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U.S. Department of State Foreign Affairs Manual Volume 3
Personnel

3 FAM 4000 EMPLOYEE RELATIONS

3 FAM 4100 EMPLOYEE RESPONSIBILITY AND CONDUCT

3 FAM 4110 GENERAL INFORMATION

(CT:PER-678; 06-22-2012)
(Office of Origin: HR/ER/WLD)

3 FAM 4111 POLICY

3 FAM 4111.1 General

(TL:PER-269; 6-30-95)
(Uniform State/USAID/USIA)
(Applies to Foreign Service Employees)

The attainment of U.S. foreign policy objectives depends substantially on the confidence of both the American and foreign public in the individuals selected to serve in the Foreign Service. The agencies, therefore, require the maintenance of the highest standards of conduct by employees of the Foreign Service, including an especially high degree of integrity, reliability, and prudence. Given the representational nature of employment in the Service and the diplomatic privileges and immunities granted employees of the Service abroad, it is necessary that employees observe such standards during and after working hours or when the employee is on leave or in travel status.

3 FAM 4111.2 Suitability

(TL:PER-269; 6-30-95)
(Uniform State/USAID/USIA)
(Applies to Foreign Service Employees)

In suitability determinations, the agencies will be guided by the:

- (1) Requirement to protect the interests of the U.S. Government and to promote the efficiency of the Service; and
- (2) Need to assure fair and impartial treatment of the individuals concerned, and care in the process to avoid any unwarranted invasion of privacy.

3 FAM 4112 APPLICABILITY

(TL:PER-269; 6-30-95)
(Uniform State/USAID/USIA)
(Applies to Foreign Service Employees)

These regulations on employee responsibilities and conduct apply to all employees of the three agencies and apply to employees of other U.S. Government agencies detailed to one of the three agencies.

3 FAM 4113 LEGAL BASIS

(TL:PER-269; 6-30-95)
(Uniform State/USAID/USIA)
(Applies to Foreign Service Employees)

- Executive Order 11222 of May 8, 1965, as amended,
- Part 735 of title 5, Code of Federal Regulations.

3 FAM 4114 THROUGH 4119 UNASSIGNED

3 FAM 4120

EMPLOYEE RESPONSIBILITIES ABROAD

(TL:PER-491; 12-23-2003)
(Office of Origin: DGHR/PC)

3 FAM 4121 GENERAL

3 FAM 4121.1 Applicability

(TL:PER-491; 12-23-2003)
(Uniform State/USAID/Commerce/Foreign Service Corps—USDA)
(Applies to Foreign Service, Foreign Service National, and Civil Service employees)

- a. All U.S. Government employees of participating agencies while abroad;
and
- b. All employees subject to the control of the Chief of Mission.

3 FAM 4121.2 Authority

(TL:PER-491; 12-23-2003)
(Uniform State/USAID/Commerce/Foreign Service Corps—USDA)
(Applies to Foreign Service, Foreign Service National, and Civil Service)

- a. 22 U.S.C. 3297;
- b. 22 U.S.C. 4343; and
- c. The Vienna Convention on Diplomatic Relations.

3 FAM 4121.3 Relationship to Government-Wide Standards of Ethical Conduct

(TL:PER-491; 12-23-2003)
(Uniform State/USAID/Commerce/Foreign Service Corps—USDA)
(Applies to Foreign Service, Foreign Service National, and Civil Service)

The rules in this subchapter are in addition to the rules of Ethical Conduct found in 5 CFR 2635, and take into account foreign policy considerations and

treaty and statutory obligations.

3 FAM 4121.4 Delegation of Authority

(TL:PER-491; 12-23-2003)

(Uniform State/USAID/Commerce/Foreign Service Corps—USDA)

(Applies to Foreign Service, Foreign Service National, and Civil Service)

The Chief of Mission may delegate any authority granted in this subchapter.

3 FAM 4122 GIFTS AND DECORATIONS FROM FOREIGN GOVERNMENTS

(TL:PER-491; 12-23-2003)

(Uniform State/USAID/Commerce/Foreign Service Corps—USDA)

(Applies to Foreign Service, Foreign Service National, and Civil Service)

Employees and their spouses (unless separated) and their dependents may accept gifts and/or decorations from foreign governments only under the restrictions published in 22 CFR chapter 1, part 3.

3 FAM 4122.1 Guidelines

(TL:PER-491; 12-23-2003)

(Uniform State/USAID/Commerce/Foreign Service Corps—USDA)

(Applies to Foreign Service, Foreign Service National, and Civil Service)

- a. An employee abroad who has been offered a gift (other than meals, refreshments or entertainment) by a private individual or organization that cannot be personally accepted under 5 CFR 2635, Subpart B or under other authority may accept it on behalf of the Department of State, or if employed by another agency which has gift acceptance authority, on behalf of that agency, if refusal, reimbursement at the fair market value, or return would cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States.
- b. An employee abroad may accept a gift of meals, refreshment or entertainment by a private individual or organization as provided in 5 CFR 2635.204(i).
- c. Gifts accepted pursuant to section 3 FAM 4122.1a are deemed to have been accepted on behalf of the U.S. Government and may not be retained by the employee. Employees shall, within sixty days of acceptance, deposit the gift for official use with their agency or, if the agency does not

have gift acceptance authority, with the Department of State. Gifts shall be used and disposed of in accordance with State or agency regulations governing property management and disposal. The designated offices for receiving gifts are:

State	Embassy Administrative Officer
USAID	<i>Mission Executive Officer</i> , or Office of the Director of Administrative Service (M/AS)
Commerce	Office of Organization and Management Support, International Trade Administration

- d. Gifts to an employee, spouse, or dependent from foreign government officials are governed by regulations found in 22 CFR Part 3.
- e. Gifts of travel expenses are governed by specific agency regulations.

3 FAM 4122.2 Guidance

(TL:PER-491; 12-23-2003)
(Uniform State/USAID/Commerce/Foreign Service Corps—USDA)
(Applies to Foreign Service, Foreign Service National, and Civil Service)

When posts or employees require guidance on dealing with gifts or decorations, they should consult:

State	Office of Protocol
<i>USAID</i>	<i>The Designated Agency Ethics Officer, Office of the General Counsel</i>

3 FAM 4123 RESTRICTIONS ON EMPLOYMENT AND OUTSIDE ACTIVITIES

3 FAM 4123.1 Prohibitions in Any Foreign Country

(TL:PER-491; 12-23-2003)
(Uniform State/USAID/Commerce/Foreign Service Corps—USDA)
(Applies to Foreign Service, Foreign Service National, and Civil Service)

A U.S. citizen employee, spouse, or family member is prohibited from

engaging in the following activities while present in any foreign country:

- (1) Speculation in currency exchange;
- (2) Transactions at exchange rates differing from local legally available rates, unless such transactions are duly authorized in advance by the Chief of Mission;
- (3) Sales to unauthorized persons (whether at cost or for profit) of currency acquired at preferential rates through diplomatic or other restricted arrangements;
- (4) Transactions which entail the use of the diplomatic pouch or other official mail without official authorization;
- (5) Transfers of blocked funds in violation of U.S. foreign funds and assets control;
- (6) Independent and unsanctioned private transactions which involve an employee as an individual in violation of applicable currency control regulations of the foreign government; and
- (7) Except as part of official duties, acting as an intermediary in the transfer of private funds from persons in one country to persons in another country, including the United States.

3 FAM 4123.2 Prohibitions in Country of Assignment

3 FAM 4123.2-1 Employment

(TL:PER-491; 12-23-2003)

(Uniform State/USAID/Commerce/Foreign Service Corps—USDA)

(Applies to Foreign Service, Foreign Service National, and Civil Service)

Except as provided in section 3 FAM 4123.2-2 and 3 FAM 4123.2-3, a U.S. citizen employee shall not transact, hold interested in any business, engage for profit in any profession, or undertake other gainful employment in the employee's own name or the agency of any other person in any country or countries to which the employee is assigned or detailed.

3 FAM 4123.2-2 Employment in Embassy Community

(TL:PER-491; 12-23-2003)

(Uniform State/USAID/Commerce/Foreign Service Corps—USDA)

(Applies to Foreign Service, Foreign Service National, and Civil Service)

A U.S. citizen employee, spouse, or family member may pursue business activities or undertake employment otherwise precluded by section 3 FAM 4123.2-1 where such activities or employment take place solely within the U.S. embassy community.

3 FAM 4123.2-3 Teaching

(TL:PER-491; 12-23-2003)

(Uniform State/USAID/Commerce/Foreign Service Corps—USDA)

(Applies to Foreign Service, Foreign Service National, and Civil Service)

- a. A U.S. citizen employee may receive reasonable compensation for teaching if receipt of compensation is not prohibited by 5 CFR 2635.807 and if the course is part of an extension program of an accredited U.S. degree-granting institution or is offered by a private foreign university that is not state-supported and if such teaching is consistent with the local law of the host country.
- b. The employee must obtain the approval of the Chief of Mission. If employed by an agency, other than the Department of State, the employee must also obtain the approval of his or her employing agency.
- c. The request for approval must include:
 - (1) A detailed outline of the course to be taught;
 - (2) Names of required texts and brief descriptions of other reading material;
 - (3) The frequency of classes; and
 - (4) The period of time involved.
- d. Approval under this section satisfies the requirements of 3 FAM 4175 with respect to teaching abroad.
- e. These regulations do not prohibit teaching abroad when compensation is not received so long as the teaching has been approved by the Chief of Mission and, if required, by the employee's employing agency.
- f. U.S. citizen employees may accept reimbursement for expenses incurred in approved teaching.

3 FAM 4123.2-4 Investments

(TL:PER-491; 12-23-2003)

(Uniform State/USAID/Commerce/Foreign Service Corps—USDA)

(Applies to Foreign Service, Foreign Service National, and Civil Service)

- a. A U.S. citizen employee (other than an employee who has been hired locally), a spouse, or family member shall not invest money in:
 - (1) Bonds, shares or stock of commercial concerns headquartered in the country of assignment or conducting a substantial portion of their business in such country; or
 - (2) In real estate or mortgages on properties located in the employee's country of assignment, other than the purchases of a house and land for personal occupancy at the time of assignment or at retirement, if approved by the Chief of Mission.
- b. Any such investment, if made prior to knowledge of assignment to such country, or if inherited or obtained through marriage, bequest, or gift, may be retained during such assignment, when approved in writing by the Chief of Mission.
- c. If retention is authorized, such investment may not be sold while the employee is assigned or detailed to the country, unless the Chief of Mission approves the sale in writing.
- d. Investments held in a qualified trust, certified under the provisions of [5 CFR 2634.401](#), are exempt from the provisions of this section.

3 FAM 4123.2-5 Personal Property

(TL:PER-491; 12-23-2003)

(Uniform State/USAID/Commerce/Foreign Service Corps—USDA)

(Applies to Foreign Service, Foreign Service National, and Civil Service)

A U.S. citizen employee, spouse, or family member shall not sell, assign or otherwise dispose within a foreign country of personal property (including a motor vehicle) that was imported into, or purchased within that foreign country and that, by virtue of the official status of the employee, was exempt from import limitations, customs duties, or taxes which would otherwise apply, except in accordance with the regulations set forth in 22 CFR Part 136 and the regulations prescribed by the Chief of Mission in that foreign country.

3 FAM 4123.3 Political Activities

(TL:PER-491; 12-23-2003)

*(Uniform State/USAID/Commerce/Foreign Service Corps—USDA)
(Applies to Foreign Service, Foreign Service National, and Civil Service)*

A U.S. citizen employee, spouse, or family member shall not engage in partisan political activities abroad, other than authorized activities pertaining to U.S. elections. This provision shall not preclude a locally hired U.S. citizen employee, who also is a national of the country of residence, from exercising political rights deriving from that foreign nationality.

3 FAM 4123.4 Private Organizations; Fundraising

*(TL:PER-491; 12-23-2003)
(Uniform State/USAID/Commerce/Foreign Service Corps—USDA)
(Applies to Foreign Service, Foreign Service National, and Civil Service)*

- a. Approval from both the Chief of Mission and an agency ethics official must be obtained before an employee, spouse, or family member serves as an officer, director, or trustee of any private organization. Chiefs of Mission should obtain such permission from an agency ethics official.
- b. With the permission of the Chief of Mission, an employee, spouse, or family member may engage in fundraising for non-profit organizations in an official capacity *abroad* when such association with private fundraising activities would clearly advance U.S. foreign policy interests while minimizing the appearance of preference or use of public office for private gain.

3 FAM 4123.5 General Conduct

*(TL:PER-491; 12-23-2003)
(Uniform State/USAID/Commerce/Foreign Service Corps—USDA)
(Applies to Foreign Service, Foreign Service National, and Civil Service)*

An employee shall respect the laws of the country in which the employee is present.

3 FAM 4124 PERSONAL LIABILITY INSURANCE FOR PERSONAL MOTOR VEHICLES

*(TL:PER-491; 12-23-2003)
(State)
(Executive Branch Employees under Authority of Chief of Mission)*

- a. Chiefs of Mission shall utilize their authority under section 207 of the Foreign Service Act to require that all Executive Branch employees subject to that authority obtain personal liability insurance for their personal motor vehicle(s) and then maintain that insurance for the duration of their tour.
- b. The standard for the amount and scope of liability coverage should be that which can reasonably be expected to afford adequate compensation to victims under the local law of the host country.
- c. Care should be taken to avoid policies, which permit the insurer to avoid responsibility by invoking any diplomatic immunity defense of the U.S. driver.
- d. Each post should establish and the Chief of Mission should approve guidelines establishing the minimum liability coverage required by members of the Mission.
- e. Employees on personal travel outside the host country must maintain adequate private liability insurance in the third state.

3 FAM 4125 OUTSIDE EMPLOYMENT AND ACTIVITIES BY SPOUSES AND FAMILY MEMBERS ABROAD

(TL:PER-491; 12-23-2003)

(Uniform State/USAID/Commerce/Foreign Service Corps—USDA)

(Applies to Foreign Service, Foreign Service National, and Civil Service)

- a. A spouse or family member of a U.S. citizen employee may accept any outside employment or undertake other outside activity as described in section 3 FAM 4123 in a foreign country unless such employment:
 - (1) Would violate any law of such country;
 - (2) Could require a waiver of diplomatic immunity deemed unacceptably broad by the Chief of Mission; or
 - (3) Could otherwise damage the interests of the United States as determined by the Chief of Mission in that country.
- b. A spouse or family member should notify the principal Administrative Officer at post *before* acceptance of intended outside employment.
- c. A spouse or family member accepting employment abroad should bear in

mind that he or she loses civil immunity from judicial process for activities relating to employment and would be subject to the payment of taxes on income from non-diplomatic employment.

3 FAM 4126 OUTSIDE EMPLOYMENT AND ACTIVITIES OF NON-U.S. CITIZEN EMPLOYEES AND LOCALLY-HIRED U.S. CITIZEN EMPLOYEES

(TL:PER-491; 12-23-2003)

(Uniform State/USAID/Commerce/Foreign Service Corps—USDA)

(Applies to Foreign Service, Foreign Service National, and Civil Service)

- a. A non-U.S. citizen employee, and a U.S. citizen employee who has been hired locally must, at the time of hiring, receive approval from the Chief of Mission in order to accept any outside employment or undertake other outside activities as described in section 3 FAM 4123. Such approval is also required if the employee subsequently proposes to undertake outside employment or other outside activity.
- b. Approval will be granted unless the Chief of Mission determines that the employment or activity:
 - (1) Would violate any law of such country; or
 - (2) Could damage the interests of the United States.

3 FAM 4127 PERSONAL SECURITY PRACTICES

(TL:PER-491; 12-23-2003)

(Uniform State/USAID/Commerce/Foreign Service Corps—USDA)

(Applies to Foreign Service, Foreign Service National, and Civil Service)

- a. *A terrorist or criminal attack against an employee abroad will harm not just the employee, but also affects others in the Mission, and will hinder the achievement of foreign policy priorities in the host country. Therefore, it is incumbent on every employee to practice good personal security measures abroad.*
- b. *Employees should implement personal security practices irrespective of the threat level in their country of assignment and employ RSO-*

recommended measures that may include:

- (1) Varying times and routes to and from work;*
- (2) Avoiding demonstrations; and*
- (3) Identifying and reporting vehicles or persons possibly involved in surveillance of your activities.*

c. Supervisors and managers should ensure that employees have access to useful information, Department policies, and guidance concerning personal security. They must also ensure they do not impose working conditions that impede employees from maximizing their personal security. Examples of working conditions that might be questioned, depending on the threat environment in the country of assignment include:

- (1) Shift changes at the same time every day;*
- (2) Regular early-morning staff meetings; and*
- (3) Strict adherence to set arrival and departure times.*

3 FAM 4128 THROUGH 4129 UNASSIGNED

3 FAM 4130 STANDARDS FOR APPOINTMENT AND CONTINUED EMPLOYMENT

*(CT:PER-678; 06-22-2012)
(Office of Origin: HR/ER/CSD)*

3 FAM 4131 APPLICABILITY

*(CT:PER-673; 04-27-2012)
(Uniform State/USAID)
(Applies to Foreign Service Employees)*

This regulation applies to applicants for employment in and to employees of the Foreign Service.

3 FAM 4132 PURPOSE

*(CT:PER-673; 04-27-2012)
(Uniform State/USAID)
(Applies to Foreign Service Employees)*

- a. This regulation provides guidelines for:
 - (1) Deciding on an applicant's suitability for appointment in the Foreign Service;
 - (2) Taking disciplinary action on an employee; and
 - (3) Deciding on an employee's continued employment in the Foreign Service.
- b. The key provisions of this regulation include:
 - (1) The general considerations of the connection between:
 - (a) Conduct respecting effective performance in the position applied for or in which employed;
 - (b) Efficiency of the Service; and
 - (c) The national security or foreign relations of the United States (see section 3 FAM 4135);
 - (2) An illustrative list of the kinds of conduct which could be grounds for disciplinary action or separation for cause (see section 3 FAM 4137) or disqualification of an applicant for employment;
 - (3) Factors that could be mitigating or aggravating conditions in judging the

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seriousness of an offense and in determining the action to be taken based on the offense (see section 3 FAM 4136); and

(4) An explanation of certain kinds of conduct (see section 3 FAM 4138).

3 FAM 4133 AUTHORITY

3 FAM 4133.1 General

(CT:PER-673; 04-27-2012)

(Uniform State/USAID)

(Applies to Foreign Service Employees)

- 5 U.S.C. 301
- 22 U.S.C. 2651a and 22 U.S.C. 3905

3 FAM 4133.2 USAID

(CT:PER-673; 04-27-2012)

(USAID Only)

(Applies to Foreign Service Employees)

Department of State Delegation of Authority No. 104, as amended, and 22 U.S.C. 2381(a) authorize the Administrator to exercise the authorities described in section 3 FAM 4133.1.

3 FAM 4134 SUITABILITY FOR CONTINUED EMPLOYMENT

(CT:PER-673; 04-27-2012)

(Uniform State/USAID/Commerce/Foreign Service Corps-USDA)

(Applies to Foreign Service and Civil Service Employees)

Foreign Service employees of the agencies (except for Foreign Service national employees and non-U.S. citizen consular agents) also should be aware of and familiar with the contents of 3 FAM 4130, Suitability Guidelines for Appointment and Continued Employment. Civil Service employees of the agencies who are or are being assigned or detailed overseas should also be aware of and familiar with the contents of 5 CFR 731.

3 FAM 4135 ACTION AGAINST APPLICANTS OR EMPLOYEES

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3 FAM 4135.1 Applicant

(CT:PER-673; 04-27-2012)
(Uniform State/USAID)
(Applies to Foreign Service Employees)

The agencies may disqualify an applicant for any of the reasons in section 3 FAM 4138.

3 FAM 4135.2 Employees

(CT:PER-673; 04-27-2012)
(Uniform State/USAID)
(Applies to Foreign Service Employees)

- a. The agencies may discipline or separate an employee when such action will promote the efficiency of the Service for any of the reasons stated in 3 FAM 4138 or as provided in:
 - (1) State: 3 FAM 4100; and
 - (2) USAID: Handbook 30, chapters 5 or 6.
- b. In making determinations under this paragraph, the agencies shall consider, among other factors, those enumerated in 3 FAM 4137.

3 FAM 4136 GENERAL CONSIDERATIONS

(CT:PER-673; 04-27-2012)
(Uniform State/USAID)
(Applies to Foreign Service Employees)

In making suitability determinations, agencies will give primary consideration to determining whether the conduct of the individual may reasonably be expected to:

- (1) Interfere with or prevent effective performance in the position applied for or employed in;
- (2) Interfere with or prevent effective performance by the agencies of their duties and responsibilities; or
- (3) Affect adversely the national security or foreign relations of the United States.

3 FAM 4137 EVALUATION FACTORS TO CONSIDER

(CT:PER-673; 04-27-2012)
(Uniform State/USAID)

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(Applies to Foreign Service Employees)

When evaluating suitability, agencies should consider:

- (1) Whether the individual's conduct is such that it can reasonably be expected to interfere with or prevent effective performance in the position employed in or being considered for;
- (2) Whether the individual's conduct is such that it can reasonably be expected to interfere with effectively carrying out the policies and programs of the U.S. Government, including the responsibility to present a favorable impression abroad of the United States;
- (3) Whether the individual's conduct is such that it can reasonably be expected to affect so adversely other employees as to prevent the efficient performance of their duties and responsibilities;
- (4) The notoriety of the individual's conduct;
- (5) The conditions of service applicable to an employee and the position, function, or service in which an individual may serve or is serving, including its representational nature;
- (6) The sensitivity of the position and the security clearance required;
- (7) The nature, seriousness, frequency, and recency of the conduct and the age of the individual at the time of the conduct;
- (8) Contributing social or environmental conditions, including the voluntariness of the individual's conduct;
- (9) The absence, presence, or sufficiency of rehabilitation or efforts toward rehabilitation. The individual's voluntariness and candor in discussing a matter of proper concern with appropriate authorities must be considered in evaluating the sincerity of the individual's efforts toward rehabilitation. For details of the agencies' rehabilitation policies concerning alcohol and drug abuse, see 3 FAM 1900;
- (10) Whether the conduct occurred abroad or in the United States, at a post of assignment, or in a third country, and during working hours or while off-duty; and
- (11) Any other relevant circumstances pertaining to the conduct or any other relevant consideration which the employee or the agency may wish to offer.

3 FAM 4138 STANDARDS OF CONDUCT

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(CT:PER-673; 04-27-2012)

(Uniform State/USAID)

(Applies to Foreign Service Employees)

To maintain the efficiency of the Service, the following, while not all inclusive, may constitute grounds for taking disciplinary or separation action against an employee, or disqualifying an applicant after due consideration of the factors in 3 FAM 4137:

- (1) Misconduct of applicants in prior employment;
- (2) Misconduct, either in itself or as a result of attendant circumstances, impeding or preventing the performance of duties, or conduct contrary to the customs, mores, or laws of the local community, as communicated to employees by the agency or post in writing to the extent practicable;
- (3) Criminal, dishonest, or disgraceful conduct (see 3 FAM 4139.14);
- (4) An intentional and material false statement, deception, or fraud in the examination or appointment process in response to a proper inquiry;
- (5) Refusal to furnish testimony or information to proper authority in response to specific and relevant inquiry concerning the individual's job performance, conduct, or such other matters as:
 - (a) Qualifications for the position, function, or service under consideration or held; or
 - (b) Qualification for a security clearance;
- (6) Repeated or habitual use to excess of intoxicating beverages affecting the ability to perform the duties and responsibilities of the employee's position (see section 4102.10, Explanation of Certain Issues);
- (7) Trafficking in or abuse of narcotics, drugs, or any substance listed under the Controlled Substance Act (21 U.S.C. 812) and/or trafficking in or abuse of narcotics, drugs, or other controlled substance in violation of the law of the country or jurisdiction in which the individual was or is located at the time of the offense (see 3 FAM 4139.6);
- (8) Reasonable doubt as to the loyalty to the U.S. Government of the individual involved;
- (9) Conduct which furnishes substantial reason to believe that the individual may be or is being subject to coercion, improper influence, or pressure which is reasonably likely to cause the individual to act contrary to the national security or foreign relations of the United States;
- (10) Conduct which, in the opinion of competent medical authority, is evidence of an unstable personality, impaired judgment, or emotional disorder, furnishing substantial reason to believe that the individual is unsuited for the Service or the position for which the individual is applying or is unsuited for the Service or the position in which the individual is serving;

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or

- (11) Conduct which clearly shows poor judgment or lack of discretion which may reasonably affect an individual or the agency's ability to carry out its responsibilities or mission.

3 FAM 4139 EXPLANATION OF CERTAIN ISSUES

3 FAM 4139.1 Sexual Activity

(CT:PER-673; 04-27-2012)

(Uniform State/USAID)

(Applies to Foreign Service Employees)

The agencies recognize that, in our society, there are considerable differences of opinion in matters of sexual conduct, and that there are some matters which are of no concern to the U.S. Government. However, serious suitability concerns are raised by sexual activity by an individual which reasonably may be expected to hamper the effective fulfillment by the agencies of any of their duties and responsibilities, or which may impair the individual's position performance by reason of, for example, the possibility of blackmail, coercion, or improper influence. The standards of conduct enumerated in 3 FAM 4138 are of particular relevance in determining whether the conduct in question threatens the mission of the employing agency or the individual's effectiveness.

3 FAM 4139.2 Dishonesty

(CT:PER-673; 04-27-2012)

(Uniform State/USAID)

(Applies to Foreign Service Employees)

Any intentional false statement or misrepresentation concerning a material fact on any official form, such as pay or leave records, travel vouchers, reimbursement of expenses, eligibility for allowances, etc., may result in disciplinary action or separation. A material fact is defined as a fact requiring serious consideration by reason of having a certain or probable bearing in the proper determination of an applicant's suitability for appointment, or an employee's suitability for continued service. In addition, any other activity or conduct, such as theft, forgery, lying, misuse of U.S. Government property, and the like, which clearly indicates that the individual is dishonest or unreliable may result in nonselection, disciplinary action, or separation, whether criminally prosecuted or not, if such activity or conduct falls also within the specific terms of 3 FAM 4137 or 3 FAM 4138.

3 FAM 4139.3 Freedom of Expression

(CT:PER-673; 04-27-2012)

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(Applies to Foreign Service Employees)

The agencies do not presume to impinge upon any of their employee's right of expression, but the individual as an employee is obliged to protect or to refrain from unauthorized dissemination of certain types of information which the employee acquires through official duties, such as classified information, privileged financial, commercial, and other business information, and information about individuals protected by 5 U.S.C. 552a (the Privacy Act of 1974). An employee may be held accountable for unintentional as well as deliberate and unauthorized public expressions whether written or spoken, which, by violating the confidentiality of privileged information, impede the efficiency of the Service. Such efficiency may be impeded because information appearing insignificant from a security point of view is highly sensitive by virtue of the source or manner in which it was acquired; or because creation of a poor reputation for discretion and security consciousness seriously impairs the trust and confidence the Service normally enjoys with foreign governments and individuals with whom it must deal in candor and mutual confidence. The Department's procedures for the expression of dissenting views on official matters are contained in 5 FAM, and for the agencies the prerequisites for public speeches or writing for publication are found in uniform State/USAID regulations in 3 FAM 1900 Appendix A.

3 FAM 4139.4 Medical Standards

(CT:PER-673; 04-27-2012)

(Uniform State/USAID)

(Applies to Foreign Service Employees)

Suitability considerations may also coincide with medical standards and criteria in certain respects, such as when the conduct substantially evidences emotional disorder or impaired judgment. Alcohol and drug abuse are ordinarily matters of medical concern, although they may also present suitability or security problems (see 3 FAM 4139.5 and 3 FAM 4139.6). As a general policy, conduct which has such medical aspects will be handled under medical standards, but may also be handled under suitability or security standards if medical handling is not deemed sufficient. However, priority consideration should be given in each case to handling such matters medically rather than in a disciplinary mode.

3 FAM 4139.5 Habitual Use of Intoxicating Beverages to Excess

(CT:PER-673; 04-27-2012)

(Uniform State/USAID)

(Applies to Foreign Service Employees)

The moderate use of alcohol is generally accepted in our society and is legal in most jurisdictions. The moderate social usage of alcohol is generally known to

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have little significant relationship to a person's ability to perform effectively and it has no apparent effect upon the Service's ability to effectively conduct its responsibilities. Alcohol abuse by an individual is considered to be primarily a medical problem and should ordinarily and generally be handled in that fashion. However, it may be a suitability or security problem, as when the individual fails to perform duties effectively or, while under the influence of alcohol, indiscreetly discusses sensitive or privileged information. To the extent that the individual seeks rehabilitation and the medical authorities regard the prognosis as favorable, the agencies will handle such problems under the medical program. Should the individual fail to respond to a medical rehabilitation program, as determined by the Office of Medical Services (MED), consideration may be given to the appropriateness of a disability retirement with the understanding that alcoholism as a primary diagnosis is not a cause for the finding of a disability, or the case may be handled as a disciplinary or separation matter. Security precautions for the alcoholic individual may include denying access to sensitive information, pending rehabilitation. Alcohol abuse on the part of an applicant, in the absence of evidence of rehabilitation, will result in denial of appointment. For further details of the agencies' policy on alcohol abuse, see uniform State/USAID regulations in 3 FAM 1900 Appendix A.

3 FAM 4139.6 Abuse of Narcotics, Drugs, or Other Controlled Substances

(CT:PER-673; 04-27-2012)

(Uniform State/USAID)

(Applies to Foreign Service Employees)

- a. Unlike the moderate use of alcohol, drug abuse is not generally an accepted form of behavior in our society and in most jurisdictions is illegal. For this reason, employment may be denied or terminated for those who illegally use drugs, narcotics, or other controlled substances, including marijuana, LSD, or others that are common and readily obtainable. The agencies are aware that the application of criminal law to the possession of marijuana is in a state of flux, and consideration, therefore, will be given to the actual status of the law in determining whether any action is warranted.
- b. An employee who becomes involved with drugs should seek medical help. As with alcoholism, the abuse of drugs is considered primarily a medical problem and is handled as such. As with alcohol abuse, security precautions for the drug-abusing employee may include denying access to sensitive information, pending successful rehabilitation. Should the employee decline or fail to abide by a medical rehabilitation program, the case may be handled as a disciplinary or separation action. For applicants, indications of drug abuse, without evidence of cessation or rehabilitation, will be grounds for denial of appointment.
- c. In the case of abuse of drugs, the evidence of rehabilitation must be evaluated

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by the Department's Medical Director. Trafficking in or abuse of narcotics, drugs, or any substance listed under the Controlled Substance Act (21 U.S.C. 812.), whether or not for profit, is forbidden and will subject the employee to disciplinary action or separation. For further details on the agencies' policy on drug abuse, see 3 FAM 2110, 3 FAH-1 H-2110, and chapter 3 FAM 1900.)

3 FAM 4139.7 Loyalty and Security

(CT:PER-673; 04-27-2012)

(Uniform State/USAID)

(Applies to Foreign Service Employees)

- a. The loyalty and security standards and criteria are contained in:
 - (1) State: 3 FAM 2220 and 12 FAM; and
 - (2) USAID: Handbook 6, chapter 1.
- b. Security criteria, particularly as they relate to the individual's integrity, reliability, or trustworthiness, often coincide with the more general suitability criteria. To the extent that they do, the Department will normally choose to resolve cases under suitability criteria and procedures rather than under security regulations. However, this policy does not preclude action under 12 FAM when deemed appropriate. Indeed, employees will at all times remain subject to continuing evaluation by supervisory and security personnel to ensure that continued security clearance eligibility is clearly consistent with the interests of national security.

3 FAM 4139.8 Criminal Conduct

(CT:PER-673; 04-27-2012)

(Uniform State/USAID)

(Applies to Foreign Service Employees)

Conduct which violates criminal laws, whether in the United States or abroad, will subject the employee to possible disciplinary action or separation. The fact that Foreign Service employees serving abroad may enjoy certain privileges and immunities—no matter how these may vary by category or from country to country—the Service imposes an added obligation that each employee scrupulously refrain from activities which, but for diplomatic privilege or courtesy, would subject the employee to local criminal sanctions.

3 FAM 4139.9 Financial Responsibility

(CT:PER-673; 04-27-2012)

(Uniform State/USAID)

(Applies to Foreign Service Employees)

Standards and guidelines concerning financial obligations and conflicts of interest for the agencies are provided in uniform State/USAID regulations, section 4150. Employees are expected to deal responsibly with creditors. In the event of a dispute between an employee and alleged creditor, this section does not require the agency to determine the validity or amount of the disputed debt. Under existing law, an agency may be required in cases of alimony or child support or of any U.S. court judgment to garnishee the compensation of an employee or to take disciplinary action for irresponsible behavior. Disciplinary action may be warranted where an employee's failure to pay financial obligations will result in embarrassment and/or discredit to the agency or Government.

3 FAM 4139.10 The Employee's Obligation to Account for Conduct or Other Matters Directly Affecting Employment

(CT:PER-673; 04-27-2012)

(Uniform State/USAID)

(Applies to Foreign Service Employees)

An employee is obliged to account for his or her own conduct, whether on or off the job, related to the employee's responsibilities and performance of duties, and to answer any questions asked by authorized officials relating to such conduct. If authorized officials believe that answers would implicate the employee in a criminal matter, the employee will be advised of his or her right to remain silent, and of the right of legal counsel. Whether or not the employee agrees to account for his or her own conduct, any matter involving possible criminal conduct by an employee will be referred to the Department of Justice. If the Department of Justice declines prosecution in favor of administrative action by the agency, the employee may be re-interviewed concerning his or her own conduct. The employee will be advised that nothing stated in the interview may be used against the employee in any subsequent criminal proceeding. If an employee at this time refuses to account for conduct affecting his or her own responsibilities or performance of duty, the refusal itself may be considered a basis for disciplinary action or separation.

3 FAM 4139.11 The Individual's Obligation to Furnish Information on Fitness

(CT:PER-673; 04-27-2012)

(Uniform State/USAID)

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(Applies to Foreign Service Employees)

The individual is obliged to provide or authorize others to provide information relevant to a determination of general suitability or security qualifications. Refusal, upon notice of the purpose of the inquiry, may warrant denial of appointment or action leading to disciplinary action or separation upon showing that the inquiry has been authorized.

3 FAM 4139.12 Employee Representative

(CT:PER-673; 04-27-2012)

(Uniform State/USAID)

(Applies to Foreign Service Employees)

The employee will be advised of the right to a representative of his or her own choosing at every stage, including initial questioning. The employee and representative(s) who are under the control, supervision, or responsibility of the foreign affairs agencies shall be granted reasonable periods of administrative leave to prepare, to be present, and to present the employee's case. The employee has a right to have his or her own representative present at any meeting when the employee is asked by authorized officials to provide information regarding the employee's own conduct, or information relevant to a question of the employee's suitability or security qualifications, or any other information pertaining to another person which the employee reasonably believes may result in disciplinary action against him or herself. Any representative must have an appropriate security clearance in order to have access to or use of classified information.

3 FAM 4139.13 Allegations or Complaints About Employees

(CT:PER-673; 04-27-2012)

(Uniform State/USAID)

(Applies to Foreign Service Employees)

Supervisors or rating officers or other employees with firsthand knowledge, learning of any conduct covered by the provisions of this subchapter, or other applicable regulations, are obliged to bring the matter to the attention of appropriate agency officials. The principal officer of the employee's parent agency at a post abroad, the Director General of the Department, or the Director, Office of Human Resources (HR) in USAID may request or conduct any additional investigation deemed appropriate to clarify, confirm, or refute a complaint or allegation. Information deemed sufficiently accurate, complete, and serious enough to warrant further consideration will be referred to the appropriate authority for action.

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3 FAM 4139.14 Notoriously Disgraceful Conduct

(CT:PER-673; 04-27-2012)

(Uniform State/USAID)

(Applies to Foreign Service Employees)

Notoriously disgraceful conduct is that conduct which, were it to become widely known, would embarrass, discredit, or subject to opprobrium the perpetrator, the Foreign Service, and the United States. Examples of such conduct include but are not limited to the frequenting of prostitutes, engaging in public or promiscuous sexual relations, spousal abuse, neglect or abuse of children, manufacturing or distributing pornography, entering into debts the employee could not pay, or making use of one's position or immunity to profit or to provide favor to another (see also 5 CFR 2635) or to create the impression of gaining or giving improper favor. Disqualification of a candidate or discipline of an employee, including separation for cause, is warranted when the potential for opprobrium or contempt should the conduct become public knowledge could be reasonably expected to affect adversely the person's ability to perform his or her own job or the agency's ability to carry out its responsibilities. Evaluators must be careful to avoid letting personal disapproval of such conduct influence their decisions.

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3 FAM 4140 GUIDELINES FOR PERSONNEL TAKEN HOSTAGE

*(CT:PER-678; 06-22-2012)
(Office of Origin: DS/MGT/PPD)*

3 FAM 4141 AUTHORITY

*(CT:PER-678; 06-22-2012)
(Uniform State/USAID/USIA/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service and Civil Service Employees)*

Authorities include:

- (1) State:* 5 U.S.C. 301 Section 206 of the Foreign Service Act of 1980 (22 U.S.C. 3926 and 22 U.S.C. 2651a.
- (2) USAID:* 5 U.S.C. 301 and sections 202(a)(1) (U.S.C. 3922) and 206 (22 U.S.C. 3926) of the Act.
- (3) USIA:* 5 U.S.C. 301 and sections 202(a)(1) (22 U.S.C. 3922) and 206 (22 U.S.C. 3926) of the Act.
- (4) Agriculture:* 5 U.S.C. 301 and sections 202(a)(2) (22 U.S.C. 3922) and 206 (22 U.S.C. 3926) of the Act.
- (5) Commerce:* 5 U.S.C. 301 and sections 202(a)(3) (22 U.S.C. 3922) and 206 (22 U.S.C. 3926) of the Act.

3 FAM 4142 DEFINITIONS

*(TL:PER-303; 11-08-1995)
(Uniform State/USAID/USIA/Commerce/Foreign Service Corps-USDA)
(Applies to Foreign Service and Civil Service Employees)*

“Agencies” means the Department of State, USAID, USIA, and the Departments of Agriculture and Commerce.

“U.S. Government personnel” means employees of the agencies, both Foreign Service (except for Foreign Service national employees and non-U.S. citizen consular agents) and Civil Service, serving abroad, including employees on detail.

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3 FAM 4143 GUIDELINES FOR U.S. GOVERNMENT PERSONNEL TAKEN HOSTAGE

(TL:PER-303; 11-08-1995)

(Uniform State/USAID/USIA/Commerce/Foreign Service Corps-USDA)

(Applies to Foreign Service and Civil Service Employees)

- a. U.S. Government personnel serving abroad are expected to be mature, responsible, and patriotic individuals for whom the concept of service has a real and personal meaning.
- b. Individuals who are taken hostage should be aware that their captors may seek to exploit them. Their captors may be seeking information to be used to the detriment of the United States or of their fellow hostages, and are likely to use information obtained from one captive when interrogating another. Individuals should consequently be guided by the knowledge that whatever they say may be used to mislead or punish their colleagues and that their actions may result in reprisals.
- c. Captured individuals should not discuss sensitive aspects of the work of their fellow hostages. They should not divulge classified or sensitive information. They should not sign or make statements or take action which they believe might bring discredit to the United States.
- d. The decision to attempt escape rests with the individual concerned. However, the decision should be consistent with the considerations set forth above.
- e. Hard and fast rules are not always helpful and the U.S. Government recognizes that the ability of individuals to resist extreme pressure differs. But, to the extent possible, one must help one's colleagues and avoid exploitation. Sound judgment is essential.

3 FAM 4144 THROUGH 4149 UNASSIGNED

3 FAM 4150 WORKPLACE VIOLENCE

(CT:PER-677; 05-17-2012)
(Office of Origin: HR/ER)

3 FAM 4151 PURPOSE

(CT:PER-677; 05-17-2012)
(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. Every Department of State employee must maintain a workplace that is free of violent and threatening behavior. This regulation communicates the Department's policy on preventing and responding to violence in the workplace.
- b. The Workplace Violence Incident Assessment Team (WVIAT) provides guidance to incident responders (supervisors, managers, HR officers, Bureau of Diplomatic Security, etc.) regarding response measures and responsibilities for incidents of violence in the Department's workplace.

3 FAM 4152 POLICY

(CT:PER-677; 05-17-2012)
(State Only)

(Applies to Foreign Service and Civil Service Employees)

The Department will not tolerate workplace violence on any premises it owns, leases, or that are under chief-of-mission authority abroad, including parking lots and garages. Any employee found to be engaging in workplace violence may be subject to discipline up to and including separation from employment and/or removal from the premises and/or curtailment from post. Where there are violations of local or Federal law, an incident of workplace violence may lead to an arrest or prosecution.

3 FAM 4153 SUBCHAPTER DEFINITIONS

(CT:PER-677; 05-17-2012)
(State Only)

(Applies to Foreign Service and Civil Service Employees)

Threatening behavior: Any use of words or actions that may intimidate or provoke a reasonable person and/or interfere with the performance of official duties.

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Violence: A range of behaviors or actions that a reasonable person would consider to pose a danger or threat in the workplace.

Violent behavior: Any physical attack against a person or property.

Workplace violence: Any threatening behavior, violent behavior, or violence occurring in a workplace setting. Workplace setting includes but is not limited to any premises that the Department owns or leases, or that are under chief-of-mission authority abroad, including parking lots and garages.

3 FAM 4154 CATEGORIES OF WORKPLACE VIOLENCE

(CT:PER-677; 05-17-2012)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

Although some actions may clearly constitute workplace violence (e.g., striking a co-worker), others may not be so obvious. The following examples illustrate behaviors that may—depending upon the specific circumstances—constitute violation of the workplace violence policy.

Violent Behavior	Examples (not all-inclusive)	Threatening Behavior	Examples (not all-inclusive)
Unwanted physical contact Destruction of property	Shoving Grabbing Jabbing Breaking or throwing equipment Breaking or putting holes in doors, walls, or windows, etc.	Implied threats Written or verbal threats Verbal/mental abuse Harassment Intimidation Bullying	Screaming, yelling in a threatening manner, e.g., "You'll pay for this" or "You'll be sorry" Intentionally crowding to intimidate Blocking access to or exit from

3 FAM 4155 PREVENTING WORKPLACE VIOLENCE

(CT:PER-677; 05-17-2012)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. Every employee is expected to use the Department's resources preemptively to

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address workplace stressors in order to prevent his or her own behavior from becoming violent or threatening.

- b. The Office of Medical Services Employee Consultation Services (MED/ECS) provides confidential counseling and referral services at no cost to employees.
- c. Information Quest (IQ) is a comprehensive and confidential resource and referral service that assists employees who are searching for ways to balance the demands of their professional and personal lives. Additional information can be found on the Information Quest Web site.
- d. The Foreign Service Institute (FSI) offers courses to help employees understand the motivations that trigger violence in the workplace and discusses the Department's policy on workplace violence. Additional information can be found on the Foreign Service Institute Web site.

3 FAM 4156 RESPONSIBILITIES

3 FAM 4156.1 Employees

(CT:PER-677; 05-17-2012)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. Department of State employees should familiarize themselves with the Department's workplace violence regulation, workplace violence cable(s) and notice(s). All employees should familiarize themselves with the Office of Personnel Management's workplace violence guide which can be found on the Office of Personnel Management's Work/Life Web site.
- b. Department of State employees should familiarize themselves with the procedures for reporting an emergency and contacting appropriate emergency services and first responders so that employees are prepared to respond in the event of a workplace violence incident.
- c. In the event of an immediately threatening or violent situation, all Department of State employees should:
 - (1) If the incident takes place in the United States, call 911 when there is an injury or an immediate risk of injury in the workplace;
 - (2) Alert the appropriate law enforcement or security office at his or her location when there is risk to his or her safety or the safety of others, injury, or immediate risk of injury. In the Washington, DC area dial extension 7-9111 or the appropriate telephone number for the law enforcement or security office at his or her location;
 - (3) Immediately report threatening or violent behavior to supervisors after securing emergency medical assistance as needed;

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- (4) Move to a safe area away from the individual(s) making threats or exhibiting violent behavior. Do not confront the individual or individual(s); and
- (5) Take all threats and acts of violence seriously.

3 FAM 4156.2 Supervisors and Managers

(CT:PER-677; 05-17-2012)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

Supervisors and managers should:

- (1) Ensure that all staff are aware of emergency response procedures and have access to contact telephone numbers for all appropriate resources, including emergency responders;
- (2) Inform employees of this workplace violence regulation, as well as the associated Department cable(s) and notice(s);
- (3) Report potential threats at the earliest opportunity to the bureau's or post's human resources (HR) officer so appropriate steps may be taken to preemptively address the situation; and
- (4) In the event of an immediately threatening or violent situation, supervisors and managers should:
 - (a) Seek medical first aid and medical treatment for all those injured including contacting 911 if in the United States, as appropriate;
 - (b) Immediately contact the Bureau of Diplomatic Security (DS), post's regional security officer (RSO) or municipal safety and security resources as outlined in their office's emergency response plan;
 - (c) Ensure that everyone, including themselves, is in a safe location while the incident response is underway;
 - (d) Contact the bureau HR officer and report the incident once they are in a safe location; and
 - (e) Once the workplace is deemed safe and the injured are treated, supervisors and managers should identify participant(s) and/or witness(es), especially if the individuals cannot or will not remain at the scene. They should also document any information to help assist DS with the potential investigation.

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3 FAM 4156.3 Bureau/Post Management

(CT:PER-677; 05-17-2012)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. Bureau/post management should ensure that all employees are aware of the Department's workplace violence notices which indicate that violent and threatening behavior will not be tolerated. Such behavior should be taken seriously and should be reported. Investigations will take place as appropriate.
- b. In cases where the presence of the violent or threatening employee poses a threat to his or her co-workers:
 - (1) After consultation with the appropriate human resources officer in the bureau or at post, the immediate supervisor may approve up to 16 hours of administrative leave;
 - (2) Additional administrative leave may only be approved by the Deputy Assistant Secretary (DAS) in the Bureau of Human Resources after the bureau, post or appropriate HR office consults with the Conduct, Suitability, and Discipline Division in the Office of Employee Relations; and
 - (3) In conjunction with the Workplace Violence Incident Assessment Team (see 3 FAM 4157), bureau/post management should determine whether continued suspension of duties may be required, which will entail further approval and extension of administrative leave.
- c. Bureau/post management should provide employees, supervisors, and managers with easily accessible information on workplace violence policy, emergency reporting, and response procedures.
- d. Bureau/post management should conduct regular reviews of emergency reporting and response procedures to update information.

3 FAM 4156.4 Bureau of Diplomatic Security (DS)

(CT:PER-677; 05-17-2012)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

The Bureau of Diplomatic Security (DS):

- (1) Provides security guidance to bureau and post human resources (HR) officers regarding the proper emergency response measures to be taken in violent or threatening situation(s);
- (2) Ensures uniform protective officers and other first-responder security personnel respond to an incident as soon as possible to restore order and safety to the work environment, as appropriate;
- (3) Assists in ensuring proper medical treatment is provided until medical

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personnel arrive, when needed;

- (4) Escorts involved employee(s) from premises if there is a belief that the violent or threatening employee's continued presence poses a threat;
- (5) Conducts investigations into allegations of workplace violence, as appropriate. In some cases the initial investigation may determine that no action is warranted by DS or the RSO and that appropriate action lies with management, human resources officers, or the Office of Medical Services (MED); and
- (6) Determines continued eligibility for an individual's security clearance in accordance with the Government-wide Adjudicative Guidelines for Determining Eligibility for Access to Classified Information, and conducts the issuance and withdrawal of public trust certifications consistent with governing suitability standards.

3 FAM 4157 WORKPLACE VIOLENCE INCIDENT ASSESSMENT TEAM (WVIAT)

(CT:PER-677; 05-17-2012)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. The purpose of the Workplace Violence Incident Assessment Team (WVIAT) is to provide guidance to incident responders (supervisors, managers, HR officers, Bureau of Diplomatic Security, etc.) on managing an incident(s) or suspected incident(s) of workplace violence, as appropriate.
- b. The WVIAT has four primary functions:
 - (1) Review and determine appropriate course(s) of action for workplace violence cases brought before the team;
 - (2) Provide a central point of reporting to identify, as appropriate, any trends in incidents related to specific locations or job categories;
 - (3) Provide recommendations to the Department on updated or new informational resources; and
 - (4) Ensure all regulations, policies, and procedures are up-to-date and informative.

3 FAM 4158 WVIAT MEMBERS AND RESPONSIBILITIES

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(CT:PER-677; 05-17-2012)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

- a. The composition of the Workplace Violence Incident Assessment Team (WVIAT) may vary depending on the situation being assessed. However, core members participate regardless of the specific incident.
- b. WVIAT core members include:
 - (1) The Deputy Assistant Secretary for the Bureau of Human Resources (DGHR);
 - (2) The Office of Employee Relations (HR/ER);
 - (3) The Bureau of Diplomatic Security (DS);
 - (4) The Office of Medical Services (MED);
 - (5) The Office of the Legal Adviser (L); and
 - (6) Regional or functional bureau human resources officer(s).

3 FAM 4158.1 The Deputy Assistant Secretary for the Bureau of Human Resources

(CT:PER-677; 05-17-2012)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

The Deputy Assistant Secretary for the Bureau of Human Resources who handles the Office of Employee Relations portfolio:

- (1) Provides oversight and monitors core team assignments;
- (2) Ensures that follow-up is conducted; and
- (3) Decides appropriate action, based on the Workplace Violence Incident Assessment Team's (WVIAT) recommendations.

3 FAM 4158.2 Office of Employee Relations (HR/ER)

(CT:PER-677; 05-17-2012)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

The Office of Employee Relations (HR/ER):

- (1) Determines employee's status and leave options;
- (2) Prepares and maintains official records (except for medical records);
- (3) Reviews history of workplace interventions in similar situations to ensure a consistent Department response; and

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- (4) Coordinates meetings and activities of the WVIAT.

3 FAM 4158.3 Bureau of Diplomatic Security (DS)

(CT:PER-677; 05-17-2012)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

The Bureau of Diplomatic Security (DS):

- (1) Responds to and evaluates incidents of workplace violence;
- (2) Takes appropriate action to ensure the safety of employees and others in the workplace;
- (3) When appropriate, the DS Special Investigations Division (DS/ICI/SID) conducts a criminal or administrative investigation; and
- (4) Briefs the Workplace Violence Incident Assessment Team (WVIAT) on any investigation findings.

3 FAM 4158.4 Office of Medical Services (MED)

(CT:PER-677; 05-17-2012)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

The Office of Medical Services (MED):

- (1) Provides medical advice and recommendations, as appropriate; and
- (2) Provides mental health and/or occupational medicine resources to review medical records released voluntarily by the involved employee, as appropriate.

3 FAM 4158.5 Office of the Legal Adviser (L)

(CT:PER-677; 05-17-2012)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

The Office of the Legal Adviser (L) reviews the incident and responses with other members and provides advice and counsel to ensure compliance with appropriate laws and regulations.

3 FAM 4158.6 Bureau of Human Resources (HR) Officers and Specialists

(CT:PER-677; 05-17-2012)

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(Applies to Foreign Service and Civil Service Employees)

Bureau of Human Resources (HR) officers and specialists:

- (1) Provide relevant information about employee's current and/or prior conduct;
- (2) Prepare administrative paperwork, i.e., request for administrative leave, etc., as needed; and
- (3) Work with bureau/post management to determine whether administrative action is warranted if the incident does not rise to the threshold of further investigation by the Bureau of Diplomatic Security (DS).

3 FAM 4159 WVIAT PROCEDURES

3 FAM 4159.1 Immediate Actions

(CT:PER-677; 05-17-2012)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

When incident responders (supervisors, managers, HR officers, Bureau of Diplomatic Security) first refer an incident to the Workplace Violence Incident Assessment Team (WVIAT), the team should:

- (1) Evaluate the information obtained by the Bureau of Diplomatic Security (DS) and the supervisor or management official;
- (2) Decide if input from additional Department officials and/or bureaus is needed;
- (3) Review the employee's present and prior performance and conduct; and
- (4) Consider whether an independent medical exam should be offered to the employee for the purposes of evaluating his or her ability to perform the functions of the employee's position safely and efficiently:
 - (a) In determining whether an independent medical exam should be offered, the WVIAT will perform an individualized assessment of the relevant facts based on all available information, including but not limited to the DS investigative report; the observed behavior of the employee; the underlying incident; and any medical documentation provided by the employee;
 - (b) If the employee is in the Bureau of Diplomatic Security and his or her job duties require the use of special protective equipment, DS may determine separately whether to recommend to the Director that the employee be ordered to take a Fitness for Duty Examination pursuant to 3 FAM 4910;

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- (c) If the WVIAT determines that an independent medical examination may be appropriate, such exam will be offered and conducted pursuant to the relevant statutory and regulatory provisions. The medical examination will focus on the employee's ability to perform the functions of the position at issue, safely and effectively, with or without reasonable accommodation;
 - (d) The employee's bureau is responsible for the cost of any medical examination; and
 - (e) An employee may decline to submit voluntarily to an independent medical examination offered under this section. In the event an employee declines to participate in an offered examination, the WVIAT will determine the appropriate course of action based solely on the information otherwise available;
- (5) If an employee has previously been placed on administrative leave, the WVIAT will make a recommendation whether the employee should return to work immediately after administrative leave ends; and
- (6) In situations in which the employee remains at the worksite, the WVIAT will determine how the employee's behavior should be addressed. The WVIAT should consider both short- and long-term actions, as appropriate (see 3 FAM 4159.2)

3 FAM 4159.2 Short- and Long-Term Actions

(CT:PER-677; 05-17-2012)

(State Only)

(Applies to Foreign Service and Civil Service Employees)

Short- and long-term actions include, but are not limited to, the following:

- (1) Administrative leave;
- (2) Counseling from supervisor or higher management official;
- (3) Appropriate disciplinary action, up to and including separation;
- (4) Curtailment; and/or
- (5) Medical evacuation.

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3 FAM 4160 EMPLOYEE CONSULTATION SERVICE

(CT:PER-678; 06-22-2012)
(Office of Origin: MED)

3 FAM 4161 PURPOSE

(TL:PER-269; 6-30-95)
(Uniform State/USAID)
(Applies to Foreign Service and Civil Service Employees)

The Employee Consultation Service (ECS) assists Foreign Service and Civil Service employees of the Department of State and the United States Agency for International Development (USAID) assigned to Washington, D.C., who have job performance or work-related behavior problems which may be attributable to physical, emotional, or social conditions. ECS also provides counseling and referral services in connection with credit problems counseling such as garnishment of compensation.

3 FAM 4162 AUTHORITY

(CT:PER-678; 06-22-2012)
(Uniform State/USAID)
(Applies to Foreign Service and Civil Service Employees)

Authorities include:

- (1)* Foreign Service employees: Section 206 of the Foreign Service Act of 1980 (22 U.S.C. 3926); *and*
- (2)* Civil Service employees: 22 U.S.C. 2658, and 5 U.S.C. 7901.

3 FAM 4163 BACKGROUND

(TL:PER-269; 6-30-95)
(Uniform State/USAID)
(Applies to Foreign Service and Civil Service Employees)

Employees may be under physical, emotional, or social stress which adversely affects their job performance or creates work related behavior problems. While there is no substitute for professional assistance privately obtained by the employee, the Department is making available professional, confidential, and easily accessible counseling and referral services through the ECS. This service is

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available to supervisor and subordinate employees alike, seeking to address an existing problem or to prevent an escalation of problems in a working environment. Similar to the Alcohol Awareness Program, these services would be available for such problems as emotional distress and marriage and family problems. ECS is administratively located in the Office of Medical Services but is a separate unit with an independent system of records. It is prohibited from disclosing outside that office information received from employees in confidence, except to the extent required by law or authorized by the employee. The Office of the Legal Adviser advises that ECS's system of records is protected by the Privacy Act (5 U.S.C. 552a) and is considered to consist of personnel/medical files containing personal information, the disclosure of which would constitute a clearly unwarranted invasion of privacy within the meaning of exemption 6 of the Freedom of Information Act (5 U.S.C. 522(b)(6)).

3 FAM 4164 POLICY

(TL:PER-269; 6-30-95)

(Uniform State/USAID)

(Applies to Foreign Service and Civil Service Employees)

Any employee who has reason to believe that a physical, emotional, social, or any other personal condition may adversely affect the employee's performance or work-related behavior is encouraged to contact ECS on a confidential basis and request assistance. There is no obligation to follow advice given or to continue a contact once made, nor may any adverse career implications be drawn from either application, non-application, or withdrawal from the ECS.

3 FAM 4165 ORGANIZATION

(TL:PER-269; 6-30-95)

(Uniform State/USAID)

(Applies to Foreign Service and Civil Service Employees)

- a. The ECS is a service parallel to the Alcohol Awareness Program, except that no long-range counseling is directly available. In addition to the permanent professional and clerical staff, ECS will use professional consultations. Administratively, ECS staff will report to the Medical Director (M/DGP/MED) through the Office of Mental Health Services. That administrative arrangement shall not be construed to override any provisions of the 1974 Privacy Act (5 U.S.C. 552a). And, therefore, these records will not be integrated into any existing medical record.
- b. The ECS in no way supersedes or replaces the Alcoholism and Drug Abuse Program under 3 FAM 1900. It is intended to supplement that program and to provide services, counseling, and referral for personal problems other than alcoholism or drug abuse.

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- c. The ECS in no way supersedes or replaces the procedures for fitness for duty examination of employees.
- d. For communication between employees in the field and the ECS, there is established a medically coded telegram (ECS) and a special caption ECS which shall limit distribution to the employee and ECS.
- e. Employees undergoing the inservice physical examination process, or, evaluation as a result of medical evacuation, must be aware that information obtained during the above period and pertinent to the clearance action, will be made available to the appropriate medical professional charged with the disposition of the employee's case.

3 FAM 4166 CONFIDENTIALITY

(TL:PER-269; 6-30-95)

(Uniform State/USAID)

(Applies to Foreign Service and Civil Service Employees)

- a. The ECS proposes to establish a system of records for employees who receive assistance and/or are referred to an outside source. This system of records shall be maintained separately from all other M/DGP/MED or other Department of State records. Files of employees in this system of records should be clearly marked "CONFIDENTIAL PERSONAL INFORMATION" and containers in which such files are kept should be conspicuously labeled with the same cautionary statement.
- b. Employees who apply to, or are referred to, the ECS are entitled to have that fact maintained in confidence, as well as any personal information conveyed from or about them to the ECS in applications or referrals. Such confidential information may not be disclosed outside the ECS except for the purpose and under the circumstances described below:
 - (1) The information has been disclosed outside the ECS by the employee or another employee through discharge of official responsibilities (for example, the job performance deficiency which evidences a medical problem is reflected in a performance evaluation);
 - (2) There is a written consent by the employee in the form prescribed in 3 FAM 1900; that is, the name of the person or organization to whom disclosure is to be made, specific type of information, and purpose or need of such disclosure;
 - (3) The circumstances described in 3 FAM 1900 pertain; that is, release to medical personnel to meet a bona fide medical emergency or to qualified personnel for purposes of research, audit, or program evaluation in a statistical form; or
 - (4) There is a valid court order to disclose.

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- c. To the extent permitted by law, information disclosed to staff of the ECS shall be considered privileged and not subject to disclosure in administrative and judicial proceedings.

3 FAM 4167 RESPONSIBILITY OF OTHER EMPLOYEES

(TL:PER-269; 6-30-95)

(Uniform State/USAID)

(Applies to Foreign Service and Civil Service Employees)

- a. Supervisors have the same responsibilities for identifying employees with physical, emotional, or social problems and referral as is set forth in 3 FAM 1900 for employees under their supervision with alcoholism or drug abuse problems. However, in all cases the employee must voluntarily enter into the ECS consultation process.
- b. Counselors in other programs who become aware of a physical, emotional, or social problem affecting job performance or work-related behavior shall encourage the employee to apply to the ECS for assistance.

3 FAM 4168 AND 4169 UNASSIGNED

3 FAM 4170 OFFICIAL CLEARANCE OF SPEAKING, WRITING, AND TEACHING

*(CT:PER-610; 06-09-2009)
(Office of Origin: L/EMP)*

3 FAM 4171 APPLICABILITY

(CT:PER-584; 11-03-2005)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

- a. The provisions of this subchapter apply to all employees, including Foreign Service(FS) employees, Civil Service(CS) employees, overseas employees, personal service contractors (PSC's) of State, and USAID, in the United States and abroad, and special government employees as specified in 3 FAM 4172.1-3(E).
- b. The provisions of this subchapter apply to all public speaking, writing and teaching materials of "official concern" (defined in 3 FAM 4172.1-3(A)).

3 FAM 4172 GENERAL POLICY AND PROCEDURES

3 FAM 4172.1 Policy

(CT:PER-584; 11-03-2005)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

- a. The foreign affairs agencies encourage the participation of their employees in responsible, nonpartisan activities devoted to increasing public study and understanding of the nation's foreign relations. In appropriate circumstances, such activities may be performed in an official or private capacity.
- b. No current or former employee is permitted to publish materials that contain classified information.

3 FAM 4172.1-1 Overview of Procedures

(CT:PER-584; 11-03-2005)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

- a. These regulations are applicable to all public speeches, writings and teaching materials prepared by employees. Public speeches, writings and teaching materials on matters of "official concern" must be submitted to the appropriate office for review before publication or use. The purpose of such review is to ensure that classified material and other material protected by law are not improperly disclosed, and that the views of employees are not improperly attributed to the U.S. Government. Materials that do not address matters of official concern need not be submitted for review.
- b. Some materials may be prepared by an employee in his or her official capacity, that is, pursuant to official duties. Other material may be prepared by an employee in his or her capacity as a private citizen interested in foreign affairs or other relevant matters. Materials prepared in an employee's private capacity must contain an explicit disclaimer noting that the views expressed are those of the employee and not necessarily those of the employee's agency or the U.S. Government. As detailed below; different standards and procedures govern each of these situations.

3 FAM 4172.1-2 Review of Materials Prepared in an Employee's Official Capacity

(CT:PER-584; 11-03-2005)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

Public speaking, writing, or teaching materials produced by an employee in an official capacity may be publicly disseminated if approved by the employee's agency pursuant to applicable guidelines, standards, and procedures. (For USAID see Automated Directives System (ADS)).

3 FAM 4172.1-3 Review of Materials Prepared in an Employee's Private Capacity

3 FAM 4172.1-3(A) Materials on Matters of Official Concern

(CT:PER-584; 11-03-2005)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

1. An employee who has prepared public speaking, writing, or teaching materials in his or her private capacity must submit them for review by the employee’s agency, if such materials are on matters of “official concern.” Employees are reminded that communications in a private capacity over the Internet that are publicly available (e.g. blogs, bulletin boards) and are on matters of official concern come within this requirement.
2. Materials are on matters of official concern if they relate to any policy, program, or operation of the employee’s agency or to current U.S. foreign policies, or reasonably may be expected to affect the foreign relations of the United States.

3 FAM 4172.1-3(B) Materials on Matters Not of Official Concern

(CT:PER-584; 11-03-2005)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

Speaking, teaching, and writing materials that are not on matters of official concern need not be submitted for review. Unless the material is **clearly** not on a subject of official concern, an employee is responsible for seeking review and delivering or publishing such material with the private capacity disclaimer noted in 3 FAM 4172.1-4. If there is doubt as to the need to seek review, the employee should seek guidance or advice from the appropriate review office noted in 3 FAM 4172.1-3(C).

3 FAM 4172.1-3(C) Review Office

(CT:PER-584; 11-03-2005)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

Agency	Employees	Review Office
State	Employees in U.S. Employees abroad	Bureau of Public Affairs Chief of Mission
USAID	All employees	Public Liaison Division

3 FAM 4172.1-3(D). No Review of Dissent Channel Communications

(CT:PER-584; 11-03-2005)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

Views on matters of official concern communicated through the Department's internal dissent channel are not subject to the review requirements of this subchapter.

3 FAM 4172.1-3(E) Limited Review of Materials Prepared by Special Government Employees

(CT:PER-584; 11-03-2005)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

A special government employee, as defined in 18 U.S.C. 202(a), is responsible for submitting for review materials on matters of official concern prepared in his or her private capacity only if they relate to a matter to which the employee currently is assigned or to which the employee had been assigned during the previous one-year period.

3 FAM 4172.1-3(F) Limited Review of Materials Prepared by Former Employees

(CT:PER-584; 11-03-2005)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

Former employees must submit for review any public speaking, writing, or teaching materials that they have prepared in accordance with applicable post-employment regulations and agreements, including those concerning the dissemination of classified information.

3 FAM 4172.1-4 Materials of Official Concern Prepared in an Employee's Private Capacity: Use of a Disclaimer

(CT:PER-584; 11-03-2005)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

All public speaking, writing, and teaching materials on matters of official concern prepared in an employee's private capacity must contain an explicit

disclaimer indicating that the views expressed are the employee's own views and not necessarily those of the employee's agency or the U.S. Government.

3 FAM 4172.1-5 Materials of Official Concern Prepared in an Employee's Private Capacity: Duration of Review

(CT:PER-584; 11-03-2005)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

All public speaking, writing, or teaching materials on matters of official concern prepared in an employee's private capacity must be submitted for a reasonable period of review, not to exceed thirty days, to the office specified in 3 FAM 4172.1-3(C). In the case of time-sensitive materials of reasonably brief length, the period of review should be abbreviated in an effort to accommodate the interests of employees.

3 FAM 4172.1-6 Materials of Official Concern Prepared in an Employee's Private Capacity: Criteria for Review

3 FAM 4172.1-6(A) Protection of Classified Information and Information Statutorily Exempt from Disclosure

(CT:PER-584; 11-03-2005)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

An employee must not publish any public speaking, writing, or teaching material on a matter of official concern until all classified material has been deleted from the submitted material. In addition, the employee must not publish any material that the agency believes should be protected from public disclosure under the Freedom of Information Act (FOIA), the Privacy Act, and other laws or privileges governing the disclosure of information, unless properly authorized. Such information includes, but is not limited to, information;

- Derived from personnel files
- Regarding agency deliberations prior to decisions on policy or legal matters
- Compiled for law enforcement purposes that reasonably could be expected to interfere with law enforcement proceedings

This list is exemplary. Employees who wish to obtain more complete and

detailed information about information subject to public disclosure restrictions should contact the office identified in 3 FAM 4172.1-8.

3 FAM 4172.1-6(B) Preparation of Materials of Official Concern: Presumption of Private Capacity Based on Employee's Use of a Disclaimer

(CT:PER-584; 11-03-2005)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

- a. Reviewing officials shall presume that all materials containing the disclaimer specified in 3 FAM 4172.1-4 have been prepared by an employee in his or her private capacity. However, if during the course of reviewing materials containing a private capacity disclaimer it is concluded that;
 - The employee's views are likely to be attributed to the U.S. Government notwithstanding the employee's use of the disclaimer noted above
 - Attribution of the employee's views to the U.S. Government is likely to impair demonstrably the foreign affairs mission of State or USAID (then the presumption of private capacity may be overcome, and if it is, the material is subject to review pursuant to 3 FAM 4172.1-2)
- b. Factors to be considered in overcoming the presumption of private capacity include, but are not necessarily limited to:
 - The current or former position, rank, and/or duties of the employee
 - The relationship between the employee's position, rank, and/or duties and the subject matter of the speaking/teaching/writing
 - The likelihood that because of the employee's position, rank, and/or duties, and/or other relevant factors, the employee's views are likely to be attributed to the Government of the United States
 - The nature and magnitude of harm to the foreign affairs mission that would likely result from dissemination of the material in question
- c. The presumption that an employee engages in public speaking/teaching/writing in his or her private capacity may be overcome by a determination by the following responsible officials:

Agency	Rank of Employee	Responsible Official
State	Office director or above within the U.S. or FS-01 or above or its equivalent abroad Lower rank	Assistant Secretary for Public Affairs, Executive Secretary, or higher official Under Secretary of State for Management, Under Secretary of State for Political Affairs, Deputy Secretary of State or Secretary of State
USAID	All employees	Chief, Public Liaison Division

3 FAM 4172.1-7 Use or Publication of Materials Prepared in an Employee’s Private Capacity That Have Been Submitted for Review

(CT:PER-584; 11-03-2005)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

An employee may use, issue, or publish materials on matters of official concern that have been submitted for review, and for which the presumption of private capacity has not been overcome, upon expiration of the designated period of comment and review regardless of the final content of such materials so long as they do not contain information that is classified or otherwise exempt from disclosure as described in 3 FAM 4172.1-6(A).

3 FAM 4172.1-8 Information Management

(CT:PER-610; 06-09-2009)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

Personnel responsible for clearing material in accordance with 3 FAM 4172.1-3(B) will consult, as necessary, with appropriate agency components possessing knowledge and expertise in the classification of government information and the protection of information from public disclosure under the FOIA and the Privacy Act and other laws or privileges governing the disclosure of information. The appropriate components will include, among others:

Agency	Office
State	Office of Information Resources Management, Programs, and Services (A/ <i>GIS</i> /IPS) and Legal Adviser's Office (L)
USAID	Office of Public Information

3 FAM 4172.2 Ethics Considerations

(CT:PER-584; 11-03-2005)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

- a. When engaging in speaking, writing, and teaching, an employee must comply with applicable laws and regulations, including the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR Part 2635) and laws referenced in that regulation. An employee may consult the Department's ethics program website for guidance about these laws and regulations or may seek advice from L/EMP/Ethics. Key considerations are briefly summarized below.
- b. When engaging in speaking, writing, or teaching in his or her personal capacity, an employee may not accept compensation from a foreign government or, subject to an exception for certain teaching, if the activity "relates to the employee's official duties." Also, certain high-level employees must comply with outside earned income limitations and a requirement to seek advance authorization for compensated teaching. Depending on the circumstances, an employee may be able to accept travel or travel expenses. An employee may not use or permit the use of his or her official title in connection with the activity except pursuant to certain exceptions, or use the Government's property, nonpublic information, or time (including the time of a subordinate) for other than authorized purposes. (Separately, 3 FAM 4172.1 requires that all public speaking, writing, and teaching materials on matters of official concern contain a disclaimer.) If abroad, see also 3 FAM 4120, "Employee Responsibilities Abroad."
- c. When engaging in speaking, writing, or teaching as part of his or her official duties, an employee may not accept compensation for the activity from any source other than the U.S. Government. (The Department can sometimes benefit from a non-federal source's offer of travel or travel expenses if acceptance is in accordance with applicable laws and procedures). An employee may use his or her official title for purposes of identification since the employee will have been authorized to engage in the activity in an official capacity.

3 FAM 4173 SPEECHES AND INTERVIEWS IN AN OFFICIAL CAPACITY

3 FAM 4173.1 Speaking in the United States

(CT:PER-584; 11-03-2005)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

- a. All invitations for an employee to speak, lecture, or participate in conferences in the United States, in his or her official capacity, on a subject of official concern under 3 FAM 4172.1, must be referred for acceptance to the appropriate review office in the employee's agency noted in 3 FAM 4172.1-3(B).
- b. The text or outline of each speech or lecture by an employee of the rank of office director or above on a matter of official concern, must be submitted for preliminary clearance to the office within that employee's agency concerned with the subject matter of the speech or lecture and then for final clearance by the appropriate review office. A subordinate officer must submit the text of such a speech or lecture to his or her own office director or official of comparable rank who may either disapprove the text or approve it and refer it for further review by the offices concerned with the subject matter of the speech or lecture and by the appropriate review office.
- c. In informal presentations, professional meetings, conferences, and panel discussions where, because of the nature of the public appearance, no prepared script or outline will be available for review, the employee is responsible for ensuring that his or her remarks involve no violation of security, are consistent with U.S. foreign policy, and will not adversely affect U.S. foreign relations or the foreign affairs mission of the United States.

3 FAM 4173.2 Speaking and Interviews Abroad

3 FAM 4173.2-1 Authorization

(CT:PER-584; 11-03-2005)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

With prior approval of the chief of mission, or the chief of mission's

designee, an employee abroad may, in his or her official capacity, give public speeches, lectures, interviews, and participate in other formal discussions of government policy. Prior interagency consultation on important public statements is expected, where appropriate.

3 FAM 4173.2-2 Topics to Be Avoided

(CT:PER-584; 11-03-2005)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

An employee abroad may not allude in public speeches or newspaper interviews to disputes between governments, or to any matter of official concern pending at any post, except by the direction or with the authorization of the chief of mission, or the chief of mission's designee.

3 FAM 4173.3 Selection of Audiences

(CT:PER-584; 11-03-2005)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

The Department of State and USAID are committed to the highest standards of equality and equal opportunity. For public speaking, both in the United States and abroad, should be chosen with this commitment in mind.

3 FAM 4174 WRITING

3 FAM 4174.1 Acting as Correspondent for Communications Media

(CT:PER-584; 11-03-2005)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

Certain employees carry on active liaison with representatives of communications media as part of their official responsibilities. An employee should seek advice from L/EMP/Ethics before serving as correspondent for any newspaper, press syndicate, association, or other media to ensure that the activity will not conflict with the employee's official duties.

3 FAM 4174.2 Writing in Official Capacity for

External Publication

(CT:PER-584; 11-03-2005)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

- a. To ensure consistency with U.S. policy, heads of State and USAID establishments abroad and employees in the United States with the rank of office director or above must submit for clearance by the appropriate review office all written material prepared in an official capacity for external publication.
- b. Preliminary clearances for the publication of official writing for external publications must first be obtained from appropriate offices of the agency concerned with the subject matter. Subordinate personnel must, after obtaining any necessary preliminary substantive clearances from appropriate offices of the agency concerned with the subject matter, submit such material for;
 - The head of their establishment abroad, if serving abroad
 - Their office director or officer of comparable rank if assigned in the United States

NOTE: They may either disapprove the material or approve it and refer it for further review by the appropriate office named in 3 FAM 4172.1-3(C).

3 FAM 4174.3 Writing on Matters of Official Concern in a Private Capacity

(CT:PER-584; 11-03-2005)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

All books, articles, and other manuscripts or materials on matters of official concern prepared for publication by an employee in a private capacity shall be submitted for review in accordance with procedures in 3 FAM 4172.1. To avoid possible embarrassment, employees should not make commitments to publishers before the thirty-day review period has ended.

3 FAM 4175 CROSS REFERENCE

(CT:PER-584; 11-03-2005)

(Uniform State/USAID)

(Applies to all Employees in the United States and Abroad)

Additional information on this subject is published in 10 FAM 120, Remarks and Writings for the Media and General Public.

3 FAM 4176 THROUGH 4179 UNASSIGNED

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3 FAM 4180 MEMBERS OF HOUSEHOLD (MOHS)

*(CT:PER-678; 06-22-2012)
(Office of Origin: HR/ER/WLD)*

3 FAM 4181 GENERAL

*(CT:PER-659; 11-16-2011)
(Uniform State/USAID/Commerce)
(Applies to Foreign Service Employees)*

- a. For the purpose of this subchapter, members of household (MOHs) are those persons who have accompanied or joined an employee assigned abroad and who the employee has declared to the chief of mission to be part of his or her household, who will reside at post with the employee, and who are other than legitimate domestic staff. MOHs do not include those persons who are "family members" or "eligible family members." MOHs are by definition cohabitants. Therefore, employees who declare MOHs must ensure compliance with the provisions of 12 FAM 275, Reporting Cohabitation with and/or Intent to Marry a Foreign National.
- b. Where appropriate and practicable and subject to applicable law, chiefs of mission and their staffs should ensure that the official American community is as welcoming as possible and should apply the following policies fairly and equitably to all MOHs:
 - (1) Assist MOHs, upon request, in obtaining appropriate residency permits and travel visas in accordance with local law. However, posts may not request privileges, immunities, or exemptions for MOHs and, to the extent post informs the foreign government that the MOH has accompanied the employee abroad and resides with the employee, it should expressly state that the MOH is not regarded by the Department of State as a member of the employee's family forming part of his or her household for the purposes of the Vienna Conventions on Diplomatic or Consular Relations or for any other official purpose;
 - (2) Include U.S. citizen MOHs in the mission warden system;
 - (3) Consider MOHs, who can legally work in the respective country and have obtained any necessary work permits, for positions at post that are appropriate for their citizenship. Such consideration is subject to applicable law, including nepotism regulations, priority consideration for eligible family members and veteran's preference;
 - (4) At the employee's request and with the MOHs' authorization, include MOHs

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in post telephone and address listings;

- (5) Include MOHs in all events sanctioned by post on the same basis as eligible family members; and
 - (6) Allow MOHs to participate in local community liaison office (CLO)- and family liaison office (FLO)-sponsored activities and programs.
- c. Posts may consult with the Bureau of Human Resources (Office of Policy Coordination (DGHR/PC)) if they have questions about policies related to MOHs other than those set forth in this subchapter.
- d. Employees' responsibilities with respect to MOHs:
- (1) Employees must declare all MOHs to the chief of mission;
 - (2) Employees should, to the best of their abilities and where relevant, ensure that their MOHs comply with all applicable laws, regulations, and post policies applicable to the U.S. community, including the classified Overseas Security Policy Board (OSPB) standards found in 12 FAH-6 H-311.8, 12 FAH-6 H-312.8, 12 FAH-6 H-313.8, and 12 FAH-6 H-314.8, regarding employee and visitor access restrictions;
 - (3) Employees should encourage their MOHs to complete emergency locator cards for use by post; and
 - (4) Employees must report foreign national MOHs and request an approval for cohabitation in U.S. Government housing in accordance with 12 FAM 275, Reporting Cohabitation with and/or Intent to Marry a Foreign National, and 12 FAM 442, Members of Household.
- e. When evaluating the suitability of an employee for assignment to a Critical Human Intelligence-Threat post under 12 FAM 263.3-2, Critical Human Intelligence-Threat Posts, the Bureau of Diplomatic Security (DS) will consider an MOH to the same extent it would a family member.
- f. The anti-nepotism regulations in 3 FAM 1300 Appendix A and 3 FAM 8300 must apply to MOHs.

3 FAM 4182 THROUGH 4189 UNASSIGNED

3 FAM 4190 MARRIAGE REQUIREMENTS OF AN EMPLOYEE TO A FOREIGN NATIONAL OR TO A U.S. CITIZEN

*(CT:PER-678; 06-22-2012)
(Office of Origin: HR/CDA)*

3 FAM 4191 EMPLOYEES MARRYING FOREIGN NATIONALS

*(CT:PER-608; 04-07-2009)
(Uniform State/BBG/USAID/Commerce/Agriculture)*

- a. An employee intending to marry a foreign national must provide notice to his or her agency 90 days prior to the marriage date in accordance with the procedures outlined in 12 FAM 275.
- b. An employee must submit to the appropriate agency official a revised Foreign Service Residence and Dependency Report (Form OF-126 for State, Agriculture and Commerce; for AID, Form AID-490-2: see HB 32, Supp I B) within 30 days after the marriage. The appropriate agency official will advise the employee of the opportunity to enroll or change enrollment in the available benefits programs and provides assistance in completing the necessary benefits forms.

3 FAM 4192 EMPLOYEES MARRYING U.S. CITIZENS

*(CT:PER-608; 04-07-2009)
(Uniform State/BBG/USAID/Commerce/Agriculture)*

- a. Within 30 days after marriage to a U.S. citizen, a Foreign Service employee of the participating agencies, or other Department of State employee in a sensitive position, wherever assigned, must submit to the appropriate agency official the following forms or documents:
 - (1) Foreign Service Residence and Dependency Report (Form OF-126 for State, Agriculture and Commerce; for AID, Form AID-490-2: see HB 32, Supp I B);
 - (2) A certified copy of a divorce decree or other evidence of termination of any former marriage of employee or spouse. This information must be

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forwarded with the original of Form SF-85, Questionnaire for Non-Sensitive Positions, containing information about the newly-acquired dependent, to the employing agency's security office (AID: to M/PM/FSP, M/PM/SPM, or IG/EMS, as appropriate);

- (3) Report(s) of medical examination for the spouse and any other acquired legal dependents (Form DS-1843, Medical History and Examination for Foreign Service for Individuals Age 12 and Older, and Form DS-1622, Medical History and Examination for Foreign Service for Children 11 Years and Under) may be forwarded directly as an eForm or scanned as an e-mail attachment and sent to MED/Medical Records. These reports must be submitted within 90 days from the date the dependent is officially acquired.
- b. The appropriate agency official will advise the employee of the opportunity to enroll or change enrollment in the Health Benefits Program and provide assistance in completing the necessary forms.

3 FAM 4193 EXPEDITIOUS NATURALIZATION OF FOREIGN NATIONALS

(TL:PER-608; 04-07-2009)

(Uniform State/BBG/USAID/Commerce/Agriculture)

- a. There is no requirement that a foreign-born spouse become naturalized. If the spouse chooses to do so under the expeditious naturalization program, a minimum of 120 days advance notice must be provided to the employing agency/office prior to the desired date of naturalization.
- b. The employee's agency will provide the necessary forms and processing information. Eligibility under the expeditious naturalization program requires that the employee either:
 - (1) Be scheduled for an assignment abroad which will last a minimum of one full year after the date of naturalization; or
 - (2) If expeditious naturalization is to be accomplished during home leave (and return to the same post), R&R, or annual leave travel in the United States, the employee must have at least one full year remaining to the tour of duty abroad after the date of naturalization.
- c. The naturalization hearing cannot be scheduled earlier than 45 days prior to the spouse's travel to the post of assignment. The spouses of employees who are returning to the United States for a domestic assignment are not eligible for the expeditious naturalization program until the employee is notified of a new assignment abroad.
- d. Spouses residing in the United States for three years or more under immigrant status are eligible for regular naturalization processing at the completion of that period. These requirements may not be waived.

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- e. Within 30 days of a spouse's naturalization, the employee must submit a revised Foreign Service Residence and Dependency Report (see 3 FAM 4192).

NOTE: The Family Liaison Office (FLO) has information about naturalization and Foreign Service families.

3 FAM 4194 THROUGH 4199 UNASSIGNED