



Gifts



Standards of Conduct Office Office of General Counsel Department of Defense

Revised August 2025

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14 Principles of Ethical Conduct (5 CFR 2635.101(b))

- Public service is a public trust – (b)(1)
- Employees:
 - *shall not* solicit or accept a gift from person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency – (b)(4)
 - *shall not* use public office for private gain – (b)(7)
 - *shall* avoid actions creating the appearance of violating the law or the standards in 5 CFR 2635.101 – (b)(14)
- When an issue doesn't fall squarely within the rules, look to these principles for guidance



Gift Categories

A diagram on the left side of the slide consists of three white circles connected by a vertical line. Each circle is positioned to the left of a colored rectangular bar. The top bar is red and contains the text "Gifts From Outside Sources". The middle bar is blue and contains the text "Gifts Between Federal Employees". The bottom bar is gray and contains the text "Statutory Gift Acceptance Authorities".

Gifts From Outside Sources

Gifts Between Federal Employees

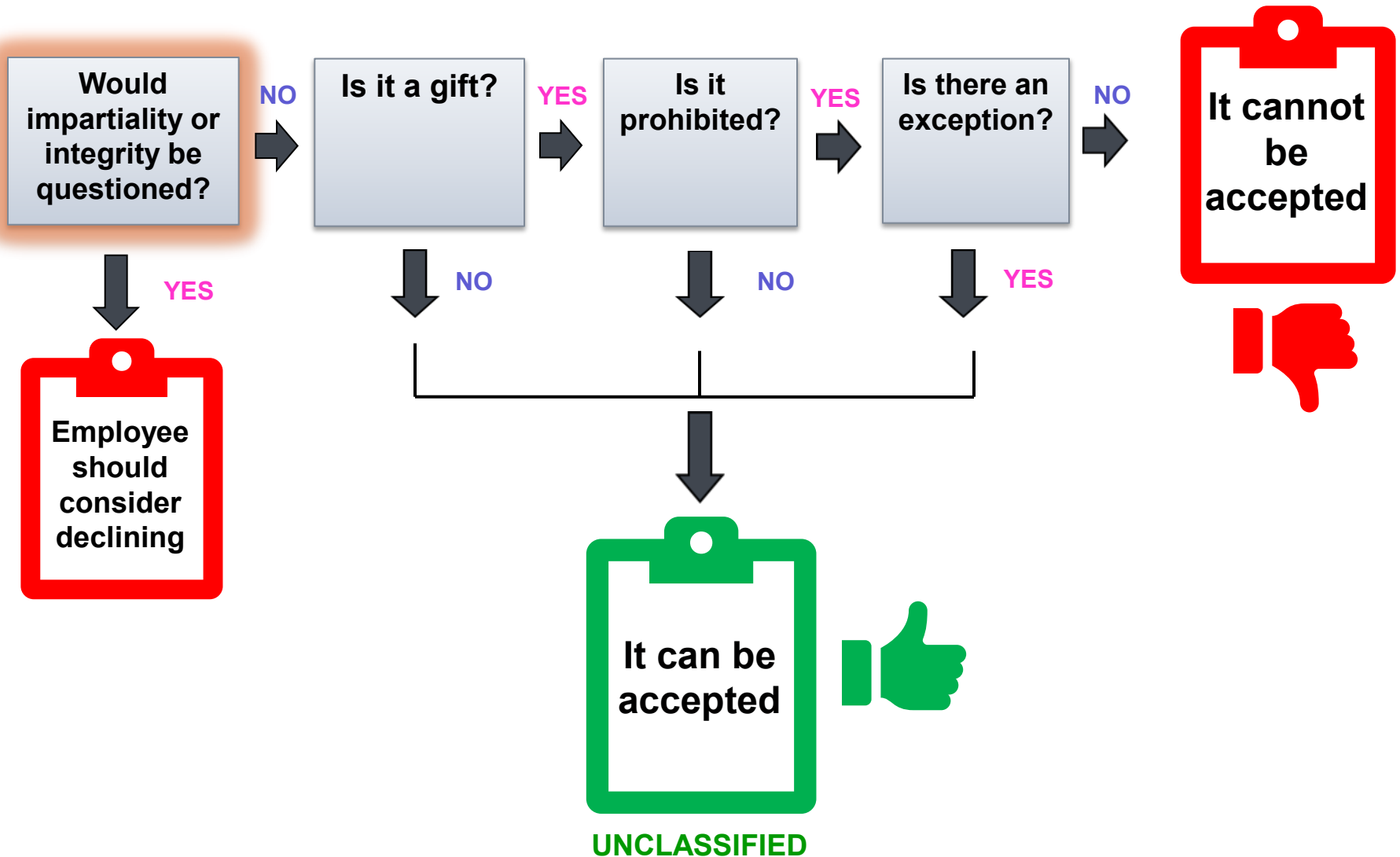
Statutory Gift Acceptance Authorities



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OGE Gift Analysis for Gifts from Outside Sources



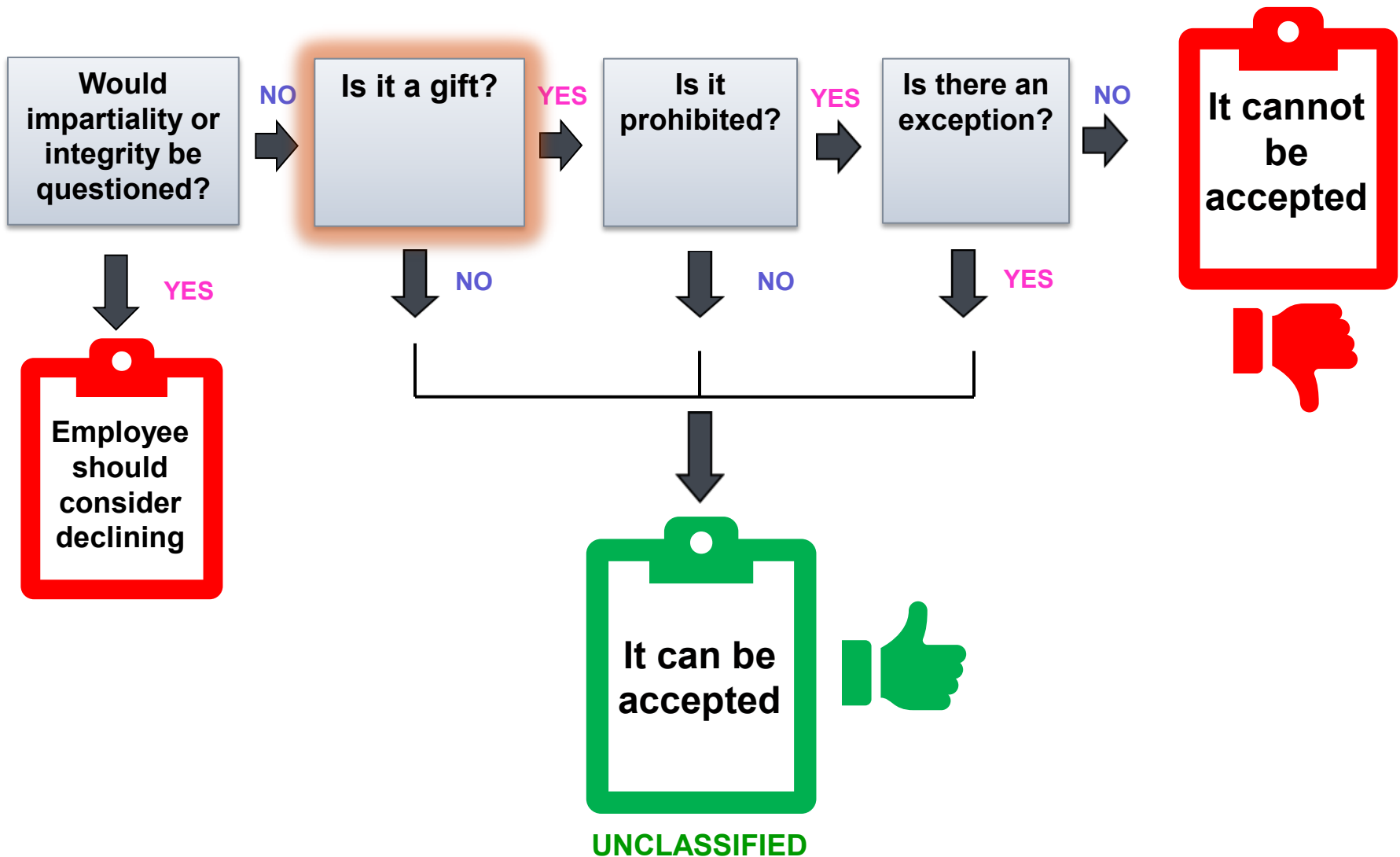


Considerations for Declining Gifts – 2635.201

- OGE's rules state that an employee should decline a gift if a reasonable person with knowledge of the relevant facts would question the employee's integrity or impartiality.
- Factors to consider include:
 - Value of gift
 - Timing of the gift
 - Donor's identity
 - Whether acceptance would create appearance of preferential treatment
- Even if all factors are present, if a gift exception applies, there is no violation of the Standards of Conduct. However, there could be other "costs" to the Department.



OGE Gift Analysis for Gifts from Outside Sources





Is It a Gift?

5 CFR 2635.203(b)

The definition of a gift is:

- Any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or any other item having monetary value
- It includes services
- It includes gifts of training, transportation, travel, lodging, and meals



Gift Exclusions

5 CFR 2635.203(b)(1)-(10)

- Food and Refreshments
 - Modest items of food and non-alcoholic refreshments, such as soft drinks, coffee and donuts, and light snacks
 - Not part of a meal



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Gift Exclusions

5 CFR 2635.203(b)(1)-(10)

- Greeting cards and items with *little intrinsic value* (e.g. plaques, certificates, challenge coins, and trophies) which are intended primarily for presentation.



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Gift Exclusions

5 CFR 2635.203(b)(1)-(10)

- Opportunities and benefits, including favorable rates available to:
 - General public
 - Class of all Government employees or all military personnel whether or not restricted by geography



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Gift Exclusions

5 CFR 2635.203(b)(1)-(10)

- Rewards and prizes given to competitors in contests or events, including random drawings, that are
 - Open to the public
 - Entry not part of official duties

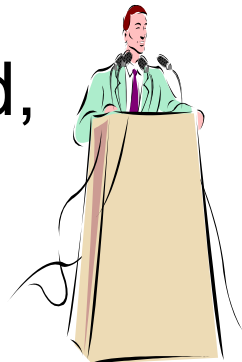


Gift Exclusions

5 CFR 2635.203(b)(1)-(10)

Free Attendance for Official Presentation

- Employee assigned by agency to present info
 - Speech, panel member, roundtable
- Free attendance only on presentation day
 - Other exclusions/exceptions may cover additional days
- Includes
 - Essential support personnel
 - Spouse/guest if unsolicited invitation, others are bringing spouse/guest and agency designee authorizes
- Free attendance includes conference fee, food, entertainment, instruction integral to event
 - Does not include travel expenses



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Gift Exclusions

5 CFR 2635.203(b)(1)-(10)

- Paid by the US Government or secured under contract
- Paid by the employee at market value (MV)
 - Determine MV through retail websites (not membership clubs or on-line auctions).
 - Skyboxes: MV = most expensive publicly available ticket + food, parking, etc.
 - No fee events: Ask for a per-person estimate, or aggregate MV of food, beverages, entertainment, parking, etc. (but not venue)
- Accepted by U.S. Government under statute



Travel Payments From Non-Federal Sources (31 USC 1353)

- Rule: Agencies may accept payment from a non-Federal source for
 - travel, subsistence, and related expenses
 - in connection with an employee's attendance at a meeting or similar function
 - relating to his official duties
- 31 U.S.C. § 1353
- 41 C.F.R. Chapter 304
- JER Section 4-100



Travel Payments From Non-Federal Sources (31 USC 1353)

Conditions for Acceptance

- Attendance at a meeting or similar function that is related to employee's official duties
- Meeting takes place away from permanent duty station (PDS) (TDY or local travel outside of PDS)
- Employee attends in an official capacity
- Acceptance would not bring into question the integrity of DoD programs (conflict analysis)
- Acceptance generally approved in advance
- No solicitation

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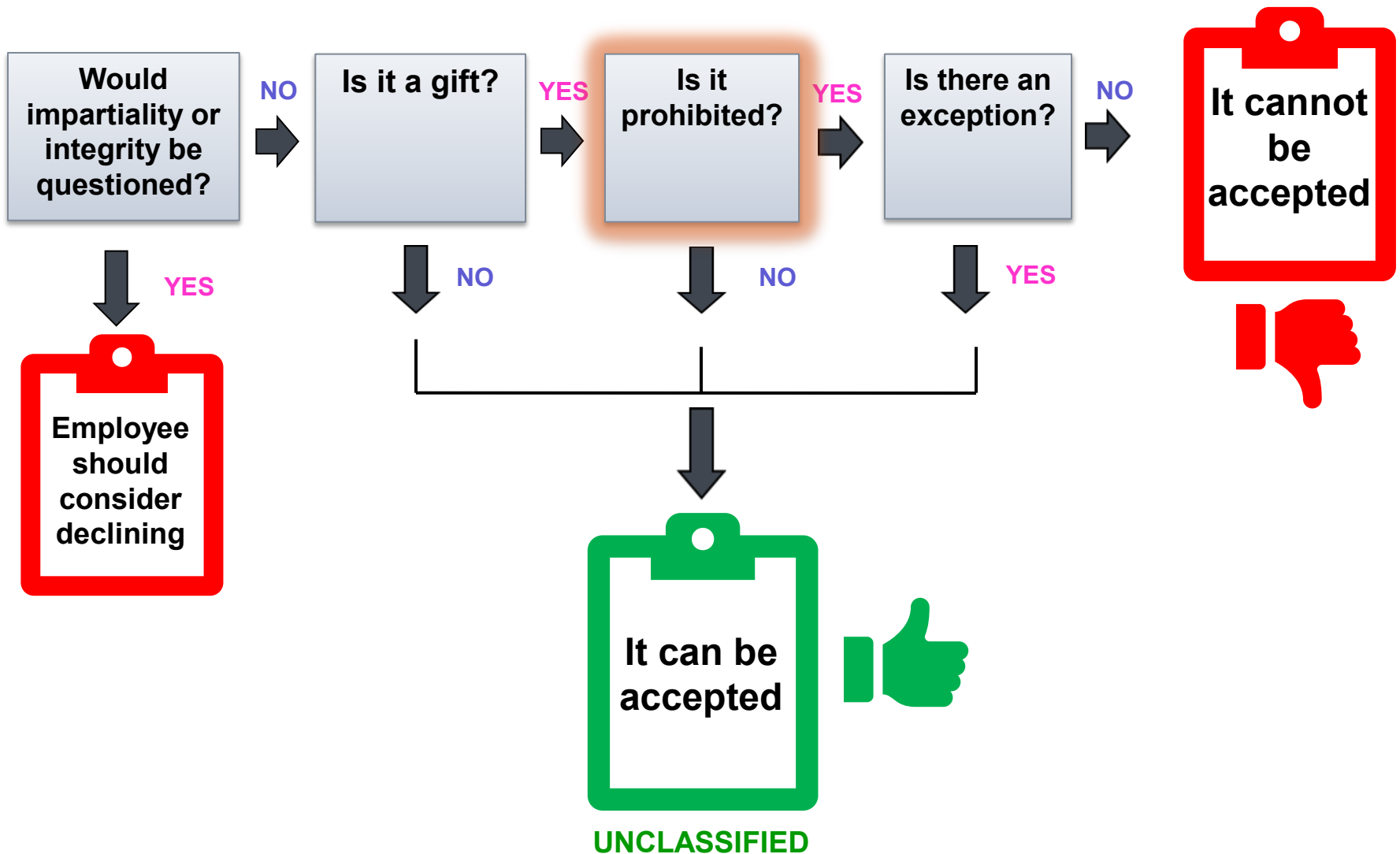
Travel Payments From Non-Federal Sources (31 USC 1353)

Meeting or Similar Function

- Conferences, seminars, speaking engagements, symposia, training courses, awards programs, or other similar event sponsored or co-sponsored by a non-Federal source
- Excludes:
 - Meetings or events required to carry out an agency's mission
 - Promotional Vendor Training or other meetings held for the primary purpose of marketing product/services



OGE Gift Analysis for Gifts from Outside Sources





General Rule

- 5 C.F.R. 2635.202(a)
- An employee shall not, **directly** or **indirectly**, solicit or accept a gift
 - From a **prohibited source** or
 - Given because of the employee's **official position**



Why Was the Gift Offered and by Whom?

- “Prohibited Source” includes any person or entity that
 - Is seeking official action
 - Does or seeks to do business
 - Is regulated by, or
 - Has interests substantially affected by employee’s official duties
 - Organization with majority of members from one or more of the above

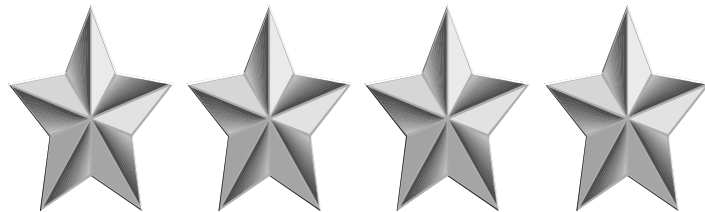


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Why Was the Gift Offered and by Whom?

- “Official Position” Test
 - Gift would not have been solicited, offered, or given had the employee not held the status, authority, or duties associated with his position.



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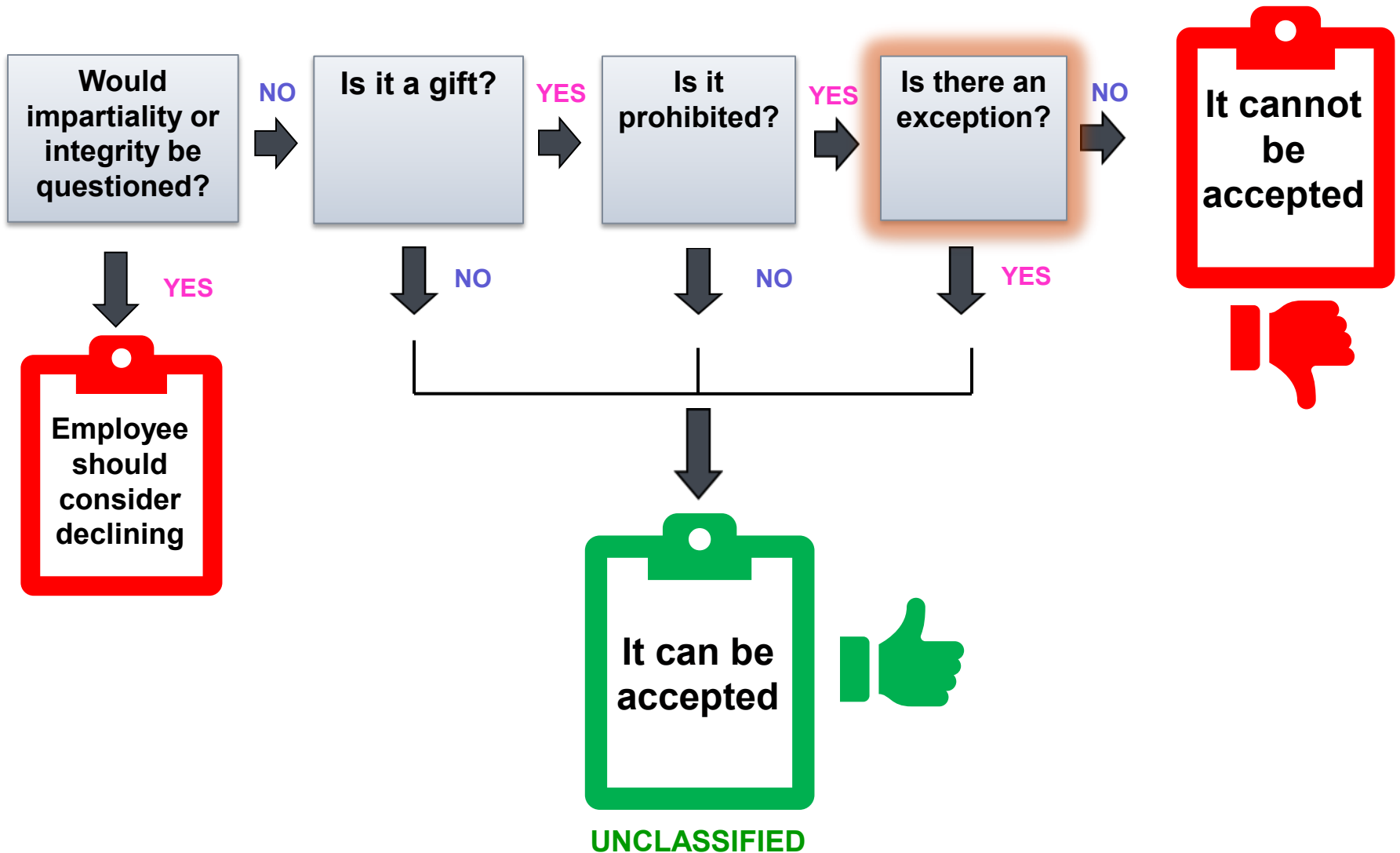


Indirect Gifts

- Given with the employee's knowledge to his/her parent, spouse, sibling, child, dependent relative or a member of the employee's household because of that person's relationship to the employee; or
- Given to any other person, including charity, at the employee's designation, direction or recommendation.



OGE Gift Analysis for Gifts from Outside Sources





Exceptions – 5 CFR 2635.204

Exception – “The 20/50 Rule”

- \$20 per source, per occasion
- \$50 max per source, per year
- FMV is retail value of the gift
- No cash or investment instruments
 - Store or mall gift card \neq cash, but credit card gift card does
- May decline items to stay under \$20 but may not pay differential over \$20





Exceptions – 5 CFR 2635.204

- Gifts based on
 - **Personal relationship** – Gift motivated by family or personal relationship rather than employee's official position
 - **Outside business relationship** – Attending events at a former employer if other former employees are invited.
- **Social Invitations**
 - Unsolicited and not from a prohibited source
 - No fee is charged to anyone in attendance
 - Food and entertainment only; not travel
 - Written determination required if an organization, rather than a person, is event sponsor or extends the invitation



Exceptions – 5 CFR 2635.204

Discount or Similar Benefits



- Reduced membership fees offered by professional organizations to all government/military personnel with certain professional qualifications (e.g. attorneys)
- Benefits to members of a group in which membership is unrelated to government employment
- Benefits offered to members of a group where membership is related to government employment if same benefit offered to large segments of the public
- Benefits offered from other than prohibited source and class is not based on position, rank or rate of pay



Exceptions – 5 CFR 2635.204

- **Awards**
 - Meritorious public service or achievement
 - Grantor not impacted by recipient's performance of duties
 - Written determination needed for cash and awards over \$200
- **Honorary Degrees**
 - Institution of higher education
 - Examine timing of award





Exceptions – 5 CFR 2635.204

- Gifts Authorized by Supplemental Agency Regulation (5 C.F.R. 3601.103)
 - Community Relations Events
 - Scholarships and Grants
- Gifts Accepted under Specific Statutory Authority (Foreign Gifts and Decorations Act)



Exceptions - WAG Rule

5 CFR 2635.204(g)

- Employees may accept free attendance at a “widely attended gathering” if agency makes a written determination of agency interest.
(See SOCO website for sample template and process.)
- Agency designee must find that:
 1. The event is widely attended (“large” group, diversity of views, opportunity to exchange ideas)
 2. Attendance will further agency programs / operations
 3. Agency’s interest in the employee’s attendance outweighs the concern that the employee may be, or may appear to be, improperly influenced in the performance of official duties
 4. If a person other than the sponsor of the event invites or designates the employee as the recipient of free attendance and bears the cost of that gift then
 - 100 or more persons are expected to attend; and
 - the value of the free attendance does not exceed **\$480**

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Exceptions - WAG Rule

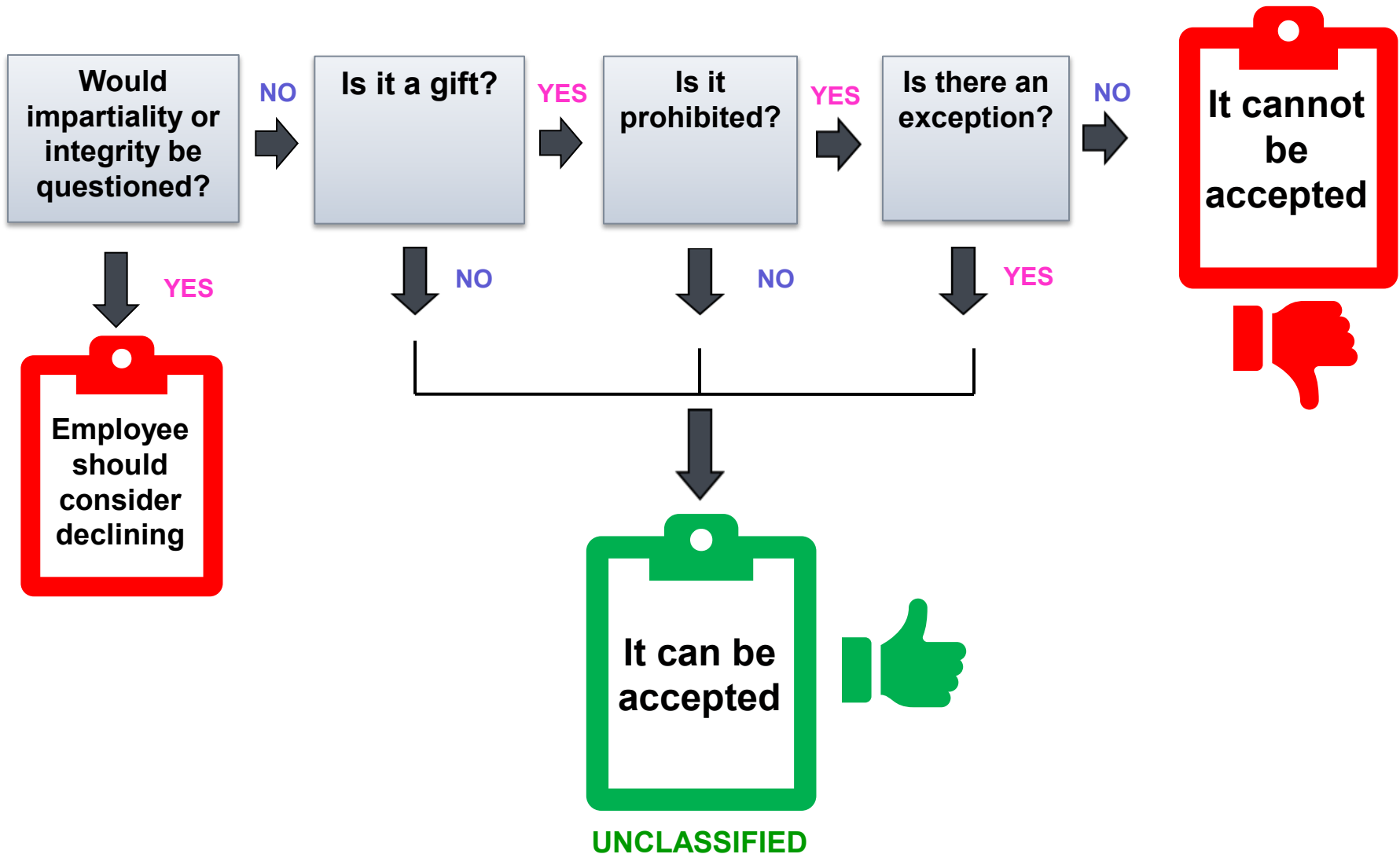
5 CFR 2635.204(g)

- In assessing agency's interest in employee attending vs. employee being improperly influenced in the performance of official duties, consider:
 1. The importance of the event to the agency
 2. The nature and sensitivity of any pending matter affecting the interests of the person who extended the invitation and the employee's role in any such matter
 3. The purpose of the event
 4. The identity of other expected participants
 5. Whether acceptance would create the appearance that the donor is receiving preferential treatment
 6. Whether the agency is also providing persons with views that differ from those of the donor with similar access
 7. The market value of the gift of free attendance

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OGE Gift Analysis for Gifts from Outside Sources





Absolute Truths

Personnel may NEVER:

- Solicit or coerce the offering of a gift
- Accept a gift in return for being influenced
- Accept a gift in violation of statute or regulation
- Accept gifts from the same or different sources so frequently that a reasonable person would question his/her integrity or impartiality.



Proper Disposition

5 CFR 2635.206

- Identify acceptance authority, exclusion, or exception
- Decline gift, if possible
- Tangible items – return, pay FMV, destroy (if <\$100)
- Intangible items - pay FMV
- Perishable items - after consulting with supervisor or ethics counselor:
 - Donate to charity
 - Share within office
 - Destroy



All of this because of a
“free” gift.

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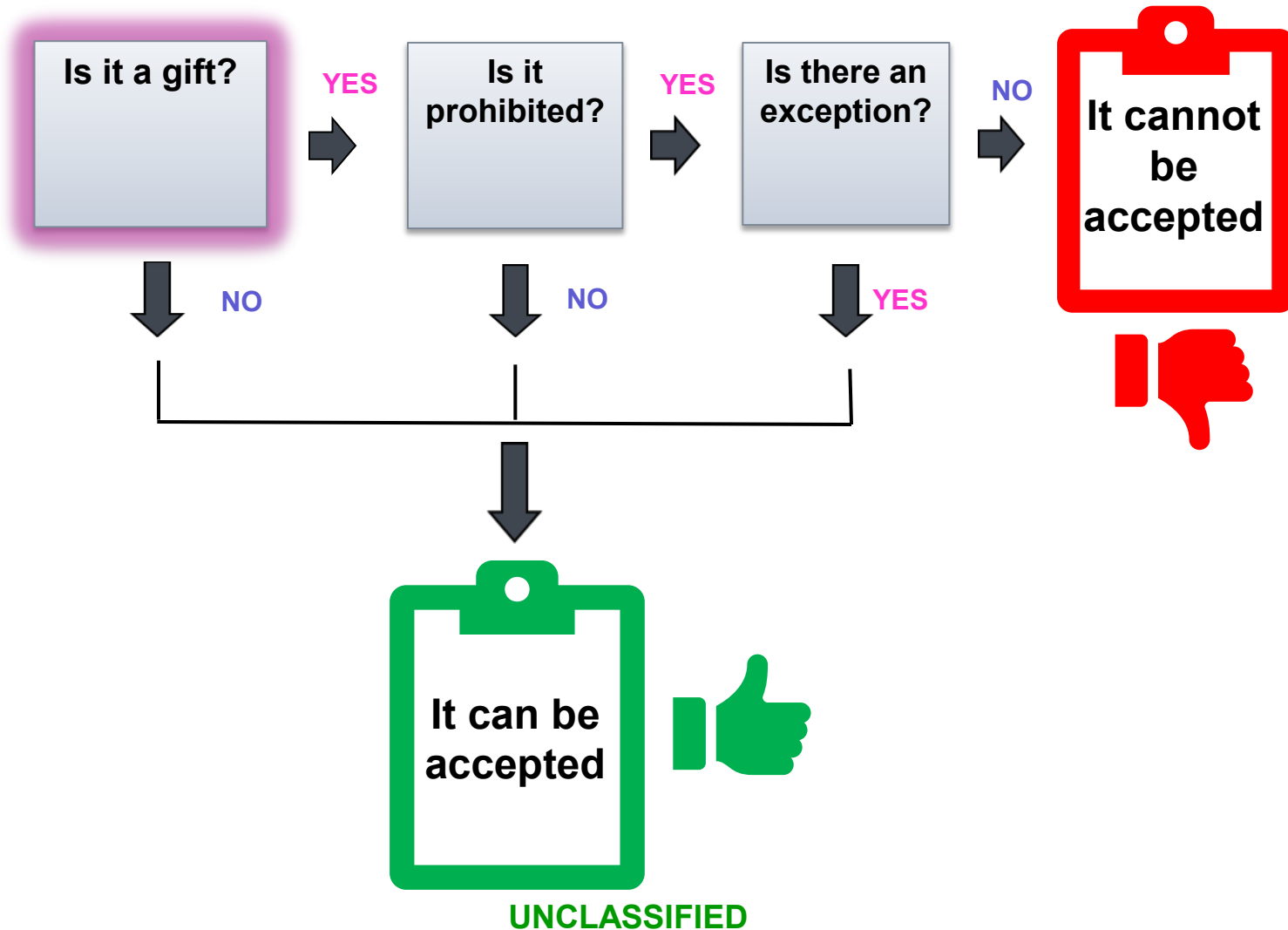


Gifts to Enlisted (E-6 and Below)

- SECDEF Memo of May 16, 2013 waives JER gift prohibition for E-6 and below for
 - gifts other than cash
 - from tax-exempt charitable and veterans service organizations
- Cannot accept if gift is attempt to influence or improper supplementation of salary



OGE Gift Analysis for Gifts Between Employees





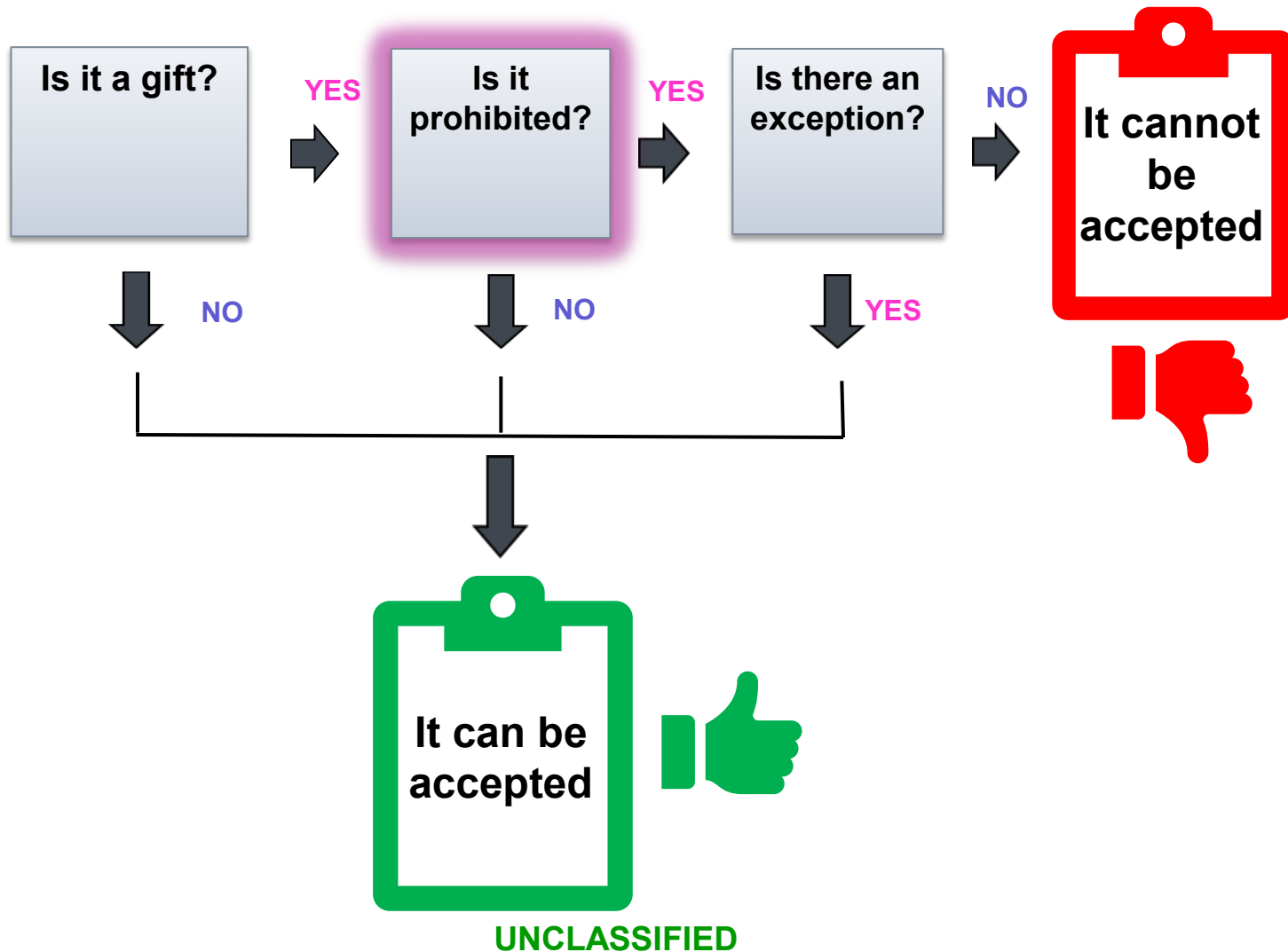
Is It a Gift?

5 CFR 2635.303(a)

- Use definition of “gift” in [5 CFR 2635.203\(b\)](#)
- *States that an employee is deemed to have paid fair market value of any benefit received from participation in a carpool IF the employee bears his or her fair proportion of the expense or effort.*



OGE Gift Analysis for Gifts Between Employees





Gifts Between Employees

- 5 C.F.R. 2635.302(a)
- An employee may not:
 - Directly or indirectly, give a gift or make a donation toward a gift for an official superior, and an official superior may not knowingly accept such a gift, or
 - Solicit a contribution from another employee for a gift to either his own or the other employee's official superior

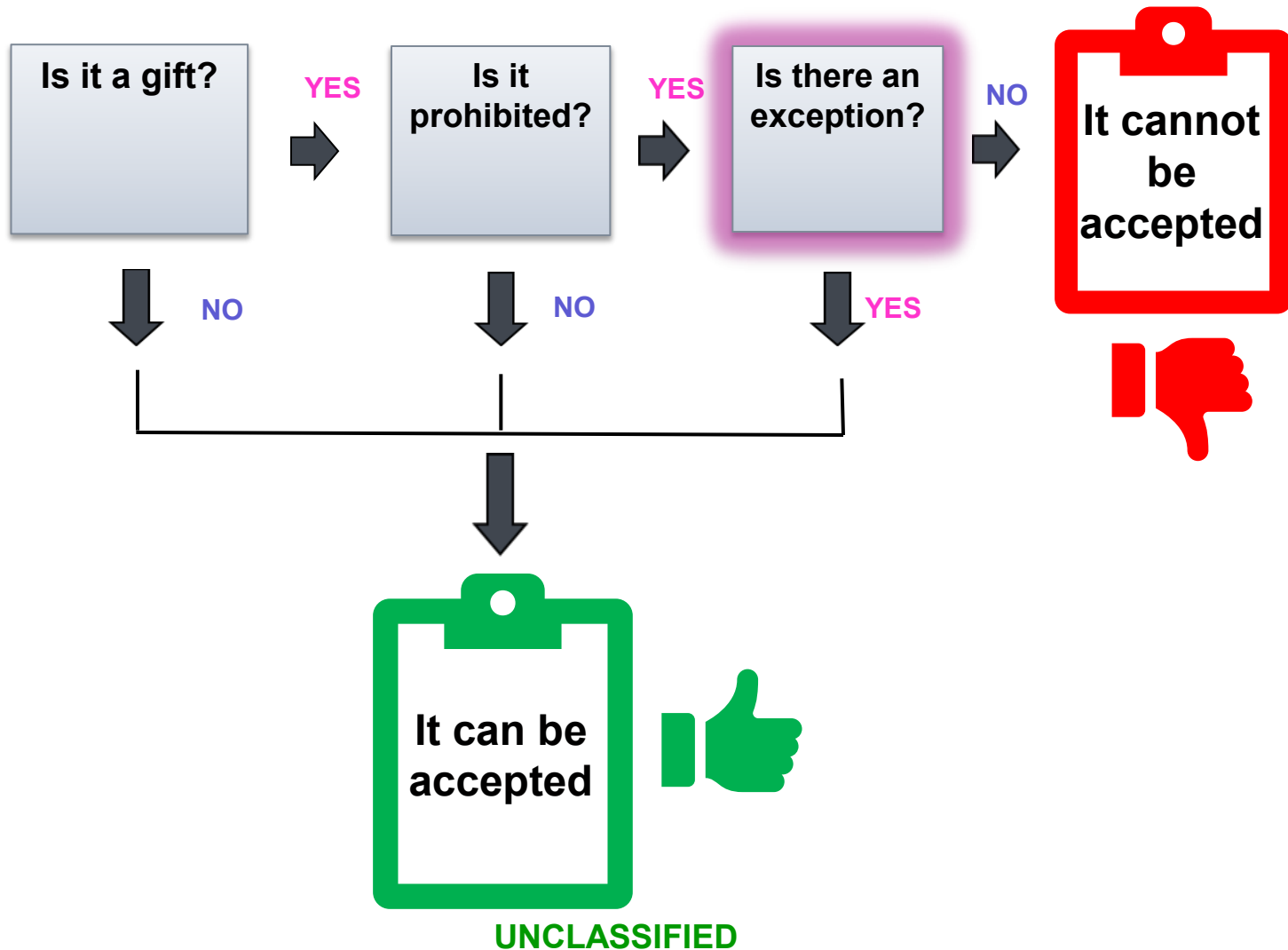


Gifts Between Employees

- 5 C.F.R. 2635.302 (b)
- An employee may not, directly or indirectly, accept a gift from an employee receiving less pay than himself unless:
 - No superior-subordinate relationship; and
 - There is a personal relationship that would justify the gift



OGE Gift Analysis for Gifts Between Employees





Gifts Between Employees - Exceptions

- 5 C.F.R. 2635.304(a)
- On an occasional basis, including traditional gift giving situations
 - Items with value of \$10 or less (no cash)
 - Food and refreshments shared in the office
 - Personal hospitality of the “type and value” customarily provided.
 - Items given in connection with the receipt of personal hospitality (host/hostess gifts).





Gifts Between Employees - Exceptions

- 5 C.F.R. 2635.304(b)
- On special infrequent occasions, a gift appropriate to the occasion may be given to an official superior or accepted from a subordinate or employee receiving less pay
 - Occasion of personal significance
 - e.g. marriage, illness, birth/adoption of child
 - Occasion that terminates superior-subordinate relationship



Gifts Between Employees - Exceptions

- Group gifts are authorized for special infrequent occasions. If group includes subordinate:
 - May solicit voluntary contributions up to \$10
 - Employees are free to donate more
 - Total value of **\$480** per donating group. Must aggregate:
 - Groups if same subordinate is in more than one
 - Gifts to spouse
 - Pieces of larger gift
 - Exclude value of food & entertainment at farewell event
- Gift must be appropriate to the occasion

Ref: 5 CFR 3601.104

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Gifts Between Employees - Exceptions

- Helpful Hints:
 - Be proactive - be part of the planning process
 - Keep the number of donating groups to a reasonable number (no competition)
 - Ensure donation is voluntary
 - Ensure contractors in workplace are not in the donating groups
 - Remember purpose is to honor departing superior not to embarrass



Wounded Warrior Gift Statute

- 10 U.S.C. 2601a
 - Allows direct acceptance by employee / family / survivors, rather than by Government
 - Implemented through FMR Vol 12 Chapter 34
- Injury incurred in combat zone
 - in war,
 - conditions simulating war, or
 - under “other circumstances” (Service Secretary determines)
 - e.g. Ft. Hood, Washington Navy Yard
- Ethics counselor review / approval required



Wounded Warrior Gift Statute

- Secretary concerned makes “other circumstances” determination
- Secretary concerned:
 - Service Secretary having jurisdiction over military reservation, installation, ship, aircraft, or facility where event occurs
 - SECDEF where event does not occur at a location under the jurisdiction of a Service Secretary



Wounded Warrior Gift Statute

- Does not apply to gifts that are:
 - From a foreign government or international organization
 - Accepted in return for being influenced in the performance of official act
 - Solicited or coerced
 - Accepted in violation of any law
 - Reflect adversely on DoD



Wounded Warrior Gift Statute

- Ethics counselor must review and approve gift prior to acceptance
 - gift cannot discriminate on basis of official responsibility, rank or pay
 - donor doesn't have interests affected by performance of employee's duties
 - acceptance would not raise concerns about integrity of DoD programs/operations



- **For Reference**

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Sources of Authority

- Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR Part 2635
- DoD Supplemental Regulation, 5 CFR Part 3601
- Joint Ethics Regulation (JER)
- 5 U.S.C. § 7342 (Foreign Gifts)
- 5 U.S.C. § 7353 (Federal Employees)
- 10 U.S.C. § 2601/2608 (DoD Gift Acceptance)
- 31 U.S.C. § 1353 (Travel Payments)



Gifts To The Department

10 USC 2601 (a)

- Authorizes Secretary concerned to "...accept, hold, administer, and spend any gift, devise, or bequest of real or personal property, made on the condition that it be used for the benefit, or in connection with the establishment, operation, or the department."
- Gifts of cash/proceeds from sale of property shall be deposited into the Treasury of the U.S. in a General Gift Fund for each department.
- Funds deposited into General Gift Fund will be distributed for the benefit or use of the designated institution or organization, subject to the terms of the gift, devise, or bequest.



Gifts To The Department *10 USC 2601(b)*

- Authority for government to accept gifts to benefit members, dependents and civilian employees who incur a wound, injury or illness in the line of duty
- Types of gifts include real property, personal property, money or services
- Implementing regulations in DoD Financial Management Regulation (FMR)



Voluntary Services (10 USC 1588)

- Authorizes Secretary to accept voluntary services for
 - Medical, dental, nursing, or healthcare
 - Museums
 - Family Support programs
 - Funeral Detail
 - Legal Assistance
 - ASVAB proctors
 - Translators registered / approved IAW statute
 - Employer Support of the Guard and Reserve
 - Services to facilitate MIA accounting
 - Volunteer law student interns



Voluntary Services (10 USC 1588)

- Limitations
 - Supervising to the same extent as a compensated employee
 - Ensure that volunteer is licensed in accordance with applicable law
 - No policy making or managerial responsibilities
 - No compensation, except for incidental expenses



Conclusion

- **Questions?**
- **SOCO Contact information**
 - **Inbox: osd.SOCO@mail.mil**