

## NATIONAL INSTITUTES OF HEALTH (NIH)

### ADMINISTRATIVE FACT SHEET SPECIAL GOVERNMENT EMPLOYEE APPOINTMENTS

#### Introduction

In order to serve on an NIH Advisory Council/Board, Board of Scientific Counselors, or Program Advisory Committee, you must be appointed as a Special Government Employee (SGE)<sup>1</sup>, which requires you to take ethics training and complete certain forms to comply with Federal regulations and laws, such as the Ethics Reform Act of 1989, the Immigration Reform and Control Act of 1986, the Debt Collection Improvement Act of 1996, the Federal Advisory Committee Act, and federal civil service employment law.

Your appointment as an NIH advisory committee member will be finalized once you complete the required forms and each document is reviewed, analyzed, and determined to be in compliance by NIH staff.

Please be aware that there are a number of systems you will be using, which are listed below:

- **eCommons:** eCommons is an online interface where signing officials, principal investigators, trainees, and post-docs at institutions/organizations can access and share administrative information relating to research grants. Most committee members have an eCommons account. If your eCommons account is not current, if you are having trouble accessing the system, or if you need to establish an account, please go to the following website [here](#).
- **NEES:** The NIH Ethics Enterprise System is a secure mechanism to complete and periodically update the OGE Form 450, the New Entrant Confidential Financial Disclosure Report. You will use your eCommons account to access NEES complete and periodically update the OGE Form 450. You will receive an email with instructions from the IC CMO on how to access and use the system.
- **USA Staffing:** This is the secure system you will use to complete required human resources forms to appoint you as an SGE. You will receive an email from [USAstaffingoffice@opm.gov](mailto:USAstaffingoffice@opm.gov) with instructions.

The material below provides detail regarding ethics and human resource requirements as well as information related to reimbursement of travel expenses and per diem. If you have any questions, please contact **[INSERT INSTITUTE/CENTER COMMITTEE MANAGEMENT OFFICER NAME AND CONTACT INFORMATION]**.

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<sup>1</sup>A Special Government Employee is defined as an employee who is retained, designated, appointed, or employed to perform temporary duties either on a full-time or intermittent basis, with or without compensation, for a period not to exceed 130 days during any consecutive 365-day period. (18 U.S.C. 202)

## Ethics Requirements

### Ethics Documentation

#### **Executive Branch Confidential Financial Disclosure Report (OGE 450)**

The purpose of this report is to assist employees and their agencies in avoiding conflicts between official duties and private financial interests or affiliations. Agency ethics officials will use the information that filers provide to determine whether any potential conflicts exist. Therefore, your appointment is contingent upon careful consideration of the information you provide as a filer. If for any reason you are not selected to serve on the committee, your completed OGE 450 report will be purged from the NEES system.

Your OGE 450 report will remain confidential in the NEES system and will be seen only by designated Government officials. The designated officials will review this information prior to each advisory committee meeting to help identify any potential conflict of interest situation which may arise. **You will be notified by email when you are to file your initial OGE 450 report in NEES prior to your appointment and when you are to provide periodic updates throughout your appointment.**

Consistent with long-standing NIH practice, a waiver may be issued to permit you to participate in matters of general applicability that may arise during your appointment and that the designated officials conclude may affect your personal or imputed financial interests. All information you provide will be treated in a manner consistent with the Privacy Act; waiver determinations must be released in response to a Freedom of Information Act request.

The Ethics Reform Act provides that any individual who knowingly or willfully falsifies or fails to report the required information may be subject to criminal or administrative sanctions. You may be contacted for additional information if it is determined that the filed report does not provide enough information for a meaningful analysis of real or apparent conflicts of interest.

In addition to the instructions listed on the OGE 450 report in NEES, please note the following:

- Sources of income exceeding \$1,000 from any non-governmental source, such as domestic and foreign employment, intellectual property (e.g. patents with a royalty sharing agreement), and consultant work.
- Assets with a value greater than \$1,000 such as stock or stock options in publicly-traded and privately-held companies, real estate held for investment purposes, bonds, sector mutual funds, annuities, trusts, and private equity funds (e.g. limited partnerships, hedge funds, venture capital funds, etc.).

- Any position you hold, such as your employment, advisory board positions, or committee memberships with any non-governmental entity such as journals, professional societies, universities, or for-profit entities.

**Note:** We are required by the Privacy Act to disclose the following information to you prior to your completion of the OGE 450 report: (1) The Ethics Reform Act requires the collection of the information requested on this form. Your disclosure of this information is mandatory if you wish to be considered for membership. (2) The information you disclose on this form will be used to determine whether there is an actual or apparent conflict of interest between your employment and financial interests and your appointment as an NIH advisory committee member.

### **Emoluments Clause and Foreign Activities**

The Emoluments Clause of the United States Constitution applies to all U.S. Government employees, including most SGEs (**i.e., all the National Advisory Councils/Boards, and some Program Advisory Committees**). The Emoluments Clause always applies during a covered appointment as an SGE and not just the periods of time during actual duty on behalf of NIH. You will be notified by the Institute/Center Committee Management Officer if you are subject to the Emoluments Clause. During your advisory committee appointment, you cannot be an employee of a foreign government entity. In addition, you are prohibited from receiving any present, emolument, office, or title of any kind from a foreign state. For purposes of this restriction, foreign states include a foreign government or a political subdivision of a foreign government, including certain public universities or commercial enterprises owned or operated by a foreign government. An emolument includes salary, honoraria, transportation, per diem allowances, household goods shipment costs, and housing allowances.

All SGEs are covered by the separate [Foreign Gifts and Decorations Act](#) (FGDA). Under this statute, SGEs are prohibited from accepting gratuitous gifts and decorations from foreign governments, although there are some exceptions. For instance, gift items of nominal value and travel expenses for travel occurring entirely outside of the United States may be authorized by the Foreign Gifts and Decorations Act. Under this statute, foreign governments do not include international organizations of which the U.S. is a member.

To help you determine if there are any Emoluments Clause or FGDA issues to resolve prior to or during your appointment, the HHS Office of General Counsel, Ethics Division, has issued a mandatory form, [HHS-697, Foreign Activities Questionnaire](#), which must be completed by all SGE advisory committee members. **You are required to complete this questionnaire prior to your appointment and yearly during your advisory committee service.**

### **Federally Registered Lobbyist Prohibition**

To reduce the influence of special interests, agencies may not appoint federally registered lobbyists to serve on Advisory Committees/Boards. The prohibition on the appointment of

lobbyists applies to SGEs, and for the purposes of this policy, includes any individual who is subject to the registration and reporting requirements of the Lobbying Disclosure Act of 1995, as amended ([2 USC 1605](#)). Therefore, you will be required to certify prior to your appointment and annually that you are not a Federally-registered lobbyist by completing a [certification form](#).

### Ethics Training

You are required by Office of Government Ethics regulations to receive initial and annual ethics training. Since on-site training is not always practical, the training requirement is being fulfilled by providing the materials below for your action/review:

#### (Initial and Annual) Ethics Training Material for Special Government Employees

1. **"Ethics Training for Special Government Employees,"**
  - please complete [Web-based](#) training module, fill in your name and date on the certificate at the end, and email the pdf to your designated Institute/Center Committee Management Officer.
2. **"Standards of Ethical Conduct - Summary for Executive Branch Employees,"**
  - a 32-page [booklet](#) prepared by OGE.
3. **Supplemental Standards of Ethical Conduct and Supplemental Financial Disclosure Requirements for Employees of the Department of Health and Human Services,**
  - codified in [5 C.F.R. Parts 5501 and 5502](#).  
NOTE: 5 C.F.R. Part 5501 subsections 104, 106, 109, 110, 111, and 112 do NOT apply to SGEs. None of the contents of 5 C.F.R. Part 5502 apply to SGEs.
4. **"The Ethical Choice: Ethics for Special Government Employees,"**
  - a (20 minute [video](#)) created by OGE in 2008.
5. **"Ethics Rules for Advisory Committee Members and Other Individuals Appointed as Special Government Employees (SGEs),"**
  - an 11-page [summary](#) prepared by the HHS OGC Ethics Division.
6. **"Overview of the Ethics Rules for Special Government Employees Serving on Advisory Committees,"**
  - a [brochure](#) prepared by the HHS OGC Ethics Division.
7. **"To Serve with Honor,"**
  - a 16-page [booklet](#) for advisory Committee/Board members prepared by OGE in 2008.
8. [Principles of Ethical Conduct for Government Officers and Employees](#), listed in Executive Order 12731 (October 17, 1990), and 5 C.F.R. § 2635.101.
9. The [Federal Conflict of Interest Statutes](#).
10. The names, titles, office addresses, and telephone numbers of the [NIH ethics officials](#) available to advise employees on ethics issues.

The criminal conflict of interest statutes preclude an SGE from participating as a Government employee in any particular matter in which to his/her knowledge, they, their spouse, minor child, partner, or organization for which they serve as officer, director, trustee, general partner, or employee has a financial interest. Whenever your participation in Committee/Board

deliberations on a product, program, project or other particular matter would constitute a conflict of interest or create the appearance of a conflict of interest, it is incumbent upon you to so advise the Executive Secretary and abstain from any participation in discussion or action regarding that matter. When in doubt, you should seek a determination from the Executive Secretary of your Committee/Board before the deliberation.

## Human Resources Documentation

The human resource onboarding documents listed below must be completed prior to your appointment. **You will receive an email from the [USA Staffing \(USAS\) Onboarding System \(USAstaffingoffice@opm.gov\)](#) with instructions.** Once you are in the system, you will respond to an online questionnaire and the responses will populate the necessary forms that are required for an SGE appointment. Once the forms are generated, you will electronically sign the applicable documents. You will also be provided pdfs of certain forms that require an original signature and/or notarization which, once completed, you will upload into your USA Staffing record. Provide below are forms you can review beforehand:

### Forms that are completed electronically in the USAS Onboarding System:

- [Self-Identification of Disability](#) (SF 256)
- [Direct Deposit](#) (FMS 2231)
- [Statement of Prior Federal Service](#) (SF 144)
- [Ethnicity and Race Identification](#) (SF 181)
- [Employee's Withholding Allowance Certificate](#) (W-4)
- [Maryland State Exemption \(MW-507\) or Withholding Tax Form](#)
- Educational Data Update Form (USAS EDU 01 Form)
- [Record of Home Address \(HHS 476\)](#)

### Forms that must be uploaded in to the USAS Onboarding System:

- [Immigration and Naturalization Employment Eligibility Verification](#) (I-9)
- [Appointment Affidavit](#) (SF 61) (*form must be notarized*)
- [Declaration for Federal Employment](#) (OF 306)

## Reimbursement/Compensation

Members are compensated at the rate of \$200 per day for time spent at meetings and site visits. This payment for service on advisory committees is made from the Defense Finance and Accounting Service (DFAS) system. Once a member's appointment is effective, a letter will be sent to their residential address from the DFAS containing a temporary PIN number that is valid for 120 days. Members will be required to change the temporary PIN number to a customized PIN via the DFAS website <https://mypay.dfas.mil/mypay.aspx> or by calling the DFAS Helpdesk,

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at 1-888-332-7411. A member will have sole access to his/her pay records and will have the option of printing a W-2 form for tax purposes at the end of the calendar year from this system. Social Security (except for non-citizens) and Federal and Maryland State (unless a Maryland State Tax Exemption form, WM-507, is filed), income taxes will be deducted, and a W-2 Wage and Tax Statement will be provided no later than January 31 of each year. In addition, it will be the member's responsibility, should changes occur during an appointment, to update the residential address and direct deposit banking information.

A separate payment will be processed for reimbursement of travel expenses and per diem. Reimbursement of travel expenses is processed through the NIH accounting database (which is separate from the DFAS system). It is suggested that you retain a copy of the submitted record of travel expenses after each meeting. The daily per diem rate is determined by General Services Administration guidelines and is based on the city and state location of the meeting. If changes are made to your banking information or residential address during your appointment, it is imperative that you contact the Committee Management Officer listed on page 2 of this document. This is critical to ensure the correct distribution of your expense reimbursements and for maintaining accurate advisory committee member records.

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