3**
Joint Base Myer-Henderson Hall	)	
Fort Myer, Virginia 22211	)	**12 December 2012**

LEXISNEXIS' CODE OF FEDERAL REGULATIONS
Copyright (c) 2012, by Matthew Bender & Company, a member
of the LexisNexis Group. All rights reserved.

*** This section is current through the December 6, 2012 ***
*** issue of the Federal Register ***

TITLE 5 -- ADMINISTRATIVE PERSONNEL
CHAPTER XVI -- OFFICE OF GOVERNMENT ETHICS
SUBCHAPTER B -- GOVERNMENT ETHICS
PART 2635 -- STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE EXECUTIVE BRANCH
SUBPART A -- GENERAL PROVISIONS

Go to the CFR Archive Directory

5 CFR 2635.102

§ 2635.102 Definitions.

The definitions listed below are used throughout this part. Additional definitions appear in the subparts or sections of subparts to which they apply. For purposes of this part:

(a) Agency means an executive agency as defined in *5 U.S.C. 105* and the Postal Service and the Postal Rate Commission. It does not include the General Accounting Office or the Government of the District of Columbia.

(b) Agency designee refers to any employee who, by agency regulation, instruction, or other issuance, has been delegated authority to make any determination, give any approval, or take any other action required or permitted by this part with respect to another employee. An agency may delegate these authorities to any number of agency designees necessary to ensure that determinations are made, approvals are given, and other actions are taken in a timely and responsible manner. Any provision that requires a determination, approval, or other action by the agency designee shall, where the conduct in issue is that of the agency head, be deemed to require that such determination, approval or action be made or taken by the agency head in consultation with the designated agency ethics official.

(c) Agency ethics official refers to the designated agency ethics official or to the alternate designated agency ethics official, referred to in § 2638.202(b) of this chapter, and to any deputy ethics official, described in § 2638.204 of this chapter, who has been delegated authority to assist in carrying out the responsibilities of the designated agency ethics official.

(d) Agency programs or operations refers to any program or function carried out or performed by an agency, whether pursuant to statute, Executive order, or regulation.

(e) Corrective action includes any action necessary to remedy a past violation or prevent a continuing violation of this part, including but not limited to restitution, change of assignment, disqualification, divestiture, termination of an activity, waiver, the creation of a qualified diversified or blind trust, or counseling.

(f) Designated agency ethics official refers to the official designated under § 2638.201 of this chapter.

(g) Disciplinary action includes those disciplinary actions referred to in Office of Personnel Management regulations and instructions implementing provisions of title 5 of the United States Code or provided for in comparable provisions applicable to employees not subject to title 5, including but not limited to reprimand, suspension, demotion, and removal. In the case of a military officer, comparable provisions may include those in the Uniform Code of Military Justice.

(h) Employee means any officer or employee of an agency, including a special Government employee. It includes officers but not enlisted members of the uniformed services. It includes employees of a State or local government or other organization who are serving on detail to an agency, pursuant to *5 U.S.C. 3371,* et seq. For purposes other than subparts B and C of this part, it does not include the President or Vice President. Status as an employee is unaffected by pay or leave status or, in the case of a special Government employee, by the fact that the individual does not perform official duties on a given day.

(i) Head of an agency means, in the case of an agency headed by more than one person, the chair or comparable member of such agency.

(j) He, his, and him include she, hers and her.

(k) Person means an individual, corporation and subsidiaries it controls, company, association, firm, partnership, society, joint stock company, or any other organization or institution, including any officer, employee, or agent of such person or entity. For purposes of this part, a corporation will be deemed to control a subsidiary if it owns 50 percent or more of the subsidiary's voting securities. The term is all-inclusive and applies to commercial ventures and nonprofit organizations as well as to foreign, State, and local governments, including the Government of the District of Columbia. It does not include any agency or other entity of the Federal Government or any officer or employee thereof when acting in his official capacity on behalf of that agency or entity.

(l) Special Government employee means those executive branch officers or employees specified in *18 U.S.C. 202*(a). A special Government employee is retained, designated, appointed, or employed to perform temporary duties either on a full-time or intermittent basis, with or without compensation, for a period not to exceed 130 days during any consecutive 365-day period.

(m) Supplemental agency regulation means a regulation issued pursuant to § 2635.105.

HISTORY: *[57 FR 35042,* Aug. 7, 1992; *71 FR 45735, 45736,* Aug. 10, 2006]

AUTHORITY: AUTHORITY NOTE APPLICABLE TO ENTIRE PART:
5 U.S.C. 7301, 7351, 7353; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, *54 FR 15159,* 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, *55 FR 42547,* 3 CFR, 1990 Comp., p. 306.

NOTES: [EFFECTIVE DATE NOTE: *71 FR 45735, 45736,* Aug. 10, 2006, amended paragraph (h), effective Sept. 11, 2006.]
NOTES APPLICABLE TO ENTIRE TITLE:
Title 5 of the United States Code was revised and enacted into positive law by Public Law 89-554, Sept. 6, 1966. New citations for obsolete references to sections of 5 U.S.C. appearing in this title may be found in a redesignation table under title 5, Government Organization and Employees, United States Code.

CASE NOTES Applicable to entire Part:Part Note