



January 7, 2025
LA-25-01

LEGAL ADVISORY

TO: Designated Agency Ethics Officials

FROM: David Huitema
Director

SUBJECT: Effect of Pay Adjustments on Ethics Provisions for Calendar Year 2025

This Legal Advisory updates the three statutory pay-level thresholds for calendar year 2025, which are used to: (1) determine which senior employees are subject to the post-employment restrictions at 18 U.S.C. § 207(c)(1); (2) identify which officers and employees must file public financial disclosure reports pursuant to title I of the Ethics in Government Act, 5 U.S.C. § 13101 *et seq.*; and (3) implement the outside employment and outside earned income restrictions for certain covered noncareer employees pursuant to title 5 of the Ethics in Government Act, 5 U.S.C. § 13141 *et seq.*

The President signed Executive Order 14132 on December 23, 2024, adjusting the 2025 pay schedules for certain Federal civilian employees, effective the first day of the first applicable pay period beginning on or after January 1, 2025. The pay rates for certain senior political officials, including those serving in Executive Level positions, remain frozen through March 14, 2025, pursuant to the American Relief Act, 2025.¹ Office of Personnel Management guidance states that the rates of pay officially established by the Executive Schedule remain in effect for these positions regardless of any pay freeze.² As such, OGE’s threshold calculations below reflect the officially established rates of pay for Level II of the Executive Schedule.

The following threshold levels for the various ethics provisions have increased for calendar year 2025:

- Title 18, Chapter 11 of the United States Code, 18 U.S.C. § 207(c)(1), restricts the post-employment activities of “senior employees.” The statutory pay threshold for a “senior employee” is “equal to or greater than 86.5 percent of the rate of basic pay for level II of

¹ Office of Personnel Mgmt., CPM 2024-26, Memorandum for Heads of Executive Departments and Agencies, Continued Pay Freeze for Certain Senior Political Officials (2024), <https://www.chcoc.gov/content/continued-pay-freeze-certain-senior-political-officials-13>.

² *Id.* Thus, as of January 12, 2025, the official rate of pay for positions at Level II of the Executive Schedule (5 U.S.C. § 5313) is \$225,700.



the Executive Schedule.”³ Effective January 12, 2025, that threshold will be **\$195,231**. Because this threshold exceeds the pay rate cap under the current political appointee pay freeze in effect through March 14, 2025 (\$195,200), noncareer officials whose pay is administratively set at the maximum under the pay freeze will not qualify as senior employees.⁴

- Title I of the Ethics in Government Act, 5 U.S.C. § 13103(f), identifies which officers and employees must file public financial disclosure reports. Among those required to file are individuals who occupy a position “not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule.”⁵ Effective January 12, 2025, that threshold will be **\$150,160**.
- Title V of the Ethics in Government Act, 5 U.S.C. § 13141 *et seq.*, sets forth outside employment and outside earned income restrictions for certain covered noncareer employees,⁶ barring them from earning outside earned income in any calendar year “which exceeds 15 percent of the annual rate of basic pay for level II of the Executive Schedule.”⁷ Both § 13143(a) and OGE’s regulation at 5 C.F.R. § 2636.304(a) require the use of the Executive pay level in effect on January 1 of the year in consideration. As of January 1, 2025, the annual rate of basic pay for Level II of the Executive Schedule is \$221,900. Fifteen percent of that rate of basic pay is **\$33,285**.

“The outside earned income limitation that applies to an individual who becomes a covered noncareer employee during a calendar year shall be determined on a pro rata basis.”⁸ To assist ethics officials with the calculations for covered noncareer employees who become subject to this limitation after January 1, OGE has created a [table](#) on its website that provides the limitation

³ 18 U.S.C. § 207(c)(2)(A)(ii). For the purpose of determining whether an employee’s pay exceeds this threshold, 18 U.S.C. § 207(c) requires the use of the employee’s base amount of actual pay, excluding locality-based pay adjustments or additional pay such as bonuses, awards, and various allowances. OGE Inf. Adv. Op. 98x2, at 2 (Feb. 11, 1998). Therefore, because the rate of basic pay for all General Schedule (GS) employees is below the \$195,231 threshold, no GS employee is a “senior employee” pursuant to the statutory pay threshold even if their locality pay is above that threshold. However, a Senior Executive Service (SES) employee with a salary of \$195,500 would be a “senior employee” because the SES system does not include any locality pay.

⁴ See Office of Personnel Mgmt., *supra* note 1. While employees can also be considered senior employees due to the type of position they hold or the authority under which they were appointed, *see* 18 U.S.C. § 207(c)(2)(i), (iii), this Legal Advisory addresses employees who are considered senior employees solely due to their rate of basic pay under 18 U.S.C. § 207(c)(2)(ii). For additional discussion on this issue, see OGE Legal Advisory LA-24-08 (July 30, 2024).

⁵ 5 U.S.C. § 13103(f)(3). Note that the term “rate of basic pay” as used in the Ethics in Government Act differs from the term “rate of basic pay” as used in 18 U.S.C. § 207(c). OGE Inf. Adv. Op. 98x2. For purposes of financial disclosure, “the term ‘rate of basic pay’ has been interpreted to mean the lowest level of pay authorized for a position’s pay grade.” *Id.* at 3. For financial disclosure purposes, the rate of basic pay for employees in the SES and in Senior-Level (SL) and Scientific or Professional (ST) positions is \$150,160 effective January 12, 2025; therefore, these employees are required to file public financial disclosure reports.

⁶ The same threshold for determining who must file public financial disclosure reports (\$150,160) also determines, in part, whether an individual is a “covered noncareer employee” for the purposes of the statute and the outside earned income and employment restrictions of 5 C.F.R. § 2636.303.

⁷ 5 U.S.C. § 13143(a).

⁸ 5 C.F.R. § 2636.304(b).

amount applicable (rounded to the nearest full dollar⁹) depending on the date in calendar year 2025 that an individual becomes a covered noncareer employee.

⁹ *Id.* § 2636.304(c).