



**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**

ETHICS COUNSELOR FINANCIAL DISCLOSURE MANUAL

Published February 2019

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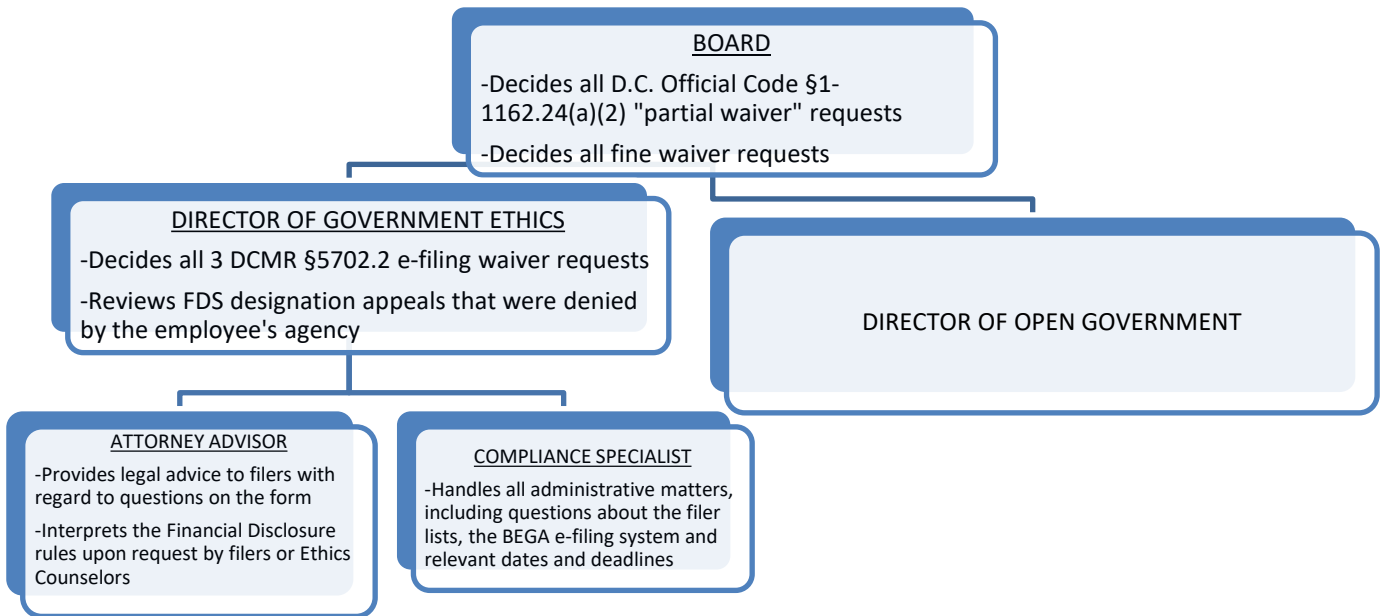
Introduction

Pursuant to [D.C. Official Code 1-1162.24](#), the Board of Ethics and Government Accountability (“BEGA”) is responsible for managing and administering the District’s Financial Disclosure program. Our office collects and reviews the nearly 4,000 annual financial disclosure statements submitted each year by District government public officials, and we could not successfully complete this task without assistance from the Ethics Counselors designated by each agency, commission or office.

The intent of this manual is to help guide Ethics Counselors through their Financial Disclosure program duties.

BEGA is comprised of five Board members who are appointed by the Mayor, with the advice and consent of the Council. The Board oversees the operations of two counterpart agencies: The Office of Government Ethics and the Office of Open Government. The Office of Open Government ensures the District government’s compliance with the Open Meetings Act (OMA) and advocates for fair and efficient Freedom of Information Act (FOIA) processing. In addition to investigating allegations of ethical misconduct by District government employees and officials, the Office of Government Ethics administers the District’s Financial Disclosure and Lobbyist programs.

BEGA FDS Structure



For Financial Disclosure inquiries, please contact BEGA using the contact information below

Board of Ethics and Government Accountability
One Judiciary Square
441 4th Street NW, Suite 830 South
Washington, DC 20001
(202) 481-3411
Bega-fds@dc.gov

Financial Disclosure Duties

Ethics Counselor

The agency Ethics Counselor works as the first point of contact for general ethics inquires and financial disclosure questions from the agency's employees. The Ethics Counselor is responsible for compiling a list of employees designated by the agency as Public Financial Disclosure Statement ("PFDS") filers and a list of employees designated as Confidential Financial Disclosure Statement ("CFDS") filers for the year, and sending those lists to BEGA. The Ethics Counselor also must notify the agency's Confidential Financial Disclosure Statement ("CFDS") filers of their designation, process all employee designation appeals, and issue the agency's initial adjudication of those appeals.

Additionally, Ethics Counselors are responsible for reviewing all CFDS forms and submitting a **complete** and **true** Confidential Filer Review Report ("CFRR") to BEGA on or before June 1st each year. Lastly, Ethics Counselors are responsible for contacting **CFDS** non-filers, at least once, to inform them of their non-compliance and ask them to file.

BEGA Staff

The staff at BEGA manages the Financial Disclosure program and is the first point of contact for PFDS filers who have specific questions about the form. BEGA staff is responsible for entering the agency's public filer lists into the FDS E-filing system, reminding all PFDS designees who fail to file their statements on time of their filing obligations and notifying them of their non-compliance if they fail to timely file the FDS form. BEGA staff also initiate and prosecute enforcement actions against non-compliant filers, assessing and collecting late fees and civil penalties as warranted. BEGA staff also issue ruling on employee designation appeals filed in the rare instances where an employee disagrees with the agency's decision.

The Financial Disclosure team at BEGA is generally comprised of one attorney and one compliance specialist. The Financial Disclosure attorney provides legal advice to filers regarding financial disclosure requirements and provides clarity on the fifteen-question FDS form. The attorney also interprets the Financial Disclosure rules for filers and Ethics Counselors. The compliance specialist assists filers and Ethics Counselors with all administrative matters, including questions on how to navigate the FDS e-filing system, filer lists, and relevant dates and deadlines.

It is BEGA's general policy to refer to each filing season by the current calendar year but refer to the forms submitted during the current filing season by the calendar year of the reporting period. For example, in the upcoming 2019 FDS filing season, designated District officials will file their 2018 FDS with BEGA.

Financial Disclosure Preparation

Both BEGA and each agency should monitor and update financial disclosure records year-round. To prepare for the FDS filing season each year, Ethics Counselors should stay in contact with BEGA and make us aware of any Ethics Counselor changes that occurred in their respective agencies. If an agency's Ethics Counselor leaves the Ethics Counselor post, the outgoing Counselor should send BEGA a farewell message via email to bega@dc.gov and bega-fds@dc.gov, including accurate contact information for the agency's new Ethics Counselor.

Ethics Counselors should also be sure to clarify – with both BEGA and the agency's employees – the agency's internal Ethics and FDS structures. For instance, both BEGA and the agency's employees should be informed if the agency's general counsel does not also serve as its ethics counselor, if there are different points of contact for general ethics matters vs. financial disclosure matters, or if the agency has two ethics counselors. As a best practice, Ethics Counselors should also maintain rolling PFDS and CFDS filer lists year-round (as discussed further below) and update the filers' contact information **EVERY YEAR** just before FDS season. More focused preparation for the annual May filing deadline should begin in February each year.

Ethics Counselor Verification

Between the end of January and the beginning of February someone from BEGA will reach out to the Ethics Counselor for each agency. BEGA will seek to verify that the Ethics Counselor we have on file still serves in the Ethics Counselor capacity and that the Ethics Counselor's contact information is correct. Ethics Counselors should reply promptly to this inquiry even if nothing has changed in their office since last year.

Agency Head Memo

In early February BEGA will send the "Agency Head Memo" to all Ethics Counselors via email. The Agency Head Memo will include instructions for the upcoming FDS season and any templates and other documents Ethics Counselors might need to administer their FDS duties for the year. **All Directors will be copied on the "Agency Head Memo" email.**

Mandatory Ethics Counselor Training

BEGA will schedule at least three (3) Ethics Counselor FDS Trainings between February and March of each year. It is mandatory that each Ethics Counselor attend at least one of these training sessions. It is important to attend a training session, even if you are an experienced Ethics Counselor, as BEGA updates the training presentation each year to include any changes in the FDS rules and any changes in BEGA's policies and procedures.

Filer Designations

Candidates for nomination for election, or election to public office, the Mayor, the Chairman and each member of the Council of the District of Columbia, the Attorney General, representatives or senators, Advisory Neighborhood Commissioners, members of the State Board of Education, any persons serving as a subordinate agency head in a position designated as within the Executive Service, members of the Washington Metropolitan Area Transit Authority Board of Directors appointed by the Council, members and alternate members of the Washington Metrorail Safety Commission appointed by the District of Columbia, and

members of a board or commission listed in § 1-523.01(e) are defined as “public officials” by statute, and are therefore, automatically required to file a Public Financial Disclosure Statement or a Public Financial Disclosure Statement Certification. See [D.C. Official Code 1-1161.01\(47\)\(A\)-\(H\)](#).

(Note: If an agency has a governing board or commission, the Ethics Counselor should include the members of the board or commission in their list of public filers or check-in with the administrative staff assigned to the board or commission to make sure that a list of members is submitted to BEGA.)

However, all other filers must be designated as filers per the statutory definition. District employees are designated as financial disclosure filers by their respective agencies. BEGA does not participate in the initial designation. Designation determinations are made by reviewing an employee’s job duties and salary.

Any employee who, as a part of his or her job duties, makes decisions or participates substantially in areas of **contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, regulating, or auditing, or acts in areas of responsibility that may create a conflict of interest or the appearance of a conflict of interest** and who is paid at a rate **equal to or above** Excepted Service 9 should be designated as a Public Financial Disclosure Statement filer. See [D.C. Official Code § 1-1161.01\(47\)\(I\)](#) and [DPM § 1810](#).

Any **Council** employee who is paid at a rate **equal to or above** the **midpoint rate** of pay for Excepted Service 9 must be designated as a Public Financial Disclosure Statement filer. See [D.C. Official Code § 1-1161.01\(47\)\(J\)](#).

Any employee who, as a part of his or her job duties, makes decisions or participates substantially in areas of **contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, regulating, or auditing, or acts in areas of responsibility that may create a conflict of interest or the appearance of a conflict of interest** and who is paid at a rate **below** Excepted Service 9 should be designated as a Confidential Financial Disclosure Statement filer. See [3 DCMR § 5704](#) and [DPM § 1810](#).

Employees have earned the requisite salary in the reporting year (the “reporting” year for the current season is 2018).

It is important to note that, except for the Council definition, the job duties listed in the statutory definitions above are not completely exhaustive. Be mindful that any person who “acts in areas of responsibility that may create a conflict of interest or the appearance of a conflict of interest” can be designated to file a FDS form.

Those out on extended leave are still considered employees for purposes of financial disclosure. BEGA suggests that, whenever possible, Ethics Counselors make it clear to such filers that they are required to file the FDS form even if they are on leave. We suggest that such filers be notified by work email, personal email, and hard copy to their home address.

It is the responsibility of the filer to file timely and to contact BEGA if there are extenuating circumstances as to why they cannot meet the filing requirements. Filers who are on leave during the FDS season should file as soon as it is convenient to do so and may submit fine waiver requests if they incur late-filer fines.

The 30-Day Rule

If an employee's current position meets the definition of an FDS filer (either Public or Confidential), but the employee did not work in her current position for at least thirty (30) days during the previous calendar year, that employee should not be designated to file an FDS during the current filing season and her FDS filing obligation should not begin until next year's filing season. See [D.C. Official Code § 1-1162.24\(f\)](#). However, if that employee served *in a different position* with the District government that also met the definition of an FDS filer (either Public or Confidential) for at least thirty (30) days during the previous year, she would be required to file an FDS in connection with her previous position.

Filer Lists

Each agency's lists of public and confidential FDS filers are due to BEGA no later than March 1st each year. BEGA uses the Financial Disclosure filer lists for several different purposes, and the lists may be used by several different people in our office. Ethics Counselors should ONLY use the list templates provided by BEGA with the Agency Head Memo. Ethics Counselors should not remove or alter the columns in any way, and they should fill in every column for each filer. The PFDS list that is submitted to BEGA should include: **full name**, **address**, **email address**, **grade**, **salary**, and **employment status** for each designated employee. See DPM § 1810.4(a). Ethics Counselors should note any extended leave or other special circumstances in the "employment status" column of the list. The CFDS filer list should include **full name**, **title**, **position**, and **grade level** for each designated employee. See [D.C. Official Code § 1-1162.25\(c\)](#). All filer lists should be emailed to the BEGA FDS Inbox (bega-fds@dc.gov).

Filer List Amendments

Filer list amendments should be submitted in the following manner:

- All filer list amendments should be emailed to the BEGA FDS Inbox (bega-fds@dc.gov)
- Caption the email with the year, the name of the agency and the word "Amendment", for example, "2019 ABRA PFDS Filer List – Amendment"
- In the body of the email note the changes made to the list
- Attach the updated list (do not attach the old list)
- Mark the email "High Importance" and request a receipt
- Submit all amendments to FDS lists by April 15th so that we can make sure all filers are accurately noticed of the filing requirement

FINANCIAL DISCLOSURE SEASON

Some District government employees perform job duties that place them in a position to be especially susceptible to conflicts of interest and other ethics violations. These employees are required to take annual ethics training and to file an annual FDS to help prevent the occurrence of any such ethical issues.

Filer Designation Notifications

Every District government employee who is designated to file an FDS should be notified of their designation on or about April 15th each year. Filer designation notifications should include the FDS filing deadline, instructions on how to file, contact information for the Ethics Counselor and BEGA, and information on the employee's right to appeal their designation. The agency should include clear instructions on how to file designation appeals in the designation appeals portion of the notice. **Our office strongly recommends that the filer designation notification also include a reminder of the filer's annual ethics training requirement.** See DPM § 1810.2(b). Filers should also be informed that they may make a request to the Director of Government Ethics, in writing, for an extension of up to thirty (30) days in which to submit the FDS. See [3 DCMR § 5702.4](#). The Director may extend the deadline for submission of the FDS for good cause shown. See [3 DCMR § 5702.5](#). The notice should also make employees aware that if they have been designated as an FDS filer, they must file a final FDS form within 90 days of separation from District employment. The notice should also clarify that separation from District employment does **not** nullify an employee's FDS filing obligation. Lastly, filers should be informed that they may submit an e-filing waiver request on or before May 5th each year. See [3 DCMR § 5702.2\(a\)-\(c\)](#).

FDS Filing

The financial disclosure statement consists of fifteen (15) questions. The FDS form was designed to gain insight into the financial interests of the filer, the filer's spouse or domestic partner, and the filer's dependent children to prevent conflicts of interest and other ethical violations. The form is due on or about May 15th every year.

All PFDS forms must be filed via [BEGA's financial disclosure e-filing system](#). See [3 DCMR § 5702.1](#).

All **confidential filers** should file their CFDS by submitting their form to their agency's Ethics Counselor or other designee per the instructions provided in the agency's Filer Designation Notification. Confidential filers can find a [hard copy of the financial disclosure form](#) on our website.

BEGA does not accept hard copy financial disclosure forms from public filers or confidential filers, except from those who have received an e-filing waiver pursuant to [3 DCMR § 5702.2](#). Ethics Counselors should not accept hard copy financial disclosure forms from PFDS filers or tell filers to submit hard copy forms to BEGA.

District employees who separate from District employment before the May 15th deadline but who are designated to file must file a FDS within 90 days of separation from the District. See [D.C. Official Code 1-1162.24\(c\)\(1\)](#). Ethics Counselors should make note of designated filers who leave their agency and ask them to file within 90 days of their official last day.

As a practical matter, Ethics Counselors should note that filers cannot log-in to the e-filing system using an email address that has not previously been added to our database. If a filer wants to file using a different email address from the one reported in the filer lists that filer should contact BEGA immediately so that we can update their email address in our database.

E-filing Waivers

A public filer may request a waiver of the e-filing requirement but should do so on or before May 5th each year. See [3 DCMR § 5702.2\(a\)-\(c\)](#). All e-filing waiver requests should include the requesters full name (as it appears on the annual Filer Designation Notification), home address, email address, phone number; the body of the request should layout the requester's reasons for requesting a waiver. If the waiver is granted, the FDS shall be filed in hard copy, in person or by first class mail. The FDS shall be deemed timely filed if received in the Office of Government Ethics no later than 5:00 pm on May 15th. A denial of the waiver of the requirement to file electronically is appealable to the Board. An appeal is timely filed if submitted to the Board Chairperson and the Director, in writing, in hard copy or electronically, no later than two (2) business days after the date of the Director's decision. The decision of the Board is final and shall be provided in writing to the requestor.

A pending e-filing waiver does not relieve a filer from the requirement to timely file a FDS form, unless explicitly stated by BEGA staff or the Director of Government Ethics. If a filer believes that the pending waiver request will delay their filing beyond the May 15th deadline they should submit a request for an extension of the filing deadline with the waiver request.

"Partial" Waivers

Public filers are required to file true, accurate and complete financial disclosure statements. This means that filers may not skip questions on the form or provide partial answers on the form. However, if a filer faces an extenuating circumstance or serious safety concern, they may request that one, some, or all their responses to the questions on the FDS form be withheld from the public. See [D.C. Official Code § 1-1162.24\(a\)\(2\)](#). Partial waiver requesters should submit such a request in writing to the Director of Government Ethics and to Counsel to the Board, and carbon copy the BEGA FDS Inbox (bega-fds@dc.gov) on the request. If the partial waiver request is granted, the filer will file their FDS form per instructions from the OGE after the Board issues its order. If the Board grants the waiver for some portion of the form, the OGE will redact that portion of the form before publishing the redacted form. If the Board grants a waiver for all fifteen (15) questions, the filer will file his or her form confidentially with the OGE.

A pending "partial" waiver request does not relieve a filer from the obligation to timely file an FDS form, unless explicitly stated by BEGA staff or the Director of Government Ethics. If a filer believes that the pending waiver request will delay their filing beyond the May 15th deadline, the filer should submit a request for an extension of the filing deadline with the waiver request.

Public Financial Disclosure Certifications

Advisory Neighborhoods Commissioners ("ANCs") and individuals who were candidates, seeking election to any elected office in the District, during the reporting year are required to file Public Financial Disclosure Certifications ("PFDC") in lieu of filing PFDS. Any ANC or past candidate who wishes to seek an e-

filing waiver may do so by May 5th and should follow the same instructions as a standard filer, in so doing. See [3 DCMR § 5702.2\(a\)-\(c\)](#). It should be noted that candidates for such elected offices in the District are required to file a PFDC “whether or not the person is elected.” See [D.C. Official Code §1-1171.01\(2\)](#) and [D.C. Official Code §1-1162.24\(a\)\(3\)\(B\)](#).

Designation Appeals

Individuals who are designated by their agencies to file FDS forms have the right to appeal their designation. All designation appeals must be submitted to the agency, per the instructions provided in the Filer Designation Notification, within five (5) days of the date noted on the Filer Designation Notification. See [DPM § 1810.7\(a\)](#).

The agency should consider a filer’s job duties, salary, start date, any points raised by the filer and any other relevant facts when adjudicating designation appeals. The staff at BEGA is available to answer Ethics Counselors’ questions and interpret the FDS rules as the agency evaluates filer designation appeals. The agency should issue a redetermination of the designation within five (5) days of receiving the designation appeal, by either upholding the designation or reversing it.

If a designated filer does not agree with the agency’s redetermination, the filer may request a review of their FDS designation by the Director of Government Ethics. See [DPM § 1810.7\(c\)](#). The Director of Government Ethics will issue a final decision on each designation appeal within five (5) days of receipt of the filer’s request for review. See [DPM § 1810.8](#). A filer may *not* request that the Director of Government Ethics review his or her designation without first receiving an adverse redetermination from the agency.

The agency should be sure to include the filers’ appeal rights and clear instructions on filing designation appeals in its Filer Designation Notice.

If the designated filer does not agree with the agency’s decision and would like BEGA to review the agency’s redetermination, the filer must provide BEGA with all relevant documentation, including the initial appeal, the filer’s job description, the agency’s written explanation for its decision, and any other relevant documents.

If the agency forwards the appeal to BEGA on behalf of the designated filer, the Ethics Counselor must send BEGA all relevant documents and notify the filer that the designation appeal has been submitted to BEGA.

A pending designation appeal does not relieve a designated filer from the obligation to timely file an FDS form, unless explicitly stated by BEGA staff or the Director of Government Ethics. If a designated filer believes that the pending designation appeal will delay their filing beyond the May 15th deadline, the filer must submit a request for an extension of the filing deadline with the waiver request.

Notifications

PFDS Notifications

BEGA is responsible for notifying public filers of their failure to comply with filing requirements. Our office will send at least one reminder notice to all public filers before the filing deadline and at least one non-compliance notification after public filers miss the May 15th deadline.

CFDS Notifications

The agency is responsible for sending all confidential filers at least one non-compliance notification after they miss the May 15th deadline. We encourage the agency to send confidential filers at least one filing reminder 7-10 days before the May 15th filing deadline.

CONFIDENTIAL FILER REVIEW REPORTS

All agency Ethics Counselors are required to submit Confidential Filer Review Reports (“CFRR”) to BEGA no later than June 1st annually. See [DPM § 1810.9](#).

True, Accurate and Complete Reports

BEGA provides a template for the CFRR; the BEGA template asks approximately six (6) informational questions at the beginning of the form (including whether the Ethics Counselor submitted the CFRR by June 1st); Ethics Counselors are required to answer these questions truly, accurately and completely. For example, Ethics Counselors should not indicate that they submitted the CFRR by June 1st and then email the CFRR to BEGA after June 1st.

Report Attachments

Ethics Counselors may submit CFRRs with attachment documents if they are unable to fit all relevant information into the CFRR template, and BEGA encourages them to do so.

Report Amendments

BEGA uses the CFRRs in our enforcement and auditing processes. Ethics Counselors should ONLY use the CFRR template provided by BEGA with the Agency Head Memo. Ethics Counselors should not alter the CFRR template.

CFRR amendments should be submitted in the following manner:

- All CFRRs should be emailed to the BEGA FDS Inbox (bega-fds@dc.gov)
- Caption the “subject” of the email with the year, the agency’s acronym, and the phrase “CFRR Amendment,” (e.g., “2019 ABRA CFRR Amendment”).
- In the body of the email note the changes made to the CFRR
- Attach the updated CFRR (but do not attach the old CFRR).
- Mark the email “High Importance” and request a receipt

NON-COMPLIANCE AND ENFORCEMENT

Possible Enforcement Actions

It is important to remember that the FDS filing requirement is mandatory and that BEGA will take enforcement action against all designated FDS filers who do not comply. Late-filed forms will result in a fine of \$10 per day

for each day the form is not submitted after the May 15th deadline. After 30 days, BEGA will accelerate our attempts to bring non-filers into compliance in one of three ways:

- 1) Requiring the non-compliant filer to appear before the Director of Government Ethics for a hearing to show good cause why additional fines should not be imposed against the non-compliant filer.
 - The show cause hearing may result in the imposition of ministerial fines between \$100 and \$1,000, above and beyond the \$10 per day late-filing penalties.
- 2) Offering the non-compliant filer the opportunity to reach a Negotiated Disposition.
- 3) Initiating a full, adversarial hearing before the Board regarding the filer's non-compliance.

Fines may increase with continued non-compliance. Willful failure to file may ultimately result in fines of up to \$5,000. BEGA will not discontinue attempts to compel a non-compliant filer to file even after the filer has paid a fine. A designated filer may not pay a fine to avoid his or her filing requirement. BEGA is also required to publish a list of PFDS non-filers in the DC Register by June 15th each year.

Fine Waiver Requests

An FDS filer who has incurred a late-filing fee or other fine from BEGA resulting from the filer's non-compliance with the FDS rules may request a waiver of the fine. Persons seeking a waiver should submit the request to Rochelle Ford, Counsel to the Board (Rochelle.Ford@dc.gov) and include their full name (as it appears on the filer designation notice), the date, a contact email address, employment status (e.g., current employee, on extended leave, separated from District employment, etc.), an explanation for non-compliance or reasons why the fine should not be enforced, and any previous history of timely compliance. Fine waiver requesters should carbon copy the BEGA FDS Inbox (beqa-fds@dc.gov) on the request.

All fine waiver requests are decided by our Board at its monthly board meetings. A fine waiver requester may attend the Board meeting at which their fine waiver request will be considered. Our Board is not likely to grant an otherwise meritorious fine waiver request until the requester has come into compliance by filing his or her FDS form. A fine waiver requester who is adversely affected by the Board's decision may appeal that decision to the DC Superior Court within 20 days of the Board's decision.

Employee Garnishment

BEGA generally gives non-compliant filers a brief grace period within which they may voluntarily pay any fine levied against them by our agency. Once the grace period has lapsed, BEGA will initiate a garnishment process to collect payment of the fine by submitting a garnishment memo to the Office of Pay and Retirement Services (OPRS).

Non-employee Fine Collection

BEGA will forward all unsatisfied fines of non-employees to the DC Office of the Attorney General for collection. BEGA may also report unpaid fines to the three federally recognized credit bureaus.

COUNCILMEMBERS AND COUNCIL EMPLOYEES

Councilmembers

Councilmembers are required to file semi-annual PFDS forms by May 15th and November 15th each year.

Council Employees

Whether a **Council employee** is a public FDS filer under the Ethics Act turns on whether that employee is paid at a rate equal to or above the **midpoint** rate for Excepted Service 9 (this is the only test).

The Council employee must have met that criteria for at least thirty (30) days in the calendar year on which they will be reporting. If the employee did not meet the test for at least one month in the previous calendar year, the employee will not be required to file in the current season but must file in the next season.

NOTES