



Ethics Program Review

U.S. Department of Education

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The U.S. Office of Government Ethics (OGE) conducted a review of the U.S. Department of Education (Education) ethics program during March and April 2019. The following summarizes the results of that review.

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Objectives, Scope, and Methodology

Objectives: OGE provides overall leadership and oversight of the executive branch ethics program designed to prevent and resolve conflicts of interest. The Ethics in Government Act gives OGE the authority to evaluate the effectiveness of executive agency ethics programs.¹ OGE uses this evaluation authority largely to conduct reviews of agency ethics programs. The purpose of a review is to identify and report on the strengths and weaknesses of an ethics program by evaluating (1) agency compliance with ethics requirements as set forth in relevant laws, regulations, and policies and (2) ethics-related systems, processes, and procedures for administering the program.

Scope: OGE’s review focused on the performance of Education’s ethics program in 2018.

Methodology: OGE examined a variety of documents provided by Education ethics officials, including Education’s response to OGE’s 2018 Annual Agency Ethics Program Questionnaire (OGE Annual Questionnaire), written procedures for administering the financial disclosure program, samples of public and confidential financial disclosure reports filed in 2018, ethics training materials, and a sample of the ethics advice and counseling provided to employees. In addition, OGE met with agency ethics officials to clarify the information examined, follow up on issues identified during the review, and discuss ethics program operations in further detail.

¹ See 5 U.S.C. app. § 402 and 5 C.F.R. part 2638.

Agency Background

Education is the agency of the federal government that establishes policy for, administers, and coordinates most federal assistance related to education. It assists in executing the President's education policies for the nation and in implementing laws enacted by Congress. Education operates under the leadership of the Secretary, a presidentially appointed, Senate-confirmed (PAS) official, and is headquartered in Washington, D.C. It has a workforce of approximately 3,500 employees.

Program Administration

Education's ethics program is administered by the Ethics Division of the Office of the General Counsel (OGC). The Ethics Division is headed by an Assistant General Counsel who serves as Education's Designated Agency Ethics Official (DAEO). A Deputy Assistant General Counsel in the division serves as the Alternate DAEO (ADAEO). When the division is fully staffed, the DAEO and ADAEO are assisted in the day-to-day management of the program by 10 full-time ethics officials, including 7 attorneys, 2 ethics program specialists and one 1 ethics assistant. However, currently there are only 5 ethics attorneys. The DAEO expects to fill the two vacant ethics attorney positions as soon as possible.

The Office of the Inspector General (OIG) employs its own ethics officials. The DAEO has designated the Counsel to the Inspector General and three other OIG attorneys as Deputy Ethics Officials (DEOs). The OIG DEOs are responsible for certain ethics program duties related to OIG, including collecting, reviewing, and certifying all confidential reports filed by OIG staff as well as approving OIG staff requests to engage in outside employment activities.

Financial Disclosure

Title I of the Ethics in Government Act requires that agencies administer public and confidential financial disclosure systems. Financial disclosure serves to prevent, identify, and resolve conflicts of interest by providing for a systematic review of the financial interests of officers and employees. The financial disclosure process also offers an opportunity for ethics officials to provide ethics-related counseling to report filers.

To evaluate Education's financial disclosure systems, OGE examined the required written procedures for administering the systems, Education's processes for notifying the DAEO when employees entered positions whose incumbents are required to file financial disclosure reports, and a sample of public and confidential financial disclosure reports that were required to be filed by Education employees.

Financial Disclosure Written Procedures

Each executive branch agency must establish written procedures for collecting, reviewing, evaluating, and where applicable, making publicly available financial disclosure

reports filed by the agency's officers and employees.² OGE examined Education's written procedures and determined that they did not address the deadlines for collecting financial disclosure reports. Additionally, the procedures did not contain the process for making reports publicly available, where applicable. Based on OGE's determination, Education amended the written procedures to comply with relevant requirements during the course of the review.

Notices to the DAEO

Agency human resources offices play a vital role in ensuring the effective administration of the ethics program. Without necessary information about agency employees, ethics officials cannot successfully carry out their important work. Among other things, the lead human resources official is required to notify the DAEO of all appointments to positions that require incumbents to file public or confidential financial disclosure reports no later than 15 days after the appointment. The lead human resources official must also notify the DAEO of terminations of employees in positions that require incumbents to file public financial disclosure reports no later than 15 days after termination.³

OGE determined that Education's Office of Human Resources (OHR) was not consistently providing timely notifications to the DAEO when employees were appointed to or terminated from positions that required incumbents to file public financial disclosure reports. Moreover, the required notices were never provided timely for appointments to positions that require the incumbents to file confidential financial disclosure reports. According to ethics officials, OHR's failure to provide some of the required notices timely led to the late filing of some new entrant and termination financial disclosure reports.

OGE recommends that the Ethics Division increase its coordination efforts with OHR to help ensure the DAEO receives notifications within the required 15-day deadline. The Ethics Division has provided OGE with draft procedures that, if implemented, would appear to help ensure that this notification requirement is met. OGE will assess the effectiveness of any new or revised procedures during its follow-up review. Because the Ethics Division has no authority to direct the actions of OHR, agency leadership must take an active role in ensuring that all offices within Education meet their responsibilities to support the agency's ethics program.

Recommendations

1. Ensure that OHR provides the DAEO with prompt notifications of appointments to positions that require incumbents to file new entrant and termination financial disclosure reports, in accordance with 5 C.F.R § 2638.105.
2. Finalize and implement the draft written procedures to reflect the process by which OHR is to comply with the notification requirements at 5 C.F.R § 2638.105.

² See 5 U.S.C. app. § 402(d)(1).

³ See 5 C.F.R. § 2638.105(a)(1) and (2).

Public Financial Disclosure

Within 30 days of assuming a covered public filing position, an individual must file a public financial disclosure report.⁴ The individual must subsequently file an annual report by May 15 each year and a termination report within 30 days of departing the public filing position.⁵ Additionally, employees who anticipate leaving a covered position within 90 days of the May 15 deadline for annual reports may file a combined annual/termination report if they request and receive a filing extension from their agency.⁶ Ethics officials are required to review the reports for potential conflicts of interest and certify them within 60 days of receipt by an agency's ethics office, unless additional information is being sought from the filer or remedial action is being taken.⁷

Education's public financial disclosure report filers submit their reports to the Ethics Division through *Integrity*, OGE's web-based electronic report filing system. Within *Integrity*, ethics officials assign filers to complete a new entrant, annual, termination, or combination annual/termination report, as appropriate.

To evaluate the administration of Education's public financial disclosure system, OGE examined a sample of 29 new entrant, 38 annual, and 17 termination reports that were required to be filed in 2018. Table 1 below presents the results of OGE's examination.

Table 1. OGE's Examination of Education Public Financial Disclosure Reports

	New Entrant		Annual		Termination		Total	
Reports Examined	29		38		17		84	
Filed Timely	21	(72%)	33	(87%)	9	(53%)	63	(75%)
Certified within 60 Days of Receipt	25	(86%)	33	(87%)	17	(100%)	75	(89%)

As noted in Table 1 above, only 75% of public reports were filed timely. Only 72% of the new entrant reports and 53% of the termination reports were filed timely. Ethics officials explained that they did not always receive timely notification from OHR when employees were appointed to or terminated from positions that required incumbents to file public financial disclosure reports. Therefore, ethics officials were unable to timely notify employees entering or departing from public filing positions of the filing requirements. This resulted in the late filing of some new entrant and termination reports.

OGE determined that Education did not assess or waive the late filing fee when public reports were filed more than 30 days after the applicable due date. This is true for seven reports OGE examined as part of the sample described in Table 1. Even in cases where administrative

⁴ See 5 C.F.R. § 2634.201(b).

⁵ See 5 C.F.R. § 2634.201(a) and (e).

⁶ See OGE's Public Financial Disclosure Guide [here](#).

⁷ See 5 C.F.R. § 2634.605.

oversight is responsible for the late filing of public financial disclosure reports, an agency must make a determination to assess or waive the late filing fee when a public filer submits a report more than 30 days after the applicable due date.⁸

OGE found discrepancies between Education's master list of public filers and the reports that were actually filed in *Integrity*. Specifically, 11 reports filed by employees who had terminated were filed as annual reports in *Integrity*, but recorded on Education's master list of filers as either termination or combination annual/termination reports. It appears that either the 11 reports were annual reports and no subsequent termination reports were collected, or the reports should have been filed as either termination or combination reports.

OGE also notes that 5 of these 11 reports were filed approximately 60 days before the filers' termination dates. If these reports were intended to be termination reports, they were filed too early. An employee in a covered position may file a termination report no more than 15 days prior to their termination date, provided that they agree to update the report if there are changes between the filing date and the termination date. The agreement must be noted on the face of the report.⁹ This is to ensure that any financial interests acquired between the date of filing and the date of termination are reported and ethics officials can determine if they created an apparent or actual conflict of interest.

It is vital to assign the correct type of public report (new entrant, annual, termination, or combination) because the type of report being filed determines the reporting period. If a filer is required to file a termination report covering the preceding calendar year up to the date of filing, but is assigned an annual report and follows the applicable instructions, the filer would only report assets held during the preceding calendar year, leaving a reporting gap between the end of the preceding calendar year and the date of filing. In the case of some of the reports OGE examined, this gap was as long as 7 months.

During its onsite fieldwork, OGE verified that public financial disclosure reports were securely maintained. However, OGE identified reports that were kept beyond the 6-year retention period. Subsequently, ethics officials began the process of destroying those reports.

Recommendations

3. Ensure that the correct public financial disclosure report type is assigned to each filer in *Integrity*.
4. Ensure that the tracking system for public financial disclosure reports accurately reflects the type of reports filed in *Integrity*.
5. Ensure that new entrant public financial disclosure reports are filed timely.
6. Ensure that termination public financial disclosure reports are filed timely.
7. Assess or waive late filing fees for public financial disclosure report filers who file reports more than 30 days after the applicable due date.
8. Ensure that public financial disclosure reports that were maintained beyond the 6-year retention period are destroyed.

⁸ See 5 C.F.R. § 2634.704.

⁹ See OGE PA-16-02.

Confidential Financial Disclosure

Within 30 days of assuming a covered confidential filing position, an individual must file a confidential financial disclosure report.¹⁰ The individual must also subsequently file an annual report by February 15 each year.¹¹ The reports are required to be reviewed for potential conflicts of interest and certified within 60 days of receipt by the ethics office, unless additional information is being sought from the filer or remedial action is being taken.¹²

To evaluate the administration of Education’s confidential financial disclosure system, OGE examined a sample of 37 new entrant and 95 annual reports that were required to be filed in 2018. Table 2 below presents the results of OGE’s examination.

Table 2. OGE’s Examination of Education Confidential Financial Disclosure Reports

	New Entrant		Annual		Total	
Reports Examined	37		95		132	
Filed Timely	6	(16%)	61	(64%)	67	(51%)
Certified within 60 Days of Receipt	33	(89%)	90	(95%)	123	(93%)

Table 2 shows that only 67 (51%) of the reports examined by OGE were filed timely. With regard to the late new entrant reports, ethics officials explained that they were not consistently receiving the required notices timely from OHR when employees enter positions whose incumbents are required to file confidential financial disclosure reports. Additionally, ethics officials acknowledged that several filers submitted their annual reports late and did not request a filing extension.

Recommendations

9. Ensure that confidential financial disclosure reports are filed timely.

Education and Training

Each executive branch agency must carry out a government ethics education program to teach employees how to identify government ethics issues and obtain assistance in complying with government ethics laws and regulations. The training program is to include: briefings for certain PAS officials; notices for prospective employees and newly appointed supervisors regarding their ethics-related obligations; initial ethics training for new employees; and annual ethics training for public and confidential financial disclosure report filers and certain other employees.¹³ An ethics education program is essential to raising awareness among employees

¹⁰ See 5 C.F.R. § 2634.903(b).

¹¹ See 5 C.F.R. § 2634.903(a).

¹² See 5 C.F.R. § 2634.605.

¹³ See 5 C.F.R. Part 2638 Subpart C.

about the ethics laws and rules that apply to them and the availability of agency ethics officials to provide ethics counseling.

Ethics Briefings for Certain Agency Leaders

PAS officials, except for those in positions identified in 5 C.F.R. § 2634.201(c)(2), must complete an ethics briefing to discuss their immediate ethics obligations no later than 15 days after their appointment, unless the DAEO grants an extension. Any extension of more than 15 days requires the DAEO to make a written determination that extraordinary circumstances make it necessary to provide the briefing at a later date.¹⁴ Education has standard operating procedures for the ethics briefing given to agency leaders. Based on Education's 2018 OGE Annual Questionnaire and OGE's examination of Education training records, all seven of the PAS officials at Education completed the briefing within 15 days of their appointment during the period covered by OGE's review.

Notices to Prospective Employees

Written offers of employment for positions covered by the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Conduct) must include: a statement regarding the agency's commitment to government ethics; notice that the individual will be subject to the Standards of Conduct and the criminal conflict of interest statutes; information on how to obtain additional information on applicable ethics requirements; and, where applicable, notice of the time frame for completing initial ethics training and information regarding the filing of new entrant financial disclosure reports.¹⁵

Ethics officials provided OGE with an email from OHR listing the three steps that constitute the entry on duty process related specifically to ethics. The DAEO indicated that she did not review written procedures for issuing notices in 2018, as required, because of personnel turnover within OHR and agency reorganization. However, the DAEO does receive notices of prospective employees. OGE examined samples of Education's notices and determined that they comply with relevant requirements.

Notices to New Supervisors

An agency must provide each employee upon initial appointment to a supervisory position with certain written materials within one year of the appointment. The written materials must include: contact information for the agency's ethics office and the text of the regulation specifying the government ethics responsibilities of supervisors¹⁶; a copy of, a hyperlink to, or the address of a web site containing the Principles of Ethical Conduct; and such other information as the DAEO deems necessary for new supervisors.¹⁷

¹⁴ See 5 C.F.R. § 2638.305.

¹⁵ See 5 C.F.R. § 2638.303.

¹⁶ See 5 C.F.R. §2638.103

¹⁷ See 5 C.F.R. § 2638.306.

Ethics officials referred OGE to the same email from OHR listing the three steps that constitute the entry on duty process related specifically to ethics. The steps did not include identifying new supervisors and issuing the applicable notices. Thus, OGE concludes that the written procedures for issuing notices have not been established, as required. As indicated above, the DAEO did not review written procedures for issuing notices in 2018. However, the DAEO receives notification of new appointments, which include the appointments of new supervisors.

Additionally, at the time of OGE's review, a template for the notices to new supervisors had not been created. Ethics officials created a template for the notice to new supervisors after OGE brought the requirement to their attention.

Recommendations

10. Establish written procedures for supervisory ethics notices, as required by 5 C.F.R. § 2638.306(d).
11. Establish a process to provide reasonable assurance that the DAEO reviews the written procedures annually, as required by 5 C.F.R. §§ 2638.303(c) and 306(d).

Initial Ethics Training

Each new employee subject to the Standards of Conduct must complete initial ethics training (IET) that meets the requirements of 5 C.F.R. § 2638.304 within 3 months of appointment, unless excluded by the DAEO. The training must be interactive and focus on government ethics laws and regulations that the DAEO deems appropriate. The training must address: financial conflicts of interest; impartiality; misuse of position; and gifts. In addition to the training presentation, the agency must provide the employee with either written copies of, or written instructions for accessing: the summary of the Standards of Conduct distributed by OGE or an equivalent summary prepared by the agency; provisions of the agency's supplemental regulations or a summary thereof, as determined appropriate by the DAEO; and instructions for contacting the agency's ethics office.¹⁸

OGE reviewed the materials Education used to provide IET to new employees in 2018 and determined that the materials met applicable content requirements. The live training for new employees is scheduled by OHR's Learning Development Division. The training takes place each pay-period. OHR informs the assigned ethics official of the date of training and provides the roster for the new employee orientation. Ethics officials use the rosters, new employee certification, and sign-in sheets to track completion of the IET. Ethics officials reported that all of the required employees received IET within 3 months of appointment. Based on the systems in place, OGE determined that there is reasonable assurance that IET is provided to new employees within 3 months, as required.

Annual Ethics Training for Public Filers

Generally, live training must be provided each calendar year to each employee whose pay is set at Level I or Level II of the Executive Schedule. Live training must also be provided to

¹⁸ See 5 C.F.R. § 2638.304.

other employees who are required to file public financial disclosure reports pursuant to 5 C.F.R. § 2634.201(a) every other year, with interactive training provided in the intervening years. The training presentation, whether live or interactive, must focus on government ethics laws and regulations that the DAEO deems appropriate. The training, whether live or interactive, must address: financial conflicts of interest; impartiality; misuse of position; and gifts. In addition to the training presentation, the agency must provide the employee with either written copies of, or written instructions for accessing: the summary of the Standards of Conduct distributed by OGE or an equivalent summary prepared by the agency; provisions of the agency's supplemental regulations or a summary thereof, as determined appropriate by the DAEO; and instructions for contacting the agency's ethics office.¹⁹

In 2018, Education conducted this training through live in-person sessions or by online modules for all public filers. OGE reviewed the presentation and the written materials that Education provided and determined that both the presentation and the materials met applicable content requirements.

Annual Ethics Training for Confidential Filers and Certain Other Employees

Generally, interactive training is required to be provided each calendar year to employees who are required to file a confidential financial disclosure report pursuant to 5 C.F.R. § 2634.904; employees appointed by the President and employees of the Executive Office of the President; contracting officers described in 41 U.S.C. § 2101; and, other employees designated by the head of the agency. The training presentation must focus on government ethics laws and regulations that the DAEO deems appropriate. The training must address: financial conflicts of interest; impartiality; misuse of position; and gifts. In addition to the training presentation, the agency must provide the employee with either written copies of, or written instructions for accessing: the summary of the Standards of Conduct distributed by OGE or an equivalent summary prepared by the agency; provisions of the agency's supplemental regulations or a summary thereof, as determined appropriate by the DAEO; and instructions for contacting the agency's ethics office.²⁰

In 2018, Education conducted this training through live in-person sessions or by online modules for all confidential filers. OGE reviewed the presentation and the written materials that Education provided along with the presentation and determined that both the presentation and the materials met applicable content requirements.

OGE also reviewed training records to determine whether Education provided annual ethics training to those employees whose public and confidential annual financial disclosure reports OGE examined. Table 3 below presents the results of OGE's review.

¹⁹ See 5 C.F.R. § 2638.308.

²⁰ See 5 C.F.R. § 2638.307.

Table 3. OGE’s Examination of Education Annual Training

DATA ANALYSIS	Training Format	
	Live	Interactive
Percentage of public filers who completed annual ethics training before the end of the calendar year. <i>See 5 C.F.R. § 2638.308(a).</i>		
• Executive Schedule Level I and Level II. <i>See 5 C.F.R. § 2638.308(e)(1).</i>	100%	0%
• Other PAS and Equivalent. <i>See 5 C.F.R. § 2638.308(e)(2).</i>	67%	33%
• SES and Equivalent. <i>See 5 C.F.R. § 2638.308(e)(3).</i>	56%	44%
Percentage of confidential filers and certain other employees who completed annual ethics training before the end of the calendar year. <i>See 5 C.F.R. § 2638.307(a)(d).</i>		
• Employees required to file an annual confidential financial disclosure report. <i>See 5 C.F.R. § 2638.307(a)(1).</i>	32%	68%

Education ethics officials indicated that the Ethics Division tracks the completion of training by format (i.e., live versus interactive) to ensure that public filers receive live training at least every other year. However, when OGE reviewers shared the results of OGE’s examination of the format of training that public filers received, ethics officials indicated that some filers whose training record showed online training in fact received live training. OGE encourages Education to ensure that the training records properly register the training format for all filers.

Ethics Counseling

The DAEO, acting directly or through other officials, is responsible for providing advice and counseling to prospective and current employees regarding government ethics laws and regulations, and providing former employees with advice and counseling regarding post-employment restrictions applicable to them.²¹ A robust ethics counseling program is necessary to ensure that employees receive the guidance they need to comply with the ethics rules.

OGE reviewed a sample of the ethics-related counseling that ethics officials provided to employees. The counseling addressed a variety of issues including gift acceptance, outside speaking and other activities, impartiality, and post-employment restrictions. OGE found the counseling to be consistent with applicable laws and regulations.

Agency-Specific Ethics Rules

An agency may modify or supplement the Standards of Conduct, with the concurrence of OGE, to meet the particular needs of that agency.²² A supplemental standards of conduct regulation is issued jointly by the agency and OGE and is published in title 5 of the Code of Federal Regulations.

²¹ *See 5 C.F.R. § 2638.104 (c)(4).*

²² *See Executive Order 12674 and 5 C.F.R. § 2635.105.*

Education has a supplemental standards of conduct regulation codified at 5 C.F.R. Part 6301. The supplemental standards require employees, other than special Government employees, to obtain written approval before engaging, with or without compensation, in certain outside activities or employment. Education's procedures for implementing the supplemental standards require supervisors to approve requests from employees to engage in certain outside activities or employment, and Ethics Division officials to concur with the approvals.

The DAEO explained that if an employee submits an outside activity/employment request form, the employee's supervisor determines whether the employee may hold an outside position or engage in the outside activity. If the supervisor approves the outside activity, and the Ethics Division concurs, ethics officials issue ethics guidance and advice to the employee.

When ethics officials see an outside position reported for the first time on a financial disclosure report (or learn about it from some other means, like an employee question, email, etc.), they issue preliminary ethics advice and guidance to the employee. If supervisory approval is required, ethics officials will advise the employee of the need to obtain supervisory approval to hold the outside position or engage in the outside activity.

To evaluate employees' compliance with Education's prior approval requirement, OGE reviewed 32 outside activities that were reported on the public and confidential financial disclosure reports that were examined during the evaluation of Education's financial disclosure systems. OGE confirmed that the positions had been approved and Education had provided ethics guidance and advice to the employees.

Conflict Remedies

The primary criminal conflict of interest law prohibits an employee from participating in an official capacity in a particular matter in which he or she has a financial interest.²³ Congress included two provisions that permit an agency to issue a waiver of this prohibition in individual cases. Agencies must consult with OGE, where practicable, prior to issuing such a waiver.²⁴ Education issued seven waivers in 2018; however, Education did not consult with OGE prior to their issuance. The DAEO explained that Education has historically only issued waivers for members of the National Assessment Governing Board (NAGB) and that these waivers have been issued for years because of the statutory requirements for members of the board. She added that she did not understand the regulatory requirement to mean consultation with OGE was required under these unique circumstances.

Additionally, the Ethics in Government Act expressly recognizes the need for PAS nominees to address actual or apparent conflicts of interest by requiring written notice of the specific actions to be taken in order to alleviate the conflict of interest.²⁵ This written notice is commonly known as an "ethics agreement." In 2018, six of the seven PAS officials who entered into ethics agreements complied timely with the terms of their agreements. The remaining PAS

²³ See 18 U.S.C. § 208.

²⁴ See Executive Order 12674.

²⁵ See 5 U.S.C. app. § 110.

official complied with the terms of his ethics agreement shortly after the due date for compliance.

Enforcement

Executive branch offices are required to notify OGE when they refer a potential violation of a conflict of interest law to the Department of Justice (DOJ).²⁶ Education's Office of Inspector General (OIG) is responsible for conducting investigations of potential violations of the criminal conflict of interest laws, making any necessary referrals to DOJ, and concurrently notifying OGE of any such referrals. In 2018, Education made no referrals of potential violations of conflict of interest laws to DOJ. However, Education reported five disciplinary actions based wholly or in part upon violations of the Standards of Conduct in 2018.

Special Government Employees

A special Government employee (SGE) is an officer or employee of the executive or legislative branch retained, designated, appointed, or employed to perform official duties, full-time or intermittently, for not more than 130 days in any 365-day period. SGEs are required to file financial disclosure reports and receive ethics training.²⁷ SGEs file only new entrant reports, even if they file reports for several years in a row while serving a multiple year term.

Education charters and maintains advisory committees under the Federal Advisory Committee Act (FACA). Four of these committees were active in 2018 and had SGE members. OGE selected the National Advisory Committee on Institutional Quality and Integrity (NACIQI) and the National Advisory Council on Indian Education (NACIE) for review to evaluate the ethics program services rendered to Education advisory committees. OGE examined the collection of confidential financial disclosure reports and the provision of annual ethics training for the SGE committee members in 2018. The following is a summary of the findings of OGE's evaluation.

Financial Disclosure

NACIQI

In 2018, 17 SGE members participated in NACIQI meetings conducted in February and May. As noted in Table 4 below, four members filed reports after the agency-established due date. However, two of these members submitted their reports either before attending or at their first committee meeting of the year. OGE notes that it is vital that agency officials have the opportunity to review financial disclosure reports filed by SGE advisory committee members prior to committee meetings to ensure that the SGEs do not have a financial interest that may conflict with any matters to be discussed during the meetings.

²⁶ See 5 C.F.R. § 2638.206.

²⁷ See 18 U.S.C. § 202(a).

Table 4. OGE’s Examination of NACIQI Confidential Financial Disclosure Reports

Reports Examined	17	
Filed Timely	13	(76%)
Certified Timely	13	(76%)

OGE’s examination revealed that, although their reports were filed timely, reappointed SGEs were filing the incorrect type of report (incumbent rather than new entrant). Accurately indicating the type of confidential report being filed is important because the reporting periods and applicability of the various parts of the report vary between new entrant and incumbent reports. The Ethics Division agreed to instruct all SGEs to check the “new entrant” box on their financial disclosure reports and include information for the preceding 12 months from the date of filing.

NACIE

NACIE met in April 2018. As noted in Table 5 below, 10 of 11 reports were filed timely. One member filed after the agency-established due date, but before attending the committee meeting.

Table 5. OGE’s Examination of NACIE Confidential Financial Disclosure Reports

Reports Examined	11	
Filed Timely	10	(91%)
Certified Timely	9	(82%)

Recommendations

12. Ensure that all SGEs file their confidential financial disclosure reports by the agency established deadline, or in no event later than the first committee meeting, as required by 5 C.F.R. § 2634.903(b)(3).

Ethics Training

In 2018, Education provided ethics training to all 28 NACIQI and NACIE members. OGE determined that this training met applicable format and content requirements.

Agency Comments

The Department of Education (Department) recognizes the value in the time and effort that OGE expended to review its ethics program. While the Department concurs with OGE’s findings and recommendations, the Department is proud of its successes in calendar year 2018 in the face of many challenges primarily in the area of staffing. Moving forward, we will remain

diligent in improving our ethics program to effectively promote the highest ethical standards for our employees and ensure that the public has the utmost confidence in the integrity of our work. Moreover, with regard to recommendations 3 through 8, the Department recognizes the issues raised, and has instituted internal controls to remedy these concerns to the extent possible. As always, we look forward to maintaining a productive and collaborative relationship with OGE.