

# SOCO ADVISORY

Department of Defense  
Office of General Counsel  
Standards of Conduct Office

April 1, 2025  
Number 25-02  
[OSD.SOCO@MAIL.MIL](mailto:OSD.SOCO@MAIL.MIL)

**Subject: Financial Disclosure Filers Participating in the Deferred Resignation Program**

## **I. Public Financial Disclosure Filers.**

Title I of the Ethics in Government Act (EIGA), 5 U.S.C. § 13103(f), identifies which officers and employees must file public financial disclosure reports. Section 13103(f) includes within the definition of the term “public filer” each “officer or employee in the executive branch ... who occupies a position classified above GS-15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule.” Office of Government Ethics (OGE) regulations at 5 C.F.R. § 2634.202 further defines the term “public filer” to include, in relevant part, “each officer or employee in the executive branch ... whose position is classified above GS-15 of the General Schedule prescribed by 5 U.S.C. 5332, or the rate of basic pay for which is fixed, other than under the General Schedule, at a rate equal to or greater than 120% of the minimum rate of basic pay for GS-15 of the General Schedule.” Both provisions link public filer status to the individual occupying a position meeting the public filing criteria, not to actual pay.

In implementing the Office of Personnel Management’s Deferred Resignation Program (DRP), the Department of Defense (DoD) has issued a template “Final Separation Agreement,” which must be signed by all parties before going into effect following expiration of a stated “revocation period.” The template agreement provides that the employee signing, “acknowledges that Agency will immediately rely on the terms of this agreement in consolidating and reassigning roles and otherwise taking steps to reform the agency workforce.” The template agreement further states, “[a]s of the effective date of this agreement, Employee will permanently cease to serve in the position from which Employee is agreeing to resign.”

Based on the foregoing, SOCO has updated its guidance and determined that public filers participating in the DRP program using the above referenced DoD Final Separation Agreement template language, cease to be public filers on the date that their fully executed DRP agreement becomes effective. At that time, such individuals will permanently cease to serve in their former public filing position, notwithstanding that they remain a Federal employee and may continue to encumber the billet for manpower and budgeting purposes until their actual separation date. For financial disclosure and related purposes<sup>1</sup>, such individuals will no longer be considered to occupy a position that satisfies the criteria for public financial disclosure. Thus, these individuals will need to be assigned OGE 278 Termination reports with a due date that is 30 days from the date that their fully executed DRP agreement becomes effective (i.e., the date that they terminated service in a public

---

<sup>1</sup> The Stop Trading on Congressional Knowledge (STOCK) Act requires public financial disclosure filers to submit a notice of employment negotiations or agreement with any non-federal entity within 3 days of commencement of such negotiations or agreement. (Pub. L. 112-105, §17, Apr. 4, 2012, 126 Stat. 303, as amended by Pub. L. 117-286, §4(c)(12), Dec. 27, 2022, 136 Stat. 4354.)

filing position).<sup>2</sup>

This guidance is consistent with OGE regulations at 5 C.F.R. § 2634.104, which cite the stated purpose of the EIGA’s public financial disclosure provisions as follows:

- “... to ensure confidence in the integrity of the Federal Government by demonstrating that [high-level Federal officials] are able to carry out their duties without compromising the public trust;
- “... to prevent conflicts of interest and to identify potential conflicts, by providing for a systematic review of the financial interests of both current and prospective officers and employees... and assist agencies in administering their ethics programs and providing counseling to employees; and,
- “...to provide information that the President, Congress, or OGE as the supervising ethics office for the executive branch has deemed relevant to the administration and application of the criminal conflict of interest laws, other statutes on ethical conduct or financial interests, and Executive orders or regulations on standards of ethical conduct.”

Once the DRP agreement becomes effective, the employee will permanently cease to serve in the position or perform any official duties. Thus, the stated purposes of public filing will no longer be served since:

- The employee will permanently cease to serve as a “high-level Federal official”
- The employee will permanently cease carrying out any official duties, thereby negating any concerns regarding compromising the public trust or participating in matters implicating financial conflicts of interest.

Finally, this guidance is consistent with OGE regulations at 5 C.F.R. Part 2638 relating to good stewardship of public resources and ensuring sufficient resources to sustain effective ethics programs. Expenditure of resources to manage, review, and provide advice relating to ongoing financial disclosure and related filings for personnel who have permanently ceased to perform any official duties, and thus cannot pose any risk of financial conflicts of interest, would result in diversion of significant ethics resources with no benefit to the public. It is in the public interest to ensure that ethics resources are properly focused on the critical mission of identifying and preventing financial conflicts of interest for current Government employees and providing ethics training and advice on other applicable ethics laws, including those that will continue to apply to DRP participants.

## **II. Confidential Financial Disclosure Filers**

The analysis above applies similarly to confidential financial disclosure filers, regardless of the language used in their DRP agreement. Confidential financial disclosure filing requirements are tied

---

<sup>2</sup> Note that while the criteria for public filing is tied to serving in a certain position, including one for which the basic rate of pay meets the statutory threshold, status as a “senior official” for other ethics provisions, such as 18 U.S.C. § 207, is tied to actual pay. Therefore, an individual who ceases to be a public filer on the effective date of their DRP agreement would continue to be a senior official until their separation date if their rate of pay continues to be above the senior official threshold.

to the likelihood that the employee's official duties carry the potential to affect the financial interests of non-federal entities. Therefore, confidential filers whose DRP agreement has become effective no longer meet the criteria for financial disclosure filing, since they will no longer perform any official duties. Accordingly, DoD ethics officials may remove their filer role in FDM once any current filings are properly certified or otherwise adjudicated.

### **III. Caveats**

This advisory is limited solely to determining the financial disclosure filer status of personnel participating in the DRP. Employees participating in the DRP remain government employees subject to all other applicable ethics laws and regulations until they separate from government service. Additionally, such employees will be subject to all applicable post-government employment restrictions upon separation.<sup>3</sup>

Financial disclosure filers who are expected to perform any substantive duties during their DRP period and retain system, equipment, or building access for that purpose will continue to be considered a financial disclosure filer. Any individual who is (1) reinstated to actively serve or required to perform substantive duties in a filing position, whether due to cancellation of their DRP agreement, transfer, or otherwise should be treated for financial disclosure purposes as if they are transferring from a non-filing position to a filing position. If no more than 30 days have lapsed since their DRP agreement became effective, such individuals will not owe a New Entrant report.

**DISCLAIMER: The purpose of this advisory is to disseminate interpretive guidance on Government Ethics issues to the Department of Defense ethics community. It is not intended to be and should not be cited as authoritative law.**

DoD Standards of Conduct Office  
[http://ogc.osd.mil/defense\\_ethics/](http://ogc.osd.mil/defense_ethics/)

---

<sup>3</sup> Pending separation, the restrictions at 18 U.S.C. §§ 203 & 205 effectively prohibit DRP participants from representing a non-federal entity back to the U.S. Government in most situations. Following separation, the representational restrictions at 18 U.S.C. § 207 (and related restrictions at Section 1045 of the FY18 NDAA) will go into effect, where applicable.