



DEPARTMENT OF HEALTH AND HUMAN SERVICES
Office of the Secretary

Office of the Assistant Secretary for Health
Washington, D.C. 2020

The Honorable Charles E. Grassley
United States Senate
Washington, DC 20510

Dear Senator Grassley:

Thank you for your March 17, 2023, letter regarding the 2025 Dietary Guidelines Advisory Committee (Committee). The Secretary has asked me to respond on his behalf. The Committee is a federal advisory committee established by the Departments of Health and Human Services (HHS) and Agriculture (USDA) which provides independent advice and is subject to the Federal Advisory Committee Act (FACA). The Committee is tasked with reviewing the current body of nutrition science on specific topics and questions and developing a scientific report that includes independent, science-based advice for HHS and USDA to consider. The Committee's members have substantial health equity expertise in human nutrition and experience conducting research with diverse populations.

HHS and USDA developed procedures to ensure that the Committee's advice and recommendations will be the result of the Committee's independent judgment and not be inappropriately influenced by the appointing authority or by any special interest group.¹ The FACA statute and FACA regulations were followed throughout the process to ensure that the interests and affiliations of Committee members were reviewed for conformance with applicable conflicts-of-interest statutes and regulations and to ensure that Committee membership was fairly balanced in terms of the points of view represented and functions to be performed. All complete nomination packages were reviewed by HHS and USDA program staff based on the following evaluation criteria: professional experience; educational background; demonstrated scientific expertise; and balanced and diverse membership.

The members of the Committee are appointed as special government employees (SGEs). All SGEs have a fiduciary responsibility to the federal government and must follow comprehensive federal ethics laws, including the criminal conflicts of interest and financial disclosure reporting laws, and the Standards of Ethical Conduct for Employees of the Executive Branch. All SGEs must comply with the financial disclosure requirements found in U.S. Office of Government Ethics (OGE) regulations.² Accordingly, the Committee members are required to file an OGE

¹ 5 U.S.C. § 1004(b)(3); 41 C.F.R. § 102-3.105(g)

² 5 C.F.R. § 2634, Subpart I

² 5 U.S.C § 552a(b)

450, Confidential Financial Disclosure Report. All members of the Committee filed an OGE 450 prior to appointment and will continue to submit one annually until the Committee concludes. Each Committee member was also provided SGE-specific ethics training as required by statute, regulation, and HHS policies upon appointment and will continue to do so annually throughout their service on the Committee.

The vetting process for potential members of the Committee included a background check by HHS to determine if any candidates have a financial conflict of interest or impartiality concern that would prohibit them from serving on the Committee. HHS ethics officials ensured interests and affiliations of proposed Committee members complied with applicable conflicts of interest statutes, regulations issued by OGE, additional agency requirements, and other applicable Federal ethics rules.

Based on information required to be provided on the financial disclosure form and follow-up inquiries as needed by the ethics official reviewing the OGE 450, where information disclosed presents an actual or potential financial conflict of interest under 18 U.S.C. § 208 and implementing regulations at 5 C.F.R. Part 2635, Subpart D, and Part 2640; or where information disclosed creates an appearance of a loss of impartiality as defined in 5 C.F.R. Part 2635, Subpart E, such issues are resolved before that particular SGE is permitted to participate in committee activity. Potential resolution may include:

- Recusal or disqualification from official personal and substantial participation in particular matters that will directly and predictably affect the financial interests of the SGE or those of individuals or entities whose financial interests are imputed to the SGE; or
- Recusal or disqualification from official participation in particular matters involving specific parties that affect the financial interest of a member of the SGE's household or that involve, as a party or representative of a party, persons or entities with whom the SGE has a "covered relationship" as defined by 5 C.F.R. § 2635.502(b)(1); or
- Waiver of the potential conflict of interest under 18 U.S.C. § 208(b) according to the criteria specified in 5 C.F.R. Part 2640, Subparts B and C; or
- Authorization to act in situations where the employee's impartiality might be questioned based on evaluative factors delineated in 5 C.F.R. § 2635.502(d).

Through the robust process described in detail above, subject to recusal obligations, HHS ethics officials identified no unresolvable conflicts of interest or other problems under applicable federal ethics laws and regulations. All members of the Committee are in compliance with the Federal ethics laws and regulations governing conflicts of interest. All Committee members have complied with the reporting of all necessary financial information under these laws and any resulting recusal requirements, including filing of an OGE 450, Confidential Financial Disclosure Report.

The Executive Branch Confidential Financial Disclosure Reports (OGE 450s) and information contained therein, filed by SGEs, are confidential pursuant to section 107(a) of the Ethics in Government Act, 5 U.S.C. chapter 131, and section[s] 201(d) [& 502(b)] of Executive Order 12674, as modified; see also 5 C.F.R §§ 2634.604 & 2634.901(d) of the OGE regulations thereunder. Furthermore, the reports are subject to appropriate protections under the Privacy Act, 5 U.S.C. § 552a, as they constitute personal information and are contained in the OGE/GOVT-2 system of records. Additionally, these reports are further protected from disclosure under the Freedom of Information Act (FOIA). In addition to the FOIA exemption, providing for nondisclosure of such information which is specifically exempted by disclosure by statute, these reports are excluded from required public disclosure under the additional FOIA exemptions for sensitive commercial and financial information and for personal privacy-protected information. See 5 U.S.C §§ 552(b)(3), (b)(4) & (b)(6). HHS complies with the public disclosure requirements of the Ethics in Government Act, including interpretative guidance from the Department of Justice.

Information submitted to HHS in connection with a nomination or application for membership on a federal advisory committee is in an HHS system of records protected by the Privacy Act.

The Privacy Act permits disclosure of information from such systems with the consent of the records subject, but in the absence of consent, the agency may only disclose protected records under specific circumstances set forth in the Privacy Act.³

Disclosure of relationships, activities, and interests that may potentially be relevant to the content of the Committee's scientific review is voluntary and not required. To demonstrate their commitment to transparency, the members of the Committee have voluntarily agreed to disclose relationships, activities, and interests that may potentially be related to the content of the Committee's scientific review, as defined by the International Committee of Medical Journal Editors. "Related" means any relation with for-profit or not-for-profit third parties whose interests may be affected by the content of the Committee's report. Disclosure represents a commitment to transparency. The Committee works together to review the evidence on diet and health and to provide its advice to the Departments. The decisions of the Committee are collective, and therefore, the Committee will provide disclosures reflective of the last 12 months collectively. Collective disclosures have been published on [dietaryguidelines.gov](http://dietaryguidelines.gov/sites/default/files/2023-04/2025_DGAC_Disclosures.pdf) at www.dietaryguidelines.gov/sites/default/files/2023-04/2025_DGAC_Disclosures.pdf.

Financial, non-financial, and professional bias, whether real or perceived, are important considerations in nutrition science. The scientific methods of the Dietary Guidelines Advisory Committees are designed to consider these important issues. Each of the three approaches to examine the evidence— Nutrition Evidence Systematic Review (NESR) systematic reviews, food pattern modeling, and data analysis—has its own rigorous, protocol-driven methodology, and plays a unique, complementary role in examining the science.

We appreciate your interest in the *Dietary Guidelines* and encourage you to stay engaged in our process as we develop the next edition. If you need further information, please contact HHS and USDA liaisons, Garrick Groves (garrick.groves@hhs.gov) and Yibo Wood (yibo.wood@usda.gov)

Sincerely,

Paul Reed, M.D.
Rear Admiral, USPHS
Deputy Assistant Secretary for Health, Director
Office of Disease Prevention and Health Promotion