



# Department of Defense

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## Employees' Guide to the Standards of Conduct

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## *Whom to Call for Advice*

The **DoD General Counsel** is the Designated Agency Ethics Official (DAEO) for DoD employees, both civilian and military, who serve in the Office of the Secretary of Defense, most DoD Field Activities, and the Joint Staff.

Please direct your ethics and standards of conduct questions to your local JAG or General Counsel Office. Points of contact for specific Military Department ethics programs are below:

Army: (703) 695-4296 or [usarmy.pentagon.hqda-ogc.mbx.ef@mail.mil](mailto:usarmy.pentagon.hqda-ogc.mbx.ef@mail.mil)

Air Force: (703) 693-0417 or [USAF.ethics@mail.mil](mailto:USAF.ethics@mail.mil)

Navy & Marine Corps:

(703) 614-7433 or [ethics@navy.mil](mailto:ethics@navy.mil)

## **IMPORTANT ADVICE**

If you're not positive that what you're about to do is appropriate, ask your ethics counselor. One mission of ethics counselors is to advise personnel on accomplishing their goals without violating the standards of conduct.

In fact, disciplinary action for violating the standards of conduct will **not** be taken against you if you act in good faith reliance upon the advice of your ethics counselor following a full disclosure of all relevant circumstances.

This Handbook provides a general summary of the rules. It does not include every rule, exception, requirement, or all the factors that must be considered in making certain ethics-related decisions. If you are unsure of your actions, call your ethics counselor before you act.

## GENERAL PRINCIPLES OF PUBLIC SERVICE

<u>Do</u>	<u>Don't</u>
 Place loyalty to the Constitution, the laws, and ethical principles above private gain.	 Use public office for private gain.
 Act impartially to all groups, persons, and organizations.	 Use nonpublic information to benefit yourself or anyone else.
 Give an honest effort in the performance of your duties.	 Solicit or accept gifts from persons or parties that do business with or seek official action from DoD (unless permitted by an exception).
 Protect and conserve Federal property.	 Make unauthorized commitments or promises that bind the Government.
 Disclose waste, fraud, abuse, and corruption to appropriate authorities.	 Use Federal property for other than authorized activities
 Fulfill in good faith your obligations as a citizen, and pay your Federal, State, and local taxes.	 Take jobs or hold financial interests that conflict with your Government responsibilities.
 Comply with all laws providing equal opportunity to all persons, regardless of their race, color, religion, sex, national origin, age, or handicap.	 Take actions that give the appearance that they are illegal or unethical.

**Remember:** Violating ethics principles may result in disciplinary or corrective action, including criminal prosecution. Protect yourself from disciplinary action by seeking the advice of your ethics counselor.

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# GIFTS

## Gifts From Outside Sources

**Rule:** You may not accept a gift given:

- Because of your **official position**, or
- By a **prohibited source**

Regardless of any exceptions that allow accepting gifts, it is **always impermissible** to:

- Accept a gift in return for being influenced in the performance of an official act. This is a bribe!
- Solicit or coerce the offering of a gift
- Accept gifts from the same or different sources so frequently that a reasonable person would think you're using your office for private gain
- Accept a gift in violation of a statute

## What's a Prohibited Source?

A prohibited source is any person who is, or any organization a majority of whose members are:

- Seeking official action by DoD
- Doing or seeking to do business with DoD
- Regulated by DoD, or
- Substantially affected by the performance of your official duties

## What's a Gift?

Anything of value.

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**Patty, a DoD employee, meets informally every week with representatives of defense contractors, who customarily treat her to a small breakfast.**

**Although an exception might permit acceptance of these small breakfasts, Patty's recurring practice of accepting them is improper.**

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**Joe, a Computer.Com representative, is seeking to do business with DoD. He invites several DoD employees to a golf tournament at his company's expense.**

**DoD personnel may not accept the gift of free golf unless an exception to the gift rule applies, because Computer.Com seeks to do business with DoD, making the company a prohibited source.**

## What's Not a Gift?

Here are examples of items that are not defined as “gifts”:

- Modest items of food and refreshments (like coffee and donuts) when not served as a meal
- Prizes in contests open to the public
- Greeting cards and items with little intrinsic value, such as plaques, certificates, and trophies, intended only for presentation
- Commercial discounts available to the public or to all Government civilian or military personnel
- Free attendance (including a meal) to an event provided by the event sponsor on any day you are assigned to present information on behalf of DoD
- Anything the Government acquires by contract or otherwise legally accepts
- Anything for which you pay market value

## Gifts That You May Keep

Remember, you don't have to accept a gift. It may be prudent, depending on the circumstances, to decline a gift, even when it is allowed by a gift **exception**:

- \*Gifts valued at \$20 or less, **but**
  - not cash or investment interests
  - not more than \$50 in total from one source in a year
- Gifts motivated by personal relationships
- Certain discounts and similar benefits offered
  - by professional organizations
  - to groups unrelated to Government employment (such as AARP)
  - to groups in which membership is related to Government employment, if the same benefits are available to other, similar organizations. (e.g., discounted loans to Gov't. credit union members)
  - by a *non*-prohibited source to any group not determined on the basis of rank, responsibility, or pay

- Gifts resulting from your or your spouse's outside business activities.

**You may accept a cup of coffee offered by a contractor.**

**If you enter your business card in a drawing sponsored by a DoD contractor that is open to the public, you may keep the prize.**

**On each of his quarterly visits a sales representative of Overpriced Inc. gave Bonnie, a DoD employee, a company T-shirt valued at \$10 each. During that period, Bonnie's brother Steve, who also works for Overpriced Inc., gave her a birthday present valued at \$60.**

**Bonnie may keep all of these gifts. The T-shirts don't exceed the \$50 annual limit from one source and the gift from her brother Steve is the result of a personal rather than a business relationship.**

**Tom was offered two tickets valued at \$30 each to a baseball game from an employee of a defense contractor.**

**Since the price of each ticket exceeds the \$20 limit, Tom may only accept the tickets if he pays the contractor \$60 - the full market value of the tickets. You may not “buy down” to the \$20 limit by paying the contractor the \$40 price differential**

\* This exception is not available to Presidential appointees to accept a gift from a lobbying organization (Executive Order 13770)

- Free attendance provided by a state, local government, or tax exempt civic organization when there is a community relations interest
- Gifts accepted under specific statutory authority, such as certain gifts from a foreign government or gifts offered to a wounded or injured DoD employee
- Certain educational scholarships and grants
- \*Free attendance, food, and entertainment (not travel) at a “widely attended gathering” if
  - a large number of persons with a diversity of views will attend, and
  - the setting and program will allow an opportunity to exchange ideas and views among attendees, and
  - your supervisor determines *in writing* that your attendance is in the agency’s interest, and
  - where the free attendance is provided by a person other than the sponsor of the event, the market value of free attendance is \$390 or less and more than 100 persons are expected to attend
- Meals, lodging, transportation, and other benefits in connection with discussions about future employment
- \*Awards for meritorious public service or achievement and honorary degrees
- Travel benefits and free attendance from political organizations in connection with certain political activities
- \*Food and entertainment (not travel and lodging), at social events, if: (1) the invitation is not from a prohibited source, **and** (2) the event is free to all attendees
- Informational materials related to your official duties

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**Because of his DoD position, an arms trade association invites Jared to an industry-wide, one-day seminar sponsored by the association, a \$200 value. He is also invited to dinner at a restaurant after the seminar with several industry executives, which costs \$100.**

**Jared may accept the seminar invitation provided that his supervisor determines in writing that his attendance furthers DoD interests.**

**Jared may not accept the free dinner invitation, which is not part of the seminar and is not widely attended.**

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**An annual dinner held by a veterans’ service organization costs \$125 per person. Representatives from veterans’ groups, Congress, and the media will attend. Several DoD employees are given free tickets by Big Guns Inc. At the dinner, a veteran will be honored.**

**Since it is a widely attended gathering and the offer is from a person other than the event sponsor, the DoD employees may be able to accept the free tickets if their supervisors determine that more than 100 persons are expected to attend the event and there is an agency interest in the DoD employees’ attendance.**

\* This exception is not available to Presidential appointees to accept a gift from a lobbying organization (Executive Order 13770)

- Gifts of food and entertainment (not to exceed the per diem rate) at meetings or events attended in an official capacity in foreign areas, when (1) *not* provided by a foreign government **and** (2) non-U.S. citizens participate in the meeting or event

## Foreign Gifts

**Rule:** Federal employees may accept gifts from foreign governments if the gift is below “minimal value” which is currently \$415. Check with your ethics counselor about appraising the gift.

## Disposition of Improper Gifts

**Rule:** If you are offered a gift that you cannot accept, you must promptly:

- Decline the gift
- Return the gift,
- Pay the donor the gift’s market value, **or**
- Promptly destroy if valued at less than \$100

## Subsequent reciprocity is not a solution

## Gifts Between Employees

**Rule:** You may not accept a gift from an employee who earns less than you unless you have a personal relationship with the employee **and** you are not in the employee’s chain of command

**Rule:** You may not give, make a donation toward, or solicit a gift for someone superior to you in the chain of command

## Exceptions to the Rule

1. On an occasional basis, such as holidays or birthdays, you may give to a superior or receive from a subordinate:

**Under certain circumstances, perishable items may be:**

- **donated to a charity**
- **destroyed**
- **shared within the office**

**Bill asks his four coworkers to each voluntarily contribute \$20 to purchase a \$100 golf putter for Doreen, their boss, for Christmas.**

**Doreen invites the office to a New Year’s party at her home serving meals valued at \$25. Bill brings a \$20 bottle of wine.**

- **Bill may not solicit, and he and his coworkers may not give, their boss a group gift or individual gifts that exceed \$10. Christmas is not a special, infrequent occasion.**
- **The dinner and the wine are both appropriate.**

- Non-monetary gifts of up to \$10
  - Personal hospitality provided at a residence (or an appropriate host/hostess gift)
  - Food or refreshments shared in the office
2. On special, infrequent occasions,
- of personal significance, such as marriage, illness, or birth or adoption of a child; or
  - that terminate the chain of command, such as retirement, resignation, or transfer
- you may:
- solicit voluntary contributions up to \$10/person for a group gift
  - give an appropriate gift to a superior
  - accept appropriate gifts from subordinates and group gifts that do not exceed \$300

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**Doreen decides to retire. Bill, who works for Doreen, gives her a \$20 book and again solicits for a going-away gift. He would like to get her a golf-related desk set that costs about \$50.**

- **Bill may give the \$20 book as it is an appropriate gift.**
- **Bill may also solicit for a gift and contribute toward the group gift.**
- **Bill has learned his lesson and does not suggest a contribution amount.**

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## CONFLICTS OF INTEREST

### Conflicting Financial Interests

**Criminal Rule:** You may not do government work on a particular matter that will affect the financial interest of:

- You
  - Your spouse
  - Your minor children
  - Your general partner
  - Organizations with which you're negotiating or have an arrangement for future employment,
- or**
- Any organization for which you serve as an employee, officer, director, trustee, or general partner

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**Bryan, a DoD procurement officer, is about to award a contract for new computers. His wife, Deanna, owns a computer sales business which has bid on the contract.**

**Bryan may not participate in the contract award decision because the particular matter will affect his wife's financial interests.**

If you think you may have a conflicting financial interest, consult your ethics counselor immediately to determine the appropriate remedy.

## **Investing**

Note: there are “de minimis” exceptions which permit participation in a matter if your interest is below certain thresholds at the time of your participation. Currently, the threshold for stocks may not exceed \$15,000 and for sector funds may not exceed \$50,000. These thresholds are subject to change and you must pay close attention to ensure that at no time during your participation does the value rise above the threshold. Your personal brokerage account is subject to the same rules.

Because of the difficulty in monitoring the above thresholds and holdings, many Federal employees decide to invest primarily in diversified mutual funds, as these pose no conflicts issues at all. Common examples are: S&P 500 Index Fund, Capital Growth Fund, Capital Appreciation Fund, etc.

## **Bribery and Graft**

**Rule:** You may not seek or accept anything of value, other than your salary, for being influenced in the performance of your official duties.

## **Commercial Dealings Between DoD Employees**

**Rule:** You may not knowingly solicit or make solicited sales to personnel who are junior in rank, grade, or position (or their families). This includes insurance, stocks, real estate, cosmetics, household supplies, and other such goods and services.

**Sue is a supervisor at DoD. After hours she operates a cosmetics sales business out of her home.**

**She may not make solicited sales to her DoD subordinates in the workplace - or after work by calling them at home.**

## **Representation of Others in Matters Affecting the Government**

**Rule:** You generally may not represent anyone outside the U.S. Government before a Federal agency or court, or share in any compensation for such representations made by anybody else, if the Government is involved in the particular matter.

- There are limited exceptions.
- There are special exceptions for “special government employees” such as experts or consultants.

## **Supplementation of Federal Salary**

**Rule:** You may not accept compensation from any source except the U.S. Government for your services as a Government employee.

This rule does not apply, if:

- you are a “special Government employee” or
- you serve without compensation, or
- the gift or other item of value can be accepted in conformity with the rules governing gifts from outside sources (such as a public service award) or gifts between employees

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## IMPARTIALITY IN PERFORMING OFFICIAL DUTIES

**Rule:** Maintain your impartiality. Don't participate in any particular DoD matter if:

- the matter is likely to affect the financial interest of a member of your household, or a person with whom you have a "covered relationship" is involved in the matter, **and**
- a reasonable person with knowledge of the relevant facts could question your impartiality.

### Who may be in a "covered relationship"?

- A member of your household or a relative with whom you're close,
- Someone with whom you have or seek to have a business relationship other than a routine consumer transaction,
- An organization (other than a political party) in which you actively participate,
- Someone with whom you had, within the last year, a close business relationship, such as partnership or employment, **or**
- Someone with whom your spouse, parent, or dependent child has (or seeks to have) a close business relationship, such as partnership or employment.

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**A senior VP from Blatz Corp. recently resigned from Blatz to become a senior official in DoD. Shortly after his arrival, the official's office is tasked to decide whether or not to renew Blatz's contract with DoD.**

**Because the senior official was employed by Blatz within the last year, he may not participate in the decision.**

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## MISUSE OF POSITION

**Rule:** You may not use, or permit the use of, your Government position, title, or any authority associated with your office:

- To induce or coerce another person to provide any benefit to you or anyone with whom you are affiliated

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**The General Counsel has been asked by his college to serve on the Alumni Association.**

**He may serve in his personal capacity but may not allow the college to use his position as General Counsel on their letterhead or other promotional literature.**

- To imply that DoD or the Government endorses personal activities
- To endorse any product, service, or enterprise, except as provided by statute or regulation

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## USE OF GOVERNMENT RESOURCES

**Rule:** Use Federal Government equipment and property, including communications systems, only for official purposes or authorized purposes as approved by your supervisor.

**Rule:** Use official time in an honest effort to perform official duties and don't ask subordinates to perform tasks outside their official duties.

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## FUNDRAISING

**Rule:** As a general rule, you may not engage in fundraising in the workplace. You may raise funds for organizations in your personal capacity outside the workplace, however, you may not use your official title, position, or authority when doing so, nor may you solicit subordinates or prohibited sources.

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**Oscar, who is the Deputy Director of a DoD office, is in charge of raising funds for his son's Little League team.**

**Oscar may not ask his subordinates to contribute to his son's fundraiser.**

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## TEACHING, SPEAKING, AND WRITING

**Rule:** You may accept payment for teaching, speaking, or writing that is unrelated to your official duties and that was not prepared on official time.

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**Stu, an ethics attorney at DoD, has been offered \$1,500 to teach a one-day course on Federal ethics to employees at Big Contractor, Inc.**

**Because the topic relates to his official duties, he may not accept the compensation.**

- If the work identifies your employment by DoD you must make a disclaimer.

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## OUTSIDE ACTIVITIES

**Rule:** If you file a financial disclosure report (OGE Form 278e or 450), you need your supervisor’s prior written approval before you engage in business activity or compensated employment with a DoD “prohibited source” (defined above in the section on “Gifts”). Presidential appointees and certain non-career employees have additional restrictions.

**Rule:** You may not have outside employment or activities that would materially impair your ability to perform your official duties.

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**Jill, who tests new computers for the office, wants to work on weekends for the vendor of those computers.**

**Since her outside employment would cause a conflict of interest with her Government duties, she should not accept the job.**

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## POLITICAL ACTIVITIES

Most Federal civilian employees may actively participate in political campaigns and other partisan political activities. However, they may not engage in such activities on duty, or in any Federal workplace, vehicle, or while in uniform. Further, they may not use their official title, position or authority when engaging in partisan political activities.

While the Hatch Act loosened restrictions on partisan political activity for most Federal civilian employees, Federal laws still limit the partisan political activities of military personnel, employees of certain law enforcement and national security agencies, and career SES employees. Certain political appointees are subject to additional restrictions by DoD policy, i.e., they may not engage in any activity that could be interpreted as associating DoD with any partisan political cause or issue.

If you plan to engage in any partisan political activity, you should consult your ethics counselor.

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## EMPLOYMENT ISSUES

### Seeking Employment

**Rule:** If you are seeking non-Federal employment (e.g., sending resumes to select employers), you may not do Government work on a particular matter that will affect the financial interests of any of your prospective employers. You must give a written disqualification statement to your supervisor.

### Post-Government Employment

**Rule:** Always consult your ethics counselor before separating from the Government. He or she will advise you on the 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.

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**Janelle, a procurement specialist, is doing work as a Government employee on a contract worth \$500,000. She is offered an interview for a job by the contractor.**

**Janelle must disqualify or recuse herself and inform her supervisor and ethics counselor.**

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## OFFICIAL TRAVEL BENEFITS

You may keep promotional items such as frequent flyer miles that are awarded for official travel.

You may also keep promotional items given to compensate you for being voluntarily bumped from a flight. You may voluntarily surrender your seat **ONLY** if doing so does not adversely affect the performance of your official duties and does not result in additional cost to the Government.

You may not keep promotional items given to compensate you for being involuntarily bumped from a flight.

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## SOURCES OF FURTHER INFORMATION

If you have further questions, consult an ethics counselor in your military service or DoD organization by one of the means described on page ii. In OSD, contact the Standards of Conduct Office (SOCO) at [OSD.SOCO@MAIL.MIL](mailto:OSD.SOCO@MAIL.MIL) or by phone at 703-695-3422.

Additional information is available in:

1. **The Standards of Conduct for Employees of the Executive Branch**

The U.S. Office of Government Ethics has developed a comprehensive set of regulations to assist Federal employees with their ethics questions. This is a primary source of guidance on ethics and standards of conduct. It may be found on the Office of Government Ethics website: [www.oge.gov](http://www.oge.gov).

2. **DoD Supplemental Standards of Conduct**

DoD's Supplemental Standards of Conduct found at 5 C.F.R. Part 3601.

3. **DoD 5500.07-R, the Joint Ethics Regulation ("JER")**

The JER contains supplemental rules for DoD personnel.

## Questions and Answers

Q. 1. While serving as an employee, you are asked to evaluate a contract between DoD and XYZ Company. You own \$16,000 worth of stock in XYZ Company. Can you evaluate the contract?

No, you may not evaluate the contract. Employees are subject to the criminal conflict of interest statute and are prohibited from participating in any particular matter that has a direct and predictable effect on their own financial interests. The awarding of the contract will have a direct and predictable effect on XYZ Company and consequently, your own financial interests. There is a limited exemption for financial interests in stock that does not exceed \$15,000 in value; however, even if the stock's value did not exceed \$15,000, there would be a concern about the appearance of a conflict of interest.

Q. 2. As part of your DoD duties, you participate in a study that identifies four defense contractors suitable for future work on a prospective personnel system contract. One of the four contractors subsequently asks you to represent them before DoD on the personnel system contract. Can you represent the contractor before DoD?

No, you may not represent the contractor before DoD on the personnel system contract. Because you participated in the study in your official capacity, you are prohibited from representing an outside entity back to DoD on the same exact matter.

Q. 3. You would like to use your DoD title on marketing materials for your consulting firm. Can you use your DoD title to market your outside business?

No, you may not use your DoD title or position to promote your outside business. The ethics rules prohibit employees from using their DoD titles, or referencing their DoD position for their own private gain or the private gain of others.