

## NIH ETHICS PROGRAM

### What Constitutes “Senior” Status Under Ethics Rules?

The term ‘senior employee’ is used in multiple contexts in the ethics rules. The various contexts and which employees are affected are detailed below.

“Senior” NIH Employee \*

“Senior” employee at the NIH is defined in the HHS Supplemental Standards of Ethical Conduct (5 CFR 5501.110(b)(1)) to include:

- NIH Director and Deputy Director
- NIH Office of the Director (OD) staff who report directly to the NIH Director
- The following Institute/Center (IC) staff:
  - » Director
  - » Deputy Director
  - » Scientific Director
  - » Clinical Director
  - » Extramural program officials who report directly to the IC Director and manage, either directly or through a subordinate, research grants, contracts or cooperative agreements

The definition **excludes** other staff, even if they report directly to the IC Director, e.g., executive officers, directors of science and policy offices, planning offices, and other similar administrative offices.

Note: The term “Top 5” is synonymous with “senior employee”.

Reporting Financial Interests

All senior employees are required to file a financial disclosure report, either the public (SF-278) or confidential (OGE-450) report. In addition, senior NIH employees are required to report when they acquire any interest in an SAO, either through purchase, inheritance, gift, or other means. The report is due within 30 days of acquisition.

Prohibited Financial Interests

The HHS Supplemental Standards of Ethical Conduct prohibit senior NIH employees from holding a financial interest in a significantly affected organization (SAO), except as permitted by the exceptions. This prohibition applies **only** to those employees designated as **NIH Senior** employees above. See 5 CFR 5501.110.

NEAC Review

For senior employees, all outside activity requests and all requests for approval to accept gifts associated with an award which requires the use of an award form require review by the NIH Ethics Advisory Committee (NEAC) and final determination by the NIH DEC. Other ethics requests are submitted through the IC Ethics Office to the NIH Ethics Office for final determination by the NIH DEC.

Post-Employment

The post-employment statute (18 USC § 207) uses the term ‘senior’ and it means a different group of Federal employees. For post-employment purposes, the senior employee status is determined by salary. Senior in this case means an SES or an employee in another pay system whose annual rate of basic pay, excluding locality adjustment, is equal to or greater than 86.5% of Executive Schedule Level II. For calendar year 2006, that level is \$142,898.

\* Employee means those in an FTE position. It does not apply to contractors, Visiting Fellows, IRTAs, or anyone not paid by the NIH, except those on IPA agreements who are functioning in a covered position.