

## U.S. NUCLEAR REGULATORY COMMISSION MANAGEMENT DIRECTIVE (MD)

<b>MD 7.5                      ETHICS COUNSELING AND TRAINING                      DT-24-21</b>	
<i>Volume 7</i>	Legal and Ethical Guidelines
<i>Approved By:</i>	Brooke Clark, General Counsel
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<i>Issuing Office:</i>	Office of the General Counsel
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<b>EXECUTIVE SUMMARY</b> <p>Management Directive 7.5, “Ethics Counseling and Training,” is revised to reflect updates to pertinent Office of Government Ethics regulations and update hyperlinks to NRC Ethics Gateway and the NRC ethics SharePoint site.</p> <p>In addition, the NRC has revised this MD as part of its efforts to use more inclusive language in its publications. These changes, which include changing "Chairman" to "Chair" and “Ombudsman” to “Ombuds” in some instances, are purely editorial and do not affect the meaning of the guidance in this document.</p>	

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## **I. POLICY**

It is the policy of the U.S. Nuclear Regulatory Commission (NRC) to ensure its employees maintain the highest standards of ethical conduct, including avoiding conflicts of interest and the appearance of conflicts of interest. Such conflicts may stem from financial interests; outside business or personal relationships; misuses of official position, official time, or public resources; and the receipt of gifts. To achieve this objective, the NRC provides training to its employees in accordance with Office of Government Ethics regulations to assist in the identification of ethics issues and to ensure compliance with applicable laws and regulations. NRC ethics officials are available to provide employees with advice and counseling on these laws and regulations as needed.

## **II. OBJECTIVES**

- Describe the elements and responsibilities of the NRC ethics training program.
- Inform employees of the availability of ethics counseling

## **III. ORGANIZATIONAL RESPONSIBILITIES AND DELEGATIONS OF AUTHORITY**

### **A. Chair**

Appoints a Designated Agency Ethics Official (DAEO) within the Office of the General Counsel (OGC) in accordance with *Code of Federal Regulations* Title 5, Part 2638.107, "Government ethics responsibilities of agency heads."

### **B. Designated Agency Ethics Official (OGC)**

1. Administers the agency's ethics program.
2. Ensures the NRC carries out an effective ethics training program.
3. Annually reviews the written summary and confirmation provided by the Office of the Chief Human Capital Officer (OCHCO) described in section III.E.4.
4. Provides advice and counseling to prospective, current, and former employees regarding compliance with Government ethics laws and regulations
5. Issues agencywide guidance or policy reminders to inform employees of significant ethics trends or developments.

6. Designates attorneys and other staff in OGC, and regional counsels, as deputy ethics officials authorized to provide advice on ethics laws and regulations.
7. Except where expressly reserved by law to the DAEO, may delegate the above responsibilities to deputy ethics officials, as appropriate.

**C. Deputy Ethics Officials (OGC)**

1. Develop and provide ethics training to agency employees in accordance with Office of Government Ethics regulations.
2. Provide counsel to prospective, current, and former agency employees relating to interpretations of ethics statutes and regulations.

**D. Deputy Ethics Officials (Regional Counsels)**

1. Provide ethics advice to regional employees, in coordination with headquarters deputy ethics officials, as appropriate.
2. Provide ethics training to regional employees, upon request.

**E. Chief Human Capital Officer (CHCO)**

1. As approved by the DAEO, provides information in written offers of employment to prospective employees concerning ethical obligations of all Federal employees and any specific ethics requirements associated with the position.
2. Ensures that employees are timely assigned required ethics training.
3. Maintains records of employees who have completed required ethics training.
4. Provides the DAEO each year with a written summary and confirmation that appropriate processes are in place to achieve these requirements.

**F. Office Directors and Regional Administrators**

May, in consultation with the DAEO, designate positions at grades GG-15 or below, not otherwise required to receive annual ethics training, that have responsibilities or official duties that make it desirable to receive annual ethics training.

**G. Inspector General (IG)**

May, in consultation with the DAEO, designate positions in the Office of the Inspector General (OIG) at grades GG-15 or below, not otherwise required to receive annual ethics training, that have responsibilities or official duties that make it desirable to receive annual ethics training.

#### **IV. APPLICABILITY**

The guidance in this management directive applies to all NRC employees.

#### **V. DEFINITIONS**

##### **Employee**

Any NRC employee, special Government employee (unless otherwise indicated), or employee of another Government agency assigned or detailed to the NRC for more than 30 days.

##### **Former Employee**

A former NRC employee as defined in “Employee” of this section or a former special Government employee as defined in “Special Government Employee” of this section.

##### **Special Government Employee**

An NRC employee who is retained, designated, appointed, or employed to perform temporary duties, with or without compensation, not to exceed 130 days during any period of 365 consecutive days, either on a full-time or intermittent basis. The term includes NRC consultants, experts, and members of advisory committees.

#### **VI. DIRECTIVE HANDBOOK**

Directive Handbook 7.5 contains procedures for providing ethics counseling and training.

#### **VII. REFERENCES**

##### ***Code of Federal Regulations***

5 CFR Part 2635, “Standards of Ethical Conduct for Employees of the Executive Branch.”

5 CFR Part 2638, “Executive Branch Ethics Program.”

5 CFR § 2638.107, “Government ethics responsibilities of agency heads”

5 CFR Part 2640, “Interpretation, Exemptions and Waiver Guidance Concerning 18 U.S.C. 208 (Acts Affecting a Personal Financial Interest).”

5 CFR Part 2641, “Post-Employment Conflict of Interest Restrictions.”

5 CFR Part 5801, “Supplemental Standards of Ethical Conduct for Employees of the Nuclear Regulatory Commission.”

Executive Order 12674, “Principles of Ethical Conduct for Government Officers and Employees,” April 12, 1989, as modified by Executive Order 12731, “Principles of Ethical Conduct for Government Officers and Employees,” October 17, 1990.

***Nuclear Regulatory Commission***

NRC Ethics Gateway:

<https://nrc.appiancloud.us>

Management Directive 7.6, "Public and Confidential Financial Disclosure Reports."

***United States Code***

Bribery, Graft, and Conflicts of Interest (18 U.S.C. Chapter 11).

Ethics in Government Act of 1978, as amended (5 U.S.C. § 13101, et seq.).

## U.S. NUCLEAR REGULATORY COMMISSION DIRECTIVE HANDBOOK (DH)

DH 7.5		ETHICS COUNSELING AND TRAINING		DT-24-21	
Volume 7		Legal and Ethical Guidelines			
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Date Approved:		December 4, 2024			
Cert. Date:		N/A, for the latest version of any NRC directive or handbook, see the <a href="#">online MD Catalog</a>			
Issuing Office:		Office of the General Counsel			
Contact Name:		Eric Michel			
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## I. ETHICS TRAINING AND EDUCATION

### A. New Employees

1. Consistent with 5 CFR § 2638.303, "Notice to prospective employees," OCHCO provides certain information relating to ethical obligations in written offers for U.S. Nuclear Regulatory Commission (NRC) employment. The written offer must include language, approved by the DAEO, concerning the following:
  - (a) A statement regarding the NRC's commitment to Government ethics,
  - (b) Notice that the individual will be subject to the Standards of Conduct (5 CFR Part 2635) and the criminal conflict-of-interest statutes (18 U.S.C. Chapter 11) as an employee,
  - (c) Contact information for agency ethics officials or an explanation of how to obtain additional information on applicable ethics requirements,
  - (d) Notice of the timeframe for completing initial ethics requirements, and
  - (e) When applicable, a statement regarding financial disclosure requirements and an explanation that a new entrant financial disclosure report must be filed within 30 days of appointment.
2. OCHCO assigns each new NRC employee initial ethics training that has been developed by NRC ethics officials. New employees are required to complete initial ethics training within 3 months of appointment.
3. Initial ethics training will be interactive, requiring the trainee to use knowledge gained through the training (e.g., completion of quiz questions). The training will be of a sufficient duration to communicate the basic ethical obligations of Federal service and will address concepts relating to—
  - (a) Financial conflicts of interest,
  - (b) Impartiality,
  - (c) Misuse of position, and
  - (d) Gifts.
4. Employees taking initial ethics training also will be provided with written materials or instructions for accessing written materials on the [NRC ethics SharePoint site](#) that include—
  - (a) A summary of the Standards of Conduct in 5 CFR Part 2635,

- (b) A summary and copy of NRC supplemental regulations in 5 CFR Part 5801,
  - (c) Instructions for contacting NRC ethics officials, and
  - (d) Any other written materials determined by the DAEO for inclusion.
5. The DAEO may exclude non-supervisory positions at or below the GG-8 grade level from the requirement to receive initial ethics training, provided that—
- (a) The DAEO makes a written determination that the duties of the position do not create a substantial likelihood that conflicts of interest will arise;
  - (b) The position does not meet the criteria for confidential financial disclosure (see Management Directive 7.6, “Public and Confidential Financial Disclosure Reports,” for more information); and
  - (c) The employee receives written materials described in section I.A.4 within 3 months of appointment.

**B. New Appointees**

1. Consistent with 5 CFR § 2638.305, “Additional ethics briefing for certain agency leaders,” Senate-confirmed, Presidential nominees and appointees are required to receive an initial ethics briefing not later than 15 days after appointment to discuss the individual’s immediate ethics obligations.
  - (a) The DAEO may grant an extension of the deadline to complete this initial ethics briefing, not to exceed 30 days after appointment.
  - (b) In extraordinary circumstances, the DAEO may grant an additional extension by issuing a written determination that an extension is necessary. This determination must describe the extraordinary circumstances necessitating the extension and include the additional information described in 5 CFR § 2638.305(b)(2)(i).
2. This ethics briefing is in addition to the initial ethics training described in section I.A above. However, ethics officials may combine the ethics briefing and initial ethics training into one consolidated ethics briefing, provided that the requirements for both the initial ethics training (see section I.A.3) and the additional ethics briefing (see section I.B.3) are met.
3. The initial ethics briefing for new appointees must be conducted live (i.e., delivered in person or through video conference). The briefing will be of a sufficient duration to communicate the basic ethical obligations of Federal service and will address the following topics:



- (a) If the appointee acquired any new financial interests after the filing of their nominee financial disclosure report, the appointee must be appropriately counseled on the potential for financial conflicts of interest arising from those new financial interests.
- (b) The appointee must be counseled on the basic recusal obligation under 18 U.S.C. § 208.
- (c) The appointee must be counseled on recusal obligations or other commitments addressed in their ethics agreement.
- (d) If the initial ethics briefing is not consolidated with initial ethics training into one consolidated briefing, the appointee must be informed of the deadline for completing initial ethics training.

### **C. New Supervisors**

1. Consistent with 5 CFR § 2638.306, "Notice to new supervisors," OCHCO provides each NRC employee upon initial appointment to a supervisory position with the following written information:
  - (a) Information on how to contact NRC ethics officials;
  - (b) The text of 5 CFR § 2638.103, "Government ethics responsibilities of supervisors";
  - (c) Copies of, or a hyperlink to, the *Principles of Ethical Conduct* (codified at 5 CFR § 2635.101(b)); and
  - (d) Any other information deemed necessary for new supervisors by the DAEO.
2. This information must be provided to any new supervisor within 1 year of initial appointment to a supervisory position.

### **D. Annual Training**

1. Consistent with 5 CFR § 2638.307, "Annual ethics training for confidential filers and certain other employees," and 5 CFR § 2638.308, "Annual ethics training for public filers," all NRC employees who occupy positions requiring the filing of a financial disclosure report are assigned one hour of ethics training each calendar year.
2. With the exception of NRC employees specifically identified below, NRC employees assigned annual training will be provided with interactive ethics training, requiring the trainee to use knowledge gained through the training (e.g., completion of quiz questions).

- (a) The Chair is required to receive 1 hour of live training each year, unless a matter of vital national interest makes it necessary to instead complete interactive training.
  - (b) The Inspector General and Commissioners other than the Chair must receive live training at least once every 2 years, but may receive interactive training in alternate years. In extraordinary circumstances the DAEO may grant written authorization for the Inspector General or a Commissioner to complete interactive training in the year the individual would otherwise be required to complete live training.
- 3. Annual ethics training will address concepts relating to the following subjects:
  - (a) Financial conflicts of interest,
  - (b) Impartiality,
  - (c) Misuse of position, and
  - (d) Gifts.
- 4. Employees taking annual ethics training will also be provided written materials or instructions for accessing written materials on the [NRC ethics SharePoint site](#) that include—
  - (a) A summary of the Standards of Conduct in 5 CFR Part 2635,
  - (b) A summary and copy of NRC supplemental regulations in 5 CFR Part 5801,
  - (c) Instructions for contacting NRC ethics officials, and
  - (d) Any other written materials determined by the DAEO for inclusion.

#### **E. Special Government Employees (SGEs)**

- 1. A special Government employee (SGE) who serves on an advisory committee and is reasonably expected to serve for no more than 60 days in a calendar year may be provided initial ethics training at any time before, or at the beginning of, the employee's first committee meeting. SGEs expected to serve more than 60 days in a calendar year are subject to the same training deadlines as full-time employees.
- 2. An SGE who is expected to work no more than 60 days in a calendar year may be provided written ethics materials, instead of interactive annual ethics training, when the DAEO has determined that it is impracticable to provide interactive training. SGEs who are expected to work more than 60 days in a calendar year receive live or interactive annual ethics training.

3. NRC ethics officials provide annual ethics training to the Advisory Committee on Reactor Safeguards (ACRS) and the Advisory Committee on the Medical Uses of Isotopes (ACMUI) each year during a committee meeting.

#### **F. Additional NRC-specific Training**

1. The DAEO may establish training requirements for additional groups of NRC employees employed in positions at grades GG-15 or below who are not otherwise required to receive annual ethics training. Office directors or regional administrators may propose to the DAEO positions within their respective offices or regions to receive such training.
2. The DAEO may establish additional agencywide ethics training on NRC-specific supplemental ethics regulations.
3. The DAEO may establish specific training requirements for deputy ethics officials to ensure they possess the necessary expertise with regard to Government ethics laws and regulations.

#### **G. Records Management**

1. Ethics training records are Federal records and their retention is governed by General Records Schedule (GRS) 2.6 published by the National Archives and Records Administration (NARA), which is available at <https://www.archives.gov/records-mgmt/grs.html>.
2. Employees who are assigned and complete interactive training through the NRC's Talent Management System (TMS) will have their completion recorded in that system, which is maintained by OCHCO.
3. OGC ethics officials will document and maintain records of employees who fulfill training requirements outside of TMS (e.g., Presidential appointees or advisory committee members who receive live training).

## **II. ETHICS COUNSELING**

### **A. Prospective Employees**

Prospective employees who have questions concerning the interpretation of Federal ethics laws and regulations or the application of those laws and regulations to their particular situation may receive advice and counseling from an NRC ethics official before their start date. OCHCO Human Resources specialists who receive questions relating to Government ethics from prospective employees should forward those questions to a deputy ethics official.

**B. Current Employees**

1. Current NRC employees who have questions concerning the interpretation of Federal ethics laws and regulations, or the application of those laws and regulations to their situation, should contact an NRC ethics official through the [NRC Ethics Gateway platform](#).
2. NRC ethics officials may advise on the application of the following laws and regulations:
  - (a) The OGE Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR Part 2635),
  - (b) NRC supplemental ethics regulations (5 CFR Part 5801),
  - (c) OGE regulations governing executive branch financial disclosure (5 CFR Part 2634),
  - (d) Criminal conflict of interest statutes (18 USC §§ 201, 203, 205, 208, 209),
  - (e) Post-employment ethics obligations (18 USC § 207; 5 CFR Part 2641),
  - (f) OGE regulations governing waivers of financial conflicts of interest (5 CFR Part 2640),
  - (g) The Hatch Act (5 USC §§ 7321-7326; 5 CFR Part 734),
  - (h) The Foreign Gifts and Decorations Act (5 USC § 7342), and
  - (i) Other statutes identified in 5 CFR 2635.902, "Related statutes."
3. NRC employees who engage in conduct in good faith reliance upon the advice of an agency ethics official will not be subject to agency disciplinary action for violating ethical standards of conduct or NRC supplemental regulations, provided that the employee makes full disclosure of all relevant circumstances when seeking such advice.
4. When an employee's conduct violates a criminal statute, reliance on the advice of an NRC ethics official cannot ensure that the employee will not be prosecuted under the statute. However, good faith reliance on the advice of any agency ethics official is a factor that may be considered by the Department of Justice in the selection of cases for prosecution.
5. Disclosures made by an employee to an agency ethics official are not protected by attorney-client privilege. However, NRC ethics officials hold in confidence any communications they receive from employees seeking ethics advice and do not disclose them to employees who are not ethics officials, absent a legal obligation to do so. Ethics officials are required by law (28 USC § 535) to report information they receive relating to a violation of Title 18 of the United States criminal code.

**C. Former Employees**

1. Before separation from the agency, OCHCO provides written materials to departing NRC employees [summarizing post-employment restrictions](#) and instructions on how to contact NRC ethics officials after leaving the agency for advice on compliance with these restrictions.
2. Former NRC employees may contact NRC ethics officials to receive advice on the potential applicability of post-employment restrictions to their post-NRC activities. Such communications are not protected by attorney-client privilege, and NRC ethics officials may have to discuss such requests for advice with other NRC employees who are not ethics officials to fully advise.
3. Post-employment advice provided to former NRC employees is not binding. Former NRC employees are free to rely on the advice of personal counsel or employer counsel when determining the applicability of post-employment restrictions to their private conduct.
4. A former NRC employee does not make an impermissible, post-employment contact or representation to the NRC when they seek advice from an NRC ethics official on the potential applicability of post-employment restrictions to their own conduct.

**D. Agency Announcements**

OGC ethics officials may publish agencywide announcements to alert NRC employees of—

1. Relevant updates to the content or interpretation of ethics laws and regulations,
2. Guidance on emerging trends or topics on which ethics officials have received questions or been advising on a more frequent basis,
3. Ethics-related publications from OGE or other Government sources (e.g., the Office of Special Counsel) that may be of interest to NRC employees,
4. Policy reminders on the applicability of ethics laws and regulations to upcoming events or occasions (e.g., holidays, elections, the Regulatory Information Conference) that may generate an increase in ethics questions, and
5. Any other topic deemed of appropriate agencywide interest by the DAEO.