



Annual Ethics Training for Army Secretariat Personnel 2021

Army Office of General Counsel, Ethics and Fiscal

UNCLASSIFIED



APPLICABILITY

- **Army Secretariat personnel may complete this module to satisfy their annual ethics training requirement, where required.**
- **To receive credit, Army Secretariat employees must email their certificate of completion to Army OGC as instructed at the end of the presentation.**
- **Caution:** If you are not an Army Secretariat employee, check with your servicing ethics office **before** taking the training to ensure that office will accept this presentation in satisfaction of your annual training requirement. Do **not** email your certificates of completion to Army OGC as instructed at the end of the presentation. **Non-Army Secretariat employees seeking credit for completing this training must provide their certificates of completion to their servicing legal office, not Army OGC.**



APPLICABILITY

This module should be completed during official business hours so that you may contact an ethics official if you have any questions.

Test questions at the end of the presentation.



PURPOSE

- **This training is designed for use by Army Secretariat employees to satisfy their annual ethics training requirement, preferably when they cannot attend a live ethics training session.**
- **The intent of this module is to help Army personnel better understand their responsibility to foster and encourage an ethical workplace.**
- **Specifically, you are encouraged to think about the ethical culture in your organization and your contributions towards that culture.**



LEARNING OBJECTIVES

- **General Principles of Public Service**
- **Ethical Decision Making**
- **Political Activities**
- **Non-Federal Entities**
- **Gifts**
- **Conflicts of Interest**
- **Impartiality in Performing Official Duties**
- **Financial Disclosure Reports**
- **Misuse of Position**
- **Use of Government Resources**
- **Outside Activities / Employment**
- **Post-Government Employment**



GENERAL PRINCIPLES OF PUBLIC SERVICE

DO

- Place loyalty to the Constitution, the laws, and ethical principles above private gain.
- Act impartially to 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, national origin, age, or handicap.

DON'T

- Use public office for private gain.
- Use nonpublic information to benefit yourself or anyone else.
- Solicit or accept gifts from persons or parties that do business or seek official action from DoD (unless permitted by an exception).
- Make unauthorized commitments or promises that bind the Government.
- Use Federal property for other than authorized activities.
- Take jobs or hold financial interests that conflict with your Government responsibilities.
- Take actions that give the appearance that they are illegal or unethical.



ETHICAL DECISION MAKING

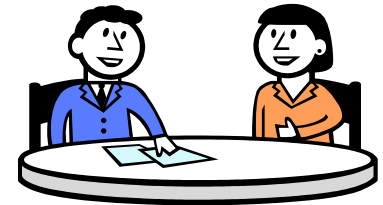
Always ask yourself these questions when making a decision:

- **Do the ethics rules permit me to take a proposed action?**
 - **May I proceed?**
 - **If yes, SHOULD I proceed? Just because a course of action is legal does not mean it is a good idea.**
- **What are the benefits to DoD if I take the proposed action and what are the RISKS of creating an appearance of unethical conduct?**



POLITICAL ACTIVITIES

**The Hatch Act was passed in 1939 to ensure that federal programs "are administered in a nonpartisan fashion, to protect federal employees from political coercion in the workplace, and to ensure that federal employees are advanced based on merit and not based on political affiliation."
(U.S. Office of Special Counsel)**





POLITICAL ACTIVITIES

Political Activity: activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.





POLITICAL ACTIVITIES

- **Federal Employees – Hatch Act,
5 U.S.C. § 7321-7326.**
- **Soldiers – DoD Directive 1344.10,
Political Activities by Members of the
Armed Forces.**



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POLITICAL ACTIVITIES

DoD Employees May NOT Solicit, Accept, or Receive Political Contributions.

This includes:

- **Hosting or Serving as the POC for a fundraiser**
- **Signing a fundraising solicitation letter**
- **Collecting money at the door of a fundraising event**
- **Soliciting funds through a phone bank (even anonymously)**



POLITICAL ACTIVITIES

DoD Employees May NOT Use Official Authority to Affect the Outcome of an Election.

- **May not invite subordinates to campaign events**
- **May not use official title or position while engaging political activity**
- **May not use agency resources, e.g., official social media account, while engaging in political activity**
- **May not use non-public information for political purposes**



POLITICAL ACTIVITIES

Examples of Prohibited Political Activity in the Workplace (includes telework location):

- **Buttons, Posters, Coffee Mugs, Screen Savers, etc., that support or oppose political parties or candidates running for partisan political office**
- **E-mailing, blogging, tweeting, posting to social media, prohibited in the workplace:**
 - **Even if using a personal device or email account**
 - **Even if sharing or forwarding content which was authored by others**
 - **Even if sharing or forwarding to friends or like-minded coworkers**



POLITICAL ACTIVITIES?

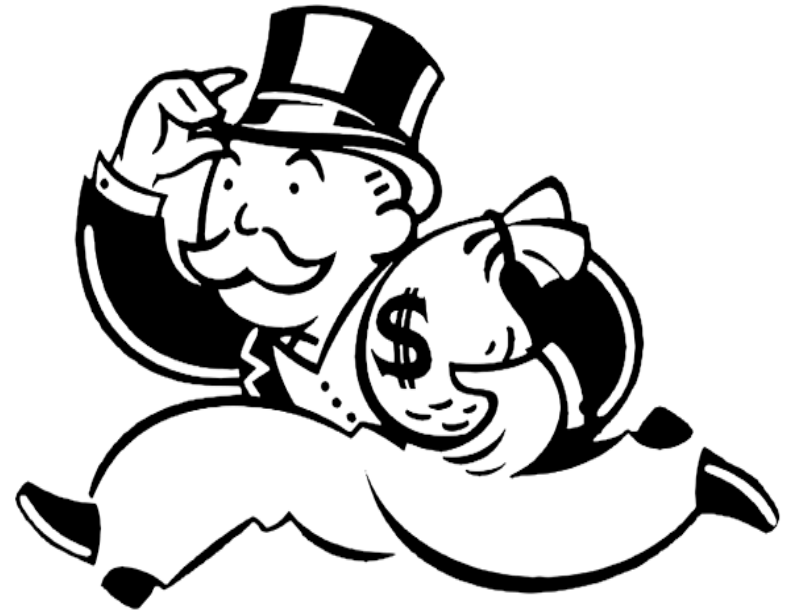
4 IN 5 AMERICANS
SUPPORT RAISING THE FEDERAL MINIMUM WAGE
TO \$10.10 AN HOUR



NOW IT'S TIME FOR CONGRESS TO ACT.
PASS THE FAIR MINIMUM WAGE ACT OF 2013.

**Not political
activity**

**On Feb. 11th, the Top 1% Stop Paying
Into Social Security for the Rest of 2015**



**It's Time for Millionaires and Billionaires
to Pay Their Fair Share. Scrap the Cap!**

SOCIAL
SECURITY
WORKS.



POLITICAL ACTIVITIES

ALL DOD EMPLOYEES MAY:

- **Place a campaign sign in the yard (exceptions for on-post housing)**
- **Place A campaign bumper sticker on a personal car**
- **Make financial contributions to political parties or candidates running for partisan political office**
- **Express personal opinions on candidates and issues (but maybe not a good idea in the workplace)**



POLITICAL ACTIVITIES

ALL DOD EMPLOYEES MAY:

- **Attend political events (but never in uniform)**
- **Participate in nonpartisan elections**
- **Assist in nonpartisan voter registration drives**
- **Sign a nominating petition**



NON-FEDERAL ENTITIES

- **Employees may voluntarily participate in activities of non-Federal entities (NFEs) as *individuals in their personal capacities, provided they act exclusively outside the scope of their official positions.***
- **But, an employee's personal participation with an NFE may not be in a fiduciary role (for example, as an officer, board member, or committee member) if such participation creates a conflicts of interest that prevent him/her from performing certain official duties.**



GIFTS

- A Gift is:
 - **Any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value.**
 - **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.**





GIFTS – NEW PARADIGM

§ 2635.201(b)(1) –

“Employees should consider declining otherwise permissible gifts if they believe that a reasonable person with knowledge of the relevant facts would question the employee’s integrity or impartiality as a result of accepting the gift.”



GIFTS – NEW PARADIGM

- **It is important because of what it does:**
 - **It changes the default.**
 - **It shifts the employee’s focus from “how can I accept this,” to “should I accept this.”**
 - **It requires the employee to engage in ethical decision-making. Ethics questions occur everyday, whether a specific rule applies or not.**
- **Bottom Line: Ownership by the employee of his/her actions.**



GIFTS FROM OUTSIDE SOURCES

General Rules (5 CFR 2635.202)

An employee may not, directly or indirectly:

- Solicit a gift from a **prohibited source**;
- Solicit a gift to be given because of the **employee's official position**;
- Accept a gift from a **prohibited source**; or
- Accept a gift given because of the **employee's official position**.

There are exceptions, of course!



GIFTS FROM OUTSIDE SOURCES

Prohibited Sources

Remember the 14 Principles!

5 CFR 2635.101(b)(4) – GIFTS:

An employee shall not . . . solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.



GIFTS FROM OUTSIDE SOURCES

Prohibited Sources

“Prohibited Source” Definition (5 CFR 2635.203(d))

Any person or entity who:

- Is seeking official action by the employee's agency;**
- Does business or seeks to do business with the employee's agency;**
- Conducts activities regulated by the employee's agency; or**
- Has interests that may be substantially affected by the performance or nonperformance of the employee's official duties.**



GIFTS FROM OUTSIDE SOURCES Prohibited Sources

**Contractor employees are ALWAYS
prohibited sources!**

General rule – no gifts solicited or accepted





OFFICIAL POSITION?

- **Official Position:**
 - **Gift would not have been solicited, offered, or given had the employee not held the status, authority, or duties associated with his position**



GIFTS FROM OUTSIDE SOURCES

Exclusions (5 CFR 2635.203) – i.e., NOT GIFTS

- Modest items of food & **non-alcoholic** refreshment, not part of a meal.
- Items of little intrinsic value (e.g., plaques, certificates, and trophies), intended primarily for presentation.
- Free attendance at an event on the day an employee is assigned to present official information.
- 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.
- Gifts accepted by the Government under statutory authority.
- Anything for which market value is paid by the employee.



GIFTS FROM OUTSIDE SOURCES

Exceptions (5 CFR 2635.203) – i.e., GIFTS But...

- **Gifts with a value of \$20 or less, not to exceed \$50 from the same source in a single calendar year.**
- **Gifts based on a personal relationship.**
- **Discounts and similar benefits meeting certain requirements.**
- **Awards and honorary degrees.**
- **Gifts based on outside business or employment relationships.**



GIFTS FROM OUTSIDE SOURCES

More Exceptions (5 CFR 2635.203)

- **Gifts customarily offered by a prospective employer.**
- **Social invitations from other than prohibited sources.**
- **Meals, refreshments, and entertainment in foreign areas.**
- **Gifts accepted under specific statutory authority.**
- **Free attendance at widely-attended gatherings (WAG).**



GIFTS FROM OUTSIDE SOURCES

More on the \$20/\$50 Rule:

- You may accept gifts valued up to \$20 in value on one occasion (but not cash). [5 CFR 2635.204(a)]
- Gifts accepted from one source (e.g., one company) may not exceed \$50 in value in a calendar year.
- May not “buy down” gift to \$20, e.g., pay \$5 & accept a gift worth \$25.
- The \$20 limit is per occasion and per source (e.g., at a trade show you may accept gifts worth \$20 or less from several different DoD contractors on the same day).
- Good practice – a system to track gift acceptance.



GIFTS FROM OUTSIDE SOURCES

More on Widely Attended Gatherings (WAGs):

- **Generally, an employee may not accept a gift given by a prohibited source (e.g., a DoD contractor) or given because of the employee's official position.**
- **A common exception to this general prohibition is the widely-attended gathering (WAG) exception. Advance supervisory written approval required.**



GIFTS FROM OUTSIDE SOURCES

More on Widely Attended Gatherings (WAGs):

The “Agency Designee” (generally supervisor) must determine, **in writing**, that:

1. A large number of attendees will be present.
2. Diverse views will be represented.
3. There will be an opportunity to exchange views.
4. There is an agency interest in the subordinate’s attendance.
5. The agency’s interest in the employee’s attendance outweighs the concern that the employee may appear to be improperly influenced in the performance of official duties.

NOTE: If Approved, MUST attend in personal capacity (leave/liberty) and may NOT use Government transportation.



GIFTS BETWEEN EMPLOYEES

General Rule: Employees shall not:

- 1. Give or donate toward a gift for a superior or ask another employee to donate towards a gift to either his own superior or that of another; or**
- 2. Accept a gift from a lower-paid employee (*unless the donor and recipient are personal friends who are not in an official superior-subordinate relationship*).**



GIFTS BETWEEN EMPLOYEES

Exceptions:

- 1. Unsolicited gifts on traditional gift giving occasions, such as holidays or birthdays, valued at \$10 or less (no cash).**
- 2. Food and refreshments that will be consumed at the office.**
- 3. Personal hospitality (e.g., meals) at someone's home.**
- 4. Customary gift when you invite a subordinate to your home for a meal.**



GIFTS BETWEEN EMPLOYEES

More Exceptions:

5. Hostess gifts in connection with the receipt of personal hospitality (e.g., dinner party invite).
6. Unsolicited gifts on special infrequent occasions:
 - a) Wedding, illness, birth of a child
 - b) An occasion that terminates the official superior – subordinate relationship (e.g., transfer, retirement, resignation), but not promotion.

NOT: Promotions, Birthdays, or Anniversaries

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GIFTS BETWEEN EMPLOYEES

Rules: Gifts for “*special infrequent occasions:*”

- Gift must be “appropriate to the occasion.”
- May not accept a gift on these occasions from a group that includes a subordinate if valued at over \$300. **(Contractors may NOT contribute)**
- Do not include cost of food, refreshments, and entertainment provided to mark the occasion.
- Suggested voluntary donation may not exceed \$10 (although all may give as much as desired).
- Gift to spouse to mark this occasion must be attributed to the employee.



CONFLICTS OF INTEREST

- **Statutory Provision - *Criminal***
(18 U.S.C. § 208)
- **Impartiality – Regulatory
Provision (5 C.F.R.
§2635.502)**
- **Financial Disclosure**





CONFLICTS OF INTEREST – Statutory Provision (18 USC § 208)

18 U.S.C. § 208 generally prohibits an employee from personally and substantially participating in a particular matter involving specific parties in which he (or anyone or any entity whose interests are imputed to him) has a financial interest, if the particular matter will have a direct and predictable effect on that interest.



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CONFLICTS OF INTEREST – Statutory Provision (18 USC § 208)

The interests of the following individuals are imputed to you for 18 U.S.C. § 208 purposes:

- **You**
- **Your minor children**
- **Your spouse**

**REPORT THE SOURCE OF SPOUSAL
NON-FEDERAL INCOME OVER \$1000
ON THE FINANCIAL DISCLOSURE FORM!**



CONFLICTS OF INTEREST – Statutory Provision (18 USC § 208)

The interests of the following entities are imputed to you for 18 U.S.C. § 208 purposes:

- Your general partner (a "general partner" is a person who joins with at least one other person to form a business)**
- An organization with which you are negotiating an arrangement for future employment**
- An organization for which you serve as employee, officer, director, trustee, or general partner**



CONFLICTS OF INTEREST – Statutory Provision (18 USC § 208)

What is a *particular matter*?

- **Focused upon the interests of specific persons (includes contractors), or a discrete and identifiable class of persons (including contractors).**
- **Does not extend to broad policy making or considerations directed toward the interest of a large and diverse group of persons or entities.**
- **Hint: Can you identify who is involved?**



IMPARTIALITY – Regulatory Provision (5 C.F.R. §2635.502)

Absent supervisory notice and authorization, an employee should not participate in any official matter:

- **That is likely to have a direct and predictable effect on the financial interests of a member of the employee's household; or**
- **Where a person with whom the employee has a covered relationship is, or represents, a party to the matter.**



IMPARTIALITY – Regulatory Provision (5 C.F.R. §2635.502)

Reasonable Person Test for Appearance of Impartiality

If a reasonable person with knowledge of the relevant facts would question the employee's impartiality, the employee should consult with his/her supervisor before participating in the matter.



IMPARTIALITY – Regulatory Provision (5 C.F.R. §2635.502)

Covered Relationships Include:

- A member of your household or a relative with whom you are close;**
- Someone with whom you have or seek to have a business relationship other than a routine consumer transaction (e.g., landlord / tenant);**
- An organization (other than political party) in which you actively participate;**
- Someone with whom your spouse, parent, or dependent child has (or seeks to have) a close business relationship, such as partnership or employment.**



FINANCIAL DISCLOSURE REPORTS

The Primary Screen for Potential Conflicts of Interest

- **OGE 450 filers - Use the Financial Disclosure Management program at <https://www.fdm.army.mil>**
- **OGE 278e filers – Use Integrity at <https://www.integrity.gov>**
- **Supervisor review is crucial! Best Business Practice - complete review within two weeks.**



FINANCIAL DISCLOSURE REPORTS

New Entrant Reports: For any employee who is:

- 1) starting a position requiring financial disclosure filing, or**
- 2) assigned duties requiring financial disclosure filing**

New Entrant Reports must be completed within 30 days from appointment to this position, or from starting the newly assigned duties.

Check the position description to see if the position requires financial disclosure reporting.



FINANCIAL DISCLOSURE REPORTS

Annual Reports

- **Annual OGE 450, Confidential Financial Disclosure Report, due 15 February**
 - **For O-6/GS-15 and below whose duties involve potential conflicts of interest with personal assets**
 - **Look at position description**
- **Annual OGE 278e, Public Financial Disclosure Report, due 15 May**
 - **All GOs, SESs, Schedule Cs, and Political Appointees (PAs, PASs)**



FINANCIAL DISCLOSURE REPORTS

Who Files a Public Financial Disclosure Report OGE 278e?

- **OGE 278e filers:**
 - **All GOs, SESs, Schedule C Employees, Political Appointees (PAs, PASs)**
 - **Must file a Termination report within 30 days after departing Federal service.**
 - **\$200 fee for late OGE 278e filing.**



FINANCIAL DISCLOSURE REPORTS

278e Filers Must Report Transactions

Periodic Transaction Reports

- **OGE Form 278-T**
- **All 278e filers must report purchases, sales, or exchanges greater than \$1000 of:**
 - **Stocks**
 - **Bonds**
 - **Commodities futures**
 - **Any other form of security (but not mutual funds)**



FINANCIAL DISCLOSURE REPORTS

OGE 278e Filers:

Periodic Transaction Reports

- **OGE Form 278-T**
- **Must also report for spouse, dependent child, and any security where employee is owner or partial owner.**
- **Due by the earlier of 1) 30 days after actual notice of the transaction or 2) 45 days after the transaction.**
- **Use Integrity to file this report. Monthly reminder available.**



MISUSE OF POSITION

An employee shall not use his public office for his 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, including nonprofit organizations of which the employee is an officer or member, and persons with whom the employee has or seeks employment or business relations.



MISUSE OF POSITION: ENDORSEMENTS

- **“Endorsement of a non-Federal entity, event, product, service, or enterprise may be neither stated nor implied by DoD or DoD employees in their official capacities...” [DoD 5500.07-R, para. 3-209]**
- **Example: No wearing uniform while starring in a [insert name of favorite beer] commercial – implies Army endorsement.**



MISUSE OF POSITION: CONTRACTOR ISSUES

- **It is a misuse of position to endorse non-Federal entities (NFEs), to include contractors.
5 C.F.R. 2635.701-702**
 - *An employee shall not use or permit the use of his Government position or title in any manner that could reasonably be construed to imply the agency sanctions or endorses the employee's personal activities or those of another.*



MISUSE OF POSITION: CONTRACTOR ISSUES

Letters of Recommendation:

- **Endorsement rules prohibit use of official position, title or authority, including certificates of achievement, official stationery, and “star notes,” to commend the contract-related performance of a contractor or of a contractor employee.**
- **Another example of improper endorsement: recommending a contractor or contractor employee for a grant.**



MISUSE OF POSITION: CONTRACTOR ISSUES

More on Letters of Recommendation:

- **You may write a letter of recommendation or character reference in your personal capacity, i.e., if you don't use official stationery or your official title.**
- **You may write a letter of recommendation or character reference in your official capacity, i.e., you may use official stationery and your official title, if:**
 - **You receive a request for the letter or reference,**
 - **You have personal knowledge of the ability or character of the individual, and**
 - **You have dealt with the individual in the course of your Federal employment, or you are recommending the individual for Federal employment. [5 CFR 2635.702(b)]**



MISUSE OF POSITION: CONTRACTOR ISSUES

DoDI 1400.25-V451, November 4, 2013, states:

- ***“Awards, award programs, ceremonies, or receptions to acknowledge contributions by organizations or companies having a commercial or profit-making relationship with DoD must not be established.” See paragraph 3(h).***
- ***“To avoid issues in connection with contractual relationships and obligations, actual or perceived conflicts of interest, and actual or perceived acts of favoritism, persons, organizations, or companies having a commercial or profit-making relationship with DoD or with a DoD Component will not be granted recognition. See Enclosure 3, paragraph 11(b)(2).***



MISUSE OF POSITION: CONTRACTOR ISSUES

- **The Contracting Officer (CO) or the Contracting Officer's Representative (COR) may provide past performance feedback, positive or negative, to the contracting firm. The CO or COR may also provide feedback on past performance questionnaires.**
- **Bottom Line: It is the CO's or COR's (and not your) responsibility to monitor contractor employee performance, and award accordingly.**



USE OF GOVERNMENT RESOURCES

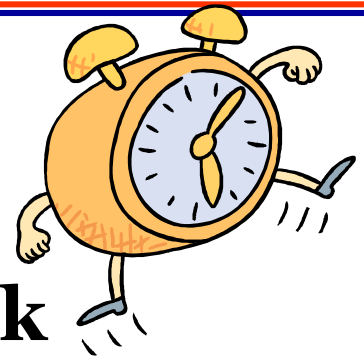
- **Use Federal Government equipment and property, including communications systems, only for official purposes or authorized purposes as approved by your supervisor.**
- **Subject to supervisor approval, you may use Government resources for personal purposes IF the use:**
 - **Does not adversely affect 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 DoD; and**
 - **Creates minimal or no significant additional cost to DoD.**

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



USE OF GOVERNMENT RESOURCES: CONTRACTOR ISSUES

- **Contractor employee time = government resource**
- **Contractor employees work on clock controlled by contractor supervisor – not gov't supervisor**
- **Leave and other time off controlled by contractor supervisor**
- **Holidays and other time off governed by contract, not gov't supervisor**
 - **Federal Government supervisors may not authorize “59 Minute Rule” and training holiday paid absences for contractors**





OUTSIDE ACTIVITIES / EMPLOYMENT

DoD Financial Disclosure Filers (OGE 450 and 278e) MUST obtain written approval from the supervisor before engaging in a business activity or compensated outside employment with a prohibited source.



OUTSIDE ACTIVITIES / EMPLOYMENT

- **The activity/outside employment requiring written approval could include:**
 - **Adjunct professor duties at local university**
 - **Fiduciary position with private organization that conducts business with or seeks support from DoD (e.g., AUSA, AAAA, Signal Assn.; but not local school board, soccer club, or homeowners assn.)**
- **Attach written approval to current financial disclosure report in FDM.**
- **Army Attorneys: No outside practice of law without General Counsel approval.**



OUTSIDE EMPLOYMENT: WORKING ON TRANSITION LEAVE

- **Military Officers**
 - **May generally begin civilian employment & draw salary in transition leave status**
- **BUT!**
 - **No working for support contractor in government office, or interacting with Federal personnel on behalf of the new employer, during transition leave.**
Violates both 18 U.S.C. §§ 203, 205, Representing new employer to Government while on AD



OUTSIDE EMPLOYMENT: WORKING ON TRANSITION LEAVE

- **Same statutes apply to outside employment.**
 - **No representing the outside business back to the Federal government.**
 - **Violates both 18 U.S.C. §§ 203, 205 - Representing new employer to Government while a full-time Federal employee**
 - **Includes contracts with Federal government**
 - **No compensation for representational services on behalf of a private entity/person rendered to the Federal government, either personally or by another, at a time when the employee worked for the Federal government.**



POST-GOVERNMENT EMPLOYMENT (PGE)

- **Seeking Employment in Anticipation of Retirement or Separation**
- **Representational Bans**





PGE: SEEKING EMPLOYMENT

- **If you are seeking non-Federal employment (sending resumes to select employers), you may not do Government work on a particular matter that will affect the financial interests of your prospective employer(s). You must request that your supervisor allow you to disqualify yourself from performing these duties.**
- **There are restrictions that will apply to your activities in the private sector in light of your specific duties and level of responsibility as a Government employee.**
- **Always consult your ethics counselor before separating from the Government.**



PGE: REPRESENTATIONAL BANS

18 U.S.C. § 207

After leaving the Federal Government, former employees are subject to additional CRIMINAL restrictions that may limit their interactions with the Federal Government when representing the interests of another person or entity.



PGE: RESTRICTIONS

Other PGE restrictions include:

- **NDAA 2008 section 847**
- **Procurement Integrity Act**
- **The Stop Trading on Congressional Knowledge Act (STOCK Act)**
- **NDAA 2018 section 1045**



PGE ADVICE LETTERS

Section 847 of the 2008 NDAA requires certain current and former DoD personnel to request written post-employment advice if they expect to receive compensation from a DoD contractor within the two-year period from the date they left the Government.

“Covered DoD officials” either:

1. Currently hold, or held when they left the Department, one of the following positions: 1) Executive Schedule, which is one appointed by the President and confirmed by the Senate; 2) Senior Executive Service; or 3) general or flag officer position (grade O-7 and above) (not frocked); **and** participated personally and substantially at the time of service in one of the above positions in an acquisition with a value in excess of \$10 million; Or

2. Currently serve, or served when they left the Department, in one of the following positions: program manager, deputy program manager, procuring contracting officer, administrative contracting officer, source selection authority, member of the source selection evaluation board, or chief of a financial or technical evaluation team for a contract in excess of \$10 million.

How to Get: Opinions must be requested and issued in AGEAR system (on the FDM home page).

DoD contractors **may not pay you** until you **receive the opinion or 30 days have passed since you submitted a complete request**, whichever occurs first.

You must have actual offer of employment or compensation to request a Section 847 opinion



Final Exam



Final Exam Q#1

NFE Scenario:

Ms. Smith DASA (Widgetry) (DASA(W)) is the vice-president of the American Society of Military Widgeteers (ASMW), an NFE. The ASMW offered her this position the day she was appointed DASA(W). The previous two DASA(W)s held this position before ASMW offered her this position.

Question:

May she accept this position without running afoul of ethics provisions?

Yes

No



Final Exam Q#1

Yes is incorrect.

It appears that ASMW offered Ms. Smith the vice-president position based on her official DASA(W) position. While DoD employees may voluntarily participate in NFE activities in their personal capacities, they may not serve in a personal capacity as an NFE officer or similar position offered because of the DoD position (DoD 5500.07-R, para. 3-301).



Final Exam Q#1

The correct answer is No.

It appears that ASMW offered Ms. Smith the vice-president position based on her official DASA(W) position. While DoD employees may voluntarily participate in NFE activities in their personal capacities, they may not serve in a personal capacity as an NFE officer or similar position offered because of the DoD position (DoD 5500.07-R, para. 3-301).



Final Exam Q#2

NFE Scenario:

COL Jones is the vice-president of the local chapter of the Association of the Army of the United States (AAUS), an NFE. The AAUS chapter is sponsoring a conference at the same installation where COL Jones works.

Question:

May COL Jones direct his Soldiers to set up for the local conference during the duty day?

Yes

No



Final Exam Q#2

Yes is incorrect.

DoD employees [to include Soldiers] “may not be used to support the unofficial activity of another DoD employee in support of non-Federal entities, nor for any other non-Federal purposes” (DoD 5500.07-R, para. 3-303b).

- NOTE: “Certain organizations have special relationships with DoD or its employees specifically recognized by law or by other directives” (DoD 5500.07-R, para. 3-212).**



Final Exam Q#2

The correct answer is No.

DoD employees [to include Soldiers] “may not be used to support the unofficial activity of another DoD employee in support of non-Federal entities, nor for any other non-Federal purposes” (DoD 5500.07-R, para. 3-303b).

- NOTE: “Certain organizations have special relationships with DoD or its employees specifically recognized by law or by other directives” (DoD 5500.07-R, para. 3-212).**



Final Exam Q#3

NFE Scenario:

Mr. Davis is an Army employee and the vice president of the Society of American Military Widgeters (SAMW), an NFE, in his personal capacity. One of Mr. Davis's subordinates asks for his approval to attend a non-local SAMW conference as part of her official duties for the training benefit.

Question:

Assuming no legal issues with attending the conference, may Mr. Davis approve this request without running afoul of ethics provisions?

Yes

No



Final Exam Q#3

Yes is incorrect.

If an employee is serving in a personal capacity as an NFE officer or director, the employee may not participate personally and substantially in any particular government matter in which the NFE has a financial interest. This is a criminal statute. In this case, the SAMW will benefit financially from Mr. Davis's approval of this request. Mr. Davis should direct the employee to seek approval from another employee who is not an officer with this NFE.



Final Exam Q#3

The correct answer is No.

If an employee is serving in a personal capacity as an NFE officer or director, the employee may not participate personally and substantially in any particular government matter in which the NFE has a financial interest. This is a criminal statute. In this case, the SAMW will benefit financially from Mr. Davis's approval of this request. Mr. Davis should direct the employee to seek approval from another employee who is not an officer with this NFE.



Final Exam Q#4

Political Activities Scenario:

An employee participating in an official online, on-camera office meeting from a telework location visibly drinks from a coffee mug advocating for passage of the Equal Rights Amendment.

Question:

Has the employee violated the Hatch Act or DoDD 1344.10?

Yes

No



Final Exam Q#4

Yes is incorrect.

Passage of an Equal Rights Amendment is an issue and not political activity, even if it may be associated with a particular political party. Advocating for issues does not violate the Hatch Act or DoDD 1344.10. While advocating for issues may create other personnel issues in the workplace, it does not create a Hatch Act/DoDD 1344.10 issue.



Final Exam Q#4

The correct answer is No.

Passage of an Equal Rights Amendment is an issue and not political activity, even if it may be associated with a particular political party. Advocating for issues does not violate the Hatch Act or DoDD 1344.10. While advocating for issues may create other personnel issues in the workplace, it does not create a Hatch Act/DoDD 1344.10 issue.



Final Exam Q#5

Political Activities Scenario:

LT White, off-duty and using her own iPhone, sent a link to a friend for a fundraising page for a political candidate.

Question:

Did LT White violate the Hatch Act/DoDD 1344.10?

Yes

No



Final Exam Q#5

No is incorrect.

Federal employees may not solicit, accept, or receive political contributions – 24/7.

They may not fundraise, even off-duty, and even using their own personal communications devices.



Final Exam Q#5

The correct answer is Yes.

Federal employees may not solicit, accept, or receive political contributions – 24/7.

They may not fundraise, even off-duty, and even using their own personal communications devices.



Final Exam Q#6

Gift Scenario: LTC Officer is in charge of an office with military and Federal civilian personnel ranging in grades from GS9 to GS13, and CPT to LTC.

LTC Officer wants to ask the most junior person in the office to solicit voluntary donations from office personnel to buy a \$50 vase to give to their boss, Mr. Boss (SES), on his 50th birthday.

Question: Is LTC Officer's plan permissible under the "gifts between employees" rules?

Yes

No



Final Exam Q#6

Yes is incorrect.

General Rule: Employees shall not give or donate toward a gift for a superior, or solicit for such a donation (nor may the superior accept such a gift), unless an exception applies: 1) special infrequent occasion; or 2) occasional basis.

A birthday, even a milestone birthday, is not considered a “special infrequent occasion,” but falls under the “occasional basis” exception. In this case, an employee may give (and Mr. Boss may accept) an unsolicited birthday gift valued at \$10 or less.



Final Exam Q#6

The correct response is No.

General Rule: Employees shall not give or donate toward a gift for a superior, or solicit for such a donation (nor may the superior accept such a gift), unless an exception applies: 1) special infrequent occasion; or 2) occasional basis.

A birthday, even a milestone birthday, is not considered a “special infrequent occasion,” but falls under the “occasional basis” exception. In this case, an employee may give (and Mr. Boss may accept) an unsolicited birthday gift valued at \$10 or less.



Final Exam Q#7

Gift Scenario: Prohibited Source Contractor, LLC (PSC) has generously treated the government Contracting Officer Representative (COR) to lunch twice during the calendar year (no other gifts during the year). It's now December, and the COR is enjoying a third lunch on PSC. When the bill arrives, the COR realizes that the cost of her lunch would result in \$56 worth of lunches paid for by PSC during the calendar year.

Question: What should the COR do?

- A. Graciously thank PSC for their generosity.**
- B. Pitch in \$6 to stay within the \$50 CY gift limit.**
- C. Pay for her own lunch with her personal funds.**



Final Exam Q#7

A is incorrect.

By exception, an employee may accept a gift from a prohibited source (like PSC, LLC) but only if the gift is valued at \$20 or less, maximum \$50 per calendar year / per source. “Paying down” to stay within the limit is prohibited.

Even if the COR could have accepted the lunch gift, she should first consider whether she **should accept the gift, and whether a reasonable person with knowledge of the relevant facts would question her integrity or impartiality as a result of accepting the gift.**



Final Exam Q#7

B is incorrect.

By exception, an employee may accept a gift from a prohibited source (like PSC, LLC) but only if the gift is valued at \$20 or less, maximum \$50 per calendar year / per source. “Paying down” to stay within the limit is prohibited.

Even if the COR could have accepted the lunch gift, she should first consider whether she **should accept the gift, and whether a reasonable person with knowledge of the relevant facts would question her integrity or impartiality as a result of accepting the gift.**



Final Exam Q#7

The correct response is C, pay for her own lunch with her personal funds.

By exception, an employee may accept a gift from a prohibited source (like PSC, LLC) but only if the gift is valued at \$20 or less, maximum \$50 per calendar year / per source. “Paying down” to stay within the limit is prohibited.

Even if the COR could have accepted the lunch gift, she should first consider whether she **should accept the gift, and whether a reasonable person with knowledge of the relevant facts would question her integrity or impartiality as a result of accepting the gift.**



Final Exam Q#8

Gift Scenario: As long as an exception applies, government employees should feel free to accept a gift from a prohibited source, without ever having to think about anything else.

True

False



Final Exam Q#8

True is incorrect.

- **The first step when offered a gift from a prohibited source: the employee should think about whether “a reasonable person with knowledge of the relevant facts would question the employee’s integrity or impartiality as a result of accepting the gift.”**
- **If so, the employee should decline what might be an otherwise permissible gift.**

See 5 CFR 2635.201(b)(1).



Final Exam Q#8

The correct response is False.

- **The first step when offered a gift from a prohibited source: the employee should think about whether “a reasonable person with knowledge of the relevant facts would question the employee’s integrity or impartiality as a result of accepting the gift.”**
- **If so, the employee should decline what might be an otherwise permissible gift.**

See 5 CFR 2635.201(b)(1).



Final Exam Q#9

Conflict of Interest Scenario: Your spouse works as an IT developer for Cutting Edge Apps, Inc. You have just been tapped as part of the source selection team for a new Army contract to develop a “meeting collaboration app.” Cutting Edge Apps, Inc. is expected to submit a bid/offer.

Question: Can you participate in discussions with the source selection team as long as you don’t make the decision on who is awarded the contract?

Yes

No

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Final Exam Q#9

Yes is incorrect.

Absent supervisory notice and authorization, an employee should not participate in an official matter:

- That is likely to have a direct and predictable effect on the financial interests of a member of the employee's household; or**
- Where a person with whom the employee has a covered relationship is, or represents, a party to the matter.**

In addition, Financial Disclosure filers must list the spouse's employment on his or her Financial Disclosure form.



Final Exam Q#9

The correct response is No.

Absent supervisory notice and authorization, an employee should not participate in an official matter:

- That is likely to have a direct and predictable effect on the financial interests of a member of the employee's household; or**
- Where a person with whom the employee has a covered relationship is, or represents, a party to the matter.**

In addition, Financial Disclosure filers must list the spouse's employment on his or her Financial Disclosure form.



Final Exam Q#10

Financial Disclosure Scenario: An employee starting a position requiring financial disclosure filing (confidential or public) has 20 days from appointment to this position to complete the appropriate New Entrant financial disclosure report.

True

False



Final Exam Q#10

True is incorrect.

The employee has 30, not 20, days to file a New Entrant Financial Disclosure Report (confidential or public, as appropriate).



Final Exam Q#10

The correct response is False.

The employee has 30, not 20, days to file a New Entrant Financial Disclosure Report (confidential or public, as appropriate).



Final Exam Q#11

Financial Disclosure Scenario: Annual OGE 278e Public Financial Disclosure filers only have to comply with the 15 May annual filing suspense, with no other reporting obligations during the year.

True

False



Final Exam Q#11

True is incorrect.

- **All 278e filers must use a 278-T to report “periodic transactions,” which are purchases, sales, or exchanges greater than \$1000 of stocks, bonds, commodities futures, and any other form of security (but not mutual funds).**
- **Must also report for spouse, dependent child, and any security where employee is owner or partial owner.**
- **Due by the earlier of: 30 days after actual notice of the transaction; or 45 days after the transaction.**



Final Exam Q#11

The correct response is False.

- **All 278e filers must use a 278-T to report “periodic transactions,” which are purchases, sales, or exchanges greater than \$1000 of stocks, bonds, commodities futures, and any other form of security (but not mutual funds).**
- **Must also report for spouse, dependent child, and any security where employee is owner or partial owner.**
- **Due by the earlier of: 30 days after actual notice of the transaction; or 45 days after the transaction.**



Final Exam Q#12

What kind of recognition may a DoD employee give a DoD contractor employee for performing work required by the DoD contractor's contract?

A. Certificate of Achievement

B. Letter of Appreciation

C. Past Performance Feedback from Contracting Officer (CO) or Contracting officer's Representative (COR) to the contracting firm



Final Exam Q#12

Certificate of achievement is incorrect.

It is the CO's or COR's responsibility to monitor contractor employee performance, and award accordingly. In addition, certificates of achievement / letters of appreciation could raise improper endorsement concerns.



Final Exam Q#12

Letter of appreciation is incorrect.

It is the CO's or COR's responsibility to monitor contractor employee performance, and award accordingly. In addition, certificates of achievement / letters of appreciation could raise improper endorsement concerns.



Final Exam Q#12

The correct response is past performance feedback from the Contracting Officer (CO) or the Contracting Officer's Representative (COR) to the contracting firm.

It is the CO's or COR's responsibility to monitor contractor employee performance, and award accordingly. In addition, certificates of achievement / letters of appreciation could raise improper endorsement concerns.



IMPORTANT ETHICS LINKS

- **14 Principles of Ethical Conduct, 5 CFR 2635.101b**

[https://www.oge.gov/Web/OGE.nsf/o/F07540A172D9CD8D852585B6005A1444/\\$FILE/14_general_principles_card.pdf](https://www.oge.gov/Web/OGE.nsf/o/F07540A172D9CD8D852585B6005A1444/$FILE/14_general_principles_card.pdf)

- **Criminal Statutes, 18 USC 201-216**

<https://uscode.house.gov/browse/prelim@title18/part1/chapter11&edition=prelim>

- **5 CFR 2635, Standards of Ethical Conduct for Employees of the Executive Branch**

<https://www.ecfr.gov/cgi-bin/text-idx?SID=66d15bdadf7f1324d878d33e85db42ba&mc=true&node=pt5.3.2635&rgn=div5>

- **5 CFR 3601, Supplemental Standards of Conduct for Employees of the DoD**

<https://www.ecfr.gov/cgi-bin/text-idx?SID=353124751b41735871381fb548384b58&node=5:3.0.16.11.2&rgn=div5>

- **DoD 5500.07-R, Joint Ethics Regulation (JER)**

<https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodm/550007r.pdf?ver=2019-04-03-110847-370>

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TRAINING COMPLETION INSTRUCTIONS

The next slide is your certificate of 2021 Annual Ethics Training completion. Please insert your full name and training completion date and save the certificate as a .pdf file to an appropriate folder on your computer.

Army Secretariat personnel only:

The slide after your certificate provides a link to Army OGC; please select the appropriate link (OGE 450 Filer or OGE 278e Filer), attach your .pdf certificate of completion, and send to Army OGC to receive training credit.



2021 Army OGC Annual Ethics Training Certificate of Training



[Redacted area for name and date]

(Type your full name and training completion date.)

Has satisfactorily completed the
2021 annual ethics training
Presented by the Department of Army
Office of the General Counsel, Ethics and Fiscal

Submission of this certificate as proof of training completion serves
as your official statement that you have properly received the 2021
annual ethics training brief

Completed:

DD/MM/YYYY



TRAINING COMPLETION INSTRUCTIONS

Remember:

If you are not an Army Secretariat employee, do not email your certificates of completion to Army OGC.

Non-Army Secretariat employees seeking credit for completing this training must provide their certificates of completion to their servicing legal office, not Army OGC.



TRAINING COMPLETION INSTRUCTIONS

Army Secretariat personnel ONLY: to receive credit for this mandatory training, email the certificate of completion to Army OGC via one of the options below.

*****Note: Selecting an option below will open a new e-mail message, which Army Secretariat personnel (only) can send to the OGC (E&F) Mailbox to record your training completion. *****

OGE 450 Filer

OGE 278 Filer



CONTACT INFORMATION (ARMY SECRETARIAT EMPLOYEES)

- **Army Secretariat personnel should direct questions to Army OGC (Ethics & Fiscal).**
- **Contact information for Army Secretariat personnel is (703)695-4296, or e-mail:**
usarmy.pentagon.hqda-ogc.mbx.ef@mail.mil

