

Executive Branch Accountability and Transparency Act of 2023

Grassley, Peters

Legislative Summary

Subsection (a) — Definitions:

Agency: each executive agency, including those in the Executive Office of the President.

Covered employee: noncareer employees required to file financial disclosure reports under 5 U.S.C. 13103(f)(3)-(8), special government employees in the EOP (unless solely on an advisory committee), employees in a policy-determining role under 5 U.S.C. 7511(b)(2), and those who have previously served in one of these positions within the timeframe of this bill.

(Excludes intelligence community employees identified in 5 U.S.C. 13107(a)(1).)

Covered ethics record: all records that are currently publicly accessible. These records are:

- *Financial disclosures*: public financial disclosures; waivers of disclosure for an individual or a position; determinations directing an employee to divest, certificates of divestiture (CD) and requests for CDs; and qualified blind trust records.
- *Outside activity waivers*: authorizations to teach for compensation; authorizations to serve as an expert witness; approvals to act as agent for another for work with the U.S.; and prior approvals for outside activities.
- *Recusal authorizations/waivers*: authorizations to participate in matters (such as a rulemaking or contract award) where employees would otherwise be recused due to impartiality concerns, extraordinary payments, relationships, or employment searches.
- *Post-employment authorizations/waivers*: waivers of post-employment restrictions (including due to technical expertise/qualifications); required post-employment opinions; notifications of employment negotiations (but only for accepted positions); and approvals for a retired member of the military to be paid by a foreign government.
- *Gift authorizations/waivers*: authorizations to accept gifts (including free attendance, informational materials, and honorary degrees); waivers of gift disclosure requirements; and determinations that attendance is in the agency's interest/no impartiality concerns.
- *Conflict of interest waivers*: waivers of conflict-of-interest law; and determinations that substantial conflicts of interest exist.
- *Ethics agreements*: ethics agreements; ethics agreement compliance records; recusals; screening arrangements; ethics pledges; pledge waivers; and ethics training records.
- *Nominee records*: nominee opinion letters from OGE and agency ethics; records of initial ethics briefing; updated income disclosures; and screening arrangements.
- Other categories of records that OGE determines are appropriate for inclusion.

(Excludes: classified information, confidential records of ongoing law enforcement matters, and individualized ethics counseling that advises on, rather than changes, a legal requirement.)

Noncareer employees: appointed/ confirmed position (except members of the military and Foreign Service), noncareer Senior Executive Service members, and those serving in a non-merit based executive system position comparable to the SES.

Subsection (b) — Specifications of Databases: Within 120 days after enactment, OGE shall publish guidance for a searchable, sortable database that is accessible through each agency’s website and a single OGE webpage. It shall be hosted by each agency free of charge and comply with the Rehabilitation Act and the Web Content Accessibility Guidelines.

Subsection (c) — Assembly of Covered Ethics Records: Within 270 days of publication of guidance, each agency shall compile covered ethics records. Records shall be machine-readable, in a format that complies with subsection (b), and be redacted according to subsection (f).

Subsection (d) — Establishment of Databases: Within 270 days of publication of guidance, each agency shall create a compliant database containing records from subsection (c).

Subsection (e) — Applicability of Other Inspection Procedures: No login shall be required to search the database, but users must provide their names and create logins to *download* copies.

Subsection (f) — Redactions: Records may be redacted to prevent disclosure of: information excluded under the “covered ethics record” definition, trade secrets or privileged commercial information, or information that poses an identifiable risk to the safety of an individual (such as a street address, the name of a minor, or a brokerage account number). However, information otherwise required to be released under 5 U.S.C. 13104 may not be redacted.

Subsection (g) — Records Predating Establishment of the Database: Within 18 months of publication of guidance, each agency must search for materials in agency that are likely to possess covered ethics records (except for information excluded under the “covered ethics record” definition). Within 30 days of search completion, the agency shall report to OGE detailing the scope of the search, an estimate on completeness, known areas where information is incomplete, and a certification that the agency made a reasonable, good faith effort to obtain these records. This report shall be published by OGE.

Subsection (h) — Removal of Records: Notwithstanding other laws, all covered records shall remain in the database for at least 10 years after being published.

Subsection (i) — Reports: 30 days after establishing their databases, agencies shall certify to OGE the databases are complete or identify any information known to be incomplete. OGE shall annually report to the Senate Homeland Security and Governmental Affairs Committee and the House Oversight and Accountability Committee on agency compliance.

Subsection (j) — Severability: If any provision of the bill is held to be unconstitutional, the rest of the law shall remain in effect.

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