



CDC¹ Announcement (to all CDC and ATSDR Employees)

CDC has revised the “**Financial Disclosure for Federal Advisory Committee Members Appointed as Special Government Employees**” policy.

1. **Reason for Revision:** The policy updates guidance and instructions based on revisions to Title 5, Code of Federal Regulations (C.F.R.) subchapter 2634.903, for Federal Advisory Committee Members (FACM) that are appointed as special Government employees (SGEs). This policy does not apply to members of Special Emphasis Panels, who are not appointed as SGEs.
2. **Summary of Policy:** The Government temporarily appoints SGEs to Federal Advisory Committees (FACs) to gain outside expertise or perspectives on CDC programs, priorities and strategic direction. To participate, SGEs must first submit a completed Office of Government Ethics (OGE) Form 450 detailing any possible ethical conflicts or conflicts of interest. The policy outlines:
 - Procedures for submission of a new OGE Form 450, for each year of service, to the Federal Advisory Committee Act (FACA) Committee Designated Federal Officer (DFO), and the Federal Advisory Committee Management Branch, Management Analysis and Services Office (MASO)
 - Requirements for SGEs to submit OGE Form 450s within specified time limits, and for DFOs and MASO to process and clear OGE Form 450s
 - Responsibilities of MASO, DFO, HHS Office of the General Counsel (OGC) and SGE
 - Responsibility of MASO to maintain OGE Form 450s and other FACA records under an authorized Federal Records Control Schedule
3. **Related Issuances:** Standards of Conduct for Employees of the Executive Branch
4. **Responsible Organization:** MASO
5. **Material Superseded:** None
6. **Recertification:** This document is scheduled for recertification on or before the last working day of August 2016.
7. **Point of Contact:** Eric Jackson, Policy Analyst, MASO, 404 498-2128.

To go directly to the Policy, enter the following URL into the location line of your browser:

<http://aops-mas-iis.cdc.gov/Policy/Doc/policy294.pdf>

/s/Allison Tanner
Acting Deputy Chief Operating Officer

¹ References to CDC also apply to the Agency for Toxic Substances and Disease Registry (ATSDR)

CATEGORY: General Administration
CDC-GA-2001-05 (Formerly CDC - 94)
DATE OF ISSUE: 07/05/01 UPDATED: 3/6/2009¹ UPDATED 8/5/2011²
PROPONENT: Federal Advisory Committee Management, Management Analysis and Services Office, Office of the Chief Operating Officer, CDC
MATERIAL SUPERSEDED: None

FINANCIAL DISCLOSURE FOR FEDERAL ADVISORY COMMITTEE MEMBERS APPOINTED AS SPECIAL GOVERNMENT EMPLOYEES

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Exhibit: [OGE Form 450](#)

1. PURPOSE

This policy outlines CDC/ATSDR responsibilities and procedures for financial disclosure required of CDC Federal Advisory Committee members appointed as special Government employees (SGEs).

2. BACKGROUND

HHS/CDC appoints SGEs for temporary service as members of Federal Advisory Committees because they provide outside expertise or perspectives on CDC programs, priorities and strategic direction.³ An SGE is defined as an officer or employee of an agency who is retained, designated, appointed, or employed to perform duties, with or without compensation, for a period not to exceed 130 days during any period of 365 consecutive days.⁴ SGEs are employees of the Federal Government, subject to ethics laws and regulations, including the criminal conflict of interest statute (Title 18, United States Code [U.S.C.] § 208) and the Standards of Ethical Conduct for Employees of the Executive Branch (Title 5, Code of Federal Regulations [C.F.R.] Part. 2635).⁵ SGEs are required to file the Office of Government Ethics Confidential Financial Disclosure Report, OGE Form 450. See Ethics Reform Act of 1989 (Pub. L. No. 101-194) and 5 C.F.R. § 2634.904(a)(2). A completed OGE Form 450 allows CDC to thoroughly review the SGE's non-federal affiliations and financial interests to determine whether any conflicts of interest or ethics concerns require remedial action.

If the appointment is for a multi-year term, committee members must submit a new OGE Form

¹ Updated to conform to current policy format.

² Updated to conform to revised guidance in 5 C.F.R. § 2634.903.

³ Members of Special Emphasis Panels are not appointed as SGEs and are not bound by this policy.

⁴ See 18 U.S.C. § 202(a).

⁵ It should be noted that neither 18 U.S.C. § 208 nor these other ethics requirements apply to liaison representatives or contractors.

450 for each year of service⁶ and are required to disclose to the Designated Federal Officer (DFO), or other appropriate government official, any significant changes in their affiliations or financial interests which may be relevant to committee matters, at the time of the change or no later than the beginning of each committee meeting.⁷

Complete and timely reporting is essential to protect the SGE from inadvertently violating criminal conflict of interest statutes. Timely and accurate disclosure ensures that any identified conflicts of interest are appropriately mitigated or managed and that deliberations and recommendations of Federal Advisory Committees are objective and unbiased.

The Standards of Ethical Conduct for Employees of the Executive Branch impose ethics requirements on regular and special Government employees in addition to the applicable financial conflict of interest statute. Under these regulatory requirements, an SGE should not participate in certain matters if there would be an appearance of a loss of impartiality.⁸ Certain “covered relationships” create more specific concerns. Thus, an employee should not participate “where an employee knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interest of a member of their household, or knows that a person with whom he has a covered relationship⁹ is a party, or represents a party, to such matter, and where the employee determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality in the matter.” 5 C.F.R. § 2635.502(a). In these instances, the SGE may participate only if he receives a written authorization from the agency designee under 5 C.F.R. § 2635.502(d). Such authorizations will only be granted in very limited instances and require a balancing of the government’s interest in the employee’s participation against the concern that a reasonable person may question the integrity of the agency’s operations.¹⁰

3. POLICY

All SGEs appointed as CDC/ATSDR Federal Advisory Committee members must complete the OGE Form 450 and submit it to the DFO and CDC (Management Analysis and Services Office, Office of the Chief Operating Officer, Centers for Disease Control and Prevention). Upon their initial appointment, all SGEs must complete and submit the OGE Form 450 within 30 days of accepting an appointment, before attending the first Federal Advisory Committee meeting, and before rendering any advice to the agency. Federal Advisory Committee members are appointed for terms up to four years. CDC requires that each SGE serving a term greater than one year shall submit a new entrant OGE Form 450 report each year. Lastly, the SGE must disclose any significant changes to their affiliations or financial interests throughout the year. The SGE may update the OGE Form 450 for the current year by providing written information to the committee DFO and/or to MASO. The SGE OGE Form 450 will be appropriately annotated; conflict of

⁶ **Title 5 C.F.R. § 2634.903(b) New entrants.** Not later than 30 days after assuming a new position or office described in §2634.904(a) of this subpart (which also encompasses the reappointment or redesignation of a special Government employee, including one who is serving on an advisory committee), a confidential filer shall file a confidential report containing the information prescribed in §§2634.907 and 2634.908 of this subpart. For confidential filers under §2634.904(a)(3) of this subpart, consult agency supplemental regulations.

⁷ While an SGE may not be required to file an update to his/her OGE Form 450 prior to each and every advisory committee meeting, the SGE is nonetheless still subject to all restrictions on participation under 18 U.S.C. § 208 and 5 C.F.R. pt. 2635 based on his actual interests at the time of each meeting. The SGE is always personally responsible for following the ethics law and regulations, even where his OGE Form 450 does not reflect his current affiliations and financial interests.

⁸ See 5 C.F.R. § 2635.501.

⁹ See 5 C.F.R. § 2635.502(b)(1) for definition of covered relationships.

¹⁰ See footnote 13, below, for a more detailed discussion of authorizations and the required balancing test.

interest analysis and mitigation will be applied to interests reported through the updated information.

SGEs will not be permitted to participate officially as committee members until MASO has received the OGE Form 450, and the OGE Form 450 has been reviewed by the DFO and MASO. All OGE Form 450s will be reviewed by MASO and the Designated Federal Officer (DFO) within 60 days from the date of filing when the reports do not require additional information. MASO will seek legal guidance from the HHS Office of the General Counsel (OGC) Ethics Division and OGC CDC Branch attorneys when needed. If MASO or the DFO identifies a potential conflict of interest or an appearance concern during the review, MASO will provide guidance to the SGE recommending the individual recuse or disqualify himself or herself from participating in any particular matter that may pose a conflict of interest until the ethics issue has been resolved or remedied. See responsibilities below for requirements related to meetings.

4. RESPONSIBILITIES

A. Management Analysis and Services Office

- 1) Provides training, guidance and management regarding ethics and financial disclosure and certifies OGE 450s for Federal Advisory Committee members appointed as SGEs in accordance with applicable laws, regulations, and HHS policies.¹¹
- 2) Requests OGE Form 450s from SGE Federal Advisory Committee members; performs initial review for technical compliance; and analyzes OGE Form 450 for conflicts of interest.
- 3) Contacts SGE if OGE Form 450 is not adequately completed, or there are questions about particular affiliations or financial interests; amends OGE Form 450 appropriately; and documents amendments by including notations on OGE Form 450. MASO considers information provided on the OGE Form 450, on the SGE's curriculum vitae, and through any additional discussion or correspondence with the SGE in making determinations regarding conflicts of interest.
- 4) References committee charters, the SGE's curriculum vitae, and online sources to research reported financial interests. Reviews OGE Form 450s to:
 - a) ensure the SGE thoroughly and accurately reported the information required by ethics laws and regulations;
 - b) evaluate any actual or potential conflict of interest or appearance concern.Consults with DFOs and other program officials familiar with the subject matter addressed by the committee, and/or attorneys from the HHS OGC Ethics Division and the OGC CDC Branch as necessary to conduct evaluations and make determinations.
- 5) Consults with the HHS OGC, Ethics Division, to ensure ethics requirements and standards are applied consistently. MASO will provide written cautionary guidance to the SGE and corresponding DFO regarding any actual or potential conflict of interest or

¹¹ Certification of OGE Forms 450 submitted by SGE advisory committee members, in accordance with the Ethics in Government Act, has been delegated to the Director, MASO by CDC Delegation of Authority, Deputy Ethics Counselor, CDC/ATSDR, March 5, 2009.

appearance concern to remind the SGE about the statutory and regulatory requirement for recusal from certain particular matters before the committee.

- 6) Drafts conflict of interest waiver under 18 U.S.C. § 208(b)(3), when appropriate, in consultation with the committee DFO and OGC Ethics Division.¹² MASO will obtain waiver signatures as required.
- 7) Reviews OGE Form 450s to identify the SGE's "covered relationships," as defined under 5 C.F.R. § 2635.502(b)(1). If warranted, advises SGE regarding the need to recuse himself/herself, unless authorized¹³, from specific party matters in which someone with whom he/she has a "covered relationship" is or represents a party to such matter and a reasonable person may question his/her impartiality. Prepares an authorization (under 5 C.F.R. § 2635.502(d)), when appropriate, in consultation with the DFO and HHS OGC Ethics Division.
- 8) Manages annual ethics training for all CDC Federal Advisory Committee members appointed as SGEs; and confirms the completion of the annual ethics training. Distributes annual ethics training materials designated for the current year by the HHS Designated Agency Ethics Official, HHS OGC Ethics Division. Prepares and distributes materials to members, and collects certifications/acknowledgement of ethics training from members. Upon request by the DFO, MASO partners or consults with HHS OGC Ethics Division to provide new SGE members with orientation and training relative to conflicts of interest and ethics requirements, prior to or at the members' first meeting.
- 9) Provides notifications to the DFO of SGE members who have not submitted an OGE Form 450 as required by this policy and are therefore ineligible to participate in committee meetings and other committee activities. For recordkeeping responsibilities, see Section 5 of this policy.

B. Federal Advisory Committee Act (FACA) Committee Designated Federal Officer (DFO)

- 1) In coordination with MASO and OGC, ensures that new SGE members receive in-person orientation and training relative to conflicts of interest and ethics requirements, prior to or at the members' first meeting. This in-person orientation is provided by MASO and is supplemental to the written materials that MASO provides to the SGEs as soon as the appointment is accepted.
- 2) In collaboration with MASO, ensures that OGE Form 450s submitted by SGE advisory

¹² As required under Memorandum re: Delegation of Authority to Grant Conflict of Interest Waivers Under 18 U.S.C. §§203(d), 205(e), and 208(b), from the Secretary of HHS to the Deputy Secretary, Chief of Staff, and Heads of Operating and Staff Divisions, dated January 16, 2009.

¹³ Where an SGE's participation in a specific party matter would raise a question in the mind of a reasonable person about the SGE's impartiality, the agency designee may authorize the employee to participate in the matter based on a determination, made in light of all relevant circumstances, that the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs and operations. The factors which may be considered include the nature of the relationship; the effect resolution of the matter would have on the financial interests of the parties involved in the relationship; the nature and importance of the employee's role in the matter, including the extent to which the employee must exercise discretion in the matter; the sensitivity of the matter; the difficulty of reassigning the matter to another employee; and adjustments that may be made to reduce or eliminate the likelihood that a reasonable person would question the employee's impartiality.

5 C.F.R. § 2635.502(d). Written authorization ("502 Authorization") is requested by the DFO, prepared and cleared by MASO, concurred with by HHS OGC Ethics Division and executed by the CDC Deputy Ethics Counselor.

committee members are reviewed for completeness and possible conflicts of interests within 60 days¹⁴ of filing when the reports do not require additional information or remedial action.

- 3) Based upon his/her subject-matter expertise on the issues addressed by the advisory committee, the DFO may make recommendations regarding the need to issue conflict of interest waivers, as well as the inclusion or deletion of specific financial interests on conflict of interest waivers. Conflict of interest waivers (see Section 4.A, (6)) and 502 authorizations (see Section 4A.(7)) are requested by the DFO.
- 4) Consults with the assigned OGC attorney, as needed, to determine appropriate conflict of interest disclosure procedures for their committee.
- 5) Approves the agenda for advisory committee meetings, except that this requirement does not apply to a Presidential advisory committee.
- 6) Before a scheduled advisory committee meeting, reviews OGE 450s for members of committees to determine if there is a possible or actual conflict with the upcoming agenda, and contacts SGE members to request updates to OGE Form 450 if needed.
- 7) Actively monitors SGE members' participation in meetings and prohibits their participation, as appropriate, to avoid conflicts of interest and violations of ethics regulations. This responsibility includes requiring SGE members to disclose to the DFO, prior to each committee meeting, any conflicts they have with the current meeting's agenda and any new matters that might constitute a conflict of interest. Following a procedure established for the committee, with the assistance of CDC Branch attorneys, the SGE will announce for the record, any conflicts of interest he/she has with the items on the meeting agenda and announce that he/she will not participate in any matter where he/she has a conflict of interest.
- 8) Ensures federal travel orders are not approved for SGE committee members not submitting an OGE Form 450 (which was reviewed by the DFO and MASO) before the committee meeting. Federal travel orders are not authorized for SGE committee members who are not eligible to participate officially as committee members.

C. HHS Office of the General Counsel (OGC) – Ethics Division and CDC Branch

- 1) OGC Ethics Division attorneys, with assistance from CDC Branch attorneys as necessary, provide legal advice and interpretation of ethics statutes and regulations to MASO, the DFO, and the CDC center, institute or office (CIO) director or management official as needed. As requested, consults with MASO and the DFO to determine if a conflict of interest waiver is required.
- 2) OGC CDC Branch attorneys assist with interpreting the Federal Advisory Committee Act and other program-specific issues. If requested, assist the DFO to determine appropriate public disclosure procedure for their particular committee. When requested, assist with conflict of interest evaluations. (See Section 4.B.(7) of this policy)

¹⁴ Ordinarily, OGE Form 450s are reviewed by MASO within 72 hours; when additional SGE information is required, final certification may take longer than 60 days.

- 3) OGC Ethics Division and/or CDC Branch attorneys participate, as necessary, in conflict of interest evaluation discussions with MASO, DFOs, and SGE members. OGC Ethics Division attorneys provide recommendations regarding the proper management of conflicts of interest.
- 4) OGC attends committee meetings as necessary to address questions and issues about compliance with restrictions on participation, public disclosures, and other matters related to ethics laws and standards of conduct.
- 5) Provide annual ethics training material.

D. Special Government Employee Appointed as a Federal Advisory Committee Member

- 1) Abides by conflict of interest laws, regulations, and policies applicable to CDC SGEs.
- 2) Reads and acknowledges receipt of the "Standards of Ethical Conduct for Employees of the Executive Branch" and other ethics training materials provided initially upon appointment and annually by MASO. SGEs are categorized by the U.S. Office of Government Ethics as a group requiring initial ethics orientation upon appointment, followed by annual ethics training during each year of their service.
- 3) Accurately completes and submits OGE Form 450 within the applicable deadline required by OGE laws and regulations and HHS and CDC policies
- 4) Promptly submits OGE Form 450 annually (upon request from MASO) and notifies MASO and/or the DFO regarding any significant and relevant changes in the SGE's affiliations and financial interests.
- 5) Discloses any qualitative change in financial interests or professional/business relationships that is or may be perceived as a conflict of interest prior to each meeting to either the DFO or other appropriate government official. (Each committee DFO should consult with the assigned OGC CDC Branch attorney to determine appropriate disclosure procedures for their committee.)¹⁵ (See Section 4.B.(7) of this policy)
- 6) Recuses or disqualifies himself or herself from participating in any meeting or portion of a meeting or other activity, in such manner as advised by MASO and/or the DFO, where SGE would give advice or otherwise participate in a particular matter in which the SGE has a conflict of interest under 18 U.S.C. § 208 or an appearance concern under 5 C.F.R. § 2635.502, unless the SGE has received an applicable waiver of the conflict of interest statute or authorization from the CDC DEC, respectively.

¹⁵ Public disclosure procedures may vary by committee. Procedures may include a requirement that the SGE publicly state his general committee-related credentials at the beginning of each FACA committee meeting, as well as committee-specific requirements for an SGE to publicly disclose any interests that may create a financial conflict of interest or the appearance of a conflict at the beginning of each meeting or through disclosure statements available online.

5. RECORD KEEPING

The Federal Advisory Committee Management Branch, MASO, is the office of record for all Federal Advisory Committee records, including OGE Forms 450. National Archives and Records Administration (NARA), General Records Schedule 25, Item 2b, Executive Branch Confidential Financial Disclosure Reports, requires that OGE Forms 450 be maintained for six years, after which they may be destroyed (see [link](#)). The individually-identified data collected on the OGE Form 450 is protected under an Executive Branch-wide Privacy Act system of records, and is accessed primarily by governmental officials to determine compliance with federal conflict of interest laws and regulations. Except for the routine uses listed on OGE Form 450, and other disclosures permitted by the Privacy Act, the report will not be disclosed unless authorized by law.

6. ABBREVIATIONS AND ACRONYMS

C.F.R. – Code of Federal Regulations
CIO – centers, institute, offices
DAEO – Designated Agency Ethics Officer
DFO – Designated Federal Officer
FACA – Federal Advisory Committee Act
FACM – Federal Advisory Committee Management
HHS – Department of Health and Human Services
MASO – Management Analysis and Services Office
NARA – National Archives and Records Administration
OGC – Office of the General Counsel
OGE – Office of Government Ethics
Pub. L. – Public Law
SF – Standard Form
SGE – special Government employee
U.S.C. – United States Code

7. REFERENCES

- A. [Bribery, Graft, and Conflicts of Interest](#), 18 U.S.C. §§ 201-216
- B. [Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture](#), 5 C.F.R. Part 2634
- C. [Standards of Ethical Conduct for Employees of the Executive Branch](#), 5 C.F.R. pt. 2635
- D. [Committee Management](#), HHS General Administration Manual, Chapter 9
- E. [Financial Disclosure Reports](#), National Archives and Records Administration (NARA), General Records Schedule 25, Item 2b