

Office of Government Ethics

§ 2634.901

Airline matters. She sends an email to her supervisor and subordinates to notify them of the recusal and to request that they do not refer matters involving Nationwide Airlines to her. She also sends a copy of that email to the designated agency ethics official.

(2) *Divestiture or resignation.* Written notification that the divestiture or resignation has occurred.

(3) *Waivers.* A copy of any waivers issued pursuant to 18 U.S.C. 208(b)(1) or (b)(3) and signed by the appropriate supervisory official.

(4) *Blind or diversified trusts.* Information required by subpart D of this part to be submitted to the Office of Government Ethics for its certification of any qualified trust instrument. If the Office of Government Ethics does not certify the trust, the designated agency ethics official and, as appropriate, the Senate confirmation committee should be informed immediately.

§ 2634.805 Retention.

Records of ethics agreements and actions described in this subpart will be maintained by the agency. In addition, copies of such record will be maintained by the Office of Government Ethics with respect to filers whose reports are certified by the Office of Government Ethics.

Subpart I—Confidential Financial Disclosure Reports

§ 2634.901 Policies of confidential financial disclosure reporting.

(a) The confidential financial reporting system set forth in this subpart is designed to complement the public reporting system established by title I of the Act. High-level officials in the executive branch are required to report certain financial interests publicly to ensure that every citizen can have confidence in the integrity of the Federal Government. It is equally important in order to guarantee the efficient and honest operation of the Government that other, less senior, executive branch employees, whose Government duties involve the exercise of significant discretion in certain sensitive areas, report their financial interests and outside business activities to their employing agencies, to facilitate the

review of possible conflicts of interest. These reports assist an agency in administering its ethics program and counseling its employees. Such reports are filed on a confidential basis.

(b) The confidential reporting system seeks from employees only that information which is relevant to the administration and application of criminal conflict of interest laws, administrative standards of conduct, and agency-specific statutory and program-related restrictions. The basic content of the reports required by § 2634.907 reflects that certain information is generally relevant to all agencies. However, depending upon an agency's authorized activities and any special or unique circumstances, additional information may be necessary. In these situations, and subject to the prior written approval of the Director of the Office of Government Ethics, agencies may formulate supplemental reporting requirements by following the procedures of §§ 2634.103 and 2634.601(b).

(c) This subpart also allows an agency to request, on a confidential basis, additional information from persons who are already subject to the public reporting requirements of this part. The public reporting requirements of the Act address Governmentwide concerns. The reporting requirements of this subpart allow agencies to confront special or unique agency concerns. If those concerns prompt an agency to seek more extensive reporting from employees who file public reports, it may proceed on a confidential, nonpublic basis, with prior written approval from the Director of the Office of Government Ethics, under the procedures of §§ 2634.103 and 2634.601(b).

(d) The reports filed pursuant to this subpart are specifically characterized as "confidential," and are required to be withheld from the public, pursuant to section 107(a) of the Act. Section 107(a) leaves no discretion on this issue with the agencies. See also § 2634.604. Further, Executive Order 12674 as modified by Executive Order 12731 provides, in section 201(d), for a system of nonpublic (confidential) executive

branch financial disclosure to complement the Act's system of public disclosure. The confidential reports provided for by this subpart contain sensitive commercial and financial information, as well as personal privacy-protected information. These reports and the information which they contain are, accordingly, exempt from being released to the public, under exemptions 3(A) and (B), 4, and 6 of the Freedom of Information Act (FOIA), 5 U.S.C. 552(b)(3)(A) and (B), (b)(4), and (b)(6). Additional FOIA exemptions may apply to particular reports or portions of reports. Agency personnel will not publicly release the reports or the information which these reports contain, except pursuant to an order issued by a Federal court, or as otherwise provided under applicable provisions of the Privacy Act (5 U.S.C. 552a), and in the OGE/GOVT-2 Government-wide executive branch Privacy Act system of records, as well as any applicable agency records system. If an agency statute requires the public reporting of certain information and, for purposes of convenience, an agency chooses to collect that information on the confidential report form filed under this subpart, only the special statutory information may be released to the public, pursuant to the terms of the statute under which it was collected.

(e) Executive branch agencies hire or use the paid and unpaid services of many individuals on an advisory or other less than full-time basis as special Government employees. These employees may include experts and consultants to the Government, as well as members of Government advisory committees. It is important for those agencies that utilize such services, and for the individuals who provide the services, to anticipate and avoid real or apparent conflicts of interest. The confidential financial disclosure system promotes that goal, with special Government employees among those required to file confidential reports.

(f) For additional policies and definitions of terms applicable to both the public and confidential reporting systems, see §§ 2634.104 and 2634.105.

§ 2634.902 [Reserved]

§ 2634.903 General requirements, filing dates, and extensions.

(a) *Incumbents.* A confidential filer who holds a position or office described in § 2634.904(a) and who performs the duties of that position or office for a period in excess of 60 days during the calendar year (including more than 60 days in an acting capacity) must file a confidential report as an incumbent, containing the information prescribed in §§ 2634.907 and 2634.908 on or before February 15 of the following year. This requirement does not apply if the employee has left Government service or has left a covered position prior to the due date for the report. No incumbent reports are required of special Government employees described in § 2634.904(a)(2), but who must file new entrant reports under paragraph (b) of this section upon each appointment or reappointment. For confidential filers under § 2634.904(a)(3), consult agency supplemental regulations.

(b) *New entrants.* (1) Not later than 30 days after assuming a new position or office described in § 2634.904(a) (which also encompasses the reappointment or redesignation of a special Government employee, including one who is serving on an advisory committee), a confidential filer must file a confidential report containing the information prescribed in §§ 2634.907 and 2634.908. For confidential filers under § 2634.904(a)(3), consult agency supplemental regulations.

(2) However, no report will be required if the individual:

(i) Has, within 30 days prior to assuming the position, left another position or office referred to in § 2634.904(a) or in § 2634.202, and has previously satisfied the reporting requirements applicable to that former position, but a copy of the report filed by the individual while in that position should be made available to the appointing agency, and the individual must comply with any agency requirement for a supplementary report for the new position;

(ii) Has already filed such a report in connection with consideration for appointment to the position. The agency may request that the individual update such a report if more than six months has expired since it was filed; or