CHAPTER 19

STANDARDS OF CONDUCT

I. REFERENCES.

A. Executive Order 12674, "Principles of Ethical Conduct for Government Officers and Employees," April 12, 1989, as amended.

B. Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. 2635 (Office of Government Ethics Rules).

C. DOD 5500.7-R, JOINT ETHICS REGULATION (JER), 30 Aug 93. Change 4, effective 6 August 1998.

II. BASIC OBLIGATIONS OF PUBLIC SERVICE UNDER EXECUTIVE ORDER 12674 (also reproduced on the last page of this outline).

1. Public Service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.

2. Employees **shall not hold financial interests that conflict with the conscientious performance of duty**.

3. Employees **shall not engage in financial transactions using nonpublic Government information** or allow the improper use of such information to further any private interest.

4. An employee **shall not**, except as [provided for by regulation], **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.

5. Employees **shall put forth honest effort in the performance of their duties**.

6. Employees **shall not knowingly make unauthorized commitments** or promises of any kind purporting to bind the Government.

7. Employees **shall not use public office for private gain**.

8. Employees **shall act impartially and not give preferential treatment** to any private organization or individual.

9. Employees **shall protect and conserve Federal property** and shall not use it for other than authorized activities.

10. Employees **shall not engage in outside employment or activities**, including seeking or negotiating for employment, **that conflict with official Government duties** and responsibilities.

11. Employees **shall disclose waste, fraud, abuse, and corruption** to appropriate authorities.

12. Employees **shall satisfy in good faith their obligations as citizens**, including all just financial obligations, especially those--such as Federal, State, or local taxes--that are imposed by law.

13. Employees **shall adhere to all laws and regulations that provide equal opportunity for all Americans** regardless of race, color, religion, sex, national origin, age, or handicap.

14. Employees **shall endeavor to avoid any actions creating the appearance** that they are violating the law or ethical standards. Whether particular circumstances create an appearance that the law or these standards have been violated

shall be determined from the perspective or a reasonable person with knowledge of the relevant facts.

III. JOINT ETHICS REGULATION (JER).

A. Overview. A single, comprehensive regulation covering more than traditional standards of conduct.

B. Applies OGE rules to DoD. Specifically applies many of the OGE rules to enlisted members. Rules printed in ***bold italics*** are general orders--they apply to all military members without further implementation and violations may be punishable as violations of a lawful general order, Article 92, UCMJ.

C. Rescinds Army-specific Standards of Conduct rules once found in AR 600-50, Standards of Conduct. Now all services use the same rules.

D. Key definitions under the JER

1. DOD Employee (JER 1-211). The JER applies the Executive Branch Standards of Conduct rules to "DoD Employees." The definition essentially includes everyone in DoD:

a. Any DOD civilian officer or employee (including special Government employees) of any DOD Component (including any nonappropriated fund activity).

b. Any active duty Regular or Reserve military officer, including warrant officers.

c. Any active duty enlisted member of the Army, Navy, Air Force, or Marine Corps.

d. Any Reserve or National Guard member on active duty under orders issued pursuant to title 10, United States Code.

e. Any Reserve or National Guard member while performing official duties or functions under the authority of either title 10 or 32, United States Code, or while engaged in any activity related to the performance of such duties or functions, including any time the member uses his Reserve or National Guard of the United States title or position, or any authority derived therefrom. [Changed from a status to an action analysis.]

2. Designated Agency Ethics Official (DAEO) (JER 1-209): A DOD employee who is responsible for the implementation and administration of the component's ethics program.

3. Ethics Counselor (EC) (JER 1-214): A DOD employee appointed in writing to generally assist in implementing and administering the command's or organization's ethics program and to provide ethics advice to DOD employees in accordance with the JER.

a. Communications to an EC are not protected by any attorney-client privilege while communications received in a legal assistance capacity usually are. Attorneys who serve as ECs must advise individuals being counseled as to the status of that privilege prior to any communications.

b. ECs advise and assist on issues, such as:

(1) acceptance of gifts and gratuities;

(2) business visitors (e.g., product demonstrations and capabilities briefings);

(3) ethics training;

(4) participation in or dealings with private and professional associations, such as AUSA;

(5) review of public (SF 278) and confidential (OGE Form 450) financial disclosure reports, and resolving conflicts of interests;

(6) post-Government employment restrictions; and

(7) use of Government resources and time.

c. EC's advice *generally* precludes disciplinary action against an employee who follows EC's advice (5 C.F.R. § 2635.107(b)).

4. Agency Designee (JER 1-202): The first supervisor who is a commissioned military officer or a civilian above GS/GM-11 in the chain of command or supervision of the DOD employee concerned. Except in remote locations, the Agency Designee may act only after consultation with his local Ethics Counselor. For any military officer in grade 0-7 or above who is in command and any civilian Presidential appointee confirmed by the Senate, the Agency Designee is his Ethics Counselor.

IV. USE OF GOVERNMENT RESOURCES.

A. Official Use. Punitive provision, restricting use of communication systems (telephones, facsimile machines, electronic mail, internet systems, etc.) for official uses only - with exceptions. (JER 2-301). Official use may include deployed employee's use to enhance MWR. This requires theater commander approval.

B. Permits Agency Designee to authorize personal (non-official) use, only IF:

1. there is no adverse effect on duty performance;

2. the duration and frequency are reasonable (if possible while off duty - during breaks or after normal work hours);

3. a legitimate public interest is served (keeping employees at their desks; education/familiarization with communication systems; enhancing professional skills; job search in response to downsizing);

4. use does not reflect adversely on DOD (no pornography, chain letters, advertising, soliciting, or selling (unless on authorized bulletin boards), etc.);

5. use does not overburden Government communication systems; and

6. use creates no significant additional cost to DOD (no long distance charges to the Government).

C. Monitoring Use. Employees' use serves as consent to monitoring of any type of use, including incidental and personal uses, whether authorized or not.

D. Other Use. Agency Designees may permit employees limited use of items, such as typewriters, calculators, libraries, and other similar resources and facilities, if:

1. use does not reflect adversely on duty performance;

2. use is of reasonable duration and made during personal time;

3. use serves a legitimate public interest (supports local charities or community volunteers, enhances professional skills, or job search relative to downsizing, etc.);

4. use does not reflect adversely on DOD; and

5. use creates no significant additional DOD cost.

E. Employee Support. Employees (such as secretaries, clerks, and military aids) may not be used to support the unofficial activity of another DOD employee in support of non-Federal entities. (JER 3-305).

F. Cellular Phones. UP of AR 25-1, Army Information Management and Information Technology Management, paragraph *6-4w(1) Portable, mobile, and cellular telephones.* These types of telephones will not be used in lieu of established 'wired' telephones. Effective 30 June 2004, these devices are for official business and authorized use. Commanders will establish guidance on use.

V. GIFTS FROM OUTSIDE SOURCES (JER, CHAPTER 2).

A. Basic Punitive Prohibition on Gifts From Outside Sources. A soldier shall not, directly or indirectly, solicit or accept a gift:

1. from a prohibited source (e.g., someone who has an interest in the performance of official Army missions); or

2. because of the employee's official position.

B. Practical Approach. Three questions:

1. Is the item actually a gift? The term "gift" includes almost anything of monetary value, but not these (*exemptions*):

   a. Coffee, donuts, and similar modest items of food and refreshments when offered other than as part of a meal;

   b. Greeting cards and most plaques, certificates, and trophies;

   c. Rewards and prizes in contests open to the public;

   d. Commercial discounts available to the general public or to all Government or military personnel;

   e. Commercial loans, and pensions and similar benefits;

   f. Anything paid for by the Government, secured by the Government under Government contract, or accepted by the Government in accordance with a statute; and

   g. Anything for which the employee pays market value.

2. If the item is a gift, does an exception apply? Common ***exceptions*** when an employee may accept:

   a. unsolicited gifts with a market value of $20 or less per source, per occasion, so long as the total value of all gifts received from a single source during a year does not exceed $50;

   b. gifts based on an outside relationship, such as a family relationship or personal friendship;

c. discounts and similar benefits offered to groups in which membership is not related to Government employment (or "Government discounts" where the same offer is broadly available to the public through similar groups), and certain benefits offered by professional associations or by persons who are not prohibited sources;

d. legitimate awards that are part of a regular and established program of recognition for meritorious public service;

e. gifts resulting from the outside business activities of employees and their spouses;

f. free attendance (not travel or lodging) paid by the sponsor of a widely-attended gathering, speaking engagement, or other event if the agency determines an interest in the event (attend in personal capacity). Allows payment by other than the sponsor if >100 people attend and the cost is <$285; also allows spouse or other guest to attend];

g. food, refreshments, and entertainment at certain social events extended by persons who are not prohibited sources, where no one is charged a fee to attend the event;

h. unsolicited gifts of free attendance for DOD employees (and spouses) at events sponsored by state or local governments or non-profit, tax exempt civic organizations, where the agency has determined its community relations interests in the event (JER 2-202a); and

i. certain educational scholarships or grants for DOD employees and dependents (JER 2-202b).

3. Would using the exception undermine Government integrity? Even if a gift is covered by one of the exceptions, do not accept it if it will undermine Government integrity.

a. Cannot use official position to solicit a gift or force someone to give a gift.

b. Any gift is illegal if it is in exchange for an official action.

c. Some gifts may be prohibited by other statutes (such as procurement integrity contract laws).

d. Finally, gifts may not be accepted so frequently that anyone would question whether influence is being bought. For example, a Federal building manager cannot accept a free sandwich every week from a lunch counter operating in the building.

C. Handling Improper Gifts (5 C.F.R. § 2635.205). When an employee cannot accept a gift:

1. First and foremost, if possible, refuse the offer of an improper gift. Diplomatically explain that Federal employees may not accept certain gifts.

2. The employee should pay the donor its market value; or

3. If the gift is a tangible item, the employee may instead return the gift.

4. Subject to approval, perishable items may be donated to a charity, shared within the office, or destroyed.

VI. FOREIGN GIFTS. (U.S. CONST. ART. I, §9, CL. 8; 5 U.S.C.A. §7342, AND JER §2-300.)

A. Gifts from foreign governments.

1. Can accept a "gift of minimal value" (i.e., one having a retail value in the United States not in excess of $285 at the time of acceptance. "Minimal value," based on the Consumer Price Index.)

2. Gifts valued above "minimal value" can only be accepted on behalf of the U.S. Report to and deposit these with Commander, Human Resources Command, ATTN: TAPC-PDO-IP, Alexandria, VA, 22332-0474 for disposal, official use, or forwarding to the General Services Administration. POC is Mr. Jim Davis, (703) 325-4530/DSN 221-4530.

3. Aggregate the value of gifts from different officials during the same presentation.

4. Gifts from spouses of foreign officials are deemed gifts from the foreign official.

5. Gifts to employees' spouses are deemed gifts to the employee.

6. Gifts received at separate presentations are separate gifts - their values are not aggregated (even if from the same official and on the same day).

7. When more than one gift is given at a single presentation, the employee may retain only those with an aggregate of less than "minimum value." The remainder (valued over "minimal value") may not be kept by the employee.

B. Gifts to deployed personnel. Apply general gift analysis, unless gift is from a foreign government, then apply those rules.

VII. GIFTS BETWEEN EMPLOYEES (JER CHAPTER 2)

A. General Punitive Rules. An employee shall not:

1. give a gift or solicit a contribution for a gift for an official superior (i.e., supervisor or those in supervisory chain); or

2. accept a gift from a lower-paid employee, unless the donor and recipient are personal friends who are not in a superior-subordinate relationship.

B. Exceptions.

1. Gifts may be given on an occasional basis, including traditional gift-giving occasions, such as birthdays and holidays.

   a. This includes minor contributions of food which will be consumed at the office, meals at someone's home (of a type and value customarily provided to personal friends), and customary gifts, such as a bottle of wine brought when invited to another's home.

   b. This also includes infrequent gifts having a value of less than $10 on appropriate occasions, such as Christmas or birthdays. Such gifts may not become "routine."

2. A subordinate may give or donate toward a gift to a superior on special infrequent occasions, such as, marriage PCS, or retirement.

   a. Gifts on special infrequent occasions that do not terminate the superior subordinate relationship are limited to $300 in value per gift per donating group (JER 2-203).

      (1) Donating group is comprised of all contributors to that group gift.

      (2) If one contributor contributes to two donating groups, then value of gifts from groups with a common contributor is aggregated as if from a single donating group--$300 limit applies to total value (JER 2-203a(2)).

b. Special infrequent occasion gifts that terminate the superior, subordinate relationship (retirement, resignation, transfer) may exceed $300 per donating group if they are appropriate to the occasion and are uniquely linked to the departing employee's position or tour of duty and commemorate the same. (Changed on 2 January 1997.)

c. An employee cannot solicit more than $10 from another employee for a group gift to the contributing employee's superior (JER 2-203b).

d. Solicitations for gifts to a superior must be completely voluntary. Solicited individual may decline to contribute.

e. To avoid improper pressure, the collection should be handled by someone junior in the organization.

GIFTS SUMMARIZED

Methodology	Gifts from Outside Sources	Gifts Between Employees
Prohibited **(*Punitive*)**	Yes if from prohibited source, or given because of off. psn § 2635.202	Yes if from subordinate or solicited for superior § 2635.302
A gift?	Nongifts - exemptions (§ 2635.203): 1. nonmeal food/refreshments 2. cards, plaques 3. bank loans 4. paid for by Government 5. paid market value	
Exceptions?	§ 2635.204 Examples: 1. $20/50 rule 2. personal relationship 3. discounts/benefits 4. awards/degrees 5. outside bus. relations 6. widely attended event 7. social invitations 8. local Govt/civil events 9. scholarships/grants	§ 2635.304 Two categories: 1. occasional basis ($10 or less; food refreshments; hospitality; leave transfers) 2. special infrequent occasions (gift appropriate to occasion - max $300 (unless event terminates superior/subordinate relationship) from single donating group; $10 max on solicitation per person)
Limitations	§ 2635.202(c) 1. no bribes 2. no gift solicitations 3. reasonable person test 4. no statutory violations	§ 2635.302(c) 1. no coercion 2. common member in donating groups

Citations to 5 CFR § 2635 reprinted in the Joint Ethics Regulation, chapter 2. Provisions on accepting or soliciting gifts are punitive. Violations may result in UCMJ actions.

VIII. OFFICIAL TRAVEL.

A. Air Travel.

1. First class. On official business, use coach, unless:

   a. No other reasonably available accommodations exist.

   b. Travel by an employee whose physical condition necessitates first-class travel.

   c. Exceptional security circumstances.

2. Report all *purchased* first-class travel to GSA within 60 days of the end of each fiscal year.

3. Premium class (other than first class, such as business class) may be used, **if**:

   a. Regularly scheduled flights along the required route only provide premium-class seats.

   b. No space is available in coach, and travel is urgent and cannot be postponed.

   c. Travel involves an employee with a disability substantiated in writing by competent medical authority. An attendant may accompany him in premium class, if necessary.

   d. Security purposes or exceptional circumstances exist.

   e. Travel on a foreign flag carrier has been approved and the sanitation or health standards in coach are inadequate.

   f. Overall savings to the Government would result, such as avoidance of additional subsistence costs, overtime, or lost productive time incurred while waiting for available coach seats.

g. Travel costs are paid by a non-Federal source. Payments from a non-Federal source may not be used for first-class travel, only coach or premium-class.

h. Travel which is in excess of 14 hours and begins/ends in a foreign country is now only authorized premium upgrade in limited circumstances.

B. Payment for ***Official*** Travel Expenses From Non-Federal Sources (31 U.S.C. § 1353; JER 4-101; JFTR, Chapter 7, Part W, §§ U7900-7908; JTR, Chapter 4, Part Q, §§ C4900-4908; HQDA Letter 55-96-1, Subject: Acceptance of Payments From a Non-Federal Source for Official Travel Expenses (30 October 1996); 41 C.F.R. Part 304).

1. Gift requiring approval of normal travel approving official.

2. Unsolicited gift may be accepted under 31 U.S.C. § 1353. Consultation with Ethics Counselor required. Payment may be accepted for travel, subsistence, and related expenses.

3. Deciding official must determine acceptance does not appear to jeopardize integrity of agency. Standard: reasonable person with knowledge of relevant facts. Deciding official considers (31 C.F.R. Part 304):

a. Source of offer/payment;

b. Purpose of meeting or similar function;

c. Identity of other expected participants;

d. Nature and sensitivity of any matter pending at agency affecting the offeror;

e. Significance of traveler's role in any offeror's pending matter; and

f. Monetary value and character of travel benefits offered.

4. After travel, traveler reports acceptance if over $250 through the approval authority and the local Ethics Counselor to DAJA-SC.

5. Payments from a non-Federal source may not be used for first-class travel, only coach or premium class less than first class (JFTR, §§ U7902D, U3125 (7/1/94), JTR; §§ C4902.4, C2205).

IX. INCIDENTAL TRAVEL BENEFITS (JER, CHAPTER 4, SECTION 2; JFTR §§ U3125 AND U2010; JTR § C2205; AND SECARMY TRAVEL POLICY (MARCH 2003)).

A. Federal Government Property. Anything that a DOD employee receives as a result of official travel belongs to the Federal Government unless it falls under a gift exception (5 C.F.R. Part 2635, Subpart B, and JER chapter 2).

1. Frequent Traveler Benefits (JER 4-201).

a. Frequent flyer mileage credits earned on official travel now belong to the individual.

b. Only exception to the above recent change are miles received as the result of an “involuntary bump” (see below).

2. Awards and prizes (merchandise) from travel services on official travel belong to the Federal Government.

B. Personal Property. Benefits that can't be used for official purposes may be accepted if a gift exception (5 C.F.R. Part 2635, Subpart B, and JER chapter 2) applies.

1. On-the-spot upgrades (JER 4-202). May be accepted if they meet the gift exceptions.

a. May accept if generally available to the public, all Federal employees, or all military members.

b. Do not accept if offered because of traveler's rank or official position.

c. Upgrades while traveling in uniform--OK to accept an offer, unless it is given because of your official position. <u>However, Army employees may not travel in premium or higher class in uniform</u>.

2. Cash or credit rebates from personal credit cards used on official travel are not the property of the Federal Government and may be accepted (Comp. Gen. Decision B-236219, Matter: Use of Discover Charge Cards, May 4, 1990).

3. Getting "bumped" on official travel.

a. Benefits, such as free tickets, as a result of being *<u>involuntarily</u>* bumped from an overbooked flight on official travel belong to the Government (traveler remains on Government time).

b. Benefits as a result of *<u>voluntarily</u>* relinquishing a seat on an overbooked flight belong to the traveler and can be used on personal travel. The traveler is on his own time and may not give up the seat if it would interfere with mission accomplishment.

X. TRANSPORTATION. (<u>See</u> DOD 4500.36-R; SecArmy Memo, Policy For Travel By DA Officials (March 2003); and AR 58-1, January 2000.)

A. Home-to-Work Transportation.

1. Generally not available.

a. Designated position exception:

(1) Field work (i.e., duty requires employee to travel to various other duty sites from primary duty location, e.g., recruiter).

(2) Intelligence, counterintelligence, protective services, or criminal law enforcement duties.

b. Statutory exception: special determinations based on clear and present danger, emergency, or compelling operational considerations. (SECARMY approval 15-calendar day periods, 90-calendar day extensions possible.)

2. SECARMY approval (DCSLOG responsibility).

B. Spouse Transportation.

1. General rule: spouses do not accompany soldiers-sponsor on official business at Government expense. Exceptions:

a. Invitational travel orders for "unquestionable official participation" requirement. Spouse must actually participate or presence is deemed in national interest because of diplomatic or public relations. Transportation only (no per diem).

b. "Non-interference" travel (Unofficial, reimbursable). MILAIR must already be scheduled for an official purpose; use must not require a larger aircraft; official travelers not displaced; negligible additional costs to the government; government is reimbursed at full commercial coach-class fare rate or equivalent.

2. Unaccompanied Spouse Travel. Authorized when spouse is a subject matter expert under JTR; also authorized if spouse attending service-endorsed training course or briefing and will provide subsequent volunteer service incident to such training; may also attend conferences pertaining to Army Family Programs or Quality of Life (QOL) issues under limited conditions. (March 2003 SecArmy Memo.)

3. Nontactical vehicles. Space available with sponsor when vehicle used to transport Army personnel to an official function and the transportation of the spouse does not result in additional expense.

XI. JER CHANGES NOT COVERED ABOVE.

1. Financial Disclosure Reporting

a. Threshold Filing Increase. JER 7-300b increases the presumptive threshold for required OGE 450 filing to $2,500 per purchase and $20,000 per year. This conforms the JER to the definition of "micro purchases" in the Federal Acquisition Streamlining Act.

b. Forms. OGE Form 450 in; SF 450 out. OGE Optional Form 450A, Confidential Certificate of No New Interests, authorized, but must use DoD version and attach copy of last OGE 450.

c. SF 278 Filers. Note: Goes to DA through the Ethics Counselor. Late Reports: $200 penalty paid by the filer unless waived by OGE. Incumbent SF 278 Filers may now file electronically.

(1) **New Entrant Report.** File within 30 days of appointment (actual promotion). **For RC personnel**. Old Rule was DoD imposed--file within 30 days of promotion to BG. New Rule comports w/ OGE rule--file in the first year the officer conducts 61 or more days in federal service (Title 10). Report due 30 days after the 61st day.

(2) **Annual Report.** Due by 15 May of each year for the previous calendar year. File only if the officer conducted 61 or more days in a Title 10 status.

(3) **Termination Reports.** Due not sooner than 15 days before but not later than 30 days after termination from a covered position. (Per OGE/DOD SOCO, this 15 days prior to termination rule will be eliminated and changed in the next JER revision). Not required of RC GO's serving not more than 60 days on active duty in a calendar year in which the officer is transferred to the retired reserve. Watch out for terminal leave.

Practice Tip: Many NG GO's probably will not have to file a 278 because they are most often in a Title 32 status. Title 10 status is most common for mobilization and overseas deployments. Many "Assistant to TAGs" get 61 or more days of federal service.

Practice Tip: If RC GO does not have to file an SF 278 because of less than 61 days of active federal service, the officer probably still has to file an OGE Form 450.

2. Annual Ethics Training. (JER 11-302)

a. Annual ethics training may currently be presented in person by a Qualified Individual or by telecommunications, computer-based methods, or by recorded means prepared by a qualified Individual. As of 1 January 2004, computer based methods will no longer be acceptable; further, annual ethics training will be required for ALL Army personnel, not just OGE 450 and SF 278 Filers.

b. If the DAEO determines, SGEs and RC personnel serving on AD less than 30 consecutive days may be trained by "other means."

3. 18 U.S.C. §208 Regulations (Conflict of Interest) 5 C.F.R. Part 2640.101 (JER 5-200). Supersedes TAB D of JER.

XII. CONCLUSION.

PERSONAL OUTSIDE ACTIVITIES SUPPLEMENT

A. Personal and Financial Conflicts of Interest

1. An employee may not personally and substantially participate in an official capacity in a matter in which he (or certain others) has a financial interest if participation will have a direct and predictable affect on that interest.

2. An employee also may not personally and substantially participate in a matter if it involves a person or entity with whom the employee has a special relationship--called a "covered relationship." This includes a nonfinancial, yet personal, conflict of interest.

3. Personal Financial Interests imputed to you (i.e. you generally may not participate in matters involving these entities):

   a. The interests of a company or business you work at, own as a partner, or serve as an officer (imputed for one year); or a company you own stock in (unless worth less than $5,000).

   b. The interests of your spouse and children.

   c. The interests of "members of your household" or those with whom you have a "close, personal relationship."

   d. The interests of an organization you serve as an officer or director (imputed for one year)

e. The interests of an organization you "actively participate" in; includes serving as an officer or committee chair or otherwise directing the organization's activities (may include aggressive endorsement). Active participation means more than mere membership.

4. Appearance Problem-Consideration of appearances of a conflict of interest by an employee.

a. A conflict of interest also occurs where a reasonable person with knowledge of the relevant facts would question the employee's impartiality in the matter--the mere appearance of a conflict invokes the rules.

b. Employee may still act on the matter when agency designee issues a written authorization after considering the matter. Obtain Ethics Counsel opinion.

5. Job-Hunting. Prohibitions against working on a matter involving a company with which you are seeking employment.

6. Example. Employee who moonlights as a salesperson at XYZ Computer Store may not be involved personally and substantially in the procurement of computers for the office from XYZ Computers.

7. Example. President of the local AUSA chapter (or unit sub-chapter) may not, in an official capacity, approve a request for use of DoD space by the Association.

B. Private Businesses (JER para. 2-205).

1. **Punitive provision**: DoD employees may not solicit or make any solicited sales to personnel who are junior in rank, grade, or position to them

2. May also not solicit or make solicited sales to the family members of the junior employee.

3. Applies on and off duty.

4. Exception: As long as there is no coercion or intimidation, it is okay to:

a. Make sales off-duty from an off-post retail establishment.

b. Sell or lease your own personal property or real estate.

C. Employment Prohibitions.

1. During Your Federal Service.

a. May not engage in any outside employment if it conflicts with your federal duties.

b. Commands may require pre-approval for outside employment. Filers of financial disclosure forms must obtain prior approval.

c. General Officers may not sit as an officer or director of an outside organization for compensation.

d. May not receive improper supplementation of your federal salary for performing your official duties (18 USC § 209).

2. After Your Federal Service.

a. May not "switch sides" and work for a contractor on the same matter you handled as a DoD employee.

b. DoD personnel involved working with contractors have special rules under the Federal Acquisition Regulation. Contract personnel should consult their Ethics Counselor for post-employment issues.

D. Honoraria and Teaching, Speaking, and Writing.

1. Statutory ban on Honoraria--that is, compensation for a lecture, speech, or writing-- was "effectively eviscerated" by the U.S. Supreme Court. (See JER 3-307c.)

2. Prohibitions remain, however, on "Teaching, Speaking, and Writing."

a. May not receive compensation for teaching, speaking, and writing related to your official duties, i.e., cannot re-package your federal work and profit from it.

b. Does not preclude teaching, speaking, and writing in an inherent area of your expertise based on your education or experience even though it may deal generally with a subject within your official responsibility/

c. May receive compensation for teaching courses at certain educational institutions even if the subject is related to your official duties. Seek ethics counselor advice.

d. May not use your rank or official position to promote your teaching, speaking, and writing. May include it in a title or bio and, if the subject deals with an ongoing agency program or policy, must include a disclaimer.

E. Political Activities (JER 6-300; DoD Directive 1344.10; AR 600-20, para 5-3 and Appendices B & C).

1. Soldiers may not engage in partisan political politics.

2. May not use your position to solicit votes or contributions.

3. Registering to vote, voting, expressing an opinion, making monetary contributions are generally okay.

F. Gambling (JER 2-302). Punitive Provision.

1. Gambling is prohibited on federally-owned or leased property or anywhere while on duty.

2. Rule allows private wagers in housing areas if based upon a personal relationship if IAW local laws. But: UCMJ may prohibit if a violation of punitive provisions regarding gambling with a subordinate.

PRINCIPLES OF ETHICAL CONDUCT

1. **Public Service is a public trust**, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.

2. Employees **shall not hold financial interests that conflict with the conscientious performance of duty**.

3. Employees **shall not engage in financial transactions using nonpublic Government information** or allow the improper use of such information to further any private interest.

4. An employee **shall not**, except as [provided for by regulation], **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.

5. Employees **shall put forth honest effort in the performance of their duties**.

6. Employees **shall not knowingly make unauthorized commitments** or promises of any kind purporting to bind the Government.

7. Employees **shall not use public office for private gain**.

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9. Employees **shall protect and conserve Federal property** and shall not use it for other than authorized activities.

10. Employees **shall not engage in outside employment or activities**, including seeking or negotiating for employment, **that conflict with official Government duties** and responsibilities.

11. Employees **shall disclose waste, fraud, abuse, and corruption** to appropriate authorities.

12. Employees **shall satisfy in good faith their obligations as citizens**, including all just financial obligations, especially those--such as Federal, State, or local taxes--that are imposed by law.

13. Employees **shall adhere to all laws and regulations that provide equal opportunity for all Americans** regardless of race, color, religion, sex, national origin, age, or handicap.

14. Employees **shall endeavor to avoid any actions creating the appearance** that they are violating the law or ethical standards. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective or a reasonable person with knowledge of the relevant facts.