

Office of Government Ethics

81 x 22 -- 07/20/81

Letter to a Designated Agency Ethics Official dated July 20, 1981

Recently [a member of your staff made an oral request] for OGE's interpretation of the following language in section 201(f)(3) of the Ethics in Government Act of 1978 setting forth the requirements for who should file a public financial disclosure report:

(3) each officer or employee
in the executive
branch . . . whose position is
classified at GS-16 or
above . . . or the rate of
basic pay for which is fixed
(other than under the General
Schedule) at a rate equal to
or greater than the minimum
rate of basic pay fixed for
GS-16

Because certain persons classified at a GS-15 actually earn the same pay as a GS-16, by virtue of the pay cap, or earn more for purposes of the pay rate schedule, you have asked for our interpretation of this language to assist you in determining whether certain employees of your Department are required to file such reports.

In Senate Report No. 170, 95th Congress, 1st Session (1977), accompanying S.555, the Senate Governmental Affairs Committee discussed the section (section 301), which contained the requirement for who should file. The report, as page 110, stated:

Whether or not officers and
employees of an executive
agency are covered by this
subsection [sec. 301(b)(5) of
S.555] is determined by
whether their pay grade is
comparable to or greater than
a GS-16. Therefore some
employees classified at GS-15
who earn more money than an

employee at GS-16, step 1, will not have to file a financial disclosure statement. It is the level of an executive branch employee's responsibility, as determined by the grade at which he is classified, rather than the amount of pay that is the determining factor.

While the language of section 301(b)(5) of S.555 is not the exact language of section 201(f) of the Ethics in Government Act, it is sufficiently similar to be used as guidance in interpreting the statute.

Therefore, we have determined that to be required to file a public financial disclosure, an individual must hold a position which is classified at a GS-16 or above on the General Schedule (or its equivalent for SES positions), or if the position he or she holds is not classified on the General Schedule, the basic rate of pay of his or her position must be fixed at a rate equal to or greater than the minimum rate for a GS-16. To be more specific, the basic rate on paper that the individual must receive is \$52,247 per year (GS-16 Step 1). While on the pay schedule a GS-15 Step 7 is eligible to receive a salary higher than that figure, the basic rate of his or her grade (GS-15 Step 1) is lower. When dealing with special Government employees whose positions have not been already classified by the personnel office, you will have to translate \$52,247 into daily or hourly terms, depending upon how they are paid, to determine if they will be covered upon serving 60 days.

I hope this will be of assistance to you.

Sincerely,

J. Jackson Walter
Director