



# FUNDRAISING

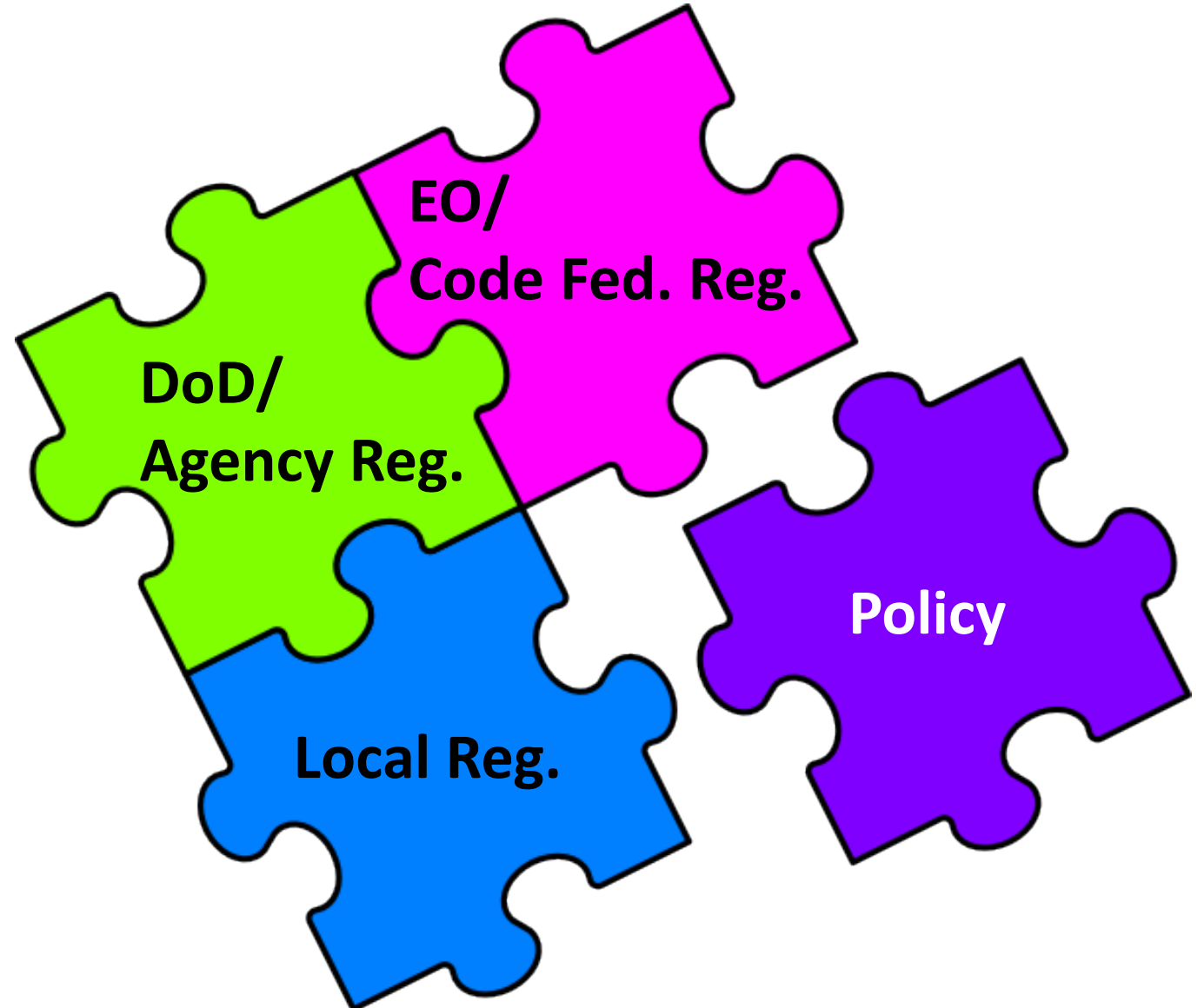
Mr. F. Dean Raab  
Standards of Conduct Office  
Office of General Counsel  
Department of Defense

April 2023



## *Challenge #1*

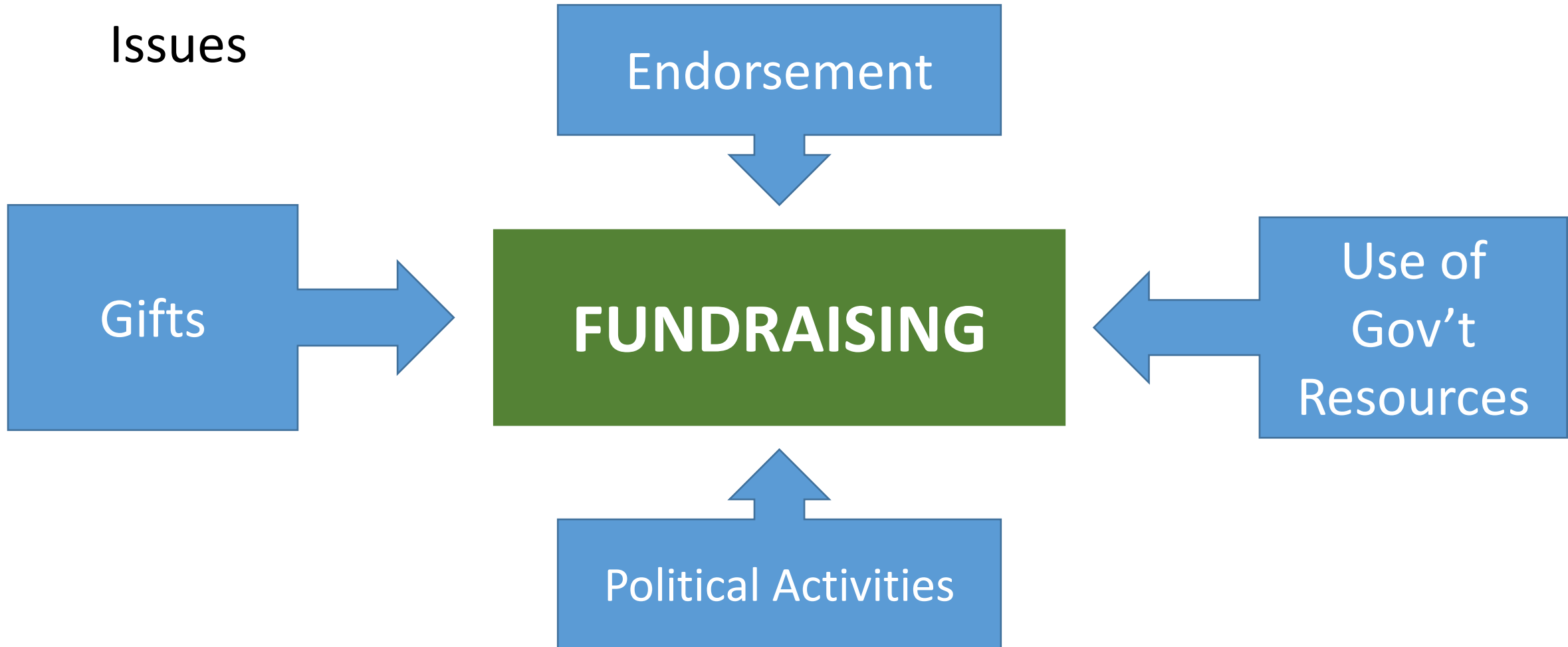
- No Comprehensive Guidance





## *Challenge #2*

- Overlapping Ethics Issues





## Challenge #3

- Everyone Wants to Fundraise!





# Roadmap

- Rules/References
- Fundraising defined
- Permissible Official Fundraising
- Personal Fundraising
- Miscellaneous Issues and Practice Tips





# *Fundraising*

- Generally, **fundraising is prohibited** in the Federal workplace
- The government must be neutral to retain the public's confidence, so we must ensure a level playing field for all non-Federal entities.





# *Fundraising*

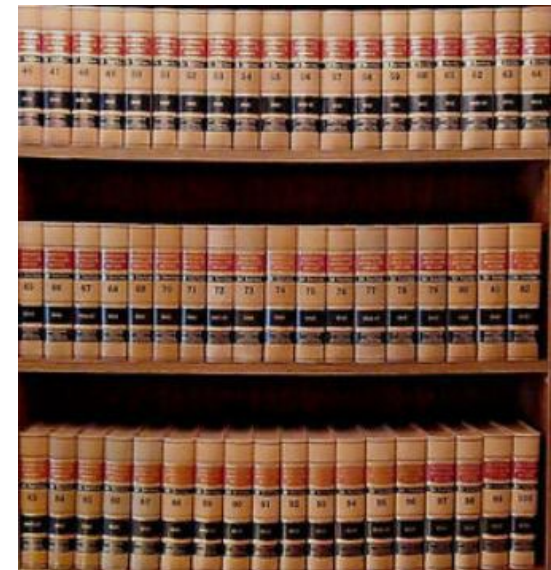
- Generally, **fundraising is prohibited** in the Federal workplace
- Except
  - Combined Federal Campaign
  - OPM-authorized disaster relief
  - By Our Own, For Our Own
    - Military Relief Societies
  - In-kind, non-cash donations





# Rules/References

- 5 C.F.R. § 2635.101, Basic Obligation of Public Service
- 5 C.F.R. § 2635.808, Fundraising Activities
- DoD 5500.07-R, Joint Ethics Regulation, Para. 3-210
- 5 C.F.R. § 950.102, Scope of the Combined Federal Campaign
- *See Deskbook and JER Para 3-210b for additional references.*







# *Basic Obligation of Public Service*

- 5 C.F.R. § 2635.101
- General Principles
  - Avoid financial conflicts of interest (#2)
  - Don't misuse position for private gain (#7)
  - Avoid preferential treatment to private org. or individual (#8)
  - Use gov't resources for authorized activities (#9)
- What are the fundraising restrictions trying to prevent?



# *Fundraising Rule (1 of 2)*

- 5 C.F.R. § 2635.808, Fundraising activities
- What is fundraising?
- The raising of funds for a **nonprofit organization** through:
  - **Solicitation** of funds;
  - **Selling items**; or
  - **Official Participation** in the conduct of an event by an employee where any portion of the cost of attendance or participation may be taken as a charitable tax deduction.
    - Participation: **active and visible** participation in the event
    - Includes: honorary chairperson; sitting at head table; standing in a reception line; speaking\*
    - Does NOT include: mere attendance (provided not used to promote event)
- What is not fundraising?
  - In-kind collection of items (non-cash), like food or toy drives

(\*This does not include official speaking engagements)



# *Fundraising Rule (2 of 2)*

- 5 C.F.R. § 2635.808, Fundraising activities
- Permissible fundraising:
  - 2635.808: Combined Federal Campaign (CFC) (5 C.F.R. §950)
  - **2635.808(b): Authorized official capacity fundraising**
  - 2635.808(c): Personal capacity fundraising
    - No personal solicitation from: subordinate; prohibited source
    - No use of official title or position, except The Honorable, military rank, ambassadorial rank



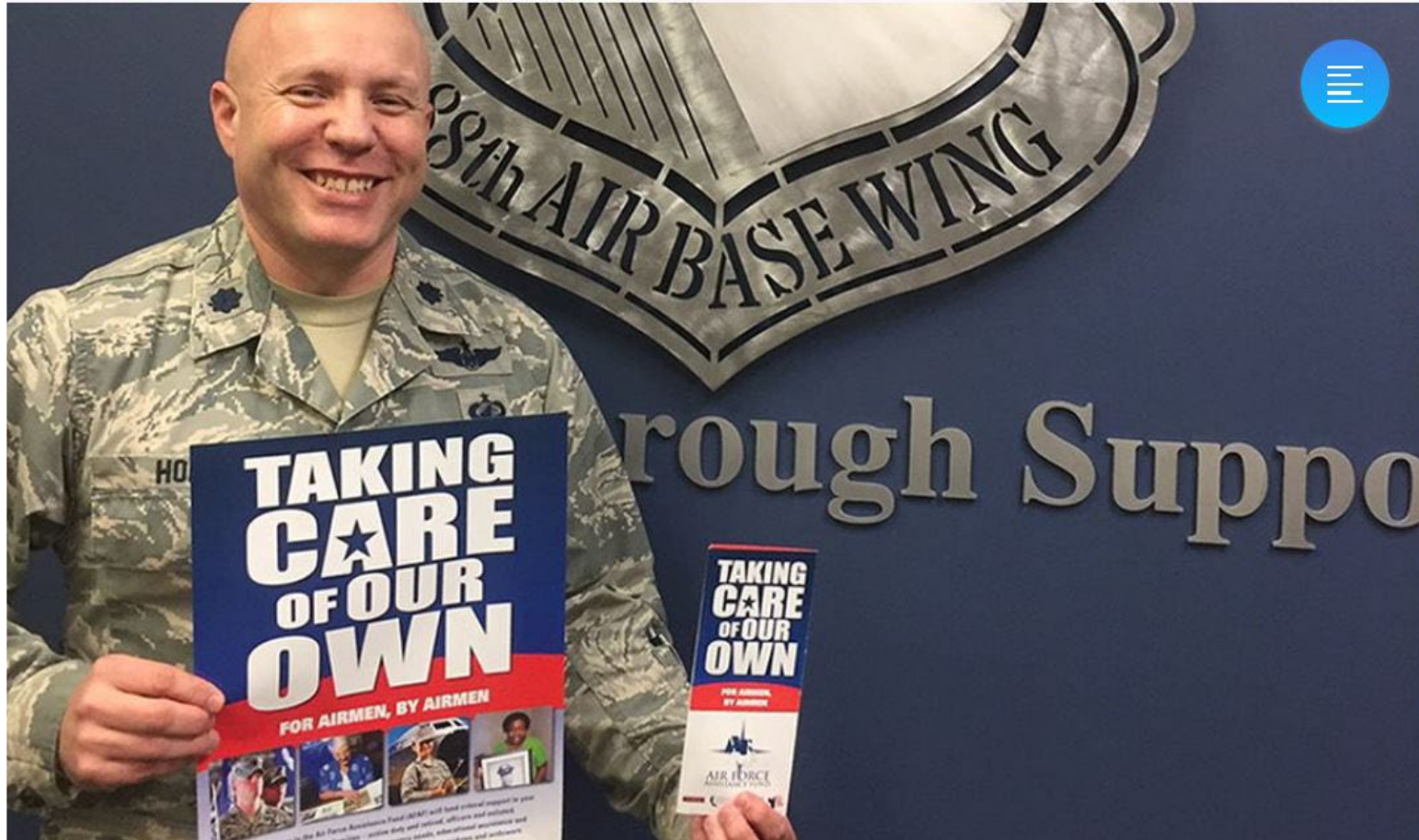
# *Joint Ethics Regulation*

- DoD 5500.07-R, Chapter 3, Para 3-210
- Fundraising and Membership Drives
- Prohibits official endorsement of membership drives or fundraising for any non-Federal entity except:
  - CFC
  - Emergency and disaster appeals approved by OPM
  - Service relief/assistance organizations (Army Emergency Relief; Navy-Marine Corps Relief Society; Air Force Assistance Fund)
  - Other organizations composed primarily of **DoD employees** or their **dependents** when fundraising **among their own members for the benefit of welfare funds for their own members**...when approved by DoD component command or organization after consultation with the DAEO or designee.

*"By Our Own, For Our Own"*



# Permissible Fundraising





# *Combined Federal Campaign*

- 5 C.F.R. § 950.102
- History
- CFC is only authorized solicitation of employees in the Federal workplace on behalf of charitable organizations.





# Combined Federal Campaign

September-January

## • Permitted

- Endorsement (CFC, not individual charities)
- Use of official title, position, and authority
- Limited APF support (*e.g.*, kick-off events, award ceremony)
- Modest prizes at CFC events
  - Lunch with Agency official
  - Use of parking space for specific period

## • Prohibited

- Solicitation outside of government (incl contractors)
- Coercion
  - 100% participation (donor) goal; personal contribution goal
  - Chain of command solicitation
  - List of non-contributors
  - Using results in performance appraisal
- Fundraising events
- Gambling, lottery, pool, raffle
- Civilian clothes day

- *Competing events?*



# *Disaster or Emergency Relief*

- Defined: hurricane, tornado, storm, flood, other catastrophe
- Only OPM Director may grant permission for solicitation of Federal personnel in the Federal workplace outside of the CFC in support of victims of emergencies and disasters
- Recent example

## **Press Release**

FOR IMMEDIATE RELEASE

Monday, April 18, 2022

Contact: [Office of Communications](#)

Tel: 202-594-6827

## **RELEASE: Office of Personnel Management Announces CFC Nationwide Special Solicitation for 2022 War in Ukraine and Humanitarian Crisis**

WASHINGTON, DC – Today, the U.S. Office of Personnel Management (OPM) announced that the Combined Federal Campaign (CFC) will conduct a [special solicitation that will allow the federal community to support charities serving and affected by the war in Ukraine and the resulting humanitarian and refugee crisis](#). This special solicitation will run through June 30, 2022.





# *Military Relief Societies*

- Official support in the workplace
  - Only if fundraising among federal employees
- Endorsement permitted
- Follow service regulation





# *By Our Own, For Our Own*

- Organizations composed primarily of DoD personnel and their dependents
- When fundraising among their own members for the benefit of welfare funds for their own members or their dependents
- When approved by the head of the DoD component, command, or organization
- After consultation with an ethics official (this includes MWR programs)
- Outside of workplace (breakroom, common area OK)
- Endorsement permitted
- Practice Tip: Do you know your installation's policy?





# Example: Installation Policy

4. **Policy.** As an institution, the Army does not fundraise. Army units do not solicit for funds, goods, or services. DoD employees may not officially endorse or appear to endorse fundraising for any non-Federal entity except in support of the Combined Federal Campaign (CFC) or the following authorized non-CFC fundraising:

## 9. **Locations.**

a. Fundraising may not be conducted in the workplace. "In the workplace" is that area within federal property that employees use for the performance of normal mission functions. Examples include offices, conference rooms, medical treatment facilities, and other locations where employees perform their normal duties. Not included within this definition are areas that are generally not used for the performance of normal duties. Examples include public lobbies, parking lots, picnic areas, break rooms, break areas, and other locations that employees do not use for the performance of normal duties.

b. **The following locations may be authorized as fundraising locations upon approval by the Garrison Commander:**

(1) The area in front of the Main Post Exchange provided ingress and egress are not blocked. There will be a limit of one fundraiser at a time. All tables will be offset at least five feet from the main entrance.

(2) Approved areas inside the Main Post Exchange as directed by the manager.

(3) The area in front of the Commissary provided ingress and egress are not blocked. There will be a limit of one fundraiser at a time. All tables will be offset at least five feet from the main entrance.



# *Personal Capacity*

- May Federal personnel participate in fundraising in their personal capacity?
- Yes, provided fundraising activities are conducted outside the workplace and on personal time
- Be careful to avoid:
  - Using DoD resources, including e-mail and copiers
  - Participating in your official capacity (do not allow use of your title or other DoD affiliation)
  - Soliciting subordinates, DoD contractors, or other prohibited sources



# Social Media

- Personal fundraising for nonprofit charitable organizations via social media is permissible, but employees must comply with 5 C.F.R. § 808.
  - No personal solicitation from **subordinate** or **prohibited source**
  - No use of official title, position or authority
- Employees are not considered to have used official titles, positions, or authority merely because this info is in biographical section of social media account.
- Mere connection via social media network is not personal solicitation, but don't respond to an inquiry posted by a prohibited source.

*OGE LA-15-03 (April 9, 2015)*

*OGE LA-20-07 (Oct. 6, 2020)*





# *Attending a Fundraiser*

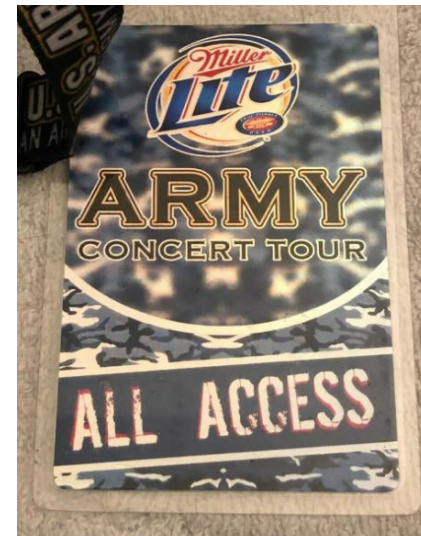
- Official capacity
- No active and visible participation
- This includes
  - Requesting or encouraging the giving of donations;
  - Serving as honorary chairperson;
  - Sitting at the head table;
  - Standing in a reception line; or;
  - Serving as master of ceremonies.
- You may give an official speech at a non-profit fundraiser, provided you don't seek donations or otherwise endorse the organization
  - Uncommon exception; need to justify official purpose; no preferential treatment
- Gift?






# Misc. Issues

- Generally no official support
  - Military Band
  - Color Guard
- Political Fundraisers
  - Different rules apply
- Distinguish from MWR Commercial Sponsorship Program
  - Authorized for MWR programs only
  - Only by authorized MWR personnel
  - No uniformed military may solicit
  - Not considered fundraising



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# *Gambling*

- JER 2-302 prohibits gambling on Government-owned or leased property and/or while on official duty
- Fantasy Football/March Madness is gambling if you pay to participate
- Gambling defined
  - Consideration
  - A game of chance, and
  - An offering of a reward or prize
- Can you hold a drawing using CFC pledge cards that is not considered gambling?
  - Yes, provided it is made clear to participants that a contribution (pledge) is not required to enter the drawing. (See AR 600-29, Para 3-3)







## *Conclusion*

- Know local regulations/policies (and update them if needed)
- Publicize local regulations
- Consistency in analysis and application; no preferential treatment
- Insert yourself in the planning process (CFC, AER/NMCRS/AFAS, etc.)
- Emphasize voluntary nature of ANY fundraising
- Areas to watch out for:
  - Solicitation of subordinates or prohibited sources (contractors)
  - Endorsement/active participation in NFE fundraiser
  - Excessive use of official time



QUESTIONS

WE PUT THE  
**FUN!**  
***IN FUNDRAISING***