

FINANCIAL DISCLOSURE FREQUENTLY ASKED QUESTIONS

I am either uncomfortable disclosing, or am unsure of, the exact amount of income that must be disclosed in response to the questions that ask for a specific amount (questions 1, 2, 6 and 7 on both the Confidential and Public Financial Disclosure Statements). I do not qualify for a waiver. What are my options?

If you do not wish to disclose an exact amount, you may instead disclose a range of income/market value/liabilities.

Filers should use the following disclosure ranges (which are included in the responses to questions 1, 2, 5 and 6) when answering those questions:

None (or less than \$1,001)

\$1,001 - \$15,000

\$15,001 - \$50,000

\$50,001 - \$100,000

\$100,001 - \$250,000

\$250,001 - \$500,000

\$500,001 - \$1,000,000

Over \$1,000,000

\$1,000,001 - \$5,000,000

\$5,000,001 - \$25,000,000

\$25,000,001 - \$50,000,000

Over \$50,000,000

I am a Public Filer. Can I file my Financial Disclosure Statement Electronically with BEGA?

Yes. You may file your Public Financial Disclosure Statement electronically at www.bega-dc.gov. You will receive a letter from the Board of Ethics and Government Accountability in mid-April that includes a Login ID, Password, and PIN, which are required for you to file electronically.

If you choose not to file electronically, you must submit a hard copy of your Financial Disclosure Form to:

The Board of Ethics and Government Accountability
441 4th Street NW
Suite 830 South
Washington, D.C. 20001

You are not required to submit both a hard-copy and electronic form. The electronic form is sufficient.

I am a Government Employee who has been designated as a Confidential filer. Can I file my Financial Disclosure Statement Electronically with BEGA?

No. You must file your Confidential Financial Disclosure Statement with your Agency Head or other designated official in your agency. These forms are not filed with BEGA. Your agency may have set up electronic filing for confidential filers. Please check with your Agency Ethics Counselor to find out.

I am an employee who makes decisions or participates substantially in the areas of contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, policy-making, regulating, or auditing, or acts in areas of responsibility that may create a conflict of interest or appearance of a conflict of interest. Am I required to file a Financial Disclosure Statement? If so, should I file a Public Financial Disclosure Statement or a Confidential Financial Disclosure Statement?

Yes, if you engage in any of the above activities, you must file one of the two types of Financial Disclosure Statements – Public or Confidential.

Although these two forms are functionally identical, as the names suggest, one is filed publicly with BEGA and the other is filed confidentially with your employing government agency. Below is an explanation of which category may apply to you. If you are uncertain, your Ethics Counselor can provide guidance on whether you are a public filer or a confidential filer.

Public Filers – All “Public Officials” must file a Public Financial Disclosure Statement. A Public Official is includes:

- (A) A candidate for nomination for election, or election, to public office;
- (B) The Mayor, Chairman, and each member of the Council of the District of Columbia holding office under Chapter 2 of this title;
- (C) The Attorney General;
- (D) A Representative or Senator elected pursuant to § 1-123;
- (E) An Advisory Neighborhood Commissioner;
- (F) A member of the State Board of Education;
- (G) A person serving as a subordinate agency head in a position designated as within the Executive Service;

(G-1) Members of the Washington Metropolitan Area Transit Authority Board of Directors appointed pursuant to § 9-1107.01;

(H) A member of a board or commission listed in § 1-523.01(e); and (I) A District of Columbia Excepted Service employee paid at a rate of Excepted Service 9 or above, or its equivalent, who 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 appearance of a conflict of interest; and any additional employees designated by rule by the Ethics Board who make decisions or participate substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, regulating, or auditing, or act in areas of responsibility that may create a conflict of interest or appearance of a conflict of interest.

(J) A District of Columbia employee paid, regardless of pay schedule, at a rate equivalent to an Excepted Service employee paid at a rate of Excepted Service 9 or above, who 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 appearance of a conflict of interest.

D.C. Official Code § 1-1161.01(47)(A-I) & 3 DCMR § 9900.1 (emphasis added)

If you make decisions or participate substantially in any of the areas listed above, AND are paid at a rate of Excepted Service 9 or above, or its equivalent, regardless of pay scale, then you are a Public Official, and must file a Public Financial Disclosure Statement. NOTE: IT DOES NOT MATTER WHETHER OR NOT YOU ARE AN EXCEPTED SERVICE EMPLOYEE – WHAT IS IMPORTANT IS WHETHER YOU ARE PAID AT THE SAME RATE IN ORDER TO BE CONSIDERED A PUBLIC FILER (THIS YEAR THE AMOUNT IS \$98, 345).

Confidential Filers – A confidential filer is anyone who makes the types of decisions described above, but is paid less than the requisite amount (\$98,345 for 2014). Confidential filers are determined and designated by their agency head. If you are a Confidential filer your agency head is required to notify you in writing.

As a public official, what action must I take prior to “May 15th?”

Financial Disclosure Statements are due on May 15th. The Public Financial Disclosure Statement form, however, is available for you to complete prior to May 15th. You will receive a letter from BEGA by mid-April that outlines requirements for filing.

As the designated Agency Head, what action must I take prior to “May 15th?”

By March 2nd you must provide BEGA with a list of all “Public Officials” within your agency, as that term is defined in the Ethics Act (see above). This list must include the name, title, position, grade, home address, work email address (or personal email address if available and the person no longer works for the agency) and work telephone number (or personal telephone number if available and the person no longer works for the agency). BEGA will then provide these individuals with electronic filing information reminders, and instructions for filing. **Please note that if PFDS filers do not receive such notification and information from the Office of Government Ethics, they are still obligated to file their Public Financial Disclosure Statements by May 15th and enforcement action will be taken against those who fail to file or fail to file timely.**

By April 15th, you must designate, and notify the persons in your agency required to submit a Confidential Financial Disclosure Statement.

In addition, you must provide BEGA with the list of these designated employees, with each employee’s name, position, and grade level, by May 1st.

This information may be provided, via email, to:

Andrew Jackson
BEGA Administrative Assistant, Lobbyist and Financial Disclosure Matters
andrew.jackson@dc.gov

Other than May 15th, is there any other time throughout the year that I must submit a Financial Disclosure Statement?

Yes. Anytime there is a change in status (i.e. termination, promotion, or transfer), anyone classified as a **public official** must submit a new Public Financial Disclosure Statement within ninety (90) days of the status change. (See, D.C. Official Code § 1-1162.24(c)).

As a Public Official, will my Financial Disclosure Statement be Public?

Yes. If you are a public official your Financial Disclosure Statement is public. (See, D.C. Official Code § 1-1162.24(a)).

If you are an ANC Commissioner your Financial Disclosure Certification is public. (See D.C. Official Code § 1-1162.25(a-1)(2)).

However, prior to publishing Financial Disclosure Statements and Certifications on our website all contact information is redacted (i.e. telephone numbers and home address).

The Board may, on a case-by-case basis, make exemptions. See answer to specific waiver questions below. (D.C. Mun. Regs. tit. 3, §5703.1 (2013)).

I am a public filer and have a legitimate safety concern about having my financial information available for public review. Is there some type of waiver or exemption available to me?

Yes. Section 224(a)(2) of the Ethics Act permits BEGA “on a case-by-case basis” to exempt a public official from this requirement “or some portion of this requirement for good cause shown.” The term “good cause” is not defined, but would probably include a legitimate safety concern, or a demonstrated history of being a victim of identity theft. It should be remembered that a public official, by definition, is a public figure, so waivers are very rare. The exemption is within the absolute discretion of the three-member BEGA Board. If a waiver is granted, the terms would probably still require the public official to file an FDS, but all or part of the statement might be deemed confidential. Any requests for a waiver must be submitted in writing and would not toll the May 15th filing deadline. This means that if you are requesting a waiver, you must do so sufficiently in advance of the May 15th filing deadline that you will be able to file on time if (a) your request for a waiver of the public filing requirement is denied; or (b) if your request for a waiver of the public filing requirement is granted but you are required to file a confidential Financial Disclosure Statement. You should allow sufficient time for the Ethics Board to consider and decide on any such waiver request.

I am an ANC Commissioner as well as a District government employee. I have been designated by my agency head as an employee who must file a Confidential Financial Disclosure Statement. Am I required to file two separate forms -- the Public Financial Disclosure Certification form and the Confidential Financial Disclosure Statement (“CFDS”)?

Yes. ANC Commissioners are required to file the ANC Public Financial Disclosure Certification form with BEGA, while designated employees are required to file CFDSs with their agency heads. Because the forms require an original signature and must be kept with the respective recipient (BEGA or the agency head), the filer must file these two separate Financial Disclosure forms.

I was a candidate for the D.C. Democratic State Committee during the prior calendar year, am I required to file a Financial Disclosure form?

Yes. As a candidate in an election administered by the DC Board of Elections, you fall under the definition of "Public Official" in the Ethics Act. This means you must file a shortened form called a Public Financial Disclosure Certification.

I was a candidate for election during the prior calendar year. I am also a District government employee. Am I required to file two separate forms-the Public Financial Disclosure Certification form and the Public Financial Disclosure Statement form?

No. The certification language is identical on both forms. If you file a Public Financial Disclosure Statement, as part of filing that form you will have also filed a certification.

What is a "prohibited source?"

A "Prohibited Source" means anyone who is regulated by the District government, or anyone who does, or is seeking to do, business with the District government through a contract, grant, or other financial arrangement. (D.C. Official Code § 1-1161.01(46)).

What is an "Honorarium" or "Gift"?

"Honorarium" means any fee, per diem, compensation, or any amount paid to any member of any such board, commission, or committee for service as such member. (D.C. Official Code § 1-321.01).

"Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of training, transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. (DPM § 1803.4(a)).

I was designated by my Agency Head as a Confidential filer. I disagree with the designation. May I appeal? If yes, how?

Yes. An employee may request a redetermination (i.e. file an appeal) of the designation to the Agency Head. (DPM § 1810.6(a)).

You can appeal by first submitting a written request to your agency head within five (5) days of written notification of the designation (DPM § 1810.7(a)).

The agency head must then make a redetermination, in writing, within five (5) days of receiving the request. (DPM § 1810.7(b)).

The agency head's redetermination denying the employee's requested relief (that they should not be designated as a Confidential Filer), is appealable, in writing, within five (5) days of the time the employee receives the notice of denial. The employee can then appeal this decision to the Director of Government Ethics, Darrin P. Sobin. (DPM § 1810.7(c)).

The decision of the Director of Government Ethics, with respect to the designation, must be issued within five (5) days of his receipt of the appeal, and is final. (DPM § 1810.8).

As an Agency Head, what am I supposed to do with the completed Confidential Financial Disclosure Forms from my employees once I receive them?

The statements **must** be kept confidential, as you would keep any key personnel documents. You are required to retain the statements in limited access files under your control for at least six (6) years. (See, DPM § 1810.11).

You must review each Confidential Financial Disclosure Statement on or before June 1st of each year. Part of your review is to determine whether any violation of the Code of Conduct, such as a financial conflict or other improper outside financial relationship or monetary/gift acceptance, is reported on the form. The agency head is in the best position to determine whether a financial conflict exists given the employees' job duties at the agency. If a Confidential Financial Disclosure Statement contains an apparent violation of the Code of Conduct (i.e., an unlawful gift or contribution or a financial relationship that overlaps with the employees governmental duties), the agency head must immediately forward the statement to BEGA with an explanation of the discrepancy.

The second part of the review is that each Agency Head must report to the Office of Government Ethics by June 1st whether all designated filers have filed their Confidential Financial Disclosure Statements, and if some have not, provide a list of the designees who failed to submit Confidential Financial Disclosure Statements. This report must also include information about any successful or pending designation appeals, and must include mention of any conflicts of interest or other ethical issues discovered by the agency head during their review of the CFDSs.

As an Agency Head, what deadlines should I remember?

All Agency Heads must designate the persons in their agency required to file CFDSs by **April 15th** of each year, and must supply a list of those persons to the Ethics Board and the D.C. Ethics Counselor by **May 1st** of each year.

All Agency Heads must submit a list of public officials within their agency to BEGA by **March 1st** of each year.

All Agency Heads must submit a report to BEGA detailing their agency's CFDS filers and non-filers, and informing BEGA of any potential ethical issues or conflicts of interest they discovered during their review of the CFDSs by **June 1st** of each year.

I am a member of a Board or Commission other than an ANC. Must I file a Financial Disclosure Form? What if I receive no pay for my services?

The D.C Official Code states, “a member of a board or commission listed in § 1-523.01(e),” is required to file a public financial disclosure statement. Section 1-523.01(e) includes the following boards and commissions:

1. Alcoholic Beverage Control Board
2. Board of Library Trustees
3. Board of Trustees of the University of the District of Columbia
4. Board of Zoning Adjustment
5. Police Complaints Board
6. Contract Appeals Board
7. Board of Elections
8. Commission on Human Rights
9. Housing Finance Agency Board of Directors
10. Lottery and Charitable Games Control Board
11. Historic Preservation Review Board
12. Metropolitan Washington Airports Authority Board of Directors
13. Office of Employee Appeals
14. Public Employee Relations Board
15. Public Service Commission
16. Rental Housing Commission
17. Washington Convention and Sports Authority Board of Directors
18. Water and Sewer Authority Board of Directors
19. Zoning Commission
20. Taxicab Commission
21. Housing Authority Board of Commissioners
22. Homeland Security Commission

23. Commission on Fashion Arts and Events

The D.C. Official Code makes no distinction between paid and unpaid services. Every member of the boards and commissions listed in § 1-523.01(e) is a public official under the Ethics Act, and thus, must file a public financial disclosure statement. (D.C. Official Code § 1-1161.01(47)(H)).

How do I file my Financial Disclosure forms electronically?

Public filers and ANC Commissioners and candidates may file their financial disclosure forms electronically at www.bega-dc.gov.

Confidential filers must consult with their Agency Heads as to how to file their Confidential Financial Disclosure Statements.

Do I need to disclose my mutual fund account?

No. You only need to disclose financial accounts that are self-directed (i.e., you choose the individual companies in which the account invests). Remember, the purpose of the disclosure rules is to determine whether you are in a position, through your government work, to confer a benefit on an entity in which you have a private financial interest. If you are not aware of the various companies a mutual fund might own, there would not be that concern.

Do I need to disclose my personal checking account and/or credit card debt?

No. You do not need to list any credit card debt since most credit cards are issued by federal or state insured or regulated financial institution. In addition, credit card companies are in the business of providing revolving credit or installment accounts

Do I need to disclose my retirement account?

It depends. You may need to disclose the retirement account, depending on the type of account and how it is structured. For instance, just like ownership of stock/shares of a business entity which must be disclosed, if the account is self-directed (i.e., you choose the individual companies in which the account invests) then you must disclose. If, on the other hand, the retirement account funds are invested in mutual funds or similar type programs in which someone else makes investment decisions without any input or direction from you, you would not have to disclose.

The house that I live in is the only property that I own in the District of Columbia. Do I need to disclose this property?

No. You only need to disclose all **other** real property in which you (or your spouse) have a financial interest. The real property must have a fair market value of more than \$1000 or produce an income an income of more than \$200 per year.

How do I know if I need to disclose my domestic partner's financial information?

Financial information for a domestic partner must be disclosed. The Ethics Act mandates that FDS filers disclose the same information for their spouse, domestic partner, or dependent children as they do for themselves.

Domestic partner is defined in the Ethics Act as “a person with whom an individual maintains a committed relationship as defined in paragraph (1) of this section and who has registered under § 32-702(a). Each partner shall:

- (A) Be at least 18 years old and competent to contract;
- (B) Be the sole domestic partner of the other person; and
- (C) Not be married.”

(D.C. Code §1-1161.01(14) *citing* D.C. Code §32-701(3)).

I am a volunteer for a non-profit entity, such as the American Bar Association (“ABA”). Do I need to disclose this?

It depends. The ABA is a non-profit organization and, as such, is considered a “business entity” as that term is defined in D.C. Official Code § 1-1162.24(a)(1)(A). The Ethics Act mandates that you disclose any affiliations, such as officer, director, partner, employee, volunteer, consultant, contractor, and member, with any business entity, whether or not transacting business with the District. However, the FDS filer need only disclose those affiliations in which the FDS filer has a fiduciary role and/or control over the entity’s management or operations. This extends to filers who are volunteers. In the case of the ABA, only a fiduciary or other position of control role need be disclosed. If a person were simply volunteering occasionally at a soup kitchen, however, that would not need to be disclosed, because they did not have a fiduciary role in the organization.

Does this apply as well to the D.C. Bar?

No, you only need to disclose membership in the D.C. Bar because a license to practice law is a professional or occupational license (see below). You do not need to disclose whether you have a fiduciary or other similar type position with the D.C. Bar. The D.C.

Bar is an instrumentality of the District government and therefore does not fall within the definition of “business entity”.

I became a Certified Public Accountant (“CPA”) licensed in D.C. during the previous calendar year. Do I need to disclose this?

Yes. The Ethics Act requires FDS filers to disclose all professional or occupational licenses issued by the District of Columbia Government held by the filer, his or her spouse, domestic partner, or dependent children.

I received a gift from a contractor who contracts with the District. Do I need to disclose this?

Yes, if this gift cost \$100 or more, you must disclose it. The Ethics Act requires PFDS and CFDS filers to disclose all gifts received from a prohibited source in the aggregate value of \$100 in a calendar year. D.C. Official Code §1-1162.24(a)(1)(E).

Am I required to certify that the provisions in D.C. Official Code § 1-1162.24(a)(1)(G) are true?

Yes. The FDS filer must certify that he or she:

- (i) Filed and paid his or her income and property taxes;
- (ii) Diligently safeguarded the assets of the taxpayers and the District;
- (iii) Reported known illegal activity, including attempted bribes, to the appropriate authorities;
- (iv) Not been offered or accepted any bribes
- (v) Not directly or indirectly received government funds through illegal or improper means;
- (vi) Not raised or received funds in violation of federal or District law; and
- (vii) Not received or been given anything of value, including a gift, favor, service, loan gratuity, discount, hospitality, political contribution, or promise of future employment, based on any understanding that the public official’s official actions or judgments or vote would be influenced.

If filing electronically, the FDS filer will certify by entering in his or her PIN. If filing in hard copy, the FDS filer will sign and date the Signature Line immediately following the Certification paragraph.

What if I lose or forget my PIN?

You may contact the BEGA office and a new PIN will be issued to you. The BEGA office may be reached by telephone at 202-481-3411 or via email at bega@dc.gov.

If I previously had to file a Form 35 with my Agency Head and a separate Financial Disclosure Statement with the Office of Campaign Finance, what do I need to file now and with whom?

The Ethics Act was partly intended to do away with the past practice of employees having to file multiple financial disclosure forms with different government entities. As a result, you are no longer required to complete a Form 35 or file a Financial Disclosure Statement with the Office of Campaign Finance; however, as discussed herein those designated as “confidential filers” must file with their Agency Heads while “public officials” must file with BEGA. For the most part, an employee **would not** have to file with both their agency and with BEGA (with the exception of ANC Commissioners who may also be employed separately by the District government). One form filed with one office is the goal.

Does the Office of Campaign Finance still accept Financial Disclosure Forms?

No. The Board of Ethics and Government Accountability (“BEGA”) is now the entity that accepts *all* Public Financial Disclosure Statements (“PFDS”) and Public Financial Disclosure Certifications. As noted above, BEGA does not accept Confidential Financial Disclosure Statements.