

**ETHICS PROGRAM INSPECTION REPORT**

Agency: Surface Transportation Board (STB)

Report No.: 22-121

Date: January 12, 2022

Period Covered by Review: January 1, 2021 through November 30, 2021

**UNITED STATES OFFICE OF  
GOVERNMENT ETHICS**Preventing Conflicts of Interest  
in the Executive Branch

1.0	AGENCY DATA	
	<b>EMPLOYEES</b>	
1.1	Number of full-time agency employees.	115
1.2	Number of Presidentially appointed, Senate-confirmed (PAS) public financial disclosure reports required to be filed.	5
1.3	Number of non-PAS public financial disclosure reports required to be filed.	5
1.4	Number of confidential financial disclosure reports required to be filed.	29
	<b>ETHICS PROGRAM</b>	
1.5	Title of Designated Agency Ethics Official (DAEO).	General Counsel
1.6	Grade level of DAEO.	ES-00
1.7	Title of Alternate DAEO (ADAEO).	Attorney Advisor
1.8	Grade level of ADAEO.	GS-15
1.9	Title of the primary, day-to-day ethics program administrator.	Attorney Advisor
1.10	Grade level of the primary, day-to-day ethics program administrator.	GS-15
1.11	Current number of full-time ethics officials.	0
1.12	Current number of part-time ethics officials.	2
1.13	Number of reporting levels between the DAEO and the agency head.	1
	<b>COMMENTS</b>	
	None	

2.0	LEADERSHIP			
	<b>COMPLIANCE REQUIREMENTS</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
2.1	OGE has received an up-to-date designation from the agency head naming the DAEO. <i>See</i> 5 C.F.R. § 2638.107(a).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2.2	OGE has received an up-to-date designation from the agency head naming the ADAEO. <i>See</i> 5 C.F.R. § 2638.107(a).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<b>COMMENTS</b>			
	None			

3.0	PUBLIC FINANCIAL DISCLOSURE (OGE Form 278e, OGE Form 278-T)			
	<b>COMPLIANCE REQUIREMENTS</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
	The agency has written policies and procedures in place governing: <i>See</i> 5 U.S.C. app. IV, § 402(d)(1).			
3.1	• Collection of public financial disclosure reports.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.2	• Review/evaluation of public financial disclosure reports.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.3	• Public availability of public financial disclosure reports.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.4	The agency can demonstrate that late filing fees are collected or, where appropriate, waivers are issued when public filers do not timely file financial disclosure reports.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.5	Public financial disclosure reports are securely maintained. <i>See</i> OGE/GOVT-1.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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GOVERNMENT ETHICS**

  
Preventing Conflicts of Interest  
in the Executive Branch

3.6	Public financial disclosure reports are retained in accordance with the retention requirements. <i>See</i> 5 C.F.R. § 2634.603(g)(1).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.7	There is reasonable assurance that the lead human resources official or designee promptly (no later than 15 days after appointment) notifies the DAEO of all appointments to positions that require incumbents to file public financial disclosure reports. <i>See</i> 5 C.F.R. § 2638.105(a)(1).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3.8	There is reasonable assurance that the lead human resources official or designee promptly (no later than 15 days after termination) notified the DAEO of terminations of employees in positions that require incumbents to file public financial disclosure reports. <i>See</i> 5 C.F.R. § 2638.105(a)(2).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DATA ANALYSIS		%		
3.9	Percentage of sampled non-PASnew entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(b).	N/A		
3.10	Percentage of sampled non-PASannual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).	100%		
3.11	Percentage of sampled non-PAStermination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).	100%		
3.12	Percentage of sampled non-PASpublic financial disclosure reports reviewed within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	100%		
3.13	Percentage of sampled non-PASpublic financial disclosure reports certified within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	100%		
3.14	Percentage of sampled PAS annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(a).	100%		
3.15	Percentage of sampled PAS termination reports filed timely. <i>See</i> 5 C.F.R. § 2634.201(e).	N/A		
3.16	Percentage of sampled PAS annual and termination reports reviewed within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	100%		
3.17	Percentage of sampled PAS annual and termination reports certified within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	60%		
COMMENTS				
3.9: No non-PASnew entrant reports were required to be filed during the period covered by the inspection. 3.15: No PAS termination reports were required to be filed during the period covered by the inspection. 3.17: According to ethics officials, two PAS annual reports included significant assets which required extensive consultation with filers.				

<b>4.0</b>	<b>CONFIDENTIAL FINANCIAL DISCLOSURE</b>			
	<b>COMPLIANCE REQUIREMENTS</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
	The agency has written policies and procedures in place governing: <i>See</i> 5 U.S.C app. IV, § 402(d)(1).			
4.1	• Collection of confidential financial disclosure reports.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.2	• Review/evaluation of confidential financial disclosure reports.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.3	Confidential financial disclosure reports are securely maintained. <i>See</i> OGE/GOVT -2.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.4	Confidential financial disclosure reports are retained in accordance with the retention requirements. <i>See</i> 5 C.F.R. § 2634.604.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
4.5	The agency's OGE-approved alternative confidential financial disclosure system complies with plans approved by OGE. <i>See</i> 5 C.F.R. § 2634.905(a).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
4.6	There is reasonable assurance that the lead human resources official or designee promptly (no later than 15 days after appointment) notifies the DAEO of all appointments to positions that require incumbents to file confidential financial disclosure reports. <i>See</i> 5 C.F.R. § 2638.105(a)(1).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>DATA ANALYSIS</b>		<b>%</b>		
4.7	Percentage of sampled confidential new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(b).	100%		

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**UNITED STATES OFFICE OF  
GOVERNMENT ETHICS**Preventing Conflicts of Interest  
in the Executive Branch

4.8	Percentage of sampled confidential annual reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(a).	100%
4.9	Percentage of sampled reports reviewed within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	100%
4.10	Percentage of sampled confidential financial disclosure reports certified within 60 days of receipt. <i>See</i> 5 C.F.R. §§ 2634.605(a) and 2634.909(a).	100%
<b>COMMENTS</b>		
4.5: Surface Transportation Board does not have an OGE-approved alternative confidential financial disclosure system.		

5.0 NOTICES TO PROSPECTIVE EMPLOYEES				
COMPLIANCE REQUIREMENTS				
				Yes No N/A
Written offers of employment for positions covered by the Standards of Conduct provide: <i>See</i> 5 C.F.R. § 2638.303.				
5.1	• A statement regarding the agency's commitment to government ethics.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.2	• Notice that the individual will be subject to the Standards of Conduct and the criminal conflict of interest statutes as an employee.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.3	• Contact information for an appropriate agency ethics office or an explanation of how to obtain additional information on applicable ethics requirements.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.4	• Where applicable, notice of the time frame for completing initial ethics training.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.5	• Where applicable, a statement regarding financial disclosure requirements and an explanation that new entrant reports must be filed within 30 days of appointment.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.6	The agency has established written procedures for issuing the notice to prospective employees. <i>See</i> 5 C.F.R. § 2638.303(c).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.7	The agency's written procedures are reviewed by the DAEO each year. <i>See</i> 5 C.F.R. § 2638.303(c).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5.8	The agency can demonstrate that there is an effective process for ensuring all covered employees receive the required information with their written offer of employment. <i>See</i> 5 C.F.R. § 2638.303.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>COMMENTS</b>				
5.8: Although the agency does not currently have written procedures for issuing notices to prospective employees, they were able to provide OGE an SOP for onboarding new hires. The SOP addressed some of the relevant requirements. OGE also examined a sample of notices sent to prospective employees. None of the notices included a time frame for completing initial ethics orientation or a statement regarding financial disclosure requirements.				

6.0 NOTICES TO NEW SUPERVISORS				
COMPLIANCE REQUIREMENTS				
				Yes No N/A
The agency must provide each employee upon initial appointment to a supervisory position with: <i>See</i> 5 C.F.R. § 2638.306.				
6.1	• Contact information for the agency's ethics office.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.2	• The text of 5 C.F.R. § 2638.103.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.3	• A copy of, a hyperlink to, or the address of a Web site containing the Principles of Ethical Conduct.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.4	• Other information the DAEO deems necessary.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6.5	The agency has established written procedures for supervisory ethics notices. <i>See</i> 5 C.F.R. § 2638.306(d).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6.6	The agency's written procedures are reviewed by the DAEO each year. <i>See</i> 5 C.F.R. § 2638.306(d).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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GOVERNMENT ETHICS**Preventing Conflicts of Interest  
in the Executive Branch

6.7	The agency can demonstrate that there is an effective process for ensuring that new supervisors receive the required information within one year of appointment. <i>See</i> 5 C.F.R. § 2638.306(b).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>COMMENTS</b>				
	6.7: The agency was able to provide OGE a sample of notices sent to employees upon their initial entry into a supervisory position. This demonstrates there is an effective process. However, the agency must still create written procedures to ensure continuity of the ethics program.			

7.0	INITIAL ETHICS TRAINING			
	COMPLIANCE REQUIREMENTS	Yes	No	N/A
	Each new employee of the agency subject to the Standards of Conduct must complete initial ethics training. <i>See</i> 5 C.F.R. § 2638.304.			
7.1	The training presentation(s) addressed concepts related to conflicts of interest, impartiality, misuse of position and gifts. <i>See</i> 5 C.F.R. § 2638.304(e)(1).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.2	The agency provided new employees with either the following written materials or written instruction for accessing them: The summary of the Standards of Conduct distributed by the Office of Government Ethics or an equivalent summary prepared by the agency; provisions of any supplemental agency regulation that the DAEO determines to be relevant or a summary of those provisions; such other written materials as the DAEO determines should be included; instructions for contacting the agency’s ethics officials. <i>See</i> 5 C.F.R. § 2638.304(e)(2).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7.3	The agency has established written procedures for initial ethics training. <i>See</i> 5 C.F.R. § 2638.304(f).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7.4	The agency’s written procedures are reviewed by the DAEO each year. <i>See</i> 5 C.F.R. § 2638.304(f).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	DATA ANALYSIS	%		
7.5	Percentage of new employees who received initial ethics training. <i>See</i> 5 C.F.R. § 2638.304.	100%		
7.6	Percentage of new employees who received initial ethics training within three months of appointment. <i>See</i> 5 C.F.R. § 2638.304(b).	100%		
	COMMENTS			
	None			

8.0	<b>ANNUAL ETHICS TRAINING</b>			
	<b>COMPLIANCE REQUIREMENTS</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
	Each calendar year, public filers, confidential filers, and certain other employees must complete ethics training which meets specified requirements. <i>See</i> 5 C.F.R. §§ 2638.307 and 2638.308.			
8.1	The training presentation(s) addressed concepts related to financial conflicts of interest, impartiality, misuse of position and gifts. <i>See</i> 5 C.F.R. §§ 2638.307(e)(1) and 2638.308(f)(1).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.2	The agency provided employees with either the following written materials or written instruction for accessing them: The summary of the Standards of Conduct distributed by the Office of Government Ethics or an equivalent summary prepared by the agency; provisions of any supplemental agency regulation that the DAEO determines to be relevant or a summary of those provisions; such other written materials as the DAEO determines should be included; instructions for contacting the agency's ethics officials. <i>See</i> 5 C.F.R. § 2638.304(e)(2).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.3	The agency's annual ethics training complies with the formatting requirements for public filers, confidential filers, and certain other employees. <i>See</i> 5 C.F.R. §§ 2638.307(d) and 2638.308(e).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8.4	The agency's program for annual ethics training complies with the tracking requirements for public filers, confidential filers, and certain other employees. <i>See</i> 5 C.F.R. §§ 2638.307(f) and 2638.308(g).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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GOVERNMENT ETHICS**Preventing Conflicts of Interest  
in the Executive Branch

8.5	The agency can demonstrate it has an effective process for ensuring covered public filers, other than those whose pay is set at Level I or Level II of the Executive Schedule, complete live annual ethics training at least once every two years. <i>See</i> 5 C.F.R. § 2638.308(e)(2).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>DATA ANALYSIS</b>		<b>Training Format</b>		
		<b>Live</b>	<b>Interactive</b>	
Percentage of public filers who completed annual ethics training before the end of the calendar year. <i>See</i> 5 C.F.R. § 2638.308(a).				
8.6	• Executive Schedule Level I and Level II. <i>See</i> 5 C.F.R. § 2638.308(e)(1).	100%	N/A	
8.7	• Other PAS and Equivalent. <i>See</i> 5 C.F.R. § 2638.308(e)(2).	100%	N/A	
8.8	• SES and Equivalent. <i>See</i> 5 C.F.R. § 2638.308(e)(3).	100%	N/A	
Percentage of confidential filers and certain other employees who completed annual ethics training before the end of the calendar year. <i>See</i> 5 C.F.R. § 2638.307(a)(d).				
8.9	• Employees required to file an annual confidential financial disclosure report. <i>See</i> 5 C.F.R. § 2638.307(a)(1).	100%	N/A	
8.10	• Employees appointed by the President. <i>See</i> 5 C.F.R. § 2638.307(a)(2).	N/A	N/A	
8.11	• Employees of the Executive Office of the President. <i>See</i> 5 C.F.R. § 2638.307(a)(2).	N/A	N/A	
8.12	• Contracting officers described in 41 U.S.C. § 2101. <i>See</i> 5 C.F.R. § 2638.307(a)(3).	N/A	N/A	
8.13	• Other employees designated by the head of the agency. <i>See</i> 5 C.F.R. § 2638.307(a)(4).	100%	N/A	
<b>COMMENTS</b>				
8.10-8.12: STB had no employees in these categories who were not included at 8.9.				

<b>9.0</b>	<b>ETHICS ADVICE AND COUNSELING</b>			
	<b>COMPLIANCE REQUIREMENT</b>	<b>Yes</b>	<b>No</b>	<b>N/A</b>
9.1	Based on a sample collected by OGE, guidance provided by agency ethics officials to employees appears to be consistent with applicable laws and regulations. <i>See</i> 5 C.F.R. § 2638.104(c)(4).	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>COMMENTS</b>				
None				

<b>10.0</b>	<b>SPECIAL GOVERNMENT EMPLOYEES (SGE) SERVING ON ADVISORY COMMITTEES AND BOARDS</b>	
<b>Confidential Financial Disclosure</b>		
10.1	Number of SGEs serving on Advisory Committees and Boards.	0
	<b>DATA ANALYSIS</b>	<b>%</b>
10.2	Percentage of sampled confidential new entrant reports filed timely. <i>See</i> 5 C.F.R. § 2634.903(b).	N/A
10.3	Percentage of sampled reports reviewed within 60 days of receipt but not later than the SGE's first meeting. <i>See</i> 5 C.F.R. § 2634.605(a).	N/A
10.4	Percentage of sampled reports certified within 60 days of receipt. <i>See</i> 5 C.F.R. § 2634.605(a).	N/A

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**UNITED STATES OFFICE OF  
GOVERNMENT ETHICS**Preventing Conflicts of Interest  
in the Executive Branch**Ethics Training**

	COMPLIANCE REQUIREMENTS	Yes	No	N/A
	Required ethics training must be provided to each SGE. See 5 C.F.R. §§ 2638.304 and 2638.307.			
10.5	The training presentation(s) addressed concepts related to conflicts of interest, impartiality, misuse of position and gifts. See 5 C.F.R. § 2638.304(e)(1).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
10.6	The agency provided employees with either the following written materials or written instruction for accessing them: The summary of the Standards of Conduct distributed by the Office of Government Ethics or an equivalent summary prepared by the agency; provisions of any supplemental agency regulation that the DAEO determines to be relevant or a summary of those provisions; such other written materials as the DAEO determines should be included; instructions for contacting the agency's ethics officials. See 5 C.F.R. § 2638.304(e)(2).	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	DATA ANALYSIS	%		
10.7	Percentage of SGEs who received initial ethics training. See 5 C.F.R. § 2638.304.	N/A		
10.8	Percentage of SGEs who received initial ethics training timely. See 5 C.F.R. § 2638.304(b)(2).	N/A		
10.9	Percentage of SGEs who received annual ethics training. See 5 C.F.R. § 2638.307(d)(2).	N/A		
	COMMENTS			
	Surface Transportation Board does not have any Special Government Employees.			

**RECOMMENDATIONS**

<b>#</b>	<b>Element</b>	<b>RECOMMENDATION</b>	<b>Compliance Due</b>
1	5.4	<p><u>RECOMMENDATION:</u> Ensure that written offers of employment for prospective employees provide a time frame for completing initial ethics training, when applicable.</p> <p><u>AGENCY RESPONSE:</u> Although the Board has timely provided all initial ethics training to prospective employees, it is preparing new written procedures and an updated template for notices to prospective employees that will include the proper time frame for completing initial ethics training. The new procedures will be reviewed and approved by the DAEO.</p>	
2	5.5	<p><u>RECOMMENDATION:</u> Ensure that written offers of employment for prospective employees where applicable, provide a statement regarding financial disclosure requirements and an explanation that new entrant reports must be filed within 30 days of appointment.</p> <p><u>AGENCY RESPONSE:</u> The Board is preparing new written procedures and an updated template for notices to prospective employees that will include a statement regarding financial disclosure requirements and an explanation that new entrant reports must be filed within 30 days of appointment (where applicable). The new procedures will be reviewed and approved by the DAEO.</p>	



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★  
Preventing Conflicts of Interest  
in the Executive Branch

3	5.6	<p><u>RECOMMENDATION:</u> Ensure that the agency has established written procedures for issuing the notice to prospective employees.</p> <p><u>AGENCY RESPONSE:</u> Although the Board has provided written ethics notices to prospective employees, it is preparing new written procedures and an updated template to ensure that prospective employees received ethics notices. The procedures will address the recommendations in Elements 5.4 and 5.5 above. The new procedures will be reviewed and approved by the DAEO.</p>	
4	5.7	<p><u>RECOMMENDATION:</u> Ensure that the agencies written procedures for issuing notices to prospective employees are reviewed by the DAEO each year.</p> <p><u>AGENCY RESPONSE:</u> As part of the written procedures recommended in Elements 5.4-5.6, the Board will include a step whereby the DAEO will review the written procedures for issuing notices to prospective employees each year.</p>	
5	5.8	<p><u>RECOMMENDATION:</u> Ensure that the agency can demonstrate that there is an effective process for ensuring all covered employees receive the required information with their written offer of employment. See 5 C.F.R. § 2638.303.</p> <p><u>AGENCY RESPONSE:</u> The Board is preparing new written procedures that will ensure that the required information will be provided to prospective employees in their written offer of employment.</p>	
6	6.5	<p><u>RECOMMENDATION:</u> Ensure that the agency has established written procedures for supervisory ethics notices. See 5 C.F.R. § 2638.306(d).</p> <p><u>AGENCY RESPONSE:</u> Although the Board has provided written supervisory ethics notices to new and promoted employees, it is preparing new written procedures for, and an updated template for, notices to new supervisors. The new procedures will be reviewed and approved by the DAEO</p>	
7	6.6	<p><u>RECOMMENDATION:</u> Ensure that the agency's written procedures for supervisor ethics notices are reviewed by the DAEO each year. See 5 C.F.R. § 2638.306(d).</p> <p><u>AGENCY RESPONSE:</u> As part of the written procedures recommended in Element 6.5, the Board will include a step whereby the DAEO will review the written procedures for issuing notices to new supervisors each year.</p>	
8	7.3	<p><u>RECOMMENDATION:</u> Ensure that the agency has established written procedures for initial ethics training. See 5 C.F.R. § 2638.304(f).</p> <p><u>AGENCY RESPONSE:</u> While the Board always provides initial ethics training for all new employees, the Board is preparing new written procedures for initial ethics training.</p>	
9	7.4	<p><u>RECOMMENDATION:</u> Ensure that the agency's written procedures are reviewed by the DAEO each year. See 5 C.F.R. § 2638.304(f).</p> <p><u>AGENCY RESPONSE:</u> As part of the written procedures recommended in Element 7.3, the Board will include a step whereby the DAEO will review the written procedures for initial ethics training each year.</p>	