



U.S. Office of Government Ethics
Program Review Division

Ethics Program Review

Uniformed Services University
of the Health Sciences

Report No. 11-013
April 2011

Results in Brief

The United States Office of Government Ethics (OGE) conducted a review of the Uniformed Services University of the Health Sciences' (USUHS) ethics program in February 2011. The results of the review indicated that USUHS's ethics program generally appears to be effectively administered and is in compliance with applicable laws, regulations, and policies. Additionally, USUHS has implemented a number of model practices that enhance the ethics program.

Highlights

- Agency leadership has demonstrated consistent support of the ethics program.
- UHUHS has developed a standardized process for approving outside activities.
- UHUHS issues written cautionary memoranda to all public filers.
- UHUHS uses creative tools to raise awareness for the ethics program.

Concerns

- No mechanism is in place to ensure timely identification of confidential new entrant filers.
 - Some public reports did not meet the standards of completeness.
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Objectives, Scope, and Methodology

OGE provides leadership for the purpose of promoting an ethical workforce, preventing conflicts of interest, and supporting good governance. 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. OGE has the authority to evaluate the effectiveness of executive agency ethics programs. See Title IV of the Ethics in Government Act and 5 CFR part 2638.

To assess USUHS's ethics program, OGE examined a variety of documents provided by ethics officials; other documents that USUHS forwarded to OGE, including the annual questionnaire; prior program review reports, and a sample of USUHS's public and confidential financial disclosure reports and advice and counsel provided to USUHS's employees. In addition, members of OGE's Program Review Division met with the Designated Agency Ethics Official (DAEO) and the Alternate DAEO (ADAEO) to obtain additional information about the strengths and weaknesses of USUHS's ethics program, seek clarification on issues that arose through the documentation analysis, and verify data collected.

Program Administration

USUHS's ethics program is administered within USUHS's Office of General Counsel. The Deputy General Counsel serves as the Designated Agency Ethics Official (DAEO). An Associate General Counsel serves as the ADAEO. The DAEO and the ADAEO are the primary, day-to-day administrators of the ethics program.

Financial Disclosure

USUHS ethics officials indicated that all covered employees filed the required financial disclosure reports. The financial disclosure reports were generally submitted by filers timely. However, OGE is concerned about the timely identification of confidential new entrant filers and the quality of the review of public financial disclosure reports. The review team examined a judgmental sample of financial disclosure reports required to be filed in 2010. The review team found that most new entrant confidential reports were filed beyond the due date and that some public financial disclosure reports did not meet the standards of completeness.

Specifically, 86 percent of the new entrant confidential financial disclosure reports were filed late. More than half of the new entrant confidential financial disclosure reports were filed more than 70 days late. During the review, ethics officials expressed concerns about being able to capture new entrants when these employees have been promoted or are acting in a covered position. These concerns stem from the unique nature of constant turnover in a military environment.

OGE also found that some public financial disclosure reports did not meet the standards of completeness. Individual Retirement Accounts (IRA) were incorrectly reported as Excepted Investment Funds (EIF) and the income type and amount were omitted from some reported assets. Additionally, some reports contained information that required redacting.

During the course of the review, OGE discussed concerns about USUHS's financial disclosure system with ethics officials. USUHS ethics officials responded by correcting previously filed public financial disclosure reports that listed IRAs as EIFs. In addition, the DAEO indicated that ethics officials will send quarterly reminders to managers about the need to inform the ethics office of any employees entering covered positions.

OGE is pleased that USUHS immediately addressed concerns in the area of financial disclosure. However, both the incomplete reporting on public reports and the late capture of new entrant confidential filers increase the vulnerability of USUHS's ethics program. Effective review of financial disclosure reports aids in the prevention of conflicts of interest and is the cornerstone of an effective ethics program. In addition to being a regulatory requirement, full disclosure of underlying assets, where required, is necessary to conduct a conflicts determination. Similarly, late capture of new entrant filers delays detection of potential and actual conflicts of interest. Therefore, OGE is making a formal recommendation in the area of financial disclosure.

Recommendation

- Bring USUHS's financial disclosure program into compliance. Specifically, USUHS ethics officials should ensure that public reports are complete before certifying and should ensure a mechanism is in place to timely identify new entrant filers.

Education & Training

USUHS's training program meets all relevant requirements. All required employees received Initial Ethics Orientation in 2010. One required employee did not receive annual ethics training due to extended medical leave. All other required employees received annual ethics training in 2010. USUHS issues ethics guidance in the form of ethics advisories, provides filers with a guide for filling out the SF 278, and ensures consistency in the identification of annual confidential filers with various job aids. In addition, posters with the Standards of Conduct and pictures of USUHS ethics officials are placed in elevator lobbies around the campus to raise awareness for the ethics program. OGE considers these training efforts to be model practices.

Advice & Counsel

OGE reviewed a sample of USUHS's written advice and counsel issued to employees and found that all pieces of advice and counsel appeared thorough and that employee requests for advice were responded to in a reasonable amount of time. USUHS's advice and counsel process is clearly defined within the agency, with the DAEO and ADAEO handling ethics-related questions. Non-routine matters are discussed during staff meetings and escalated to the General Counsel when necessary. Written advice addressing complex or novel ethics matters is distributed to all ethics officials. These matters are also filed for future reference and to ensure consistency and accuracy.

USUHS ethics officials provide cautionary memos to all public financial disclosure filers whether or not the filer has a potential conflict of interest. When the filer does not hold assets that pose potential conflicts of interest, the cautionary memo reminds filers to be aware that potential conflicts can arise at any time. OGE considers the use of cautionary memos to be a model practice.

USUHS requires prior approval for outside activities and has developed a standardized approval process. Each request is reviewed by USUHS ethics officials who then issue either an approving or an opposing memorandum to the approving authority. Requests from health care providers who want to moonlight by providing healthcare outside the Department of Defense require approval by the USUHS President. Outside activities pose a heightened risk for conflicts of interest for employees at USUHS. As a result, USUHS ethics officials maintain a detailed summary of approvals to ensure pertinent information is available if a conflict arises.

Enforcement

USUHS reported no disciplinary actions based wholly or in part upon violations of the standards of conduct provisions (5 CFR part 2635) or the criminal conflict of interest statutes (18 U.S.C §§ 203, 205, 207, 208, and 209). USUHS made no referrals to the Department of Justice of potential violations of the criminal conflict of interest statutes.

USUHS ethics officials appear to have a good working relationship with the Office of Review and Evaluation, Accreditation and Organizational Assessment (OAC). OAC investigates potential violations internally with guidance from the OGC. Investigations involving potential criminal violations may be investigated by the Naval Criminal Investigative Service, Defense Criminal Investigative Service or other appropriate IG. The DAEO is responsible for involving the appropriate investigative service and for concurrently notifying OGE of referrals made to the Department of Justice.

USUHS uses an “open door” program which allows members of the community to anonymously bring attention to areas of concern. The program is managed by a third party and allows UHUHS investigators to request and receive additional information through a confidential and anonymous e-mail. The program has resulted in at least two ethics-related investigations. OGE considers this program to be a model practice.

1353 Travel Acceptances

USUHS submitted the required semi-annual reports of payments accepted from non-Federal sources to OGE in a timely manner. A clear system exists to identify and communicate with those employees who might file a report under 31 U.S.C. § 1353. USUHS ethics officials provide final approval for all 31 U.S.C. § 1353 travel requests after a conflicts determination has been made.

Agency Comments

USUHS provided the attached formal response to a draft of this report on March 31, 2011.



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March 31, 2011

Ms. Patricia Zemple
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Dear Ms. Zemple,

Thank you for the opportunity to review and comment on the report resulting from the Ethics Program Review conducted by the team of Leigh Snyder and Danielle Clark. We greatly appreciated their professionalism and thank them for their consideration of our schedules when arranging visits.

The review was thorough and the report is accurate. As noted in the report, steps have already been taken with regard to timely identification of new confidential financial disclosure filers and the omissions noted in the public reports have been corrected. We are pleased that the team recognized the emphasis placed on ethics by the Uniformed Services University and its leadership as we have gone to great lengths to ensure that the ethics program is embraced by faculty, staff, and students.

Our program motto of "When in Doubt ... Ask" has been taken to heart by the University community. As a relatively small agency, ethics officials within the Office of General Counsel are well known and as such, there is little hesitation to ask for advice and counsel either formally or informally. Accordingly, our advice is usually preventative and not corrective.

If there are any follow up questions, please contact either me or the Alternate DAEO (Jason Kaar).

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Bradley S. Beall".

Bradley S. Beall
Deputy General Counsel and
Designated Agency Ethics Official