Joint Ethics Regulation
JOINT ETHICS REGULATION
Overview

• JER Background and Scope
• Ethics Resources
• Key Rules
References

Joint Ethics Regulation (DoD 5500.7-R)

HQ USAF/JAG Updates

Ethics Websites
Ethical thought...

- Clear conscience never fears midnight knocking.
- Chinese Proverb
JER Background

• Replaced AFR 30-30
• DOD Directive 5500.7-R (30 Aug 93)
• No Service Supplementing Regulations
• Applies to all DOD employees, regardless of civilian or military grade
• 12 Chapters, Punitive Provisions
Overview of JER Topics

• Gifts
• Use of Government Resources
• Activities with Non-Federal Entities
• Travel Benefits
• Conflicts of Interest
• Political Activities
• Financial Disclosure
• Fundraising Activities
• Post-Government Employment
• Gambling
• Training Requirements
Joint Ethics Regulation (JER)

• First Issued on 30 Aug 93:
  • Change 1 -- 2 November 1994
  • Change 2 -- 25 March 1996
  • Change 3 -- 4 December 1997
  • Change 4 -- 6 August 1998
Ethics Counselors

• Staff Judge Advocate is the Designated Agency Ethics Counselor
  - Appointed in Writing
  - Must be an Attorney

• No Attorney-Client Privilege
  - Duty to Report Suspected JER Violations

• Importance of Written Advice
Ethical thought...

- What you do speaks so loudly that I cannot hear what you say.
  - Ralph Waldo Emerson
Ethics Resources

• **U.S. Office of Government Ethics**
  http://www.usoge.gov/

• **DOD/GC, Designated Agency Ethics Official**

• **HQ USAF/JAG (??)**

• **HQ AMC/JA**
JOINT ETHICS REGULATION

KEY RULES

Conflicts of Interest

Travel Rules

Gift Rules

Support of Non-Federal Entities
Conflicts of Interest

• No personal & substantial participation in a matters if direct & predictable effect on financial interests
  - Includes family members and business partners
• No **appearance** of conflict
• No private gain/endorsement/use of non-public information

▶ These are punitive provisions
General Gift Rule
5 U.S.C. § 7353

Do not solicit or accept any gift:
1) From a prohibited source
2) Given because of your official position
What’s a Prohibited Source?

Any person:

1) Seeking action or to do business with your agency (DoD)

2) Whose interests may be substantially affected by the performance or non-performance of your official duties
Gift Analysis

- Prohibited Source or Official Position?
- Is it a gift?
- Other Limitation?
- Exception?
Not “Gifts”

1) Modest items of food and refreshment
2) Items with low intrinsic value (e.g. greeting cards)
3) Loans from financial institutions
4) Opportunities available to the public or a class of employees
5) Rewards & prizes to competitors
Gift Exceptions

But of course for every rule, there is an exception

…..

“Suzie, this is math, not the law.”

….. (12 to be exact)
Gifts of $20 or less

- Up to $50 per year from same source
- Excludes cash, stocks, bonds, etc.
Based on personal relationships

Based on outside business or employment relationships

☑ Provided it’s not offered or enhanced because of official status
Awards and Honorary Degrees

- If part of bona fide award program for meritorious public service
- Given by group who doesn’t stand to benefit by employee’s performance or non-performance of official duties
- Non-cash value up to $200
Widely Attended Gatherings

✓ Free attendance at social, civic or entertainment events in official capacity

✓ Members from throughout a given industry; or diverse group interested in a certain matter

✓ Includes fees, food, entertainment

✓ Excludes travel, lodging, etc.
Gifts accepted under specific statutory authority

- Travel benefits from non-federal entities under 31 USC § 1353
- Includes travel, lodging, meals
- Attendance in official capacity at meeting or similar function
Foreign Area Exception

✓ Food, refreshments or entertainment at event

✓ Can’t exceed per diem rate for that area

✓ Participation by foreign entities
Limitations on Exceptions

So, according to this pre-nup, I get NOTHING unless he is stomped to death by an elephant and then eaten by lions??

I LOVE it!! Thought you might, Mrs. Barnum.
Notwithstanding any Exception, You Shall Not:

• Accept a gift in return for being influenced in the performance of an official act
• Solicit or coerce the offering of a gift
• Accept from the same sources on a basis so frequent as to cause appearance ...
• Accept a gift in violation of any statute
• Accept vendor promotional training contrary to applicable regulations
Handling Improper Gifts

• Refuse or return
• Pay fair market value
• Accept and distribute perishable items - with approval
• Gifts to the Government (10 USC 2601 and 2608)
Gifts from Foreign Governments

✓ Whenever possible, decline

✓ Accept to avoid embarrassing or offending donor

✓ Gifts < $285 can be retained

✓ Gifts > $285 become property of U.S.
“Business ethics” are all the craze. Obviously, we’ll just have to wait it out.
Gifts to Subordinates

• Provided it does not cross the professional relationship line (topic for another day)
Gifts from Subordinates

✓ You may not give or solicit for gifts to a superior

✓ You may not accept gifts from an employee receiving less pay
  ✓ Unless no superior-subordinate relationship
  ✓ AND personal relationship justifies gift
Exception #1

✓ On occasions when gifts are ordinarily exchanged, a gift valued at $10 or less may be accepted, as well as group refreshments.

On your birthday, the office gives you a cake and card ...

At Christmas your secretary brings you a poinsettia valued at $8...
Exception #2 (Part A)

✓ On infrequently occurring occasions of personal significance to the recipient
  - Includes: Marriage, illness, death, birth
  - Excludes: Birthdays, anniversary, holidays
Exception #2 (Part B)

✓ On occasions that terminate the superior-subordinate relationship (i.e. transfer or retirement) you may accept a gift under $300 from a donating group of employees

- You are PCSing to Alaska. Your entire office gives you a parka ($150) ... acceptable.

- You are going TDY to Alaska. Your office gives you the parka ... Not acceptable.
Ethical thought...

• If a man’s mind becomes pure, his surroundings will also become pure.
  – Budda
TRAVEL BENEFITS

✓ Frequent Flyer Miles
✓ Travel Vouchers
✓ Upgrades
Frequent Flyer Miles

✓ FY 2002 DoD Authorization Act changed the long-standing rules
✓ Federal employees who receive promotional items may keep the item for personal use
✓ Caveat: Must be available to the public under the same terms and can be accepted at no additional cost to the government
Travel Vouchers

✓ Involuntary Bump - benefit to government
✓ Voluntary Bump - employee may keep
✓ Caveats:
  - Delay can’t interfere with duties
  - Member can’t seek reimbursements for expenses incurred by the delay
Upgrades

✔ Okay to accept on-the-spot upgrades to first class if 2 conditions are met:
  1) No additional cost to the government
  2) Offered on same terms as a member of the public

✔ NEVER OKAY IN UNIFORM
✔ First or Business Class
Upgrades

✓ Frequent flier miles earned on official travel (including FEMLs) may be used for upgrades only while on official travel.

✓ May use miles earned on official travel (including FEMLs) to purchase personal airline tickets.
Support of Non-Federal Entities
Official Participation

• Attendance ... okay if official purpose
• Membership ... okay if a liaison
• Management ... usually no
• Endorsement ... usually no
• Support ... okay if meets 7-part test
COMMANDER’S DECISION:
1. No interference with mission
2. Public affairs interests are served
3. Appropriate for DoD to associate
4. Benefits to local community
5. Willing to support comparable events
6. Use is not restricted by other statutes
7. No admission fee except costs
Personal Participation

• Membership ... okay
• Fundraising ... okay
• Government resources ... can’t use official time or resources
  – Cannot fundraise during duty hours (unless on leave or lunch)
  – Can’t use gov’t property (including space) unless authorized by CC
Summarize

• JER Background and Scope
• Ethics Resources
• Key Rules
The servants of the Nation are to render their services without any taking of presents...”

--Plato