

## The Army Leaders Ethics Advisory Determinations (The Army LEAD)

The Army Leaders Ethics Advisory Determinations (The Army LEAD) is a compilation of recent ethics determinations of the Army's Office of General Counsel (Ethics & Fiscal) or the Office of The Judge Advocate General, Standards of Conduct Office. Because ethics issues are of importance to Army leaders, we compiled these ethics determinations as a resource for you and the members of your staff. Any questions about the items included in this edition of the Army LEAD, please contact the Office of General Counsel (Ethics & Fiscal) at 695-4296. For general ethics advice, contact your local ethics counselor.

### Improper Use of Subordinates and Government Resources.

All employees, including supervisors at the most senior levels, are reminded that the Standards of Ethical Conduct for Employees of the Executive Branch, and the DoD Joint Ethics Regulation contain specific prohibitions on the use of government resources, including use of subordinates. All employees have a duty to protect and conserve government resources. Employees must refrain from using resources for purposes other than those authorized by law or regulation. Furthermore, an employee is prohibited from encouraging, directing, coercing, or requesting a subordinate to use official time to perform acts other than those required in the performance of the subordinate's official duties. *Because of the potential for significant cost to the Federal Government, and the potential for abuse, DoD employees, such as secretaries, clerks, and military aides, should never be used to support the unofficial activity of another DoD employee in support of a non-federal entity, or for any other non-federal purpose, except in very limited circumstances.* The limited exceptions permitted by the ethics rules **exclude** use of subordinates to perform personal matters including, among other

matters: baggage handling; collecting dry cleaning, prescriptions, meals; and scheduling personal medical or dental appointments, entertainment and personal travel. (*Code of Ethics Principle #9*)

### Retirement Briefings - Post Employment Ethics Restrictions.

Soldiers or civilian employees who are retiring or who are departing Federal service to seek employment should request post employment ethics advice. In many instances, departing employees who have engaged in discussions with future employers before contacting an ethics counselor have committed violations of the applicable restrictions. The responsibility of every Army employee is to ensure that he or she arranges an appointment with an ethics counselor early in the process of his or her departure from Federal service. Title 18, United States Code, Section 207, is the primary source of post-employment restrictions applicable to officers and employees of the executive branch. For example, if you are seeking employment with a company, you are ineligible to participate personally and substantially (through decision, approval, disapproval, recommendation, advice, investigation or otherwise) in any

government matter in which the company has a financial interest. If you have duties involving a company, and you want to seek employment with that company, you must have a written disqualification from such duties *before* you begin to seek employment with that company (i.e., *before* you send the resume or have the first employment discussion). You should be aware, however, that the Army might always disapprove any request for disqualification based upon the exigent needs of the Army. (*Code of Ethics Principles # 2, 3, & 10*)

### Presenting Gifts From Subordinates to Superiors.

OGC often receives inquiries regarding what subordinates are authorized to give to their superiors who are retiring. While gifts from a subordinate to a superior are generally prohibited, the giving of a gift may be allowed upon occasions that terminate a subordinate-superior relationship, such as retirement, resignation, or transfer. See 5 CFR 2635.304(b)(2). The aggregate market value of a gift from an individual to a superior in these circumstances must be less than \$10 per occasion. Subordinates may contribute to a gift as a group. However, the amount that one employee may solicit from another employee for a group gift also must be less than \$10, excluding separate solicitations of nominal donations of food, refreshments and entertainment. JER 2-203(b). In matters of a group gift, a DoD employee is prohibited from accepting a gift that exceeds \$300 if the employee knows, or has reason to know, that any member of the group is his or her subordinate. To obviate the analysis of these issues, every supervisor may inform his/her subordinate that **gifts are unnecessary and unwanted!** This approach emphasizes **selfless service** and avoids all the attendant issues arising from gift giving. JER 2-203(a). As additional limitations may apply, employees should consult with their ethics counselor

regarding questions involving the presentation or acceptance of gifts. (*Code of Ethics Principle # 4*)

### Offers of Free Attendance at Professional Association Events.

Many professional associations, such as: AUSA; AFCEA; NGAUS; and, ASMC, offer free attendance at seminars, meetings, and social events to Army personnel. Government ethics regulations prohibit personnel from accepting gifts from a prohibited source (a prohibited source is any entity that does business with or conducts activities affected by the government). There are some exceptions to this general prohibition. One exception is for "widely attended gatherings" (5 C.F.R. 2635.204(g)(2)). An employee may accept an unsolicited gift of free attendance at a widely attended gathering of mutual interest to a number of parties from the sponsor of the event when the employee's supervisor (or, in the case of a general officer or political appointee, their ethics counselor) specifically determines that acceptance by the employee will further the programs, operations, and policies of the particular command or, if more than 100 persons are expected to attend the event and the gift of free attendance has a market value of \$285 or less, from a person other than the sponsor of the event. The employee may legally accept the gift of free attendance, if an exception exists (although it is never imprudent to decline such offers!). It is important to note offers of free travel and lodging (as opposed to offers of free attendance at an event) are subject to other legal requirements. (*Code of Ethics Principle # 4*)