

2 FAM 700 ETHICS

2 FAM 710 ETHICS PROGRAM

(CT:GEN-341; 05-13-2008)
(Office of Origin: A/ISS/DIR)

2 FAM 711 GENERAL

2 FAM 711.1 Purpose

(CT:GEN-341; 05-13-2008)

- a. This regulation summarizes certain requirements, responsibilities, and procedures relating to the Department of State's ethics program. The Secretary of State is responsible for establishing, maintaining, and carrying out the Department's ethics program. A deputy legal adviser is appointed by the Secretary to serve as the designated agency ethics official (DAEO) to coordinate and manage the ethics program on behalf of the Secretary. This regulation describes ethics program staffing and responsibilities and explains management responsibilities that have been delegated or otherwise assigned to nonethics staff concerning:
- Designation of Special Government Employees (2 FAM 713)
 - Financial Disclosure (2 FAM 714)
 - Ethics Training (2 FAM 715)
 - Acceptance of Travel or Travel Expenses for Official Travel (2 FAM 716)
 - Use of Widely Attended Gathering Gifts Exception (2 FAM 717)
- b. The authorities listed in 2 FAM 711.2 govern in the event of a conflict with the provisions of 2 FAM 710.

2 FAM 711.2 Authorities

(CT:GEN-341; 05-13-2008)

- a. 18 U.S.C. 202 (Definitions).
- b. 5 CFR Part 2634 (Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture).
- c. 5 CFR Part 2635 (Standards of Ethical Conduct for Employees of the Executive Branch).
- d. 5 CFR Part 2638 (Office of Government Ethics and Executive Agency Ethics Program Responsibilities).

2 FAM 711.3 Definitions

(CT:GEN-341; 05-13-2008)

Confidential filer: An individual who must file a Confidential Financial Disclosure Report (OGE Form 450) and includes, as defined in 5 CFR 2634.904(a):

- (1) Any employee of the Department or candidate for employment with the Department in a position classified at GS-15 or below or at FS-01 or below (or, in the case of any individual whose pay is not fixed under the General Schedule and who does not serve in the Foreign Service, in a position for which the rate of basic pay is less than 120 percent of GS-15, step 1) if the employee's management official (or the Ethics Office) determines that:
 - (a) The duties and responsibilities of the employee's position require the employee to participate personally and substantially through decision or the exercise of significant judgment, and without substantial supervision and review, in taking Government action regarding:
 - (i) Contracting or procurement;
 - (ii) Administering or monitoring grants, subsidies, licenses, or other federally conferred financial or operational benefits;
 - (iii) Regulating or auditing any non-Federal entity; or
 - (iv) Other activities in which the final decision or action will have a direct and substantial economic effect on the

interests of any non-Federal entity; or

- (b) The duties and responsibilities of the employee's position require the employee to file such a report to avoid involvement in a real or apparent conflict of interest. These positions might include those with duties that involve investigating or prosecuting violations of criminal or civil law;
- (2) Any employee who is not a public filer and is an executive director, management counselor, deputy chief of mission, or economic counselor or who has equivalent duties and responsibilities in a position at a smaller post; or
- (3) A special Government employee (SGE) who is not a public filer.

Confidential Financial Disclosure Report (OGE Form 450): The prescribed form for confidential financial disclosure reporting, or a Department of State prescribed equivalent.

Department: The Department of State unless indicated otherwise.

Designated agency ethics official (DAEO): As defined in 5 CFR 2638.104, the official designated by the Secretary of State to coordinate and manage the Department's ethics program. The duties of the DAEO include those listed in 5 CFR 2638.203. The alternate agency ethics official has the same duties and responsibilities as the DAEO in the absence of the DAEO.

Free attendance: As defined in 5 CFR 2635.204(g)(4), for purposes of the "widely attended gathering" exception to the gifts rules in Subpart B of 5 CFR Part 2635, a waiver of all or part of a conference or other fee or the provision of food, refreshments, entertainment, instruction, and materials furnished to all attendees as an integral part of the event. It does not include travel expenses, lodgings, entertainment collateral to the event, or meals taken other than in a group setting with all other attendees.

Management official: The bureau executive director or post management counselor (or individual who has equivalent duties and responsibilities in a position at a smaller post) or his or her designee.

Public filer: An individual who must file a Public Financial Disclosure Report (SF 278) and includes, as defined in 5 CFR 2634.202, any employee of the Department or any candidate for employment with the Department (including a special Government employee or employee serving in a "stretch assignment"):

- (1) Who is serving in an Executive Schedule, Senior Executive Service,

or Senior Foreign Service position (or, in the case of any individual whose pay is not fixed under the General Schedule and who does not serve in the Foreign Service, in a position for which the rate of basic pay is equal to or greater than 120 percent of GS-15, step 1); or

- (2) Who is serving in a position not specified in paragraph (1) and who is excepted from the competitive service because it is of a confidential or policymaking character, including Schedule C employees and any limited noncareer appointee who is a political appointee.

Public Financial Disclosure Report (SF 278): The prescribed form for public financial disclosure reporting.

Senior Reviewer: The employee, designated by the bureau head or chief of mission pursuant to 2 FAM 714.6, who must undertake an initial review of incumbent Public Financial Disclosure Reports as described in 2 FAM 714.7.

Special Government employee" (SGE): As defined in 18 U.S.C. 202, an officer or employee who is retained, designated, appointed, or employed to perform temporary duties (usually for 1 year at a time), with or without compensation, and on either a full-time or intermittent basis, for not to exceed 130 days during any period of 365 days. The term excludes a member of an advisory committee who is already a regular employee; who is appointed to provide an advisory committee with the points of views of a nongovernmental entity or of a recognizable group of persons (e.g., an industry sector, labor union, or environmental group); or a person who is an independent contractor.

2 FAM 712 ETHICS OFFICE

2 FAM 712.1 Personnel

(CT:GEN-341; 05-13-2008)

- a. A deputy legal adviser serves as the Department's designated agency ethics official (DAEO). The Senior Ethics Counsel in the Office of the Assistant Legal Adviser for Employment Law (L/EMP) serves as the alternate agency ethics official and, in the absence of the DAEO, carries out the responsibilities of the DAEO. The duties of the DAEO and the alternate agency ethics official include those listed in 5 CFR 2638.203. They are designated and appointed under the authority of the Secretary of State to establish, maintain, and carry out the Department's ethics

program.

- b. All ethics staff, other than the DAEO, are assigned to L/EMP/Ethics or to the Financial Disclosure Division (L/EMP/FD), together referred to as the Ethics Office, except as otherwise determined by the DAEO in consultation with the Department's Legal Adviser.
- c. The DAEO will generally designate the Assistant Legal Adviser for Employment Law, the Chief of L/EMP/FD, and one or more employees to serve as deputy ethics officials. The Assistant Legal Adviser for Employment Law will, in consultation with the DAEO and Senior Ethics Counsel, designate other employees in L/EMP to perform duties appropriate to their position and grade relating to the ethics program.

2 FAM 712.2 Responsibilities

(CT:GEN-341; 05-13-2008)

- a. Ethics staff will perform the duties described in 5 CFR 2638.203 and other duties as assigned, but only the DAEO or alternate agency ethics official may certify nominee financial disclosure reports (5 CFR 2634.605); waive a late filing fee (5 CFR 2634.704); or transmit a request for a certificate of divestiture (5 CFR 2634.1005). The DAEO may reserve responsibilities as specified in this regulation or in accordance with ethics staff procedures.
- b. Under the supervision of the DAEO and the Assistant Legal Adviser for Employment Law, the Senior Ethics Counsel is responsible for the overall management and direction of L/EMP/Ethics and L/EMP/FD. The Chief of L/EMP/FD is responsible for the day-to-day management and supervision of financial disclosure employees.
- c. The Ethics Office maintains the Department's ethics program Web site.
- d. Ethics staff provide advice but do not investigate allegations of violations of law or regulation. The Ethics Office reports reasonable allegations of substantive violations of ethics laws or regulations to the Department's Office of Inspector General. Disclosures made by an employee to the ethics staff are not protected by attorney-client privilege.

2 FAM 712.3 Funding for the Ethics Program

(CT:GEN-341; 05-13-2008)

- a. Sufficient funds will be allocated to the Office of the Legal Adviser to administer the ethics program, to include resources for personnel, investigation, audit, automation (including but not limited to Web site maintenance), and for training ethics personnel and Department employees.
- b. The ethics program's requirements will be submitted in conjunction with the Legal Adviser's bureau performance plan and annual budget request.

2 FAM 712.4 Additional Information on Web Site About Ethics Office

(CT:GEN-341; 05-13-2008)

For more information, go to the ethics program Web site and select "Ethics Staff Directory."

2 FAM 713 DESIGNATION OF SPECIAL GOVERNMENT EMPLOYEES

2 FAM 713.1 Background

(CT:GEN-341; 05-13-2008)

The term "special Government employee" (SGE) is defined in 18 U.S.C. 202 (see 2 FAM 711.3, Definitions). Congress created the SGE category for purposes of the Federal ethics laws. SGEs must be distinguished from regular employees, from part-time employees who are not serving on a temporary basis, and from individuals who are not employees.

2 FAM 713.2 Significance of Special Government Employee (SGE) Status

(CT:GEN-341; 05-13-2008)

- a. Most of the Federal ethics laws and regulations apply equally to regular employees and SGEs, but some are less restrictive as applied to SGEs and others do not apply. Also, some laws apply differently to an SGE

once the SGE has served more than 60 days during the immediately preceding period of 365 consecutive days. (Nonemployees are generally not covered by the ethics laws at all.)

- b. An SGE, including an SGE who is a member of a Department advisory committee, is a confidential filer who must file a new entrant Confidential Financial Disclosure Report, unless the SGE qualifies as a public filer or is excluded from the confidential filing requirement by the ethics staff as described in 2 FAM 714.8-2, Exclusions. Regardless of the number of days the SGE is expected to serve during the following 12-month period, an SGE is required to file a new entrant Confidential Financial Disclosure Report at initial appointment and at the time of a reappointment, and—in the case of an SGE serving for an indefinite or multiyear term—upon the anniversary date of initial appointment. SGEs do not file incumbent Confidential Financial Disclosure Reports. An SGE who qualifies as a public filer may, in unusual circumstances and in accordance with 5 CFR 2634.205, qualify for a waiver of the requirement that a Public Financial Disclosure Report be made available to the public. See also 2 FAM 714, Financial Disclosure.

2 FAM 713.3 Responsibilities

(CT:GEN-341; 05-13-2008)

- a. An individual's prospective management official will:
 - (1) Determine before an individual is appointed or reappointed whether the individual will serve as an SGE. If an individual will serve as a member of a Department advisory committee, the appropriate management official will make this determination in consultation with the Designated Federal Official for the committee, Office of the Assistant Legal Adviser for Management (L/M), and the Ethics Office when the committee is established and at the time of any renewal of the committee's charter;
 - (2) Inform each individual before appointment or reappointment of the individual's designation as an SGE;
 - (3) Ensure documentation of an individual's designation as an SGE in the employee's personnel file; and
 - (4) Ensure that an SGE files a financial disclosure report, as described in 2 FAM 713.2, Significance of Special Government Employee (SGE) Status (paragraph b), and 2 FAM 714.2-1, New Entrant Reports.

- b. The Ethics Office will provide advice to management officials, as necessary, concerning the designation of SGEs. The Office of the Assistant Legal Adviser for Management (L/M) and the Ethics Office will consult with the prospective management official or Designated Federal Official concerning the designation of Department advisory committee members as SGEs.

2 FAM 713.4 Counting Days of Service

(CT:GEN-341; 05-13-2008)

- a. For purposes of counting the number of days of service during a 365-day period:
 - (1) Work performed on weekends or holidays counts toward the total; and
 - (2) A partial day of work counts as an entire day, unless the work performed is uncompensated and is limited to:
 - (a) Strictly administrative matters (e.g., filling out personnel or security clearance paperwork or scheduling meetings);
 - (b) One or two brief communications (e.g., a short e-mail to the chair of the committee, even if it touches on a substantive matter);
 - (c) Brief periods of reading or other preparatory work; or
 - (d) Self-directed background reading.
- b. If an employee is designated as an SGE based on a good-faith estimate of days to be served, but the employee unexpectedly serves for more than 130 days during the ensuing 365-day period, the individual will be deemed an SGE for the remainder of that period. However, at the beginning of the next 365-day period, the management official should reevaluate whether the employee is correctly designated as an SGE, i.e., whether the employee is expected to serve no more than 130 days. Any time an SGE serves beyond 1 year, the management official will perform a new estimate of the expected number of days of service for the next 365-day period without regard to whether the employee is actually reappointed for a new 1-year term or is merely continuing an indefinite or multiyear term.
- c. A Foreign Service annuitant, who may be rehired as an employee without regard to whether he or she is designated an SGE, may exceed the 130-

day threshold if his or her hours are spread over a greater number of days. Management officials may wish to arrange a rehired annuitant's anticipated schedule to permit designation as an SGE. In any event, a rehired annuitant should be treated as an SGE for purposes of financial disclosure. If the expectation and the intent of the hiring office are for the rehired annuitant to work more than 130 days during the ensuing 365-day period, then the individual may not be designated an SGE. In those circumstances, the rehired annuitant will be considered a regular employee for ethics determinations, except the rehired annuitant should be treated as an SGE for purposes of financial disclosure.

2 FAM 713.5 Additional Information on Web Site About SGEs

(CT:GEN-341; 05-13-2008)

For more information, go to the ethics program Web site and select "Special Government Employees" or "Bureau/Post Responsibilities."

2 FAM 714 FINANCIAL DISCLOSURE

2 FAM 714.1 Background

(CT:GEN-341; 05-13-2008)

Certain high-level employees and noncareer appointees are public filers (see 2 FAM 711.3, Definitions) who must file Public Financial Disclosure Reports (SF 278). Other employees are designated by the Department as confidential filers (see 2 FAM 711.3, Definitions) who must file Confidential Financial Disclosure Reports (OGE Form 450). Public Financial Disclosure Reports may be made available to the public in accordance with 5 CFR 2634.603. No member of the public may have access to a Confidential Financial Disclosure Report except pursuant to the order of a Federal court or as otherwise provided under the Privacy Act.

2 FAM 714.2 Filing Requirements and Deadlines

2 FAM 714.2-1 New Entrant Reports

(CT:GEN-341; 05-13-2008)

- a. An individual who assumes a public filer position (including in an acting capacity) for more than 60 days in a calendar year must file a new

entrant Public Financial Disclosure Report within 30 days after the date of entry into the position, unless the individual:

- (1) Transferred from another public filer position at the Department within the previous 30-day period;
 - (2) Is a candidate for employment with or will serve on detail to the Department (in which case the report is due to the Financial Disclosure Division (L/EMP/FD) from the prospective management office for clearance at least 30 days before the individual assumes the position);
 - (3) Is assuming the position from within the Department and the employing bureau or post determines that clearance should be required as if the individual were a candidate for employment with the Department, e.g., because the bureau or post management office has independent knowledge of a financial interest or affiliation that will pose a conflict (in which case the report is due to L/EMP/FD from the prospective management office for clearance at least 30 days before the individual assumes the position);
 - (4) Has received a filing extension from the Ethics Office in accordance with 2 FAM 714.8-3, Filing Extensions; or
 - (5) Is excluded from the filing requirement by the Ethics Office, as described in 2 FAM 714.8-2, Exclusions.
- b. An individual who assumes a confidential filer position (including in an acting capacity) for more than 60 days in the following 12-month period must file a new entrant Confidential Financial Disclosure Report within 30 days after the date of entry into the position unless the individual:
- (1) Transferred from another confidential filer position at the Department within the previous 30-day period;
 - (2) Is a candidate for employment with or will serve on detail to the Department (in which case the report is due to the Financial Disclosure Division from the prospective management office for clearance at least 30 days before the individual assumes the position);
 - (3) Is assuming the position from within the Department, and the employing bureau or post determines that clearance should be required as if the individual were a candidate for employment with the Department; e.g., because the bureau or post management office has independent knowledge of a financial interest or affiliation that will pose a conflict (in which case the report is due to L/EMP/FD

from the prospective management office for clearance at least 30 days before the individual assumes the position);

- (4) Is a special Government employee (SGE), in which case the initial new entrant report is due to L/EMP/FD from the prospective management office for clearance at least 30 days before the individual assumes the position. Moreover, in the case of an SGE serving on a Department advisory committee, the SGE must file the new entrant report prior to rendering any advice and no later than the first committee meeting;
- (5) Has received a filing extension from the Ethics Office in accordance with 2 FAM 714.8-3, Filing Extensions; or
- (6) Has been excluded from the filing requirement by the Ethics Office, as described in 2 FAM 714.8-2, Exclusions.

2 FAM 714.2-2 Incumbent Reports

(CT:GEN-341; 05-13-2008)

- a. An individual who has served in a public filer position (including in an acting capacity), for more than 60 days during the previous calendar year, must file an incumbent Public Financial Disclosure Report by May 15 (although L/EMP/FD may request earlier submission to facilitate timely review), unless the individual:
 - (1) Terminated from the position prior to the May 15 filing date and will not assume another public filer position within 30 days after termination (in which case the individual must file a termination report);
 - (2) Has received a filing extension from the Ethics Office in accordance with 2 FAM 714.8-3, Filing Extensions (e.g., in order to file a combined incumbent-termination report); or
 - (3) Has been excluded from the filing requirement in accordance with 2 FAM 714.8-2, Exclusions.
- b. Except as provided in 2 FAM 713.2, Significance of SGE Status (paragraph b), an individual who has served in a confidential filer position (including in an acting capacity) for more than 60 days during the previous calendar year must file an incumbent Confidential Financial Disclosure Report by February 15 (although L/EMP/FD may request earlier submission to facilitate timely review), unless the individual:
 - (1) Terminated from the position prior to the February 15 filing date

and did not assume another confidential filer position within 30 days after termination;

- (2) Has received a filing extension from the Ethics Office in accordance with 2 FAM 714.8-3, Filing Extensions; or
- (3) Has been excluded from the filing requirement as described in 2 FAM 714.8-2, Exclusions.

2 FAM 714.2-3 Termination Reports

(CT:GEN-341; 05-13-2008)

- a. An individual who has served in a public filer position (including in an acting capacity) for more than 60 days must file a Public Financial Disclosure Report within 30 days after terminating from the position, unless the individual:
 - (1) Transferred to another public filer position within 30 days after terminating from the position;
 - (2) Has received a filing extension from the Ethics Office in accordance with 2 FAM 714.8-3, Filing Extensions; or
 - (3) Has been excluded from the filing requirement, as described in 2 FAM 714.8-2, Exclusions.
- b. A confidential filer does not file a termination report but may be required to file a Confidential Financial Disclosure Report if he or she assumes another confidential filer position. For example, a confidential filer who transfers from a covered position on November 27 (and served more than 60 days in this position) and moves to a new covered position on December 15 will be required to file an incumbent report by February 15, even if he or she has not served more than 60 days in the new confidential filer position.

2 FAM 714.2-4 Nominee Reports

(CT:GEN-341; 05-13-2008)

- a. At any time after the Department has been notified of the intent of the President or President-elect to nominate an individual to a Department position requiring the advice and consent of the Senate and in any event within 5 days after transmittal of the nomination to the Senate, an individual must file a nominee Public Financial Disclosure Report. Entry-level junior Foreign Service officers and Foreign Service officers appointed

as a result of the commissioning and tenure process are not Presidential nominees for purposes of financial disclosure.

- b. An advice-and-consent nominee must file an update concerning outside earned income and honoraria prior to the first Senate hearing to consider the nomination, in accordance with 5 CFR 2634.606.

2 FAM 714.2-5 Effective Date of Filing

(CT:GEN-341; 05-13-2008)

- a. A Public Financial Disclosure Report is deemed filed (e.g., for purposes of the late filing fee described in 5 CFR 2634.704) when the report is received by the employee's management official or when it is received by the L/EMP/FD, whichever occurs first.
- b. A Confidential Financial Disclosure Report is deemed filed when the report is received by L/EMP/FD.

2 FAM 714.3 Filer Responsibilities

(CT:GEN-341; 05-13-2008)

- a. Each filer will take the action necessary to ensure submission of a timely, complete, and accurate financial disclosure report and to facilitate prompt review by the Ethics Office. Failure of management officials to perform the duties specified in 2 FAM 714.4, Management Official Responsibilities, does not necessarily relieve a filer of the responsibility to file in a timely manner. Penalties for failure to file, filing late, or filing a false or incomplete report are summarized in Subpart G of 5 CFR Part 2634.
- b. In particular, each filer should read the instructions accompanying the reporting form and any related guidance prepared for the filer by the Ethics Office and attach a copy of the filer's current work requirements or position description to the reporting form, and will:
 - (1) Provide requested additional information to the Ethics Office in a timely manner as the Office may have specified; and
 - (2) Complete remedial action (e.g., divestiture) within 90 days of written notification from the ethics staff, unless unusual circumstances are fully documented to the satisfaction of the Ethics Office, and the U.S. Office of Government Ethics approves the extension.

2 FAM 714.4 Management Official Responsibilities

2 FAM 714.4-1 Candidates for Employment and Current Employees Assuming Another Position

(CT:GEN-341; 05-13-2008)

- a. With respect to each candidate for employment with or individual who will serve on detail to the Department, the prospective Management management official will:
 - (1) Determine if the individual will assume a public filer or confidential filer position (see 2 FAM 711.3, Definitions);
 - (2) Confirm that a new entrant financial disclosure report must be filed (see 2 FAM 714.2-1, New Entrant Reports, and 2 FAM 713.2, Significance of Special Government Employee (SGE) Status (paragraph b)) and contact L/EMP/FD if exclusion from the public filing requirement may be warranted (see 2 FAM 714.8-2, Exclusions);
 - (3) Provide to the filer a blank Public Financial Disclosure Report or Confidential Financial Disclosure Report, as appropriate (and any related documents as specified by L/EMP/FD);
 - (4) Accept, date, and initial receipt of each completed financial disclosure report; and
 - (5) Transmit the individual's completed financial disclosure report (and associated ethics clearance documentation) to L/EMP/FD for clearance at least 30 days before the individual assumes the position.

- b. With respect to each current employee who has been promoted or is transferring from another position, the employee's prospective management official will:
 - (1) Determine if the individual will assume a public filer or confidential filer position (see 2 FAM 711.3, Definitions);
 - (2) Confirm that a new entrant financial disclosure report must be filed (see 2 FAM 714.2-1, New Entrant Reports, and 2 FAM 713.2, Significance of SGE Status (paragraph b)), and contact L/EMP/FD if exclusion from the public filing requirement may be warranted (see 2 FAM 714.8-2, Exclusions);
 - (3) Provide to the filer a blank Public Financial Disclosure Report or

Confidential Financial Disclosure Report, as appropriate (and any related documents as specified by L/EMP/FD); and

- (4) If warranted, seek clearance in accordance with 2 FAM 714.4-1 (paragraph a) as if the employee were a candidate for employment with the Department.

2 FAM 714.4-2 Employees Serving in Filer Positions

(CT:GEN-341; 05-13-2008)

- a. Prior to the May 15 filing deadline for incumbent Public Financial Disclosure Reports, the management official for each bureau or post will, in accordance with guidance from L/EMP/FD:
 - (1) Identify all public filers at the bureau or post (see 2 FAM 711.3, Definitions);
 - (2) Confirm that each identified filer must file an incumbent Public Financial Disclosure Report (see 2 FAM 714.2-2, Incumbent Reports (paragraph a));
 - (3) Provide to each filer a blank Public Financial Disclosure Report (and any related documents as specified by L/EMP/FD);
 - (4) Accept, date, and initial receipt of each Public Financial Disclosure Report;
 - (5) Ensure senior review of each Public Financial Disclosure Report in accordance with 2 FAM 714.7, Senior Reviewer Responsibilities; and
 - (6) Transmit each Public Financial Disclosure Report to L/EMP/FD for review (unless the senior reviewer or filer does so).
- b. Prior to the February 15 filing deadline for incumbent Confidential Financial Disclosure Reports, the management official for each bureau or post will, in accordance with guidance from L/EMP/FD:
 - (1) Identify all confidential filer positions at the bureau or post (see 2 FAM 711.3, Definitions);
 - (2) Confirm that each employee occupying such a position must file a Confidential Financial Disclosure Report (see 2 FAM 714.2-2, Incumbent Reports (paragraph b));
 - (3) Provide to each filer a blank Confidential Financial Disclosure Report (and any related documents as specified by L/EMP/FD); and

- (4) Forward to L/EMP/FD concerning each filer the full name, pay grade, employee identification number (if available), position for which filing, and office symbol or post.

2 FAM 714.4-3 Employees Terminating From Filer Positions

(CT:GEN-341; 05-13-2008)

- a. With respect to any employee who is terminating from a public filer position (see 2 FAM 711.3, Definitions), the management official for each bureau or post will, in accordance with guidance from L/EMP/FD:
 - (1) Confirm that a termination Public Financial Disclosure Report must be filed (see 2 FAM 714.2-3, Termination Reports (paragraph a));
 - (2) Obtain a completed Form DS-1971, Termination Certification Statement (Exhibit 2 FAM 714.4-3), from the filer (including any filer who is ceasing service in an acting capacity or service in a “stretch assignment”) prior to the filer’s departure from the position and transmit it to L/EMP/FD within 30 days of completion; and
 - (3) Provide to the filer a blank Public Financial Disclosure Report (and any related documents as specified by L/EMP/FD to the filer).
- b. Termination Confidential Financial Disclosure Reports are not required. However, as described in 2 FAM 714.2-3, Termination Reports, a confidential filer moving to a new confidential filer position may have to submit a report.

2 FAM 714.5 Office of the Under Secretary for Management Responsibilities

(CT:GEN-341; 05-13-2008)

- a. The Office of Performance Evaluation (HR/PE) will promptly provide L/EMP/FD, in writing, with the name of any Foreign Service officer who is promoted to a public filer position.
- b. The Office of White House Liaison (M/WHA) will provide a blank Public Financial Disclosure Report to an individual who will assume a noncareer Senior Executive Service or Schedule C position with the Department and will ensure transmission of the completed Financial Disclosure Report to the individual’s prospective management official.
- c. The Presidential Appointments Staff (HR/CDA/PAS) will provide a blank

Public Financial Disclosure Report to an individual who is a prospective nominee to a Department position requiring the advice and consent of the Senate (unless a blank form has already been furnished to the prospective nominee) and will ensure transmission of the completed nominee Public Financial Disclosure Reports to L/EMP/FD.

- d. The Retirement Office (HR/RET) will provide L/EMP/FD, in writing, with the name, forwarding address and/or e-mail address, and date of retirement for any retiring employee and will, if practicable, provide this information prior to the employee's final day of work. HR/RET will provide this information to L/EMP/FD on a monthly basis.
- e. The Office of Information Programs and Services, Requester Liaison Division, Advocacy and Oversight Branch (A/ISS/IPS/RL/AO) will establish and implement procedures to make Public Financial Disclosure Reports available to the public in accordance with 5 CFR 2634.603. Any application from the public to inspect or copy a Public Financial Disclosure Report will be coordinated with the Ethics Office.

2 FAM 714.6 Bureau Head and Chief of Mission Responsibilities

(CT:GEN-341; 05-13-2008)

- a. Each bureau head or chief of mission will designate a senior official to serve as a senior reviewer who will perform the duties described in. 2 FAM 714.7, Senior Reviewer Responsibilities. The senior reviewer may be the executive director, deputy chief of mission, or other senior official with knowledge of the filer's duties and the work performed.
- b. Each bureau head and chief of mission will ensure that bureau or post staff respond promptly to Ethics Office inquiries about the functions of the bureau or post or the duties of a particular position.

2 FAM 714.7 Senior Reviewer Responsibilities

2 FAM 714.7-1 Role

(CT:GEN-341; 05-13-2008)

- a. The senior reviewer, designated in accordance with 2 FAM 714.6, Bureau Head and Chief of Mission Responsibilities (paragraph a), must undertake an initial review of an incumbent Public Financial Disclosure Report to help the Ethics Office identify actual or potential conflicts of interest. The senior reviewer examines reports filed by Department employees

assigned to the bureau or post and, as requested pursuant to 2 FAM 714.7-2, Procedures (paragraph b) or otherwise, one or more reports filed by Department employees who are assigned to a different component of the U.S. Government.

- b. The senior reviewer will examine each Public Financial Disclosure Report to determine if the filer has participated in or could in the future participate in the consideration or decision of any matter that would have a direct and predictable effect on the financial interests of any entity with which the filer is affiliated or in which the filer has an interest. If a company has business before the filer's bureau or post or has operations in the post's host country, the senior reviewer should specifically consider whether the filer is required to perform official duties relating to that company.
- c. The senior reviewer may assume that the disclosures on the reporting form are correct and should draw upon personal knowledge of the filer's duties. No independent fact-finding is required. The senior reviewer is not responsible for making legal judgments concerning the applicability of an ethics law.

2 FAM 714.7-2 Procedures

(CT:GEN-341; 05-13-2008)

- a. After having obtained a completed incumbent Public Financial Disclosure Report from a filer as described in 2 FAM 714.4-2, Employees Serving in Filer Positions (paragraph a), the management official will transmit the report to the senior reviewer.
- b. To address management issues arising from privacy or other concerns:
 - (1) A filer may be permitted to provide a copy of his or her report with the values and income redacted for purposes of senior review; or
 - (2) The post's management official may contact the management official for the post's bureau to arrange for a senior reviewer to examine a report or reports.
- c. After completing the review, the senior reviewer must sign and date the cover page of the incumbent Public Financial Disclosure Report below the filer's signature at "Other Review," then transmit the report to L/EMP/FD. If the senior reviewer reviewed a redacted copy of the report, the management official or filer should attach the signed copy to the original Public Financial Disclosure Report and transmit both to L/EMP/FD.

- d. Any actual or potential conflict of interest or other matters of concern identified by the senior reviewer should be transmitted in writing to L/EMP/FD.

2 FAM 714.8 Ethics Office Responsibilities

2 FAM 714.8-1 Management of Financial Disclosure Program

(CT:GEN-341; 05-13-2008)

As specified among the responsibilities listed in 5 CFR 2638.203, the Ethics Office is responsible for coordinating and managing the Department's financial disclosure program and for reviewing and certifying financial disclosure reports in accordance with 5 CFR Part 2634. The Ethics Office will take actions necessary to carry out that responsibility, including performance of the functions specified in 2 FAM 714.8-2 through 2 FAM 714.8-4.

2 FAM 714.8-2 Exclusions

(CT:GEN-341; 05-13-2008)

- a. The designated agency ethics official (DAEO) or alternate agency ethics official may, in narrow circumstances and subject to concurrence by the U.S. Office of Government Ethics in accordance with 5 CFR 2634.203, exclude an individual from the requirement to file a Public Financial Disclosure Report. The DAEO or alternate agency ethics official will consider a management official's recommendation pertaining to exclusion or will consider exclusion at his or her own initiative. Prior to making this determination, the DAEO or alternate agency ethics official must find that the prospective filer:
 - (1) Is serving in a position classified at GS-15 or below or at FS-01 or below (or, in the case of any individual whose pay is not fixed under the General Schedule and who does not serve in the Foreign Service, in a position for which the rate of basic pay is less than 120 percent of GS-15, step 1); and
 - (2) Has no policymaking role with respect to Department programs (e.g., chauffeurs, private secretaries, and stenographers).
- b. The DAEO or a deputy ethics official may, in accordance with 5 CFR 2634.904(b), exclude an individual from the requirement to file a Confidential Financial Disclosure Report. Since management officials may exercise some judgment when determining whether an individual satisfies

the regulatory definition of “confidential filer,” the ethics official will ordinarily use this exclusion authority only in relation to a special Government employee (SGE) or a class of individuals. The ethics official must determine that the duties of the position (or positions) make remote the possibility that the incumbent (or incumbents) will be involved in an actual or apparent conflict of interest.

- c. Pursuant to 5 CFR 2634.904(b), the DAEO has excluded from the confidential filing requirement those SGEs who will perform the initial review of official records of the Department of State to determine whether or not records may be declassified and released to the public or who will develop general guidelines on the classification of documents. This exclusion does not apply if the SGE:
- (1) Currently has or has within the last year had an employment or consulting or similar arrangement with a Department of State contractor; or
 - (2) Will have other Government duties or responsibilities that warrant the filing of a report.

If it is unclear whether an SGE is excluded from the filing requirement under this paragraph, the SGE will file a report unless otherwise excluded under paragraph b. Notwithstanding that an SGE may initially qualify for exclusion under this paragraph, an SGE must submit a financial disclosure report if reassigned to perform duties that warrant filing.

2 FAM 714.8-3 Filing Extensions

(CT:GEN-341; 05-13-2008)

- a. The DAEO or a deputy ethics official may grant an initial extension of a Public Financial Disclosure Report filing deadline for up to 45 days and may grant an additional extension for up to an additional 45 days, in accordance with 5 CFR 2634.201(f), or as provided in paragraph c. An initial or additional extension may be granted in writing for good cause shown. Requests for filing extensions must be:
- (1) In writing; and
 - (2) Set forth facts justifying the extension (e.g., long periods of official travel or significant illness prior to the due date).
- b. The DAEO or a deputy ethics official may grant a filing extension (or extensions) of a Confidential Financial Disclosure Report filing deadline totaling not more than 90 days, in accordance with 5 CFR 2634.903(d), or

as provided in paragraph c. An extension will be granted in writing for good cause shown. Requests for filing extensions must be:

- (1) In writing; and
 - (2) Set forth facts justifying the extension (e.g., long periods of official travel or significant illness prior to the due date).
- c. In the case of an individual who has been sent to a combat zone or required to perform services away from his or her permanent duty station in support of the Department, the Armed Forces, or other governmental entities following the declaration by the President of a national emergency, a financial disclosure due date will be automatically extended for 180 days in the case of a Public Financial Disclosure Report or for 90 days in the case of a Confidential Financial Disclosure Report dating from the last day of:
- (1) The individual's service in the combat zone or service away from his or her permanent duty station; or
 - (2) The individual's hospitalization as a result of injury received or disease contracted while serving during the national emergency.

2 FAM 714.8-4 Review of Confidential Filer Status

(CT:GEN-341; 05-13-2008)

- a. If an individual believes that his or her position has been improperly determined to be one that requires the submission of a Confidential Financial Disclosure Report, the individual may seek a determination from the DAEO or a deputy ethics official. An employee's request and supporting argument must be directed in writing to L/EMP/FD.
- b. The DAEO or deputy ethics official's decision is, in accordance with 5 CFR 2634.906, final.

2 FAM 714.9 Additional Information on Web Site About Financial Disclosure Reports

(CT:GEN-341; 05-13-2008)

For more information, go to the ethics program Web site and select "Public Financial Disclosure," "Confidential Financial Disclosure," or "Bureau/Post Responsibilities."

2 FAM 715 ETHICS TRAINING

2 FAM 715.1 Background

(CT:GEN-341; 05-13-2008)

In accordance with Subpart G of 5 CFR Part 2638, the Department maintains a program of ethics training to ensure that all employees are aware of the Federal ethics laws. The training program must include an initial ethics orientation for all employees and annual training for financial disclosure report filers.

2 FAM 715.2 Orientation Training

2 FAM 715.2-1 Ethics Office Responsibilities

(CT:GEN-341; 05-13-2008)

- a. To satisfy the requirements in 5 CFR 2638.703 in relation to orientation training, the Ethics Office will:
 - (1) Develop and maintain an online training course for new employees, new special Government employees (SGEs), and new locally employed staff;
 - (2) Brief new Presidential appointees to positions requiring the advice and consent of the Senate; and
 - (3) Maintain links on the ethics program Web site to the Principles of Ethical Conduct (Executive Order 12674), the Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR Part 2635), and a current directory of ethics staff.
- b. When resources permit, the DAEO and ethics staff will be available to address groups of new employees about the Federal ethics laws.

2 FAM 715.2-2 Management Responsibilities

(CT:GEN-341; 05-13-2008)

- a. Bureau heads and chiefs of mission will ensure that new employees are given at least 1 hour of official time to complete orientation ethics training.
- b. Management officials overseas will notify new locally employed staff of the requirement to complete the online course or other applicable training

and will ensure that each individual completes orientation training as specified by the Ethics Office. If an individual hired overseas completes the training other than by completing the course online, the management official will report compliance in accordance with guidance from the Ethics Office.

- c. The Foreign Service Institute and the Office of Language Services will provide support to the Ethics Office.

2 FAM 715.3 Annual Training

2 FAM 715.3-1 Ethics Office Responsibilities

(CT:GEN-341; 05-13-2008)

- a. In accordance with a plan for annual training prescribed in 5 CFR 2638.706, the Ethics Office will satisfy the requirements in 5 CFR 2638.704 and 5 CFR 2638.705 by means of a live presentation, the distribution of a videotaped presentation, and/or online training.
- b. When resources permit, the DAEO and ethics staff will be available to address groups of employees about the Federal ethics laws.

2 FAM 715.3-2 Management Responsibilities

(CT:GEN-341; 05-13-2008)

- a. Bureau heads and chiefs of mission will ensure that employees who are required to receive annual ethics training are given at least 1 hour of official time to complete the training.
- b. Management officials will assist with the administration of annual ethics training in accordance with guidance from the Ethics Office. Such assistance may include:
 - (1) Notifying employees of the dates and locations of training;
 - (2) Ensuring that all financial disclosure report filers complete the training by December 31 of each year; or
 - (3) Reporting compliance to the Ethics Office.
- c. The Foreign Service Institute and the Office of Language Services will provide support to the Ethics Office.

2 FAM 715.4 Additional Information on Web Site About Annual Training

(CT:GEN-341; 05-13-2008)

For more information, go to the ethics program Web site and select "Orientation Training," "Annual Training," or "Bureau/Post Responsibilities."

2 FAM 716 ACCEPTANCE OF TRAVEL OR TRAVEL EXPENSES FOR OFFICIAL TRAVEL

(CT:GEN-341; 05-13-2008)

Employees may accept certain gifts from outside sources consistent with the gifts rules in Subpart B of 5 CFR Part 2635. Separately, there are a number of statutes that specifically authorize the Department or its employees to accept gifts, including—in some circumstances—gifts of travel or travel expenses to be used for official travel. Rules and procedures for accepting such gifts are found in 2 FAM 960, Solicitation and/or Acceptance of Gifts by the Department of State. See also the ethics program Web site under "Non-Federal Funding of Official Travel" or "Bureau/Post Responsibilities."

2 FAM 717 USE OF WIDELY ATTENDED GATHERING GIFTS EXCEPTION

2 FAM 717.1 Background

(CT:GEN-341; 05-13-2008)

Unless an exclusion or exception applies, an employee is prohibited by the gifts rules in Subpart B of 5 CFR Part 2635 from accepting a gift from a prohibited source or that is given because of official position. The "widely attended gathering" exception at 5 CFR 2635.204(g)(2) permits an employee to accept "free attendance" (see 2 FAM 711.3, Definitions) at certain events, but use of the exception requires advance approval.

2 FAM 717.2 Responsibilities

(CT:GEN-341; 05-13-2008)

- a. The officials authorized to approve acceptance by an employee of an unsolicited gift of "free attendance" at an event are:
 - (1) For employees serving in a bureau:

- (a) The bureau head;
 - (b) A deputy bureau head; or
 - (c) The management official; and
- (2) For employees serving at a post:
- (a) The ambassador/principal officer;
 - (b) The deputy chief of mission; or
 - (c) The management official.
- b. The bureau head or ambassador/principal officer may further limit who may ordinarily exercise this authority. An individual may not approve acceptance of his or her own free attendance.

2 FAM 717.3 Requirements

(CT:GEN-341; 05-13-2008)

- a. Subject to the additional conditions in paragraphs b and c, an employee may accept an unsolicited gift of free attendance if the approving official determines that:
- (1) A large number of persons will attend the event (ordinarily more than 20); persons with a diversity of views or interests will be present; and the event is of mutual interest to a number of parties.
 - (2) The cost of attendance is borne by the sponsor of the event (i.e., the person or organization hosting the event) or, if the cost is borne by other than the sponsor of the event, more than 100 persons are expected to attend the event, and the gift has a market value of \$335 or less. (This amount was established in 2008 and is expected to change every 3 years thereafter.)
 - (3) The employee will attend the event on personal time or will be authorized to attend on excused absence or otherwise without charge to the employee's leave account; and
 - (4) The employee's attendance is in the interest of the Department because it will further Department programs or operations.
- b. If the offered gift extends to free attendance for a guest of the invited employee, the approving official must also determine that:

- (1) Others in attendance will generally be accompanied by a spouse or other guest;
 - (2) The offer is from the same person or entity that is bearing the cost of the employee's attendance; and
 - (3) If the offer is from a nonsponsor, the aggregate market value of free attendance for the employee and the guest will not exceed \$335 (or any future designated amount).
- c. If the offered gift is from a person or entity that may be substantially affected by the performance or nonperformance of the invited employee's official duties (or from an organization a majority of whose members are affected by those duties), the approving official must also determine, in writing, that the Department's interest in the employee's participation in the event outweighs concern that acceptance of the gift of free attendance may or may appear to influence improperly the employee in the performance of his or her official duties. Relevant factors that should be considered by the approving official in making this determination include:
- (1) The importance of the event to the Department;
 - (2) The nature and sensitivity of any pending matter affecting the interests of the person who has extended the invitation;
 - (3) The significance of the employee's role in any such matter;
 - (4) The purpose of the event;
 - (5) The identity of other expected participants; and
 - (6) The market value of the gift of free attendance.
- d. The approving official may consult or request guidance from the Ethics Office if necessary.

2 FAM 717.4 Additional Information on Web Site About Widely Attended Gatherings

(CT:GEN-341; 05-13-2008)

For additional information, go to the ethics program Web site and select "Gifts," or "Bureau/Post Responsibilities."

2 FAM EXHIBIT 714.4-3 FORM DS-1971, TERMINATION CERTIFICATION STATEMENT

(CT:GEN-341; 05-13-2008)



United States Department of State

TERMINATION CERTIFICATION STATEMENT EXECUTIVE PERSONNEL FINANCIAL DISCLOSURE REPORT (SF 278)

TERMINATION FILING

Date (mm-dd-yyyy) _____

\$200 Late Filing Fee: I certify that I have received the SF-278, Executive Personnel Financial Disclosure Report, with instructions. I understand that the completed form must be filed with the Financial Disclosure Division (L/EMP/FD), Office of the Legal Adviser, U.S. Department of State, Washington, DC 20520-6310, within 30 days of the effective date of termination from my SF-278 covered position. I further understand that I have an additional 30-day grace period to ensure that my report reaches L/EMP/FD. If my Termination SF-278 is not received in L/EMP/FD within 60 days of my termination date, absent an extension, I will incur a **\$200 late filing fee**.

Full Name—(Type or Print)

Signature

Title and Grade

Current Post _____

Forwarding Address or Post _____

Forwarding Telephone _____

Termination/Transfer Date (mm-dd-yyyy)* _____

***Note:** Foreign Service Officers serving in senior "stretch" assignment must file a Termination report within 30 days of departure from the senior position unless transferring directly to another senior position.

**Mail to:
U.S. Department of State
L/EMP/FD
Room 5425, Main State
Washington, DC 20520-5425
Phone: 202-647-6668**

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