



# *Ethics Briefing*



*CSM (R) Alston*



# Overview

- Legal Sources for your Kit Bag
- Gifts
- Misuse: Public Office, Position, & Title
- Political Activity
- Ethical Decision Making



# *Legal Sources*

## *Criminal Conflict of Interest Statutes*

- **18 U.S.C. 201, Bribery and Gratuities.** Prohibits personnel from seeking, receiving or agreeing to accept anything of value to influence their Government actions or as a result of their Government actions.
- **18 U.S.C. 207, Post-Government Employment.** Places certain restrictions on former Federal personnel against representing the interests of others back to the Federal government after leaving Federal employment.
- **18 U.S.C. 208, Financial Conflict of Interest.** Bars Federal personnel from participating personally and substantially in an official capacity in any particular Government matter that would have a direct and predictable effect on the employee's actual or imputed financial interests.



## *Legal Sources*

### *Criminal Conflict of Interest Statutes*

- **18 U.S.C. 209, Dual Compensation.** Prohibits Federal personnel from being paid by someone other than the United States for doing their official Government duties.



# ***Legal Sources***

## ***Ethics Regulations***

- **5 C.F.R. 2635, Standards of Conduct for Employees of the Executive Branch.** The Federal-wide regulations that implement the conflict of interest laws and govern ethical conduct of all Federal employees.
- **5 C.F.R. 3601, DoD Supplemental Standards of Conduct.** Provides additional DoD-specific Federal ethics regulations in the Code of Federal Regulations.
- **Joint Ethics Regulation (JER) current edition.** Provides additional DoD-specific ethics regulations.





# ***Standards of Conduct for Employees of the Executive Branch***

**The Standards of Conduct regulations address the following topics**

- Conflicting Financial Interests
- Impartiality
- Gifts from outside sources and between employees
- Seeking Non-Federal Employment
- Misuse of Official Position, to include...
  - Nonpublic information;
  - Government property;
  - Official time; and
  - Use of public office for private gain;
- Outside Activities, to include...
  - Outside Employment;
  - Fundraising;
  - Teaching, Speaking, Writing; and
  - Providing Expert Testimony.



*The DoD Supplemental regulation addresses additional issues specific to DoD personnel such as:*

- Monetary limit on value of group gift (currently no more than **\$480**) from subordinates to supervisor for special, infrequent occasions; prohibition on soliciting contributions greater than **\$10** for such a gift.
- Requirement to use a disclaimer when providing unofficial speeches.
- Prior approval by the supervisor for compensated outside employment with a prohibited source if the DoD employee is a financial disclosure filer.
- Acceptance of unsolicited gifts of free attendance at certain events sponsored by a State or local government or by certain civic organizations when an employee's attendance serves a community relations interest of the agency.



# *DoD Joint Ethics Regulations*

- DoD's Joint Ethics Regulation (JER) serves as a source of guidance on the standards of ethical conduct and other ethics rules.
- The JER also lists DoD's primary ethical values:
  - Honesty
  - Integrity
  - Loyalty
  - Accountability
  - Fairness
  - Caring
  - Respect
  - Promise Keeping
  - Responsible Citizenship
  - Pursuit of Excellence



# *General Principles of Public Service*

The 14 General Principles of Public Service establish basic obligations and ethical values and goals for all Federal employees and form the foundation for most ethics laws and regulations.

## **Do**

- Hold financial interests or positions.
- Place loyalty to the Constitution, the laws, and ethical principles above private gain.
- Put forth honest effort in performing duties.
- Act impartially towards all groups, persons, and organizations.
- Protect and conserve Federal property.
- Disclose waste, fraud, abuse, and corruption to appropriate authorities.
- Fulfill in good faith your obligations as a citizen, and pay your Federal, State, and local taxes.
- Comply with all laws providing equal opportunity to all persons, regardless of their race, color, religion, sex

## **Don't**

- Hold financial interests or positions
- that conflict with your Federal duties.
- Use or allow use of nonpublic information for private interests.
- Solicit or accept gifts from persons or parties that do business or seek official action from DoD (unless an exception applies).
- Make unauthorized commitments or promises that bind the Government.
- Use public office for private gain.
- Use Federal property for other than authorized activities.
- Take actions that give the appearance that they are illegal or unethical.
- (pregnancy gender identity, and sexual orientation) national origin, age, genetic information or disability



# GIFTS



## ***Gifts: General Rules***

- **Gifts from Outside Sources:** Federal personnel may not solicit or accept gifts given by a prohibited source (e.g., a defense contractor) or because of their official position.
- **Gifts between Federal Employees:** General prohibition on acceptance of gifts from subordinates or people who earn less than you.



## *Gifts from Outside Sources: Definitions*

A gift is any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or any other item having monetary value. It includes services as well as gifts of training, transportation, travel, lodging, and meals.

The following items are **not** considered gifts from outside sources:

- Modest items of food & non-alcoholic refreshments, not part of a meal.
- Items of little intrinsic value (e.g., plaques, certificates, and trophies), intended solely for presentation.
- Free attendance at an event on the day an employee is assigned to present information on behalf of the agency.
- Discounts and favorable rates available to the public, all Federal personnel, or all military personnel.
- Rewards and prizes from contests open to the public.
- Anything paid for by the Government or secured by the Government under a contract.
- Anything for which market value is paid by the employee.



## *Gifts from Outside Sources: Exceptions*

### **Gifts from Outside Sources May be Accepted When:**

- Gift has a value of \$20 or less, not to exceed \$50 from the same source in a single calendar year. (Gift cannot be cash.)
- Gift is based on a personal relationship.
- Discounts and similar benefits meeting certain requirements.
- Awards and honorary degrees.
- Gift is based on outside business or employment relationships.
- Gift is customarily offered by a prospective employer (i.e., interview travel expenses or meals).
- Social invitations from other than prohibited sources.
- Meals, refreshments, and entertainment in foreign areas.
- Gift is accepted under specific statutory authority (i.e., travel payments from non-federal sources).
- Free attendance at widely-attended gatherings (WAGs).





# *Gifts from Outside Sources: Exceptions*

## **Travel Payments from Non-Federal Sources:**

- 31 U.S.C. § 1353 is the statute that permits Federal agencies to accept gifts of travel, meals, lodging, and/or registration fees associated with official travel (not mission essential) on behalf of the Government.
- This is considered a gift to the Government and not to the employee. The employee cannot be directly reimbursed.
- Under this law, you must obtain written approval before travel.
- The person who approves your travel (travel approval authority) must sign a memorandum approving acceptance of the gift.
- An ethics counselor must also concur with the travel approval authority's determination before the travel begins.



## *Gifts from Outside Sources: Exceptions*

### **Widely-Attended Gatherings (WAGs):**

- The following criteria is required to accept free attendance at a WAG:
  - A large number of attendees will attend.
  - Diverse views must be represented.
  - There must be an opportunity to exchange views.
  - The supervisor must determine, in writing, that there is an agency interest in the subordinate's attendance.
  - An ethics counselor must concur.
  - The employee must attend in his or her personal capacity after duty hours or, if authorized, on excused absence pursuant to applicable guidelines for granting such absence



# *Gifts from Outside Sources: Exceptions*

## **Gifts between Federal Employees:**

- There is no prohibition on supervisors giving gifts to subordinates, provided no favoritism is shown and the gift is not associated with the subordinate's performance.

## **Gifts from Subordinates to Supervisors (Exceptions):**

- A gift valued at **\$10** or less on an occasional basis, to include traditional gift giving occasions (e.g., birthday). No cash.
- Personal hospitality provided at a residence which is of a type and value customarily provided by the employee to personal friends.
- Items given in connection with the receipt of personal hospitality if of a type and value customarily given on such occasions (e.g., host gift).
- Items given on special, *infrequent* occasions in recognition of events such as marriage, illness, the birth or adoption of a child, and retirement (e.g., a group retirement gift). The value of the gift is capped at **\$480**, and contributions greater than **\$10** cannot be solicited.



# *Considerations for Declining Gifts*

- The Office of Government Ethics' regulations state that an employee should consider declining a gift *if a reasonable person with knowledge of the relevant facts would question the employee's integrity or impartiality.*
- Factors to consider when contemplating declining a gift include:
  - High market value of the gift.
  - Timing of the gift.
  - Whether donor has interests that may be affected by the employee.
  - Whether acceptance would create the appearance of preferential treatment.



# *Test Your Knowledge*

- You and your co-workers are on official Government travel for a conference and have been invited to attend a social event at a restaurant near the conference site. You would like to attend and socialize in a relaxed atmosphere, with approximately 100 people from industry, state and local governments, and the media. Drinks and appetizers, valued at \$25, will be provided. The sponsor of the event is a defense contractor. Not all conference attendees are invited. You have not accepted a gift from this contractor in the current year. Your supervisor and several other employees will be in attendance.

Can you accept the invitation of free attendance, and if so, on what basis?





## *Select the best answer:*

1. Since the gift is of limited value, you graciously accept it.
2. Everyone else from DoD appears to be accepting the gift of free attendance, so you do so as well.
3. You accept the gift after consulting with an ethics counselor and your supervisor who determined, in writing, that this event is a widely-attended gathering and that there was an agency interest in your attending.
4. You decide the ethics rules prohibit you from accepting this gift and so you decline the invitation.



*Great job! Answer #3 is the best answer!!*

- You may accept this gift if the event is a widely attended gathering and you have consulted with an ethics counselor and your supervisor has determined, in writing, that there is an agency interest in your attending. Legal has templates available on request.
- Since not all the conference attendees are invited, this is considered a separate event from the conference.
- Absent the applicability of a gift exclusion or exception, you may **not** accept a gift in excess of \$20.
- You could also attend the event and pay your own way. It is never inappropriate, and often prudent, to decline a gift from an outside source.



# Misuse: Public Office, Position, & Title



## *Misuse: Public Office, Position, & Title*

### **Misuse includes improper**

- Use of public office for private gain;
- Use of nonpublic information;
- Use of government property & resources;
- Use of official time;
- Use of official title; and
- Endorsement.



## *Misuse: Public Office, Position, & Title*

- **General Rule:** Personnel shall not use public office for their own private gain, for the endorsement of any product, service, or enterprise, or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.
- **Endorsement:** Personnel are prohibited from using their position, title or any authority associated with their position to endorse or imply endorsement of a non-Federal entity, its services, or products.
- **Nonpublic Information:** An employee shall not use or permit use of nonpublic information to further their own private interest or that of another. Nonpublic information is information gained by reason of Federal employment that the employee should know has not been made available to the general public.





# *Misuse: Public Office, Position, & Title*

## **Teaching, speaking, & writing:**

- You must use a disclaimer if:
  - You use your official title or position as one of several biographical details:
  - The subject deals in significant part with any ongoing or announced DoD policy, program, or operation and you have not been authorized by the appropriate authority to present that material as the official DoD position.
- The disclaimer should:
  - Indicate that the views expressed are your own and do not represent the views of the Department of Defense;
  - Be in a prominent position for an article, book or other writing;
  - Be verbal if it is given at the beginning of an oral presentation or speech.



# *Misuse: Public Office, Position, & Title*

Property of the Federal Government, including communications and electronics, may only be used for authorized purposes.

- Subject to supervisor approval, personal use of Government resources may be authorized IF the use:
  - Does not adversely affect the performance of official duties;
  - Is of reasonable duration and frequency;
  - Serves a legitimate public interest (such as keeping the employee at their desk);
  - Does not reflect adversely on or pose additional cost to DoD.

***WARNING: You should also check other regulations applicable to particular categories of resources (e.g., Joint Travel Regulation, IT regulations, etc.). Even though personal use may not violate the ethics rules, it may violate other rules.***



# *Misuse: Social Media (Personal Accounts)*

## ➤ DoD personnel must:

- Maintain a clear distinction between personal and official social media accounts;
- Ensure personal social media accounts are clearly identifiable as such;
- Avoid the use of DoD titles, insignia, uniforms, or symbols in a way that could imply DoD sanction or endorsement of personal social media content;
- When in doubt, include a disclaimer that social media communications on personal accounts are personal views.

## ➤ DoD personnel cannot:

- Conduct official business on personal social media accounts;
- Use their official position (including name, image, or likeness as a DoD employee or servicemember) on personal accounts to endorse a product or service (e.g., influencers).



# *Misuse: Subordinates & Time*

- **Subordinates:** Use of personnel for other than official purposes, to include personal errands, is never permitted.
  - Example – A supervisor serving on the board of her homeowners' association may never request that her administrative staff prepare copies of documents for an upcoming association meeting.
- **Time:** While short breaks may be permitted, use of official time for other than authorized purposes is never permitted.
  - Example – The supervisor above may not use official time to review and edit documents for the association meeting.

***WARNING: This is a HIGH RISK area. Use of subordinates for personal errands (e.g., meal or dry cleaning pick up) is prohibited. Cases involving misuse of subordinates represent a significant portion of DoD OIG substantiated cases.***



# *Test Your Knowledge*

Your supervisor asks you to pick up her dry cleaning while you're out getting a morning coffee; since the coffee shop is located next to the dry cleaners, this will save her a trip. Is this acceptable?

1. Yes, as long as the supervisor is not asking for you to pay.
2. No, this is an improper use of Government resources.
3. Yes, you are there to be helpful to your supervisor





## #2 - *Correct*

**Great job! This is the best answer.** Use of personnel for other than official purposes, to include personal errands, is prohibited.



# *Test Your Knowledge*

You maintain a personal account on a professional networking social media site. You list your current government position, along with your job history and educational background. You recently updated your profile to include your official government photo, which has the U.S. and SES flags in the background. Can you post an endorsement of an industry association's recent conference on your profile page, recommending that national security professionals attend future events hosted by this organization?

1. Yes, because you are posting this on your personal profile on a professional networking social media site.
2. No, because you can never endorse a non-Federal entity such as an industry association.
3. Yes, if you include a disclaimer that states "Views are my own."



## #3 - *Correct*

**Great job! This is the best answer.**

Since your personal social media profile lists your current government position/title and includes your official photo, you should include a disclaimer in your profile (e.g., “views are my own”) to avoid confusion about whether this is a personal account or official DoD account. Since the disclaimer informs the public that this is a personal account, you may choose to endorse the non-federal entity in a personal capacity. However, as a senior official, you should still be concerned with appearances, and may wish to refrain from endorsing a non-federal entity to avoid even the appearance that you are misusing your official position.



# Political Activities Involving Military Members & Installations



# *Political Activities Involving Military Members & Installations*

## **Military Members:**

- Authority: Military members are governed by **DoD Directive 1344.10**.
- Restriction: Active duty members are prohibited from engaging in partisan political activity.

## **Military Installations:**

- Candidates for public office may not engage in campaign or election-related activities while on a United States military installation:
- Prohibited activities include: public assemblies, town hall meetings, speeches, fund-raisers, press conferences, post-election celebrations, and concession addresses.



## *Test Your Knowledge*

A friend of yours declares her candidacy for the 2028 Presidential election. She asks you to spread the word among your colleagues that her campaign is starting a big fundraising push. Can you ask your coworkers and subordinates to contribute?

1. Yes, asking for contributions does not raise concerns.
2. Yes, if you are a civilian and not a further restricted employee.
3. No, you can never solicit political contributions for a partisan campaign.





## **#3 - *Correct***

**Great job! This is the correct answer.**

Both further and less restricted employees are prohibited from soliciting contributions for a partisan political candidate, whether they are on or off duty.



# *Ethical Decision Making*

## Evaluate the Big Picture

- ✓ Is it legally sound?
- ✓ *Can* I do it?
- ✓ *Should* I do it?
- ✓ Is it *right for the government*?
- ✓ How will it be perceived?

***Remember your duty as a public servant.***



# *Test Your Knowledge*

When, while working for the Department, should you think about ethical choices?

1. Only when participating in acquisitions.
2. Only while seeking non-Federal employment.
3. In every decision you make.



## *#3 - Correct*

**Great job! This is the best answer.**

**We Should/Must:**

“Incorporate ethical conduct in everything that we do.” Before taking an action, you should not only ask yourself, can I do this?” but also, “should I do this?”



# *Questions*

