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Executive Branch Ethics and Financial Disclosure Administration: The Role of Designated Agency Ethics Officials (DAEOs)

When acting in an official capacity, federal public servants are expected to put the government's interests ahead of their own. Federal laws (e.g., the Ethics in Government Act, 5 U.S.C. Appendix §§101-112) and regulations (e.g., Standards of Ethics Conduct for Employees of the Executive Branch, 5 C.F.R. §2635) provide for several programs to help ensure that governmental officials abide by that principle.

Government agencies primarily ensure ethical conduct through the identification and remediation of real or perceived conflicts of interest. The Ethics in Government Act establishes annual financial disclosure requirements to aid in the identification and potential remediation of conflicts of interest. To administer the agency's ethics program, each agency head is required to designate an official—a Designated Agency Ethics Official (DAEO)—to direct “the daily activities of the agency's ethics program” and coordinate with the Office of Government Ethics (OGE) (5 C.F.R. §2638.104(a)). The Office of Government Ethics (OGE) provides “overall direction of executive branch policies related to preventing conflicts of interests on the part of officers and employees of any executive [branch] agency” (5 U.S.C. appendix §402(a)).

Each agency has a designated agency ethics official (DAEO). That officer or employee is designated by the head of the agency to administer within that agency the provisions ... of the Act (pertaining to the public financial disclosure requirements for the executive branch), to coordinate and manage the agency's ethics program, and to provide liaison with OGE with regard to all aspects of the agency's ethics program.

- Frank Q. Nebeker, Director, Office of Government Ethics, Statement before the Senate Committee on Governmental Affairs, Subcommittee on Oversight of Government Management, April 13, 1988

This InFocus describes the role of the DAEO in administering the executive branch financial disclosure program and OGE's role in supporting the DAEOs.

Designated Agency Ethics Officials

Under the Ethics in Government Act, each agency is responsible for the establishment, execution, and enforcement of ethical principles, including financial

disclosure. To implement and run the required program, each agency is to appoint a DAEO. The DAEO must be an employee at an appropriate level to effectively coordinate the ethics program and demonstrate required knowledge and skills (5 C.F.R. §2638.104(b)). The DAEO implements the ethics program, including the collection and review of financial disclosure reports; evaluates and helps remediate conflicts of interest; and provides education, training, and advice to agency employees. Most DAEOs are career officials with significant experience in government ethics. **Table 1** provides an OGE chart of key agency ethics responsibilities.

Table 1. OGE Summary of Agency and DAEO Ethics Responsibilities

Employee or Entity (Regulatory Citation)	Key Ethics Responsibilities
Agency Head (5 C.F.R. §2638.107)	Establish and maintain an effective agency ethics program and foster an ethical culture in the agency. Designate the DAEO and Alternate DAEO (ADEAO). Require agency officials to support the DAEO and ADAEO. Enforce government ethics laws and regulations.
Agency Ethics Officials (5 C.F.R. §2638.104)	Direct the daily activities of the ethics program. (See the implementing regulation, which includes eight responsibilities that the DAEO or ADAEO may not delegate.)

Source: Adapted by CRS from Office of Government Ethics, “Chart of Ethics Roles and Responsibilities,” at https://www.oge.gov/web/OGE.nsf/ethicsofficials_mission?OpenForm.

Financial Disclosure Review, and Conflict of Interest Identification, Remediation, and Enforcement

Pursuant to the Ethics in Government Act, covered employees are required to file annual financial disclosure reports on or before May 15 each year. Other timelines exist for new hires (within 30 days of appointment), nominees (within 5 days of the White House's transmission of their nomination to the Senate), and candidates for federal office (e.g., President, Vice President, House of

Representatives, and Senate; within 30 days of declaring candidacy or May 15, whichever is later).

Once a covered employee files a financial disclosure report, the DAEO is to review the filing to ensure its completeness and to identify holdings or liabilities that might violate or appear to violate federal law, executive orders, or agency-specific statutes or regulations (5 U.S.C. Appendix §106; 5 C.F.R. §2634.605). During review, DAEOs are generally instructed to consider the employee's circumstances and position in the identification of potential conflicts of interest. The regulations (5 C.F.R. §2638.104(c)(8)) contain eight responsibilities for a DAEO to implement an effective financial disclosure program. They are as follows:

1. Establish written procedures that fit the agency's ethics policies and circumstances;
2. Require filers to comply with deadlines and, in the event of noncompliance, take appropriate action;
3. Impose late fees for untimely filing of disclosure reports;
4. Make referrals to the Inspector General or the Department of Justice in certain cases;
5. Review financial disclosure reports with an emphasis on preventing conflicts of interest;
6. Consult with filers and supervisors to evaluate potential conflicts of interest;
7. Certify financial disclosure statements in a timely manner and take appropriate action with regard to filings that cannot be certified; and
8. Use information from financial disclosure reports to prevent and resolve conflicts of interest.

If upon review the DAEO determines a conflict of interest exists, they can, if necessary, negotiate with the filer to remedy the conflict. There are several remediation options (5 C.F.R. §2634.605(b)(6)), including recusal, divestiture, resignation, waiver, or the establishment of a qualified blind or diversified trust (5 C.F.R. §2634.802(a)). Remediation efforts can culminate in a written ethics agreement.

OGE also notes that the DAEO has certain enforcement responsibilities as the agency's ethics officer. The OGE notes on their "Enforcement Responsibilities" webpage that

The DAEO, acting directly or through other officials, is responsible for assisting the agency in enforcing ethics laws and regulations. To properly assist the agency, the DAEO should work with the Inspector General, employee relations, labor relations, and human resources offices to understand lines of responsibility and authority for disciplinary or corrective action. The DAEO should also understand the penalties for ethics violations and be aware of what safe harbor provisions may be available to employees. Likewise, the DAEO should understand government-wide requirements

to disclose waste, fraud, and abuse, as well as violations of criminal law. The DAEO also ensures that the agency has a process for concurrently notifying OGE when the agency refers a potential criminal violation to the Department of Justice.

For more information on financial disclosure, conflict identification, and conflict remediation, see CRS In Focus IF11904, *Financial Disclosure: Identifying and Remediating Conflicts of Interest in the Executive Branch*, by Jacob R. Straus.

Other Ethics Responsibilities

In addition to the administration and review of financial disclosure forms, remediation of real or perceived conflicts of interest, and education and training, DAEOs have several other responsibilities. These include maintenance of agency ethics records, establishment of written procedures for financial disclosure, imposition of late filing fees in appropriate circumstances, assistance with agency enforcement of ethics laws and regulations, and periodic evaluation of ethics programs (5 C.F.R. §2638.104(c)).

Education, Training, and Advice

Beyond their duties administering the financial disclosure requirements in the Ethics in Government Act, DAEOs are responsible for their agencies' education and training programs. Generally, education programs aim to "teach employees how to identify government ethics issues and obtain assistance in complying with government ethics laws and regulations" (5 C.F.R. §2638.301). Education occurs through a variety of means, including the issuance of ethics notices, initial ethics training for new employees, ethics briefings and annual training for existing employees, advice on current ethics laws, and guidance to former employees about postemployment restrictions.

Office of Government Ethics

OGE provides general oversight of government ethics and advice to DAEOs in over 130 executive branch agencies. Specifically, OGE provides DAEOs with guidance on financial disclosure filing and other ethics related requirements; collects and shares financial disclosure and educational program data; supports agencies with presidential nominations and appointments; maintains *Integrity*, the electronic financial disclosure filing system; and provides trainings, orientations, and help desk services.

OGE does not have enforcement authority. Rather, individual agencies, generally through the DAEO, are to enforce required financial disclosure filings, review forms, identify real or perceived conflicts of interest, and remediate conflicts, within the confines of the law. OGE provides resources and guidance to ensure that agencies can adequately interpret, apply, and enforce the law, as necessary.

For more information on the Office of Government Ethics, see CRS In Focus IF10634, *Office of Government Ethics: A Primer*, by Jacob R. Straus.

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