



FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

OFFICE OF THE  
CHAIRWOMAN

April 17, 2023

The Honorable Charles E. Grassley  
Ranking Member  
Committee on the Budget  
United States Senate  
Washington, DC 20510

Dear Ranking Member Grassley:

Thank you for your March 20, 2023 letter regarding the Federal Communications Commission (Commission)'s use of Special Government Employees (SGEs).<sup>1</sup> We welcome the opportunity to share information on the Commission's procedures for appointing SGEs and how we ensure their service is free of conflicts of interest and in compliance with the statutes and regulations that apply to SGEs.

At the Commission, there are typically three categories of SGEs: 1) SGEs who serve as independent subject matter experts on our federal advisory committees (FACs); 2) post-graduate fellows who offer their voluntary services to the Commission pursuant to our statutory gift acceptance authority, 47 U.S.C. § 154(g)(3), and its implementing regulations, 47 CFR § 1.3000, *et seq.*; and 3) SGEs who serve as temporary or intermittent experts/consultants pursuant to 5 U.S.C. § 3109, and its implementing regulations, 5 CFR Part 304.

As requested in your letter, and in response to questions 1, 2, 5, and 7, we have provided in Table 1 below data regarding the SGEs who have served the Commission in the past five years, including those currently serving. As shown in Table 1, only a small fraction of the Commission's staff members over the last five years have been SGEs. For those few employees whom we hire as SGEs (fewer than 30 in the last five years combined), we have had no difficulty making the necessary determinations regarding whether they qualify as SGEs. In addition, over the last five years, the Commission has had no SGEs who exceeded 130 days of employment within the relevant 365-day period. And we note that the Commission has not hired any SGEs over the last five years to serve as temporary or intermittent experts/consultants. As demonstrated in Table 1, all Commission SGEs during this period received ethics training: our ethics training materials that are provided to SGEs that are legal fellows are included as Attachment A and our ethics training materials for SGEs that are members of federal advisory committees or other similar committees are included as Attachment B. Please note that a few individuals have served on more than one committee.

In response to questions 3 and 4, Table 2 identifies all Commission SGEs over the past five years who reported concurrent employment during their Commission employment. As a

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<sup>1</sup> By mutual agreement, the deadline for this response was extended to April 17, 2023.

result of the Commission’s extensive efforts to identify and address potential conflicts prior to appointment, we have identified no violations of ethics and conflicts of interests rules and regulations involving the Commission’s SGEs over the past five years. In addition, we are not aware of any FCC SGE having been granted a waiver under any conflict of interest law or regulation within the past five years, including under 18 U.S.C. §§ 203(e), 205(f), 208(b)(1), (b)(2), or (b)(3). With regard to any other applicable law or regulation, we note that the Communications Act provides for a waiver procedure for Commission employees who are otherwise prohibited from holding financial interests in certain entities regulated by the Commission. 47 U.S.C. § 154(b)(2)(B). We are not aware of any FCC SGE having been granted such a waiver within the last five years.

Preemployment efforts to identify and address potential conflicts of interest include requiring that all SGEs receive ethics training and file financial disclosure reports as part of their onboarding process. In addition, prior to Commission appointment, the Commission’s Office of General Counsel Ethics Advisors collect financial interest and professional affiliation information from all prospective employees, including SGEs, and provide advice and counsel on potential ethics conflicts, which includes issuing guidance on necessary or recommended financial divestitures and other preventative actions.<sup>2</sup>

For SGEs who wish to serve on Commission FACs, the standard public notice announcing the membership application procedure advises would-be applicants of the ethics and conflict of interest requirements before the application process even begins. Specifically, the Commission’s standard public notice for such FACs alerts potential SGEs that they will be “. . . subject to a variety of restrictions under the conflict of interest statutes, 18 U.S.C. § 203 et seq., and the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635 [and] . . . must file confidential employee financial disclosure reports prior to beginning their service and annually thereafter [, and further] . . . will also be subject to ethics restrictions in section 4(b) of the Communications Act, 47 U.S.C. § 154(b), and in the Commission’s rules, 47 CFR Part 19 and 5 CFR Parts 3901 and 3902.” As stated in the public notice, FAC members – including SGEs – “have an initial and continuing obligation to disclose any interests in, or connections to, persons or entities that are, or will be, regulated by or have interests before the Commission.”

Finally, as requested in question 6, we are providing a copy of our internal procedures regarding ethics training, financial disclosure obligations, and advice and counsel for SGEs as Attachment C. Our agency relies on guidance from the Office of Personnel Management with regard to personnel and hiring determinations regarding SGEs. In addition, our Office of General Counsel Ethics Attorneys advise on actual and potential conflicts of interest for all Commission employees, including SGEs.

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<sup>2</sup> Of note, Commission SGEs are subject to the Communications Act restriction barring them from holding financial interests in certain entities regulated by the Commission. 47 U.S.C. § 154(b). Accordingly, prior to onboarding at the Commission, SGEs who hold such interests are advised to divest them as a condition of their employment.

I hope this information is helpful, and I appreciate your interest in these matters.

Sincerely,

A handwritten signature in black ink, appearing to read "Jessica Rosenworcel". The signature is written in a cursive style with a long horizontal flourish at the end.

Jessica Rosenworcel

**Table 1: List of SGEs serving the Federal Communications Commission 2018-present**

<u>Name</u>	<u>Title</u>	<u>Period of Service</u>	<u>Committee</u>	<u>Description of Duties</u>	<u>Specialty/Expertise</u>	<u>Received Ethics Training</u>
Lamb, Taylor	Legal Fellow	9/5/19 - 1/31/20	N/A	Assist Office of Commissioner Starks with legal research, speech writing, event planning	Legal research	Yes
Manley, Andrew	Legal Fellow	10/1/18 - 4/12/19	N/A	Assist Media Bureau with agency proceedings in the Policy Division	Administrative law	Yes
Park, Tyler	Legal Fellow	10/17/17 - 3/30/18	N/A	Assist Wireless Bureau Mobility Division with legal services.	Legal research	Yes
Ricketts, Constance	Legal Fellow	6/5/18 - 8/23/18	N/A	Assist Office of Commissioner Carr with legal research, writing and analysis	Legal research	Yes
Schwartz, Brandon	Legal Fellow	2/6/21 - 7/31/21	N/A	Assist Public Safety Homeland Security Bureau with legal research and writing to support policy development in the areas of 911, emergency alerting and network reliability	Legal research	Yes
Westling, Jeffrey	Legal Fellow	11/13/17- 3/30/18	N/A	Assist Office of Commissioner Carr as a legal fellow within the Office	Administrative law	Yes
Ali, Christopher	Committee Member	11/4/21 - 6/29/23	Communications Equity and Diversity Council	Committee Member	Communications law and policy	Yes
Bennett, Richard	Committee Working Group Member	5/8/17 - 3/1/19	Broadband Development Advisory Committee	Committee Working Group Member	Network engineering and standards	Yes

<u>Name</u>	<u>Title</u>	<u>Period of Service</u>	<u>Committee</u>	<u>Description of Duties</u>	<u>Specialty/Expertise</u>	<u>Received Ethics Training</u>
Bibler, Ron	Committee Member	1/5/17-12/29/18	Disability Advisory Committee	Committee Member	Captioning and telecommunication relay service (TRS) issues	Yes
Brenner, Dean	Committee Member	4/1/22 - 9/6/23	Technology Advisory Committee	Committee Member	Global spectrum strategy and technology policy initiatives	Yes
Brown, Rockell	Committee Member	12/15/21 - 6/29/23	Communications Equity and Diversity Council	Committee Member	Media and communication	Yes
Contractor, Harin	Committee Member	11/17/17 - 8/5/19	Advisory Committee on Diversity and Digital Empowerment	Committee Member	Economic policy and leadership	Yes
Gant, Jon	Committee Member	12/27/21 - 6/29/23	Communications Equity and Diversity Council	Committee Member	Education and telecommunication policy	Yes
Hildebrand, Kyle	Committee Working Group Member	9/1/17-10/20/20	Consumer Advisory Committee	Committee Working Group Member	Technology and communications solutions	Yes
Howroyd, Janice Bryant	Committee Member	9/8/17 - 8/5/19	Advisory Committee on Diversity and Digital Empowerment	Committee Member	Staffing, employment and entrepreneurship	Yes
Kim, Gooyong	Committee Member	11/17/21 - 6/29/21	Communications Equity and Diversity Council	Committee Member	Communications arts and culture	Yes
Lynch, Dianne	Committee Working Group Member	12/6/21 - 6/28/22	Communications Equity and Diversity Council	Committee Working Group Member	Journalism education	Yes
McCausland, Robert	Committee Member	3/30/22 - 9/13/23	North American Numbering Council	Committee Member	Private sector telecommunication	Yes
Morrison, Wes	Committee Member	12/1/20 - 10/16/22	Consumer Advisory Committee	Committee Member	Broadcasting	Yes
Rinehart, William	Committee Working Group Member	9/1/17-10/20/20	Consumer Advisory Committee	Committee Working Group Member	Spectrum development and broadband	Yes

<u>Name</u>	<u>Title</u>	<u>Period of Service</u>	<u>Committee</u>	<u>Description of Duties</u>	<u>Specialty/Expertise</u>	<u>Received Ethics Training</u>
Rinehart, William	Committee Member	4/6/17 - 3/1/19	Broadband Development Advisory Committee	Committee Member	Public policy of technology and innovation	Yes
Santorelli, Michael	Committee Working Group Member	5/16/17 - 3/1/19	Broadband Development Advisory Committee	Committee Working Group Member	Broadband connectivity	Yes
Schulzrinne, Henning	Committee Member	11/14/17 - 9/18/19	North American Numbering Council	Committee Member	Broadband issues, standardization, spectrum management and access, cybersecurity, 6G, Internet applications	Yes
Sirbu, Martin	Committee Member	1/19/22 - 9/6/23	Technology Advisory Committee	Committee Member	Regulation of local access technology, economics of pricing and markets for telecommunications services	Yes
Yoo, Christopher	Committee Member	4/6/17 - 3/1/19	Broadband Development Advisory Committee	Committee Member	Law, economic and financial analysis, and network engineering	Yes
Yunashko, Bryen	Committee Member	1/5/17- 12/29/18	Broadband Development Advisory Committee	Committee Member	Advocacy, deaf-blind technology, open source development	Yes
Yunashko, Bryen	Committee Member	12/29/16 - 12/31/18	Disability Advisory Committee	Committee Member	Advocacy, deaf-blind technology, open source development	Yes

**Table 2: List of SGEs serving the Federal Communications Commission 2018-present**

<u>Name</u>	<u>Employment</u>
Ali, Christopher	1) International Communications Association (Chair, Communication Law & Policy Division); 2) Communication Law & Policy (online) (Associate Editor); 3) University of Virginia (Associate Professor); and 4) Tow Center for Digital Journalism, Columbia University (Fellow).
Brown, Rockell	1) Texas Southern University (Interim Dean for School of Communication); and 2) San Jacinto Community College (Adjunct Instructor)
Contractor, Harin	The Washington Leadership Program (Chair)
Gant, Jon	1) North Carolina Central University (Dean and Professor); and 2) Telecommunication Policy Research Conference (Chair, Board of Directors)
Hildebrand, Kyle	1) eX2 Technology, LLC (Vice-President); 2) eX2 Management Group, Inc., (Vice-President); and 3) DESH Holdings, LLC (Member).
Howroyd, Janice Bryant	1) Howroyd Wright Employment Agency, Inc. (CEO and Director); 2) The ACT1 Group, Inc. (CEO); 3) Act1 Global Holdings, LLC (CEO); 4) Act Now Personnel Services, Inc. (CEO and Director); 5) Katharyn Brett Corporation (CEO and Director); 6) All's Well, Inc. (CEO and Director); 7) All Source PPS, Inc. (CEO and Director); 8) Act One Government Solutions, Inc. (CEO, President and Director); 9) All Care Insurance Agency, Inc. (CEO and Director); 10) AT-Tech Staffing Services, Inc. (CEO and Director); 11) Industrial Apple, Inc. (CEO); 12) All in 1, Inc. (CEO and Director); 13) California National University for Advanced Studies, Inc. (Director); 14) Cerritos Travel Agency, Inc. (Treasurer, Secretary and Director); 15) A-Check America, Inc. (CEO and Director); 16) Act Services, Inc. (President and Director); and 17) Ask International, Inc. (President).
Kim, Gooyong	Cheyney University (Assistant Professor of Communication Arts)
Lynch, Dianne	Stephens College (President)
McCausland, Robert	1) Intrado (Vice-President, Regulatory and Government Affairs); 2) Cow Boss, LLC (CEO and Co-Owner); and 3) Lately Inc. (Chairman, Board of Directors).
Schulzrinne, Henning	1) Columbia University (Professor); and 2) EDAS Conference Services (Managing Partner).
Sirbu, Martin	Carnegie Mellon University (Professor)
Yoo, Christopher	University of Pennsylvania (Professor)
Yunashko, Bryen	1) Access256 Productions, LLC (Owner); 2) Chicago LeCOBDA DeafBlind Alliance (President); 3) National Deaf-Blind Equipment Distribution Program (Freelance Consultant); and 4) Helen Keller National Center for Deaf-Blind Youth (Independent Consultant)

# Attachment A





Federal Communications Commission  
Washington, DC 20554

**Financial Interests Certification**

- I have received copies of the following documents, have read and understand each one:
  - [Standards of Ethical Conduct for Employees of the Executive Branch](#), and particularly:
    - [5 CFR 2635, Subpart D](#) (Conflicting Financial Interests)
    - [5 CFR 2635, Subpart E](#) (Impartiality in Performing Official Duties)
  - Supplemental Standards of Ethical Conduct for Employees of the Federal Communications Commission ([5 CFR 3901](#))
  - Supplemental Financial Disclosure Requirements for Employees of the Federal Communications Commission ([5 CFR 3902](#))
  - Federal Communications Commission Employee Responsibilities and Conduct ([Title 47, Chapter 1, Part 19, 19.735-101 through 203 \(particularly §202\)](#))
  
- In order to assure my compliance with these regulations and to facilitate any necessary conflict of interest determination for financial interests held by myself, my spouse, or minor children, I certify that I and/or my family (check one):
 

**DO** currently hold financial interests in a corporation, company, firm, mutual fund, trust or other business enterprise.

**DO NOT** currently hold financial interests in a corporation, company, firm, mutual fund, trust or other business enterprise.
  
- I understand that this certification covers all interests, and is not limited to entities considered to be communications-related.
  
- I have also received a copy of the FCC Directive, FCC Instruction 1139.1, “*Management of Non-Public Information*” and understand my obligation to become familiar with and follow the procedures contained in this directive.

<b>Applicant's Name (printed)</b>	
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This block is for OGC use only.

<b>Applicant's Signature</b>	<b>Date</b>
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[FCC Office of General Counsel Approval](#)

<b>OGC Ethics Official Name &amp; Title</b>	
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<b>Signature</b>	<b>Date</b>
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## Ethics Rules Applicable To Special Government Employees

As a “Special Government Employee,” or “SGE,” you are subject to most federal ethics laws.

**What is a Special Government Employee?** A Special Government Employee (SGE) is a person who is retained on a temporary basis to serve the agency for a period not to exceed 130 days during any period of 365 consecutive days.<sup>1</sup> SGEs may serve with or without compensation.

**What do SGEs do at the FCC?** SGEs serve the agency in a variety of roles. Some are consultants who provide advice on specific projects, some are recent college or law school graduates granted a fellowship from their alma mater, some are subject-matter experts participating on Federal Advisory Committees.

**What ethics rules apply to me as an SGE?** An SGE, even if serving only a few days per year, is subject to the federal criminal conflict-of-interest rules, the Standards of Conduct for Employees of the Executive Branch, the Communications Act, the Hatch Act and other ethics provisions applicable to federal employees. There are essentially five broad categories of ethics rules to remember – (1) Financial Interests, (2) Use of Official Position and Resources, (3) Gifts and Invitations and (4) Political Activity.

### Financial Interests

- You must not participate as an SGE in a matter that has a direct and predictable effect on your financial interests. *This is a federal criminal statute.*<sup>2</sup>
- For purposes of this restriction, the financial interests of the following people and entities are considered to be your interests:
  - Your spouse or minor child;
  - Your business partner;
  - An organization in which you are an officer, director, trustee, general partner or employee;
  - A person or entity with whom you are negotiating with or have any arrangement concerning prospective employment.

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<sup>1</sup> 18 U.S.C. § 202(a).

<sup>2</sup> 18 U.S.C. § 208.

- It is a violation of the Communications Act for an FCC employee, including an SGE, to have a financial interest in an entity that is significantly regulated by the Commission.<sup>3</sup>
  - This includes, for example, telephone providers, cable and broadcast companies and manufacturers of telecommunications equipment.
  - This restriction does not extend to financial interests of an employee’s family members.
- Most SGEs other than those serving pursuant to a graduate fellowship are required to file a Financial Disclosure Report.

### Use of Official Position and Government Resources

- Except as authorized, you may not use or disclose non-public information, that is, information that you learned via your FCC position.
- You may not use your official FCC position to benefit yourself or a third party. Examples –
  - Including FCC seal or reference to FCC position on a non-FCC business card or website.
  - Mentioning your FCC affiliation in a dispute with your cable provider.
  - Endorsing a product or service in your official FCC capacity.
- You may not use official time or government resources (e.g., computers, phones, copiers) for non-government purposes.
- You may not represent your employer or a client before the FCC in any party-specific matter, even if that matter is wholly unrelated to your service as an SGE. If a business partner of yours appears before the FCC, please make OGC Ethics aware of that.

### Gifts and Invitations

- It is a violation of the Standards of Ethical Conduct for you to solicit or accept gifts that are either –
  - From a “prohibited source,” i.e., a person or entity that does business with the FCC, or
  - Given because of your official FCC position.<sup>4</sup>
- An invitation to an industry event is a gift.
- There are exceptions to the gift rule, so please contact OGC Ethics ([Ethics.Approvals@fcc.gov](mailto:Ethics.Approvals@fcc.gov)) if you are offered a gift such as an invitation to an event. Each employee must individually seek Ethics clearance to accept an invitation that is from a prohibited source or that was motivated by your FCC position.

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<sup>3</sup> 47 C.F.R. § 154(b).

<sup>4</sup> 5 C.F.R. § 2635.202.

## Political Activity

- As an SGE subject to the Hatch Act, you may not engage in partisan political activity while on government time, in a government building or using government resources.<sup>5</sup>
- Partisan political activity is anything directed toward the success or failure of a political party or candidate.
  - The law is broadly interpreted; simply forwarding a partisan email while on government time or in a government building would be a violation, even if you forward that email without comment.
  - You may not display political signs, buttons, t-shirts or similar items in the federal workplace.
- You may not solicit, accept or receive campaign funds for a partisan political candidate or group during the hours that you are performing government business.

**For a more detailed explanation of these and other ethics rules, please visit <http://intranet.fcc.gov/ogc/ethics/>.**

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**Please submit all ethics-related questions, including those involving speaking engagements, travel and invitations to events, by emailing “Ethics Approvals” or by contacting one of OGC’s ethics officials at (202) 418-1720.**

Kathleen Fulp, Assistant General Counsel (Ethics)  
Sharon Kelley, Ethics Counsel  
David Hu, Ethics Counsel  
Ellen Herr, Ethics Counsel  
Troy Byers, Ethics Counsel  
Lauren Northrop, Ethics Program Manager  
Tjuana Price, Program Analyst  
Richard Williams, Program Analyst

*All FCC employees are subject to the standards of employee conduct and conflict of interest rules presented in Part I of Executive Order 12674, the Standards of Ethical Conduct for Employees of the Executive Branch (5 C.F.R. § 2635 et seq.), the Supplemental Standards of Ethics Conduct for Employees of the FCC (47 C.F.R. § 19.735-201 et seq.) and Chapter 11 of Title 18 of the United States Code (18 U.S.C. §§ 201-209). For copies of these regulations and other useful information, please see our FCC intranet page at <http://intranet.fcc.gov/ogc/ethics/>*

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<sup>5</sup> 5 U.S.C. § 7321-7326, implemented by 5 C.F.R. Part 734.

# Attachment B



## Ethics Rules Applicable To Special Government Employees

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<sup>5</sup> 5 U.S.C. § 7321-7326, implemented by 5 C.F.R. Part 734.



# Attachment C

# Ethics Procedures Applicable to Special Government Employees (SGEs)

## General; Identification of SGEs

A Special Government Employee (SGE) is defined by 18 U.S.C. § 202(a) as “an officer or employee of the executive or legislative branch of the United States Government, of any independent agency of the United States or of the District of Columbia, who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis....”

SGEs at the FCC include:

- individuals offering voluntary gifts of service to the Commission pursuant to section 4(g)(3) of the Communications Act, and
- individual experts serving on FCC advisory committees and subgroups.
  - This does not include individuals expected to represent the interests of particular entities (i.e., representative members) on advisory committees.
  - SGE advisory committee members are selected based on their own professional expertise rather than as representatives of interested entities.
  - SGE advisory committee members may not be registered lobbyists.
  - See separate process for reviewing and appointing members of advisory committees.

## Onboarding – Financial Disclosure

*Forms.* While 5 C.F.R. § 2634.202(c) requires certain paid SGEs to file a Public Financial Disclosure Report (OGE-278), FCC SGEs would rarely satisfy those criteria. Accordingly, all FCC SGEs shall file a new entrant Confidential Financial Disclosure Report (OGE-450) unless it has been determined that exclusion from the requirement is appropriate pursuant to 5 C.F.R. § 2634.904(b). That section reads as follows:

(b) Any individual or class of individuals described in paragraph (a) of this section, including special government employees unless otherwise noted, may be excluded from all or a portion of the confidential reporting requirements of this subpart, when the agency head or designee determines that the duties of a position make remote the possibility that the incumbent will be involved in a real or apparent conflict of interest.

The examples following the rule contemplate SGE positions that are not substantive in nature, such as an architectural draftsman or a clerical worker. Notably, the exception to the filing requirement for employees serving 60 days or less does not extend to SGEs. See 5 C.F.R. § 2634.903(b)(2)(iii).

FCC SGEs are also required to file the Confidential Supplemental Statement of Employment and Financial Interests (FCC A54A) per 5 C.F.R. § 3902.102.

*Distribution of Blank Forms and Instructions.* The Ethics Program Manager or designee will send each employee identified as an FCC SGE a blank OGE 450 form, a blank FCC A54A form, and instructions for completing them as soon as that SGE is identified.

*Due Dates.* Completed forms are due within 30 days of their distribution, with extensions to be permitted per 5 C.F.R. § 2634.903(d). For SGEs on advisory committees, in no event may the individual provide advice to the agency or attend an advisory committee meeting prior to submitting the forms to the Ethics Program Manager. *See* 5 C.F.R. § 2634.903(b)(3). All agency SGEs are to be treated as new entrants for this purpose and must file updated new entrant reports upon reappointment. SGEs serving on advisory committees shall annually file updated new entrant reports during the term of the committee.

*Review.* The financial disclosure reports of FCC SGEs shall be reviewed using the same process specified elsewhere for regular FCC employees.

*Tracking.* The Ethics Program Manager or his or her designee will maintain a computerized list of all agency SGEs that includes the individual's name, assignment, start date, date on which the filer was provided a blank OGE-450, the date on which the completed form was initially received at OGC, and the date it was certified by the FCC reviewer.

### **Onboarding – Initial Ethics Training**

Per 5 C.F.R. § 2638.304(e)(1), FCC SGEs shall be provided with a briefing sheet explaining what an SGE is and covering the following topics:

- Financial conflicts of interest
- Impartiality
- Misuse of position
- Gifts

Per 5 C.F.R. § 2638.304(e)(2), FCC SGEs shall also be provided the following written materials, or hyperlinks to the materials:

- OGE's summary of the Standards or an equivalent summary prepared by the agency
- Any relevant supplemental agency regulations
- Any other materials the DAEO deems relevant
- Instructions for contacting the agency's ethics office

The briefing sheet and written materials described above, along with any individualized ethics advice provided to the SGE, are intended to satisfy initial ethics training requirements of FCC SGEs. This information should be given to SGEs at the time they are provided with blank financial disclosure forms.

The distribution of this material shall be tracked in concert with the computerized tracking of financial disclosures as described above. SGEs serving on advisory committees shall annually be provided with these materials.

**Agency Review.** The Assistant General Counsel for Ethics and such other OGC Ethics employees as he or she designates shall annually review these procedures and update as warranted.