



Fort Sam Houston

Commander's Guide to the Standards of Conduct

Staff Judge Advocate
AMEDDC&S and Fort Sam Houston
1306 Stanley Road, Bldg. 134
San Antonio, Texas 78234



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PREFACE

The Administrative and Civil Law Division, Office of the Staff Judge Advocate, is proud to present this handbook for use by new commanders and their staff. It highlights common standards of conduct issues faced by commanders in the field. It provides broad guidance on a variety of matters, but is not a substitute for advice from an ethics counselor.

Ethics is the foundation for federal service. The public expects and deserves its officials to be fair and impartial and not to use their official position for personal gain. We fulfill this mandate by avoiding conflicts of interest and improper influence, and by being good stewards of government resources.

Executive Order 12674 sets forth the following standards for our conduct as government employees and is the broad outline for the Army's ethics program.

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 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 the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

Each command has a designated Ethics Counselor available for soldiers and employees who need ethics counseling and advice. Their phone numbers are listed below. The AMEDDC&S and FSH Ethics Counselor (221-2373/0485) is located with the Staff Judge Advocate, AMEDDC&S and Fort Sam Houston, BLDG. 134, 1306 Stanley Road, STE. 19, Fort Sam Houston, Texas.

Other Command Ethics Counselors are available at these numbers:

MEDCOM - (210) 221-8400

Brooke Army Medical Center - (210) 916-2031

Fifth Army - (210) 221-1515

Fifth Recruiting Brigade - (210) 221-0150

Additional information, forms, and regulations on legal assistance, claims, administrative law and ethics can be found at the AMEDDC&S AND FSH Staff Judge Advocate's website, located at <http://www.cs.amedd.army.mil/sja>. Click on Administrative and Civil Law in the left column, then click on the appropriate subject (administrative law, contracts, ethics, labor law, environmental law).

The Administrative Law web page contains copies of:

A Guide for the AR 15-6 Investigating Officer

A Guide for the Report of Survey Officer

The "Top Ten" Report of Survey Mistakes

A Guide for the Line of Duty Investigating Officer

AR 15-6, Procedure for Investigating Officers and Boards of
Officers
AR 600-8-1 (Extract), Line of Duty Investigations
AR 735-5, Policies and Procedures for Property Accountability
DA PAM 735-5, Survey Officer's Guide

The Ethics web page contains the following:

2001 Annual Ethics Briefing
OGE Form 450, Confidential Financial Disclosure Report
OGE Form 450-A, Confidential Certificate of No New Interests
SF 278, Public Financial Disclosure Report
DOD 5500.7-R, The Joint Ethics Regulation (JER)

Information Papers

Inappropriate Use of Electronic Mail
Summary of Employment Restrictions
Guidelines for Acceptance of Travel Benefits from a Non-Federal
Source Pursuant to 31 USC §1353
Gifts on Special Infrequent Occasions
Holiday Activities and "Good Judgment," Part 1
Holiday Activities and "Good Judgment," Part 2
Off-Duty Employment
Political Activities
SA Policy on Use of Nontactical Motor Vehicles
Management of Non-Federal Entities vs. Liaisons

TABLE OF CONTENTS

January 2002

CHAPTER ONE - GIFTS

I. REFERENCES.....1
II. GIFTS TO INDIVIDUALS FROM OUTSIDE SOURCES.....1
III. GIFTS BETWEEN EMPLOYEES.....4
IV. GIFTS TO A UNIT.....5

CHAPTER TWO - PRIVATE ORGANIZATIONS

I. REFERENCES.....7
II. RELATIONSHIPS WITH PRIVATE ORGANIZATIONS.....7
III. FAMILY SUPPORT GROUPS.....11
IV. RULES ON INFORMAL FUNDS AND THEIR RESALE ACTIVITIES.....12

CHAPTER THREE - FUNDRAISING

I. REFERENCES.....14
II. OFFICIAL SUPPORT FOR PO FUNDRAISING ACTIVITIES.....14
III. EXAMPLES OF SUPPORT TO PRIVATE ORGANIZATION FUNDRAISING.16

CHAPTER FOUR - USE OF GOVERNMENT RESOURCES

I. REFERENCES.....18
II. SUMMARY.....18

CHAPTER ONE

GIFTS

I. REFERENCES

A. DOD 5500.7-R, Joint Ethics Regulation (JER) (30 Aug 93), through Change 4 (6 Aug 98).

B. Office of Government Ethics (OGE), Standards of Conduct for Employees of the Executive Branch, Title 5, Code of Federal Regulations (C.F.R.), § 2635, Subpart B.

C. Title 5, United States Code (U.S.C.), § 7342.

D. AR 1-100, Gifts and Donations (15 Nov 83) and MEDCOM Supplement 1 to AR 1-100 (8 Oct 97) (under revision).

II. GIFTS TO INDIVIDUALS FROM OUTSIDE SOURCES

A. Basic Rule. DA personnel may not solicit or accept a gift:

1. From a "prohibited source"; or
2. Given because of the employee's official position.

B. A "prohibited source" means any person or entity:

1. seeking official action by the employee's agency;
2. doing or seeking to do business with the employee's agency;
3. regulated by the employee's agency;
4. substantially affected by the employee's official duties; or
5. a majority of whose members fit into one or more of these categories.

C. The test for "official position" is whether the gift would have been solicited, offered, or given had the employee not held the status, authority, or duties associated with his Federal position.

D. Practical approach to determine acceptability of an item or service. Three questions:

1. Is the item a gift? A gift is any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It can include services, as well as, training, transportation, local travel, lodging, and meals. There are categories of "nongifts," such as, coffee and donuts or

greeting cards. Generally, if an item has no resale value, it is a "nongift." Other examples of nongifts include:

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

b. Greeting cards and items with little intrinsic value, such as most plaques, certificates, and trophies which are intended solely for presentation;

c. Rewards and prizes in contests open to the general public or to all Government or military personnel;

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

e. Commercial loans, 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 where an employee may accept a gift from an outside source are:

a. Unsolicited gifts with a market value of \$20 or less per source per occasion, as long as the total value of all gifts received from the same 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; honorary degrees from institutions of higher learning.

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

f. Free attendance (not travel or lodging) provided by the sponsor of a widely-attended gathering, speaking engagement, or other event where the Government agency has determined it has an interest in the event (e.g., Dallas Military Ball).

g. Food, refreshment, 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. Meals, refreshments, and entertainment in foreign areas.

i. Gifts accepted under specific statutory authority.

j. Unsolicited gifts of free attendance for Army employees (and spouses) at events sponsored by state or local governments or non-profit, tax exempt civic organizations, where the Army has identified a community relations interest in the event.

k. Certain educational scholarships or grants for Army employees and dependents.

l. Certain gifts at ship launch and similar ceremonies.

3. Would accepting a gift undermine Government integrity? Even if a gift is allowed by one of the exceptions, do not accept it if it will undermine Government integrity by creating an appearance of a conflict of interests.

a. Official position cannot be used to solicit a gift or force someone to give a gift.

b. A gift is illegal if it is in exchange for an official action (that's a bribe).

c. Some gifts may be prohibited by other statutes (i.e., Foreign Gifts Act or Procurement Integrity Statute).

d. Finally, gifts may not be accepted so frequently that anyone would question whether influence is being bought.

C. Handling improper gifts. When an employee cannot accept a gift:

1. If possible, the employee should diplomatically refuse the offer of an improper gift; or

2. The employee should return the gift; or

3. The employee may elect to pay the donor the market value of the gift.

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

5. Consider whether the gift may be accepted on behalf of the Army and placed on an appropriated fund or non-appropriated fund property book (AR 1-100 or AR 215-1).

III. GIFTS BETWEEN EMPLOYEES

A. General Rules. An employee shall not:

1. Give a gift or solicit a contribution for a gift for a 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 to the Gift Prohibition.

1. Employees may give or receive gifts on an occasional basis, including traditional gift-giving occasions, such as birthdays and holidays. This includes:

a. Minor contributions of food that will be consumed at the office, meals at someone's home (of a type and value typically given to personal friends), and customary gifts, such as a bottle of wine, brought when invited to another's home.

b. Infrequent gifts (other than cash) having a value of \$10 or less on appropriate occasions, such as Christmas or birthdays, or upon return from a vacation or TDY. Such gifts may not become "routine."

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

a. Gifts on special infrequent occasions should be appropriate to the occasion. The limit per gift per donating group is \$300.

(1) A donating group is comprised of all the contributors to that group gift. For a departing CG, each brigade can be a donating group; for a brigade commander, each battalion; and so on.

(2) If a contributor gives to two donating groups, then the value of the gifts from the two groups is aggregated as if it were from a single donating group -- the \$300 limit applies to the total value (JER 2-203a(2)).

(3) While donating groups may each give a gift up to \$300 in value, donating groups may not pool their resources to purchase parts of a larger gift such as, but not limited to, the following: individual place settings for a china set, individual golf clubs to make a complete set, or having one group purchase a picture while another group purchases the frame.

(4) A gift to an employee's spouse or children is considered a gift between employees subject to the rules above, unless there is an independent basis for the gift. The value of the gift to a spouse is added to the value of the gift to the employee in determining the \$300 limitation per donating group.

b. An employee cannot solicit more than \$10 from another employee for a group gift for a superior (JER 2-203b); however, an employee may contribute more than \$10 if he or she so chooses.

c. Solicitations for gifts to a superior must be completely voluntary. Solicited individuals may decline to contribute.

d. To avoid improper pressure, no one should keep a list of contributors, and preferably, the collection should be handled by someone junior in the organization.

IV. GIFTS TO A UNIT

Whenever a proffer is made, there should be an initial determination as to whether the gift is to an individual or to a unit. Gifts to a unit or to the Army may be accepted under the conditions specified in the following authorities.

A. AR 1-100, Gifts and Donations.

1. An Installation Commander has local authority to accept unconditional gifts up to \$1,000 in value when their acceptance and maintenance entail negligible costs. Proffers for conditional and unconditional gifts exceeding \$1,000 in value must be forwarded to the MEDCOM.

2. When consistent with the intent of the donor, unconditional gifts of money or tangible personal property made directly to Army units will be treated as gifts to the unit welfare fund or other nonappropriated fund.

B. MEDCOM Supplement 1 to AR 1-100.

1. The MEDCOM Commander has the authority to accept both conditional and unconditional gifts up to \$20,000 in value. The Secretary of the Army accepts gifts exceeding \$20,000.

2. The Supplement imposes the requirement on the local commander to prepare a seven paragraph memorandum answering questions designed to help determine whether the acceptance of the gift is in the best interests of the Army.

C. AR 215-1, para. 7-39.

1. The Installation Commander may accept gifts to a NAFLI up to \$25,000, except for contributions by the local United Way which may be accepted in any amount.

2. The MEDCOM Commander may accept gifts to a NAFI up to \$50,000 in value. USACFSC may accept gifts up to \$150,000 in value. The Secretary of the Army accepts all gifts exceeding \$150,000.

D. Gifts to the Army for distribution to individuals. AR 1-101, Gifts for Distribution to Individuals (1 May 1981).

1. Accept only those gifts that promote health, comfort, convenience, and morale. Examples include reading materials and writing paper.

2. Do not accept alcoholic beverages.

3. The donor must pay all transportation charges from point of origin.

4. The approval authority is the MACOM Commander who may delegate it to a subordinate commander.

5. See AR 1-101, para. 7, for additional restrictions on acceptance.

CHAPTER TWO

PRIVATE ORGANIZATIONS

I. REFERENCES

- A. JER, Chapter 3.
- B. 5 U.S.C. § 5703.
- C. AR 608-1, Army Community Service Program (1 Oct 99).
- D. AR 215-1, Nonappropriated Fund Instrumentalities and Morale, Welfare, and Recreation Activities (25 Oct 98).
- E. DA Pamphlet 608-47, A Guide to Establishing Family Support Groups (16 Aug 93).
- F. MEDCOM Regulation No. 600-5, Informal Funds (1 Nov 01).

II. RELATIONSHIPS WITH PRIVATE ORGANIZATIONS

Private organizations (POs) are allowed to operate on post for the benefit of soldiers, civilian employees, and family members. Generally, they do not conduct official business for the Army. Thus, they are authorized only limited official support (e.g., a place on post to meet and authorization for soldiers to participate in their activities). If you have a question about a particular PO or Family Support Group, you may contact the Community Activities Business Center at 221-2705. The first step in dealing with and resolving any PO issue is to determine whether a relationship with the PO is either personal or official. The nature of the relationship guides the analysis and generates the answer.

A. Personal Participation - DOD employees may:

1. Join and participate in PO activities in their personal capacity.
2. Use their rank and component designation in connection with their PO activities (e.g., General, U.S. Army), but may not refer to their official position or use the authority associated with that position.
3. Become officers and directors of POs provided that the positions are not offered because of their Federal position. In this case, the employee is prohibited from acting in any official matter involving the PO. If the employee files an SF 278 or OGE 450 financial disclosure report, the position as a PO officer must be reported.
4. Engage in fundraising on behalf of POs provided that no DOD endorsement is implied, and as long as they do not personally solicit prohibited sources or their subordinates.

5. Make presentations and publish papers as part of PO activities. If the presentation or paper deals with DOD operations or policies, there must be a disclaimer that the views presented are personal and do not represent DOD.

6. Represent a PO that is composed of DOD employees and their dependents in discussions with the Government except when the matter involves an administrative or judicial proceeding or the disbursement of funds.

7. Under some circumstances, be given time off and may use Government resources in their personal participation with POs, when they meet specific criteria and have approval as set out in JER, para. 3-300b (writing papers for professional associations and learned societies), and JER, para. 3-300c (certain community support activities).

B. Personal Participation - DOD employees shall not:

1. Accept positions as officers, directors, or similar positions in a PO offered because of their official duty position.

2. Use their office, title, or position in connection with personal participation in POs (e.g., duty position shown on PO's letterhead listing organization officers).

3. Personally solicit subordinates or prohibited sources (generally, DOD contractors), or permit the use of their names in a solicitation that targets subordinates or prohibited sources, in PO membership drives or fundraising campaigns.

4. Coerce subordinates to join or participate in PO activities.

5. Use their official position to state or imply official endorsement of a PO, its activities or fundraising efforts.

6. May not participate in official federal actions that affect the interests of a PO in which they are officers or directors.

7. Represent ordinary POs (as opposed to POs composed of DOD members) in discussions with the Government.

C. Official Relationships - Permitted Activities

1. Attendance. Consistent with sound fiscal principles governing training expenses, DOD employees may attend meetings, conferences, seminars and similar events sponsored by POs, and may participate as panelists and speakers. DOD employees may not attend such events at government expense solely to acquire or maintain professional credentials that are minimum requirements to hold a DOD position.

2. Liaison. DOD employees may serve as liaisons to POs when appointed by the appropriate commander. Liaisons may represent DOD in discussions, but cannot bind their DOD organization to any action. A liaison may not participate in the management of the PO. The Army may appoint official liaisons to POs where there is a significant and continuing Army interest to be served. However, they are only liaisons. When they participate, they do so as Army employees and their loyalty is to the Army. If they are officers, directors, or even active participants in the PO in their personal capacities, they may not be Army liaisons because of the conflict of loyalties. Liaisons participate in matters of mutual interest to the PO and the Army, and vote on those issues that relate to liaison activities.

3. Information Distribution. In accordance with public affairs regulations, official channels may be used to inform DOD employees of professional development events; scientific and technical events; and morale, welfare, and recreation events sponsored by POs.

4. Logistical Support to PO Events. On a limited basis, DOD facilities and equipment (and the personnel necessary for proper use of the equipment) may be provided when the head of the DOD command or organization determines:

a. The support does not interfere with the performance of official duties and does not detract from readiness;

b. The support promotes legitimate DOD community relations, public relations or recruiting interests, or military training objectives can be met by providing the support;

c. The event is appropriate for DOD support;

d. The command is able and willing to provide the same support to comparable events sponsored by similar organizations;

e. No admission fee beyond the reasonable cost of the event itself will be charged, or no fee will be charged for that portion of the event supported by DOD; and

f. The support is not restricted by other statutes.

5. Co-Sponsorship. A DOD component command is a co-sponsor of an event when that DOD component command or organization is one of the organizations that develops the substantive aspects of the event or provides substantial logistical support for the event. Co-sponsorship of events with a PO is prohibited except as follows:

a. DOD may co-sponsor a civic or community activity, except for fundraising or membership drives, where the head of the DOD component command or organization determines that the

activity is unrelated to the purpose or business of the co-sponsoring PO or the purpose or business of any of its members.

b. A DOD component command may co-sponsor a conference, seminar or similar event with a PO when all of the following requirements are met:

(1) The head of the DOD component command or organization finds that the subject matter of the event (or co-sponsored discrete portion) is scientific, technical, or professional issues that are relevant to the mission of the DOD component command or organization.

(2) The head of the DOD component command or organization finds that the purpose of co-sponsorship is to transfer Federally developed technology or to stimulate wider interest and inquiry into the scientific, technical, or professional issues identified above, and that the event is open to interested parties;

(3) The PO is a recognized scientific, technical, educational, or professional organization approved for this purpose by the Army DAEO (i.e., a PO which qualifies as a tax-exempt, nonprofit organization under 26 U.S.C. §501(c)3), giving due consideration to the prohibition against giving preferential treatment to POs in 5 C.F.R. §2635.101(b)(8).

(4) The co-sponsorship is accomplished through a written agreement that includes the nature and purpose of the event; the undertakings and liabilities of the parties; funding responsibilities and costs (including admission fees); a disclaimer of Government liability if DOD reduces the level of its participation or completely withdraws; and a statement that the PO will not use the fact of co-sponsorship of the event to imply DOD endorsement of the PO or its other events.

(5) No admission fee (beyond what will cover the reasonable costs of sponsoring the event) may be charged for a co-sponsored event, or no admission fee (beyond what will cover the reasonable costs of sponsoring the event) may be charged for the discrete portions of the event cosponsored by the DOD component.

6. Support to Fundraising. DOD may provide limited support to a charitable fundraising event, if the PO is not affiliated with the Combined Federal Campaign (CFC), and the six factors in C.4, above, are met. If the PO is affiliated with the CFC, see Chapter Three, Section II, below.

D. Official Relationships - Prohibited Activities

1. Management. Unless approved by the Secretary of the Army and the DOD General Counsel, Army employees acting in their official capacity may not participate in the management of POs.

2. Fundraising/Membership Drives. Except for certain authorized organizations, including organizations composed primarily of DOD employees or their dependents when fundraising within the DOD community, a DOD employee may not officially endorse a PO's fundraising or membership drive.

3. Endorsement. Except as stated above, DOD employees shall not officially endorse a PO, or any event, product, service or enterprise of a PO.

4. Support. DOD will not provide support to PO activities unless there is a valid agency interest. There must be some benefit to the agency before extending even minimal support, such as providing a liaison. Then the commander must follow the six step analysis contained in para. C.4 above.

III. FAMILY SUPPORT GROUPS (FSGs)

A. Family Support Groups are primarily volunteer organizations. They should be supported primarily by volunteer effort. At the same time, family support groups can be affiliated with military units. Family Support Groups normally function at the company and battalion level as authorized by DA Pam 608-47, A Guide to Establishing Family Support Groups. This pamphlet was published prior to the JER and is subject to that regulation. Army Community Service assists with unit and FSG outreach efforts as requested (AR 608-1, para. 11-3). To the extent FSGs further the unit's mission, they may receive official support and funding. Thus, they are treated differently from POs in most cases. Commanders, acting in their official capacity, may use official communication channels and briefings to encourage soldiers and their families to volunteer for FSG activities.

B. Family Support Group volunteers may generally use government facilities, mail, copying equipment, telephones, computers, and administrative supplies and equipment when performing official functions. "Official functions" do not include mailing recipes and other nonofficial material. Government vehicles can be used in support of the FSG mission, including transportation of volunteers performing official FSG business. Vehicle support must be provided by existing unit resources, cannot degrade the organization's mission, and cannot generate requirements for additional Army owned, leased, or rented vehicles. Statutory limitations on home-to-work (domicile-to-duty) transportation apply to transportation support of FSGs. For example, official vehicles may not pick up FSG volunteers at their homes to transport them to the FSG office or meeting location.

C. Invitational travel orders (ITO) may be authorized for volunteers in their capacities as FSG members. Pursuant to AR 215-1, para. 4-6j, nonappropriated funds (NAFs) and available appropriated funds (APFs) may be used to pay enrollment expenses, travel, and per diem costs for volunteers who are traveling to receive training or who are participating in workshops, as

authorized by installation commanders. Title 5 U.S.C. § 5703, as implemented by the Joint Travel Regulations, authorizes ITOs for persons performing a direct service for the Government, such as experts, consultants, and other advisors. Such persons can include volunteers in the FSG program.

D. Under AR 215-1, para 4-6j, commanders may authorize use of NAFs and available APFs to reimburse incidental expenses of FSG volunteers. This includes a portion of telephone bills attributable to official volunteer duties and POV mileage, if government transportation is not available.

E. In applying the above guidance, commanders must examine every proposed expenditure to determine if there is an adequate relationship between the proposed expenditure and the mission of the unit. The appropriateness of the expenditure will depend on factors such as the location of the unit, the needs and problems facing the unit, and the upcoming unit calendar. Inappropriate expenditures are: those of a social nature without a direct relationship to the unit's mission; those that benefit individuals rather than families; those that are based on rank or status; and those that duplicate existing morale, welfare, and recreation programs.

F. When FSGs engage in fundraising on-post, such as bake sales that are designed to raise funds among members of the Army community, the Installation Commander may authorize official support and encourage soldiers and their families to support the event. If authorized by the Installation Commander, soldiers may be released to support the event and Army equipment may be used so long as it does not interfere with mission requirements. Commanders may only authorize fundraising activities on-post that occur outside the federal workplace, such as public entrances, in community support facilities, and in personal quarters.

G. When FSGs engage in fundraising outside of the Army community, they are treated the same as other private organizations. The Army cannot officially support or endorse FSG fundraising outside of the Army community. Soldiers and their families must be careful to avoid implying that the Army officially supports or endorses external fundraising.

IV. RULES ON INFORMAL FUNDS AND THEIR RESALE ACTIVITIES

A. Informal funds are authorized to operate on Fort Sam Houston without first being organized as POs under the JER. These funds are limited in scope, activities, membership, and net worth (\$1,500 average). Authorized examples of such funds include unit social funds, office coffee or popcorn funds, cup and flower funds, and family support groups.

B. MEDCOM Regulation No. 600-5. Informal funds must comply with the following requirements:

1. There must be a fund custodian who will administer fund business during off-duty time. Custodians will report

annually to their military rater or civilian supervisor concerning the fund's existence, purpose, and financial status. If a fund's assets (that is, money and property) are greater than \$300, approval of the fund must be obtained in writing. Likewise, the status reports will be in writing. The fund custodian will also promptly report any actual or suspected irregularities associated with the fund. Informal funds are not entitled to military banking privileges; and,

2. Informal funds may be used only for expenses consistent with the purpose and function of the fund. They may not be expended in any way that is, or appears to be, improper or contrary to Army interests. Individuals must comply with applicable ethical rules in expending the funds and in participating in fund activities.

C. Limitations on resale activities of informal funds are contained in several regulations. Because the money involved is neither appropriated nor nonappropriated funds, but instead is private, there are no requirements that the money be spent at any particular place, such as the commissary or AAFES.

D. An informal fund may take up collections solely among its own members in amounts necessary to fulfill its limited purpose without obtaining prior approval. These membership collections do not constitute fundraising and obtaining prior approval is not necessary. Any collection of money or goods outside of the membership constitutes fundraising for which prior approval must be obtained from the Community Activities Business Center.

CHAPTER THREE

FUNDRAISING

I. REFERENCES

- A. JER, Chapter 3.
- B. 31 U.S.C. § 1353.
- C. 10 U.S.C. § 2601.
- D. 5 U.S.C. § 4111.
- E. 5 C.F.R. § 2635.

II. OFFICIAL SUPPORT FOR PRIVATE ORGANIZATION FUNDRAISING ACTIVITIES

A. Department of the Army officials may officially endorse only the Combined Federal Campaign (CFC), emergency or disaster relief fundraising specifically approved by the Director of the Office of Personnel Management (OPM), the Army Emergency Relief (AER) campaign, and organizations composed of soldiers, Army civilian employees, and family members fundraising on-post for the benefit of welfare funds for their own members or morale, welfare, and recreation (MWR) programs. Endorsements may include support for the fundraising effort by public appearances at campaign kickoffs, or by the use of name, title and position to promote the fundraising in memoranda, employee newsletters, or other routine communications. Department of the Army employees may not, in their official capacities, support, endorse, or participate in other local fundraising on behalf of private organizations (POs).

B. Only the CFC and AER campaigns may solicit in the federal workplace for a monetary contribution or a pledge of a monetary contribution. Provided no on-the-job fundraising is involved, and if there is no conflict with the annual CFC and AER campaigns, the following fundraising activities may be locally authorized:

1. Fundraising in support of installation MWR activities. For example, bake sales and car washes may be authorized in public areas to raise funds for MWR activities.

2. Occasional fundraising in support of on-post POs pursuant to para 3-210a(6) of the JER. This is fundraising by organizations composed of members from the DOD community that can include dependents and retirees. The chain of command determines whether a group qualifies as an organization pursuant to this rule. Official support for such fundraising may only be given when the effort is limited to the DOD community.

3. Other limited activities to assist the unfortunate, authorized by local commanders and heads of activities, including

the placing of collection boxes in public use areas of DOD buildings or installations for the voluntary donation of foods or goods (but not cash) for charitable causes.

C. Any fundraising campaign must observe the principle of true, voluntary giving. Each DA employee has the right to give or not give as the individual so chooses. Employees must have the option of disclosing their contributions or keeping them confidential. Any campaign practice involving compulsion or coercion is prohibited. The following practices are specifically prohibited:

1. Solicitation of employees by their commander, supervisor, or any individual in their supervisory chain;
2. Inquiries by a supervisor about an employee's contribution;
3. Noting an individual's participation or nonparticipation in that individual's performance appraisal or evaluation report;
4. Developing and using lists of non-contributors;
5. Providing and using contributor lists for purposes other than the routine collection and administration of contributions; and
6. Granting of special favors, privileges, or entitlements, such as special passes or leave privileges, as an inducement to contribute.

D. Purely personal, unofficial, volunteer efforts by DA employees to support fundraising for POs are allowed where the efforts do not imply DOD endorsement. The JER permits employees to engage in such fundraising subject to the following restrictions:

1. No fundraising activities are allowed on duty time.
2. No fundraising activities are allowed in the Federal workplace.
3. No government resources are used.
4. Employees may not personally solicit or allow someone to use their name or position to solicit funds or support from a subordinate;
5. Employees may not personally solicit, or allow someone to use their name or position to solicit funds or support from a prohibited source. A prohibited source includes any person who: is seeking official action by the Army; does or seeks to do business with the Army; conducts activities regulated by the Army; has interests that may be substantially affected by performance or nonperformance of the employee's duties; or is an

organization, the majority of whose members are prohibited sources.

III. EXAMPLES OF SUPPORT TO PRIVATE ORGANIZATION FUNDRAISING

A. If a PO is affiliated with the CFC, an Installation Commander may provide logistical support to that PO's fundraising activities on his installation only if he has obtained permission, in advance, from the Office of Personnel Management (OPM). The reason for this rule is that most POs are affiliated with the Combined Federal Campaign (CFC), and as such, all fundraising by the organization should be within the context of the CFC. This rule also applies to local chapters that are affiliated with the CFC. [Note: OPM has indicated that, generally, it will not approve exceptions for fundraising outside of the CFC.]

Example: The local Amvets chapter, a CFC affiliate, wants to host a fundraising 10K race on-post and asks for logistical support. Without OPM approval, the Installation Commander cannot approve either the race or the support.

B. The exception to this general rule is when the PO fundraising event is in direct response to an OPM-approved emergency or disaster relief appeal.

Example: A branch of the local river has flooded in a nearby community. The President has designated the area eligible for federal disaster relief, and OPM has announced that federal agencies may allow employees to collect food, blankets and funds to assist victims of the flood. The Installation Commander may authorize soldiers and employees to use official time and resources to collect donations to be given to the Red Cross for relief in this disaster.

C. OPM permission is not required, if the event raises gifts-in-kind (such as food, clothing or toys) rather than funds.

Example: The UnitedWay sponsors a Food Bank for needy families. They have asked for access to the post housing area to conduct the collection. The Installation Commander can approve the request.

D. OPM approval is not required if the fundraising does not occur in the federal workplace. The federal workplace includes, by definition, the entire DOD installation. The Installation Commander may, however, designate limited areas as public places on the installation where similarly situated groups may solicit funds.

Example: The Red Cross has asked whether it can set up a card table and a "Cross Your Heart" display soliciting donations outside of the PX on Valentine's Day weekend. In the past, the Installation Commander designated this area as a public area. He has authorized both the Girl Scouts to sell cookies and the Disabled American Veterans to sell poppies in this area. The

Commander has the authority to authorize the Red Cross appeal in the same place because it is a designated public area, and similar organizations have been granted access in the past.

E. After obtaining OPM approval for an on-post PO fundraising event, a commander may provide logistical support. On a limited basis, DOD facilities and equipment (and the personnel necessary for proper use of the equipment) may be provided when the Installation Commander determines:

1. The support does not interfere with the performance of official duties and does not detract from readiness.
2. The support promotes legitimate DOD community relations, public relations or recruiting interests, or military training objectives can be met by providing the support.
3. The event is appropriate for DOD support.
4. The command is able and willing to provide the same support to comparable events sponsored by similar organizations.
5. No admission fee beyond the reasonable cost of the event itself will be charged, or no fee will be charged for that portion of the event supported by DOD. (That is, DOD support to an event must be incidental to the fundraising purpose, and cannot be the basis of the fundraising.)
6. The support is not restricted by other statutes.

Example: The USO has obtained OPM approval to conduct a fundraising concert in conjunction with the CFC. Local celebrities and entertainers have offered their services. The USO has asked if the post theater may be used for the concert. Use of the post theater can be authorized. (This scenario is a good example of how DOD may support a fundraising event without directly contributing assets to the fundraising itself.)

F. While DOD may not officially endorse any other fundraising events, DOD may provide limited support to a charitable fundraising event, if the PO is not affiliated with the CFC and the six factors in para. E, above, are met.

CHAPTER FOUR

USE OF GOVERNMENT RESOURCES

I. REFERENCES

- A. 31 U.S.C. §§ 1301 and 1344.
- B. 5 C.F.R. §§ 2635.101(b)(9) and 2635.704.
- C. DOD 5500.7-R, Joint Ethics Regulation (JER) §§ 2-300b and 2-301.
- D. MEDCOM Information Management Policy 25-97-09, subject: Policy for Permissible Use of Federal Government Communications Resources, dated 9 December 1997.
- E. FSH USAG Policy Memorandum #31, subject: Use of Federal Government Communication Systems and Services, dated 1 June 2000.
- F. FSH USAG Policy Memorandum #33, subject: Official Use of Government Vehicles, dated 1 June 2000.

II. SUMMARY

A. General Rule. Employees must protect and conserve government resources and use them (or allow their use) only for authorized purposes.

B. Communications systems. Federal communications equipment, including government-owned telephones, facsimile machines, electronic mail, and Internet systems, are available only for "official use" and "authorized purposes."

1. "Official use" includes emergency communications, communications that are necessary in the interest of the Government, and "morale and welfare" communications by DOD employees on extended deployments.

2. "Authorized purposes" include brief calls home while TDY to notify family of official transportation or schedule changes.

3. Personal communications from the workplace are authorized, if the commander/supervisor determines that:

a. the communication does not adversely affect official duty performance;

b. is of reasonable duration and frequency and made during personal time whenever possible;

c. serves a legitimate public interest;

d. does not reflect adversely on DOD; and

e. does not overburden the communication system or create any significant additional cost to DOD.

NOTE: For garrison activities, see FSH USAG Policy Statement #31, in which the Garrison Commander has authorized use of USAG resources (telephone, e-mail, internet, etc.,) for some personal uses.

C. Vehicles. Government-owned vehicles (GOV) may only be used for official purposes.

1. An officer or employee who willfully uses or authorizes the use of an official vehicle except for an official purpose shall be suspended without pay for at least one month, and when warranted, for a longer period or summarily removed from office (31 U.S.C. Section 1349).

a. Official use is any use which, in consideration of all the facts, furthers the successful completion of a DOD function, action, or operation, and is otherwise consistent with the purpose for which DOD originally acquired the vehicle. Official purposes do not include domicile-to-duty (home-to-work) transportation, personal entertainment, or recreation. Particular uses determined to be for official use under USAG FSH Policy Statement #33 are:

(1) Stopping at on-post (Fort Sam Houston proper) food and/or beverage sales facilities (other than the AAFES Package Beverage Sales Store) during scheduled meal or other authorized break periods, when personnel are working at remote job sites and such facilities are closer to those job sites than the employee's normal workplace.

(2) Stopping at food and/or beverage sales facilities (other than an AAFES Package Beverage Sales Store) during scheduled meal or authorized break periods on other local DOD installations (Camps Bullis and Stanley, and Randolph, Lackland, Kelly, and Brooks Air Force Bases), when personnel are performing government business on those installations.

(3) While traveling to or from Fort Sam Houston or Camp Bullis in an official duty status, stopping at an off-post establishment that sells food or nonalcoholic beverages, if the stop is made during a scheduled meal or authorized break period, and the deviation from the direct route is less than 1 mile each way.

(4) If performing official duty at a non-military location, the GOV may be used to provide transportation to obtain a meal if the location where the meal is purchased is not more than 3 miles from the place of duty.

b. If using a GOV on TDY, you may use it to travel between your lodging and your work site, to a "suitable" restaurant, to religious services, and to an activity necessary to your sustenance, health or comfort, and the continued

efficient performance of government business (e.g., hair stylist, dry cleaner, Laundromat, doctor, or drug store). A "suitable" restaurant is determined on all of the facts. For example, you may not drive 24 miles to a fancy restaurant, when there are suitable restaurants 2 to 4 miles from your lodging.

c. Rental cars are not GOVs. Cars that you rent while on Government orders are treated differently, more like your own personally-owned vehicle. The Government will reimburse you only for the costs associated with the official portion of the rental. You may use the vehicle for personal purposes, but you must pay those expenses.

D. Personal use of other governmental resources. Government resources (other than communications equipment and vehicles) may be used for personal purposes if your supervisor determines that the use: does not adversely affect official duty performance; is of reasonable duration and frequency; occurs only during the employee's personal time; serves a legitimate public purpose; does not reflect adversely on DOD; and creates no significant additional cost to DOD.

E. Support to non-federal entities. Commanders may authorize limited use of DOD facilities and equipment (and DOD services necessary to properly use the equipment) in support of an event sponsored by a non-federal entity (except for fundraising and membership drives) if:

1. Support does not interfere with official duty performance or detract from readiness;
2. Support serves DOD community relations, public affairs or military training interest;
3. It is appropriate to associate DOD with the event;
4. The event is of interest and benefit to the local civilian community or DOD;
5. The command is able and willing to provide the same support to comparable events sponsored by other similar non-federal entities;
6. The use is not restricted by other statutes or regulations; and
7. No admission fee (beyond that required to cover reasonable sponsorship costs) is charged for the event.