



U.S. Department of Defense Standards of Conduct Office

ETHICS GUIDANCE FOR DOD EMPLOYEES PARTICIPATING IN THE OFFICE OF PERSONNEL MANAGEMENT DEFERRED RESIGNATION PROGRAM

Purpose: This document summarizes the Government ethics rules that apply to Department of Defense (DoD) personnel who accept the Office of Personnel Management Deferred Resignation Program (DRP).

Application: DoD personnel who have been accepted into the DRP with fully executed DRP agreements in effect.

Legal Notice: This information identifies statutes and regulations that restrict or otherwise affect activities of DoD personnel while they remain in Government service, including while in an administrative or other leave status. This information is a summary of the rules and is not intended to serve as legal advice. Personnel should consult with their local ethics official(s) for advice concerning their specific situations. **For OSD personnel only** - contact the DoD Standards of Conduct Office (SOCO) at (703) 695-3422 or by email at OSD.SOCO@MAIL.MIL.

Advice from ethics officials with respect to these matters is advisory only. Ethics officials are acting on behalf of the United States Government, and not as your personal representative. No attorney-client relationship is created. If you have questions concerning your rights and legal obligations, you should contact your personal legal advisor.

Summary: OPM has indicated that federal personnel who accept the DRP will be placed in an administrative leave status. During this time, just as with any other leave status, DoD personnel remain subject to the Federal ethics rules, criminal conflict of interest statutes, the Hatch Act, and DoD supplemental ethics rules and policies regarding engaging in outside employment and outside activities.

I. FEDERAL ETHICS RULES STILL APPLY.

The following provides a brief summary of ethics-related issues that DoD personnel who accept the DRP may encounter prior to official separation from federal service:

- A. *Gifts.* Unless a regulatory exclusion or exception applies, the general rule is that DoD personnel may not accept any gift given (1) because of their official position; or (2) from any person who is seeking official action from DoD, does or seeks to do business with the DoD, conducts activities regulated by the DoD, has interests that can be affected by

the performance or non-performance of the individual's official duties, or is an organization the majority of whose members are in any of those classes (i.e. a "prohibited source").

B. *Disqualification or recusal.* Federal personnel may not work in their official capacity on a matter that will affect a prospective or current employer or client. See 18 U.S.C. § 208. Generally, personnel who are seeking or have an arrangement for employment with a non-Federal entity while still a federal employee may be required by federal regulations to provide a written disqualification to their supervisor and their local ethics official identifying the entity(ies) from which the individual is recused. However, written recusal is not necessary if the individual is on administrative leave and not performing any official duties, since there is no potential to participate in matters affecting such entity(ies).

C. *Financial Disclosure Filer Status.*

1. Public (OGE 278) Filers –

a. DoD public filers who have signed the DoD DRP agreement containing the following language will be deemed to permanently cease serving in a filing position¹ as of the effective date of their agreement:

“12. Employee 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. As of the effective date of this agreement, Employee will permanently cease to serve in the position from which Employee is agreeing to resign. Consequently, Employee understands that, as of the effective date of this agreement, this agreement is final and reflects Employee’s decision to resign effective September 30, 2025, unless Employee resigns or retires earlier as set forth above.”

Such filers must continue to work with ethics officials to perfect any previously owed or submitted OGE 278 report and will owe a Termination OGE 278 report within 30 days following their DRP agreement effective date.

b. OGE 278 filers whose DRP agreement does not contain the above-referenced language will remain subject to all ethics requirements applicable to public filers until officially separated from federal service and must:

- i. Continue to submit required reports, including periodic, annual, and termination reports; and
- ii. Comply with the requirements of the “STOCK Act” at 5 U.S.C. § 13103 to file a notification with their local ethics official within three business days

¹ Termination of the financial disclosure filing status of personnel participating in the DRP does not affect the application of any other applicable ethics restrictions. Upon separation from government service, such personnel remain subject to all applicable post-government employment restrictions.

of engaging in negotiations for post-Government employment or entering into an arrangement for such employment. A sample STOCK Act notice is available on the [SOCO website](#).

- iii. Comply with DoD regulations requiring that financial disclosure filers must obtain approval from their supervisor **before** engaging in a business activity or compensated outside employment with a prohibited source. Approval will be annotated on the individual's next full OGE 278e report.
2. Confidential (OGE 450) Filers – Individuals who file the OGE 450 confidential financial disclosure report are not required to file the report while on administrative leave as part of the DRP, as long as the individual is not performing any official duties. Such personnel must continue to work with ethics officials to perfect any previously owed or submitted report for certification. If an individual resumes performing official duties in a OGE 450 filing position, the individual's OGE 450 reporting requirements will resume and the individual must contact their local ethics official promptly following the resumption of duties.
 3. Exceptions Requiring Ethics Official Notification:
 - a. Financial disclosure filers expected to perform any substantive duties during their DRP period and retain system, equipment, or building access for that purpose. You will remain a filer and must notify your local ethics official upon execution of your DRP.
 - b. Financial disclosure filers who are 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. You will resume filing and must notify your local ethics official promptly upon reinstatement or commencement of substantive duties.
- D. *Compensation restrictions.* A criminal statute prohibits Federal personnel from receiving pay from a non-Federal source for performing their official duties. This criminal statute applies even when the receipt of outside compensation does not create a conflict of interest and would not cause actual injury to the United States. This law may, for example, bar DoD personnel from working for a contractor to finalize a study that the individual completed as a DoD employee. *See* 18 U.S.C. § 209.
- E. *Representation restrictions.* Criminal statutes prohibit Federal personnel from representing any non-federal entity, employer, or client before any Federal department, agency, or court with or without compensation. *See* 18 U.S.C. §§ 203 & 205. ***For example, in most instances, DoD personnel would not be able to serve as an onsite federal contractor, since doing so necessarily entails representing the contractor to DoD officials.***
- F. *Use of government resources.* Ethics rules prohibit the use of government resources, time, or position for other than official or authorized purposes. For example, if you retain a government issued device pending separation, it may not be used for other than official

Government purposes. *See* 5 C.F.R. §§ 2635.702-705 and JER §§ 2-300, 2-301, and 2-302.

- G. *Hatch Act*. DoD personnel must abide by the Hatch Act, which governs the political activity of federal employees even in their personal capacity. DoD employees cannot engage in any political fundraising and cannot use their official titles in connection with any political activity, even if the activity is otherwise permissible under the Hatch Act.
- H. *Post-Government Employment Restrictions*. Post-separation, personnel working for a non-Federal entity must abide by Federal laws and regulations governing post-government employment activities with non-federal entities. *See* 18 U.S.C. § 207 and 5 C.F.R. Part 2641. General post-government employment FAQs and guidance can be found on the [SOCO website](#).

II. QUESTIONS?

Individuals should contact their local ethics official for information pertaining to the individual's specific circumstances. **For OSD personnel only** - contact the Standards of Conduct Office (SOCO) at (703) 695-3422 or by e-mail at OSD.SOCO@MAIL.MIL.