

**BY ORDER OF THE COMMANDER
AIR UNIVERSITY (AETC)**

AIR UNIVERSITY INSTRUCTION 51-101

27 SEPTEMBER 2011



Law

**COMPLETION OF CONFIDENTIAL AND
PUBLIC FINANCIAL DISCLOSURE
REPORTS**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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This instruction implements AFI 51-102, *The Judge Advocate General's Department*. The purpose of this instruction is to provide guidance on the completion of Confidential Financial Disclosure Reports and Public Financial Disclosure Reports by Air University (AU) personnel. Refer recommended changes and/or corrections to this publication to the Office of Primary Responsibility (OPR) using the AF Form 847, *Recommendation for Change of Publication*, through your chain of command. Ensure that all records created as a result of processes prescribed in this publication are maintained in accordance with Air Force Manual (AFMAN) 33-363, *Management of Records*, and disposed of in accordance with the Air Force Records Information Management System (AFRIMS) Records Disposition Schedule (RDS) located at <https://www.my.af.mil/gcss-af61/afirms/afirms>. This publication applies to all AU personnel, including active duty and reserve members and civilian employees.

The Privacy Act of 1974 applies to this instruction. Each form that is subject to the provisions of AFI 33-332 "*Air Force Privacy Program*" must contain a Privacy Act Statement, either in the form itself or attached to it. The authorities to collect personal information and maintain the records listed in this instruction are Title 10, United States Code (U.S.C.) 8013, 42 U.S.C. 290 dd 2, et seq., and Executive Orders 9397 and 11478. System of Records Notice F030 AF MP B, *Drug/Alcohol Abuse Assessment and Rehabilitation Case Files*, applies. **Attachment 1** contains a glossary of references, abbreviations, acronyms, and terms.

1. Purpose: Federal rules and DoD regulations require that certain federal employees complete financial disclosure reports. These reports provide commanders and supervisors information upon which they can ensure that the financial interests of these individuals do not pose a potential conflict of interest with the individual's official duties. It is important that employees

make decisions and take actions based upon the best interest of their organization, the Air Force, and the United States. Outside financial interests that could influence an employee's decisions or actions must be avoided. In order to provide reviewing officials the information necessary to determine whether conflicting financial interests exist, employees are required to provide limited financial information to supervisors and reviewing officials.

1.1 The requirement to file a financial disclosure report is generally related to the position held by the employee. It is the duties of the position to which the employee is assigned that present the situations that could lead to a conflict of interest with the employee's financial interests. The requirement to complete the disclosure report is created by the employee's entry into the position. These positions are referred to as "covered positions" and will be so referred to in this instruction.

2. Public Financial Disclosure Reports. The following sets forth guidance for AU personnel in the completion of Office of Government Ethics (OGE) Form 278, *Executive Branch Personnel Public Financial Disclosure Report*.

2.1. The requirement to complete the OGE 278 generally is connected to a specific status or duty position held by an individual. If the person is in a covered position, the person is required to complete an OGE 278 report. The following individuals within AU are considered to be in covered positions and required to file the OGE 278:

2.1.1. Active duty officers in the rank of O-7 or above.

2.1.2. Reserve officers in the rank of O-7 or above who perform more than 60 days of active duty in a calendar year.

2.1.3. Civilian faculty members paid under the Administratively Determined (AD) pay system who hold the academic rank of AD-26 or above.

2.2. Those who are required under paragraph 2.1 above to file an OGE 278 report must complete the report on the following schedule:

2.2.1. Individuals must file the required financial disclosure report within 30 days of entering the covered position. For active duty members, this is the effective date of their promotion to O-7. For reserve general officers, this is the 61st day of active duty in the same calendar year. For civilian employees, this is the date they begin employment in the covered position. If the individual was previously in a covered position and less than 30 days has elapsed between the previous and current position, the previously filed OGE 278 may be submitted to meet this requirement.

2.2.2. Individuals will complete an OGE 278 report annually as long as they are serving in the position that requires the report. The annual report will be provided to AU/JA no earlier than 1 January and no later than 15 May.

2.2.3. When an individual leaves the covered position (including separation or retirement from federal civil service or from active duty), a termination OGE 278 report will be completed and filed with AU/JA no earlier than the effective date of departure from the covered position or separation from federal service and no later than 30 days after that date. A termination OGE 278 report is not required if the individual is leaving one covered position, but will assume another covered position within 30 days.

2.2.4. Any request for an extension in the filing deadline must be fully justified and submitted in writing to AU/JA.

3. Confidential Financial Disclosure Reports: The following sets forth the guidance for AU personnel in the completion of OGE Form 450, *Confidential Financial Disclosure Report*.

3.1. The following individuals are considered to be in covered positions for the purposes of the requirement to complete an OGE 450 report:

3.1.1. 42 ABW/CC in his capacity as the Installation commander.

3.1.2. Members of the AU Board of Visitors (BOV).

3.1.3. Military members or civilian employees whose supervisor or commander has determined should be required to complete such a report based upon the individual's official duties. The criteria to be applied by supervisors and commanders in reaching this determination is that those individuals whose official duties "require them to participate personally and substantially through decision or exercise of significant judgment in taking an official action for contracting or procurement, administering or monitoring grants, subsidies, licenses or other Federally conferred financial or operational benefits, regulating or auditing any non-Federal entity, or other activities in which the final decision or action may have a direct and substantial economic impact on the interests of any non-Federal entity" should be required to complete an OGE 450 report. (*Joint Ethics Regulation*, paragraph 7-300(a)(3)(a).)

3.2. Those who are required under paragraph 3.1 above to file an OGE 450 report must complete the report on the following schedule:

3.2.1. Individuals must file a new entrant report within 30 days of entering the covered position. For military members, this is the date on which they began duties in the covered position. For civilian employees, this is the date they begin employment in the covered position. If the individual was previously in a covered position, and less than 30 days has elapsed between the previous and current position, the previously filed OGE 450 may be submitted to meet this requirement.

3.2.2. In the case of a supervisor or commander making a determination that an individual's duties require completion of the OGE 450 after the person has begun performing duty in that position, the effective date for entry into the covered position is the date of that determination. Therefore, the new entrant report will be due within 30 days of the date of the decision by the supervisor or commander.

3.2.3. Individuals will complete an OGE 450 report annually as long as they are serving in the position that requires the report. The annual report will be provided to AU/JA no earlier than 1 January and no later than 15 February.

3.2.4. As authorized by OGE guidance, individuals in covered positions may complete the OGE Form 450-A, *Confidential Certificate of No New Interests*, in lieu of the annual report when there has been no change in their financial interests since the previous report.

3.2.5. Any request for an extension in the filing deadline must be fully justified and submitted in writing to AU/JA.

4. Responsibilities:

4.1. AU/JA will:

4.1.1. Provide oversight to the financial disclosure reporting program at AU and its subordinate organizations.

4.1.1.1. AU/JA may carry out this responsibility through the subordinate legal offices at the 42d Air Base Wing (42 ABW), Holm Center, and the Air Force Institute of Technology (AFIT) as needed.

4.1.2. Provide the most current list of personnel who are required to file a confidential financial disclosure to the relevant commanders or supervisors in August for annual review and as needed to ensure currency. AU/JA will advise the commanders on the criteria for designating a position as a covered position and assist the commanders in making these designations.

4.1.3. Collect the financial disclosure reports from filers as required by the Joint Ethics Regulation (JER) and DoD or AF directives. Those reports that must be reviewed by higher headquarters will be forwarded to the reviewing authority expeditiously.

4.1.4. Review financial disclosures filed by AU personnel within 60 days of receiving the report.

4.1.5. Maintain the financial disclosures and associated records as required by the JER and DoD guidance.

4.2. AU/CC, Spatz Center/CC, LeMay Center/CC, AFIT/CC, Holm Center/CC, and 42 ABW/CC will:

4.2.1. Review the list of covered positions in their respective organizations each year during August to verify the list is current. By applying the criteria set out in paragraph 3.1.3 above, the above commanders will determine both whether any covered positions should be removed from the list and whether any additional positions should be considered covered positions.

4.2.2. Provide the validated list, including deletions and additions, to AU/JA no later than 31 August of each year.

4.3. 42 FSS/FSMP (Military Personnel) will:

4.3.1. Maintain lists of covered positions for the purposes of OGE 278 and OGE 450 reporting, including the names of the individuals filling those positions. The lists maintained by 42 MSS will not include the names of the AU BOV members.

4.3.2. Provide the lists to AU/JA for review no later than 1 August of each year.

4.4. 42 CONS/CC will:

4.4.1. Maintain a list of all personnel in the unit who have current contracting warrants.

4.4.2. Review the list of personnel in the unit who are required to file a financial disclosure in August of each year and, applying the criteria set out in paragraph 3.1.3 above, determine whether any covered positions should be removed from the list and whether any additional positions should be considered covered positions.

4.4.3. Provide notification to AU/JA prior to approving an initial contracting officer warrant for any 42 CONS personnel.

4.4.4. Inform all 42 CONS personnel who are granted a contracting officer warrant of the requirement to complete the OGE 450 report and direct that the individuals contact AU/JA for further guidance.

4.5. 42 FSS/FSMC (Civilian Personnel Flight) will:

4.5.1. Add an item to the new employee in-processing checklist an item that instructs them, NLT one week after effective date, "Check with supervisor to determine if your position requires a financial disclosure filing."

4.5.2. Add a slide to the in-processing briefing to reflect the requirement to check with supervisor as noted above.

4.5.3. Add to the out-processing checklist the requirement that employees out process by phone with JA to allow JA the opportunity to note position vacancies. JA will correspond with civilian personnel to ensure JA is notified when the position is filled.

4.5.4. Add a comment in "position remarks" on the Position Control Register that states "OGE 450 - call JA" and ensure position descriptions include the requirement.

ALLEN G. PECK, Lieutenant General, USAF
Commander

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

Title 5 Code of Federal Regulation, sections 2634.101 through section 2634.909

DOD 5500.7-R, *Joint Ethics Regulation*, 30 August 1993, with Changes 1 through 6

AFI 51-102, The Staff Judge Advocate General's Department, 19 July 1994

Adopted Forms

OGE Form 278, *Executive Branch Personnel Public Financial Disclosure Report*, September 2010

OGE Form 450, *Confidential Financial Disclosure Report*, June 2008

OGE Form 450-A, *Confidential Certificate of No New Interests*, August 2005

AF Form 847, *Recommendation for Change of Publication*, 22 September 2009

Abbreviations and Acronyms

42ABW—42d Air Base Wing

AD—Administratively Determined

AFIT—Air Force Institute of Technology

AU—Air University

AU/CC—Commander, Air University

BOV—Board of Visitors

JER—Joint Ethics Regulation

OGE—Office of Government Ethics