

**SENATE ARMED SERVICES COMMITTEE POLICIES
FOR
CIVILIAN AND MILITARY NOMINEES**

Effective February 22, 2021, the Senate Armed Services Committee (SASC) has made the following revisions to its policies concerning civilian and military nominees, as set forth below:

Civilians: Presidentially Appointed Senate confirmed (PAS) officials -

- **Surety Requirement Eliminated:** The SASC previously required that PAS officials in the Department of Defense (DoD) who have a defined benefit retirement plan with a company doing business with DoD obtain a surety to guarantee the payment of such benefits should the company become insolvent. However, obtaining such guarantees has proven to be an impossibility and ethics officials have opined that such guarantees are unnecessary given existing ethics laws providing for recusal in the rare event an actual conflict of interest might exist.
 - DOD will be required to continue to meet heightened standards for granting any 18 U.S.C. § 208 waiver relating to potential conflicts involving these defined benefit retirement plans, as described in the September 23, 2005 letter from Senators Warner and Levin, providing that waiver of a recusal requirement can be granted only when the Designated Ethics Official determines in writing that the interest of the Government in the official's participation outweighs any appearance of impropriety.
- **PAS Divestiture Requirement Revised:**
 - New Requirement: Consistent with 10 USC § 988, all DoD PAS nominees must divest holdings in companies appearing in the top ten slots of the General Services Administration (GSA) published Top 100 Contractors listing for DoD over the last five fiscal years.
 - Prior Requirement Eliminated: Previously, DoD PAS nominees were required to divest any entities with DoD contracts of \$25,000 or more in the preceding fiscal year.
- **De Minimis Exceptions Apply:** DoD PAS officials may now use the de minimis exceptions in the Office of Government Ethics (OGE) conflict of interest regulations for individual stock holdings not exceeding \$15,000.

Military: Military nominees for promotion to grades above O-6 -

1. **Designated Acquisition Positions:**

- **Divestiture Requirement Revised:** Nominees must divest holdings in companies appearing in the top ten slots of the GSA published Top 100 Contractors listing for DoD over the last five fiscal years. (Prior requirement was to divest holdings for companies appearing in the “top 10” in the previous fiscal year).
- May continue to use the OGE de minimis exception.

2. **Non- Acquisition Positions:**

- **Divestiture Requirement Eliminated:** Nominees need only divest if required in order to mitigate conflict of interest or related ethics issues. Follow OGE and DoD policies. No longer required to automatically divest of any company on the “top 10” list.
- May continue to use the OGE de minimis exception.