



Ethics and Non-Federal Entities (NFEs)

**Standards of Conduct Office
DoD Office of General Counsel
August 2025**

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Hey Judge,

Boss just received a call from COL (Ret) Smith, who is now the Chairman of the Smallville Chamber of Commerce's military support committee. COL Smith invited the boss to speak at their annual Military Family dinner next month. He also asked if we could provide some minor support to the event:

- a. Color Guard**
- b. Band for dinner music and dancing**
- c. Static display of military equipment for the kids**
- d. 2 large tents and personnel to set up/tear down**
- e. 2 generators**

He also sent over a draft flyer for the dinner and wants to know if it is OK to use the service seal and unit logo on the flyer. (I think the flyer looks great!)

Boss is having dinner with him tomorrow night, so really need an answer to these questions by COB today. I know we've always supported this dinner in the past, so this should not be a problem, right? I think the dinner is a fundraiser, does that matter? Oh, and COL Smith also invited Boss to sit on the Chamber's Board of Directors. First meeting is next week.

LMK ASAP if any issues/concerns.

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Roadmap

- **Participation in NFE Events (30 mins)**
 - Personal Capacity
 - Official Capacity
- **Support to NFE Events (30 mins)**
 - Logistical Support v. Official Speakers
 - Authority
- **Fundraising (30 mins)**



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What is a NFE?

- **Any organization or individual other than the U.S. Government**
 - **Charities and not-for-profit organizations**
 - **Professional associations**
 - **Industry or Trade associations**
 - **State and local governments**
 - **Commercial enterprises**
 - **Clubs and organizations operating on a military installation**
 - **Professional sports teams**



Examples



Depiction ≠ Endorsement

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What do NFEs Request?

- **Government property (stuff)**
- **Government personnel (speakers)**
- **Official endorsement**
 - Actual
 - Implied (e.g., use of seal/emblem)
- **Information**



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In-person briefings by
senior DOD leaders



Opportunities to meet with
DOD leaders in one-on-one
meetings



A chance to interact and
reconnect with peers from
across the country



And an opportunity to get
plugged back into a fast-
changing policy
environment

INVITED SPEAKERS



Lloyd J. Austin III
Secretary of Defense



Gen. Charles Brown, Jr.
Chief of Staff of the Air Force



Adm. Michael Gilday
Admiral, Chief of Naval Operations



Gen. James McConville
Chief of Staff of the Army

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defensecommunities.org/reconnect/
June 1, 2021



Ethics Concerns

- **Conflicts of interest**
- **Appearance of impartiality (*if active participant*)**
- **Government sanction or endorsement**
- **Preferential treatment**
- **Misuse of official resources**
- **Misuse of personnel**





Ethics Principles

- **5 CFR 2635.101(b)**
 - **#8: Be impartial--no preferential treatment to private org. or individual**
 - **#9: Only use Gov't property for authorized activities**
 - **#7: Do not use public office for private gain**
 - **#2: No official actions that conflict with personal financial interests**





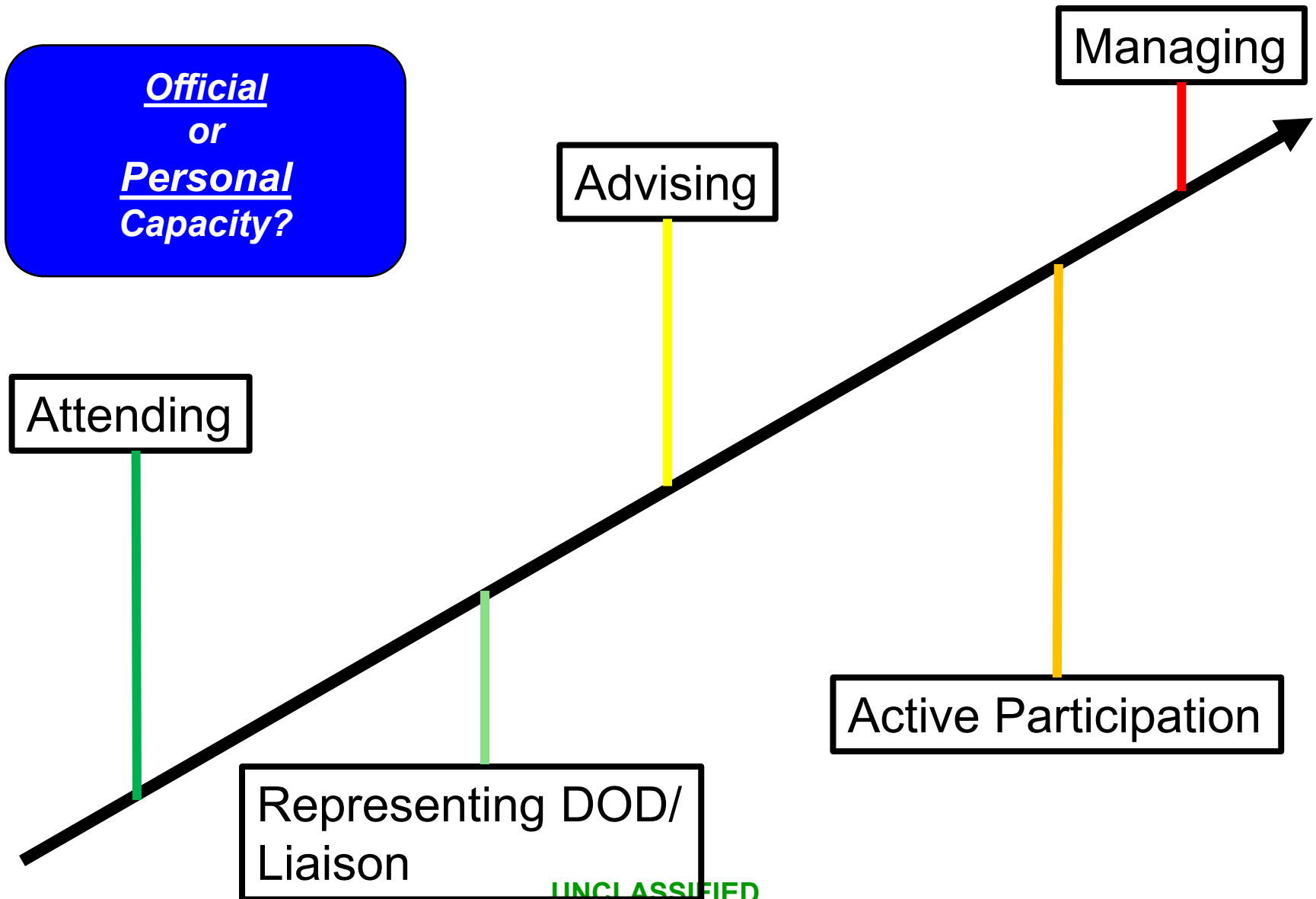
Ethics Regulations

- **5 CFR 2635, Subpart G—
Misuse of Position**
 - 2635.702 – Private gain, appearance of gov't sanction, endorsement
 - 2635.704, 705 – Use of gov't property and official time
- **5 CFR 2635, Subpart H –
Outside Activities**
 - 2635.802 – Conflicting outside employment and activities
 - 2635.807 – Teaching, Speaking, Writing
- **JER Chapters 2, 3**





Participation





Official v. Personal Capacity?

- Would invitation be extended if employee did not hold the status, authority, or duties associated with their Federal position?
- **Practice tip: Presume official unless facts establish otherwise**
- Document facts supporting your conclusion
- Helpful questions
 - *Who sent the request/invitation?*
 - *Personal relationship?*
 - *Professional relationship?*
 - *How was request sent?*
 - *“.mil” e-mail address?*
 - *Personal e-mail address?*
 - *How was the request/invitation addressed?*
 - *“Commanding Officer”*
 - *“Bob—”*
 - *Is requestor a prohibited source?*
 - *Purpose of request?*





Personal Capacity

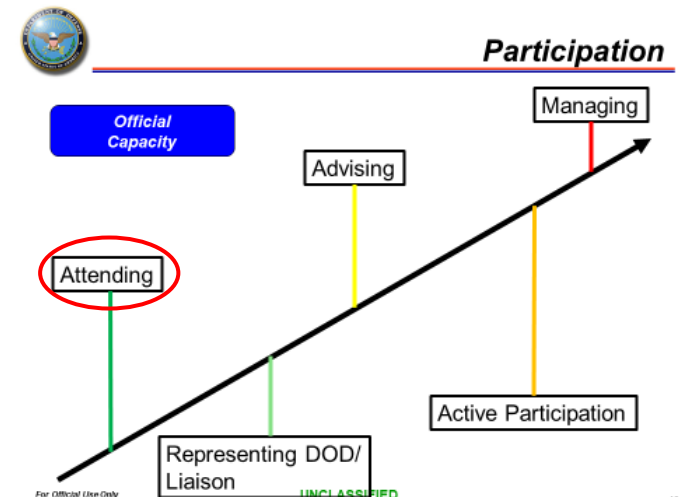
- **Personal capacity: permissible**
 - Must be voluntary and outside scope of official position
 - Use of Military grade/Department (CPT Smith, US Army) permissible but use caution
- **Potential issues:**
 - **Conflict of Interest with official duties?**
 - If holding position of trust, consider 18 USC 208
 - Senior Official limitations
 - **Impartiality?**
 - If active participant, consider 5 CFR 2635.502
 - **Representation?**
 - Prohibited by 18 USC 203/205
- **Cautions**
 - No preferential treatment, endorsement, coercion to join, use of official resources, disclosure of non-public information





Official Capacity

- **Attending NFE meetings: permissible**
 - Supervisors authorize attendance in official capacity when it serves an official purpose
 - Even if no actual cost, there must still be a legitimate purpose—watch for limited audience/special access
 - Other issues: Gifts of free attendance, meals, or travel; Public Affairs policy

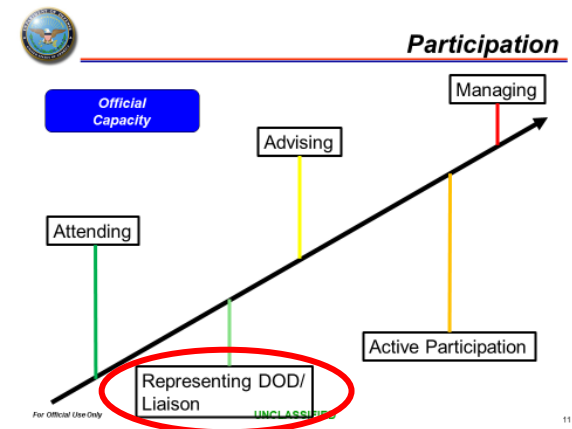


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Official Capacity

- **Representing DoD/Liaison**
 - Appointed by Head of DoD organization
 - If significant and continuing DoD interest served
 - Represent DoD interests to NFE
 - Official duty, but cannot bind DoD
 - No conflict of interest
 - Can use official time; reference title/position
 - No involvement in management of NFE
 - No voting
 - **Practice tip: Written appt. memorandum (SOCO template)**



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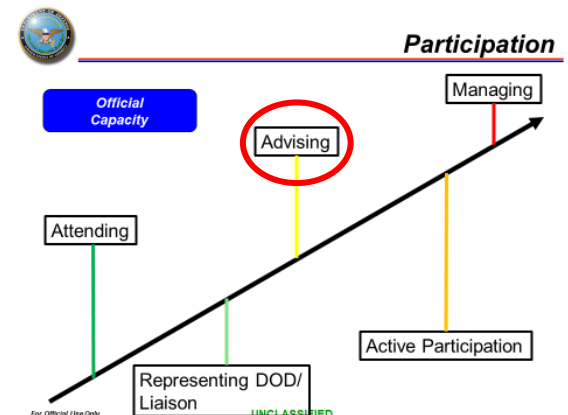


Official Capacity

- **Advising NFEs**
 - DoD personnel, acting in their official capacity, should not serve as advisors, consultants, or serve on advisory boards of NFEs that are DoD contractors
 - Customer focus groups may be permissible if done pursuant to a contract



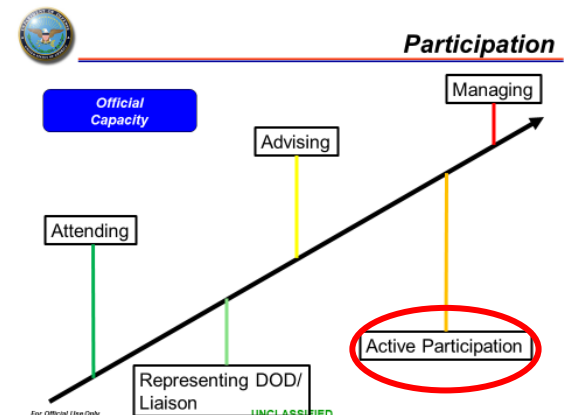
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Official Capacity

- **Active Participation**
- **Defense Standardization Program (DSP)**
 - Interface with non-Gov't standards bodies on standardization policy issues (interoperability)
 - Participate with defense treaty organizations and multinational organizations/forums on standardization policy
 - May actively participate as members of councils; may vote on behalf of DoD.
 - May not manage or control NFE.
 - DoDI 4120.24, DoDM 4120.24

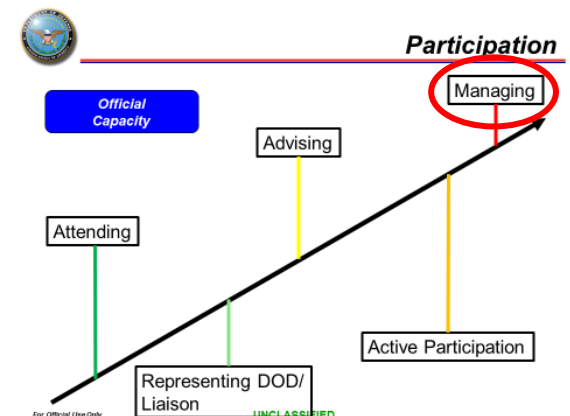


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Official Capacity

- **Management (JER 3-100)**
 - DoD personnel are generally prohibited from managing or serving in positions of trust with NFEs
 - Voting on internal NFE matters; serving as director, board member, trustee or other similar position
- **Exceptions only by statute and with DoD GC approval**
 - 10 USC 1033 (Military); 10 USC 1589 (Civilian)
 - Military Welfare Societies
 - Non-profits that:
 - Regulate performance, standards, and policies of Mil. Healthcare Facilities
 - Regulate athletic programs at service academies
 - Accredited service academies and other mil. schools
 - Other specific statutory authority exists
 - Written request to DoD GC and Fed. Reg. notice
- 5 CFR 2640.203(m) exemption (COI)
- Very limited circumstances



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Boards of Directors (BOD) Policy

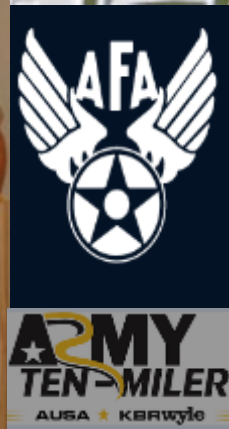
- **DoD Policy**
 - No compensation for service on BOD
 - No BOD service if NFE is a DoD contractor or focuses its business on military members
- **Applicability**
 - General/Flag Officers (Regular and Reserve, but see policy)
 - O-6 and below; E-9 serving in installation leadership position
 - Ethics official may grant waiver for O-6 and below and E-9 upon finding of no endorsement
- **Does not preclude if authorized by law or regulation**
- **Authority: USD P&R Memorandum, Nov. 30, 2012**
 - SOCO website
 - JER 3-202



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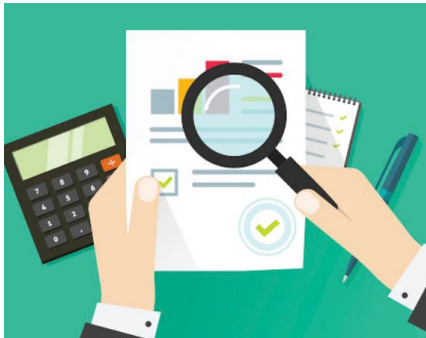
Support to NFEs





Ethics Concerns

- **Conflicts of interest**
- **Appearance of impartiality (if member)**
- **Government sanction or endorsement**
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 - 2635.704, 705 – Use of gov't property and official time
- **JER Chapter 3, Para 3-211**
- **Very important change!**
- **DoDI 5410.19, Vols 1-4 (Sept. 2021)**
 - Vol 1: CH 2, 7/29/2025
 - Vol 2: CH 2, 8/7/2025




DoD INSTRUCTION 5410.19, VOLUME 1
COMMUNITY OUTREACH ACTIVITIES: POLICY OVERVIEW AND EVALUATION PROCEDURES

Originating Component: Office of the Assistant to the Secretary of Defense for Public Affairs
Effective: September 29, 2021
Change 2 Effective: July 29, 2025

Releasability: Cleared for public release. Available on the Directives Division Website at <https://www.esd.whs.mil/DD/>.

Reissues and Cancels: DoD Instruction 5410.19, "Public Affairs Community Relations Policy Implementation," November 13, 2001
Incorporates and Cancels: DoD Directive 5410.18, "Public Affairs Community Relations Policy," November 20, 2001
DoD Instruction 5410.20, "Public Affairs Relations with For-Profit Businesses and Business Industry Organizations," September 29, 2016

Approved by: John F. Kirby, Assistant to the Secretary of Defense for Public Affairs
Change 2 Approved by: Sean Parnell, Assistant to the Secretary of Defense for Public Affairs

Purpose: This instruction is composed of multiple volumes, each containing its own purpose. In accordance with the authority in DoD Directive (DoDD) 5122.05:

- This instruction establishes and implements policy, assigns responsibilities, prescribes procedures, and establishes requirements for DoD participation in community outreach activities.
- This volume:
 - Establishes policy and prescribes guidelines for determining whether an event should be considered eligible for DoD support as a community outreach activity.
 - Provides guidance for addressing requests for DoD aviation and non-aviation support for public events.
 - Provides guidance for addressing requests concerning use of DoD visual information (VI) materials, including requests to use DoD VI for commercial purposes.



Official Support to NFEs

- General Rule: **Prohibited**
- **Exceptions**
 - Support authorized by statute
 - Military Relief Societies
 - Private organizations on DoD Installations
 - Community Outreach
 - Limited Logistical Support
 - Official Speaking Engagements

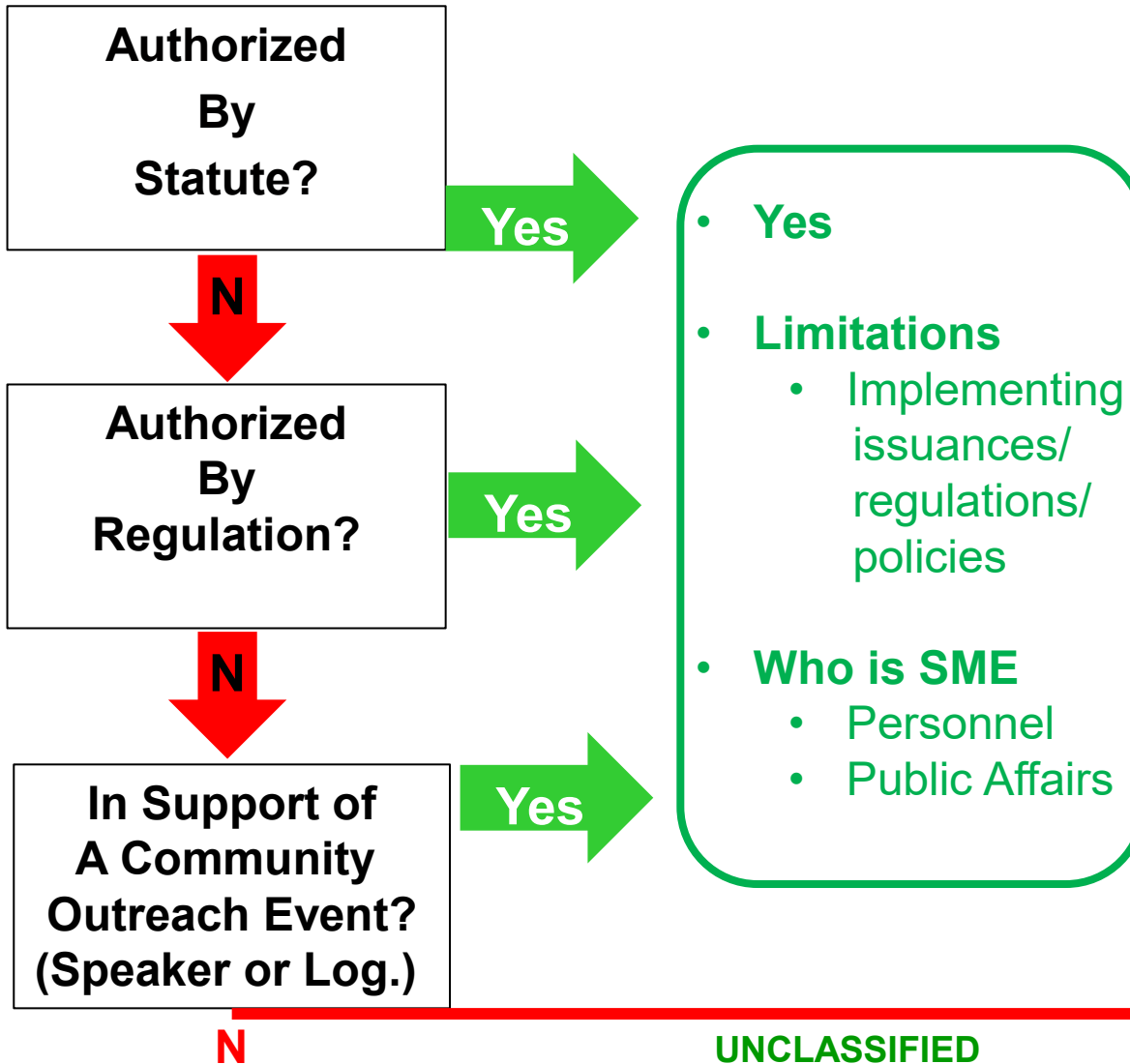


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Analysis: Official Support to NFEs

Is the Requested support ...



**PRINCIPLES OF
FEDERAL
APPROPRIATIONS
LAW**
Chapter 3
Availability of
Appropriations:
Purpose
Fourth Edition





Support Authorized by Statute

- For complete list, see
 - *DoDI 1000.15, Encl. 3*
 - *DoDI 5410.19, Vol 2, Table 1*
- Examples:
 - Medical (HJF, ARP)
 - Scouting
 - National Military Associations (NMA)
 - Assistance at Nat'l Conventions only
 - USO
 - American National Red Cross
 - Military Relief Societies
 - Annual NDAA may contain special authority
- Ensure you are aware of the statutory limits on permissible support; each statute unique

Airmen provide expertise, medical support at 100th National Boy Scout Jamboree

By Staff Sgt. Jessica Switzer, Defense Media Activity - San Antonio / Published July 30, 2010



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Support Authorized by Regulation

- **Combined Federal Campaign**
- **Military Welfare Societies (see JER 2-400)**
 - **Authority to endorse membership and fundraising drives (among own members)**
- **Private Organizations on DoD Installations (DoDI 1000.15)**
 - **Command approval required**
 - **No special privileges (JER applies)**
 - **Must not appear to be official (can use names, not logos; disclaimer)**



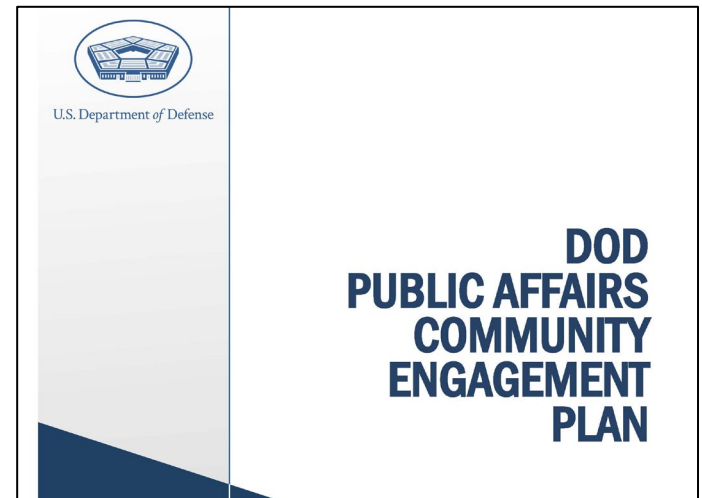
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Community Outreach Support

- **Public Affairs (PA) lead; PA coordination is critical**
- **An official DoD mission**
 - **Funded**
 - **May be pre-approved (Annual Community Outreach/Engagement plans)**
- **Pre-2024: regulated by JER and DoDI 5410.19**
- **Post-2024: regulated by DoDI 5410.19**
- **Most requests will fall into this category**
 - **Logistical support (stuff)**
 - **Speaking engagements (people)**
 - **Ceremonial support**
 - **(color guard, band, flyover, etc.)**



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Community Outreach



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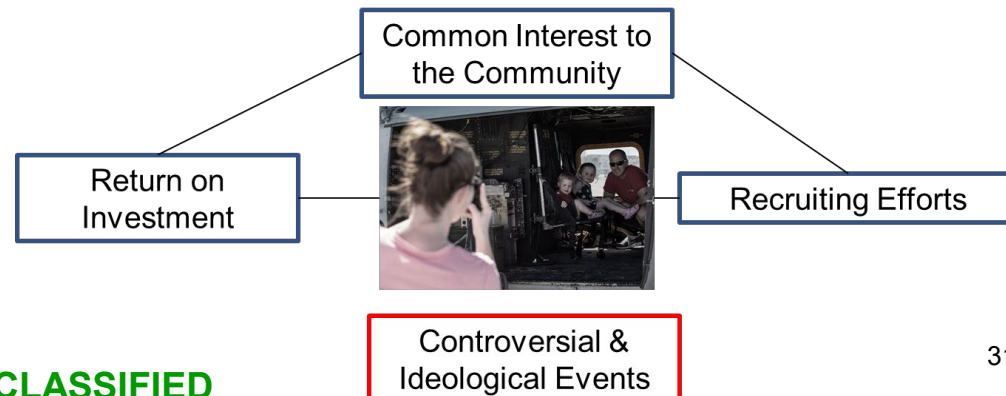


Policy Overview and Evaluation Procedures

Per DoDI 5410.19, Vol 1, Community outreach activities implemented by DoD Components will:

1. Increase public awareness, trust, and understanding of the DoD and the Military Departments, including their missions, activities, policies, and requirements.
2. Inspire patriotism through observance of the traditions of the Military Departments and the examples set by Service personnel.
3. Preserve new and enduring overseas relationships with allies, coalition, and multi-national partners.
4. Maintain a reputation as a good neighbor within communities at home and abroad, as well as a respected and professional organization charged with the responsibility of national security.
5. Support the personnel recruiting and retention programs of the Military Departments.
6. Engage, educate, and empower the public, at home and abroad, to support the DoD and Service members worldwide.

Practice tip: Public Affairs, not ethics officials, decide whether an NFE event promotes community outreach.



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Policy Overview and Evaluation Procedures

RESTRICTIONS, REQUIREMENTS, AND ETHICAL CONSIDERATIONS

1. Restricted Admission
2. Restricted Membership
3. Restricted Access to Organizational Data

Community outreach support of events sponsored by organizations whose constitution, bylaws, membership qualifications, or ritual are withheld from the public are not authorized.

4. Civilian Visitors Interaction with Military Equipment
5. Surprise Welcome Homecomings and Similar Events
6. **Demeaning or Menial Use of DoD Personnel**
7. Voluntary Support: Official versus Unofficial Capacity
8. **Incidental Participation**
9. Participation in Partisan Political Activities
10. **Fundraising Events**



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Standardized Decision Worksheet for Community Outreach Requests

13-Page Worksheet – can be a required document in the staffing packet to determine eligibility for support (DoDI 5410.19, Vol 1, Appendix 6A)

PART I: SPONSOR CRITERIA

Has a DD Form 2535 (aviation) or DD Form 2536 (bands, color guards, and other support) been completed?

- ☐ If no, **stop** and have requester complete the appropriate form.
- ☐ If yes, proceed to next question.

Is the requesting organization a U.S. Federal agency or official entity of a State or local government?

- ☐ If yes, continue to Part I of Section 1.
- ☐ If no, continue to Part I of Section 2.

Part I, Section 1: Location of Federal, State, or Local Government Event

Is the Federal, State, or local government event within the NCR?

- ☐ If yes, continue to Part I of Section 1a.
- ☐ If no, continue to Part I of Section 1b.

Part I, Section 1a: Federal/State/Local Government Events in the NCR

Note: Requests for military participation in official Federal/State/local government events in the NCR are submitted to the U.S. Army Military District of Washington (MDW) Ceremonial and Special Events Office via fax at 202-685-3379 for coordination.

Was the request received by MDW at least 10 working days before the event?

- ☐ If no, **stop**. Generally, such a request is not supportable according to MDW processing timelines.
- ☐ If yes, obtain a copy of the event agenda to confirm details of Federal/State/local government sponsorship and eligibility for support as an official Federal/State/local government event. Continue to next question.

Is this an official Federal, State, or local government event? (Must answer yes to questions 1-4 below to receive consideration for support as an official Federal/State/local government event.)

- ☐ 1. Is it sponsored in whole or predominately by an element of Federal/State/local government?
- ☐ 2. Is the event paid in whole or in part with U.S. Government funds?

Was the request received at least 30 days before the event (or whatever the local installation's request policy states)?

- ☐ If no, further review is not required, and the event does not have to be considered. However, further review is subject to Military Department's standard operating procedures.
- ☐ If yes, obtain a copy of the event agenda to confirm Federal/State/local government event.

Would military programs

- ☐ If yes
- ☐ If no

Would support requirements

- ☐ If yes
- ☐ If no

Is the event

- ☐ If yes
- ☐ If no

Would military programs, or

- ☐ If yes
- ☐ If no

Part I, Section 2: Non-Federal/State/Local Government Agency Requests

Note: Military outside the

Would support requirements

- ☐ If yes
- ☐ If no

Is the event of

- ☐ 1. An organization that specifically excludes any person from its membership for reasons based on race, color, national origin, religion, age, disability, sex, gender identity, or sexual orientation.

- ☐ If no (e.g., event is internal for employees or invited guests only) this event may typically be supported. Proceed to Part IV.
- ☐ If yes, this event may typically be supported; however, reviewer should proceed to Part II to ensure program complies with other DoD community outreach policy restrictions.

PART I, Section 2: Non-Federal/State/Local Government Agency Requests

Is this request for a DoD aerial demonstration?

- ☐ If yes,
 - ☐ Was the request received at least 30 days before the event?
 - ☐ If no, this event is not supportable due to insufficient time to properly process the request. **Stop**.
 - ☐ If yes, proceed to the next question about the sponsoring organization.
- ☐ If no, proceed to next question.

Is this request for a band, color guard, or other ceremonial unit?

- ☐ If yes,
 - ☐ Was the request received at least 30 days before the event?
 - ☐ If no, further review is not required due to the lack of coordination time. The event does not have to be considered. However further review is subject to Military Department's standard operating procedures; requester's expectations must be managed if support is considered.
 - ☐ If yes, proceed to the next question.
- ☐ If no, proceed to the next question.

Does the requesting/sponsoring organization fit into any of the categories below?

- ☐ 1. An organization that specifically excludes any person from its membership for reasons based on race, color, national origin, religion, age, disability, sex, gender identity, or sexual orientation.

Exception: Support might be permitted for organizations with membership restrictions in limited circumstances when the event is of community-wide

Practice tip: Good opinion outline

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Limited Logistical Support

In accordance with DoDI 5410.19, Vol 2, Paragraph 3.2.a., all of these criteria must be met to loan DoD facilities and equipment (and the services of DoD personnel necessary to ensure proper use of equipment). Any support must be incidental to the event.

(1) No interference with official duties.

(2) Supports public affairs or community outreach.

(3) Associating with the event is in the DoD's best interest.

(4) Event is of interest and benefit to community as a whole and DoD.

(5) No admission fee beyond what is reasonable to cover the costs of sponsoring the event may be charged for the portion supported by the DoD. DoD support must be incidental to the entire event.

(6) DoD willing to provide similar support to similar NFEs when the events meet the criteria of (1) through (5).

(7) In most instances, the DoD must be considered the supplier of last resort. Community outreach support generally must not be provided when support could be obtained reasonably by commercially available resources.

(8) No support to events or programs where the real or apparent purpose is to stage controversy or confrontation.

Practice tip: Different analysis for official speaker support.



Speaking: DoD Policy

- Encourages qualified military or civilian personnel at all levels to accept speaking engagements
 - in their official capacity
 - at events of common public interest and benefit
 - as a means of keeping the public informed on DoD programs, policies, and missions as well as national security issues
 - *DoDI 5410.19, Vol 2, Sec. 5*
- Official mission, use official funds
 - Distinguishes this from logistical support

U.S. Army War College Speakers Bureau

“military speaker”



The Army War College student body includes senior military officers of the Army, Navy, Marines, Air Force and Coast Guard, foreign officers, and senior civilian managers of federal agencies such as the Department of Defense and Department of the Army.

USAWC students' backgrounds are diverse, and the Army War College curriculum spans strategic leadership and management ... international relations and regional studies ... and contemporary military issues.

To request a speaker:

Please complete the [Speaker Request Form](#)

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Speaking: Ethics Issues

- **No preferential treatment or endorsement (remarks)**
- **Non-public events; other small groups**
- **Supervisory approval**
- **Gifts**
 - free attendance (if “assigned to present” info)
 - travel expenses
 - speaker’s memento
- **DoD/Service Policy**
- **Releases (if recorded)**
- **Public Affairs coordination**



“military speaker?”

Practice tip: “Subject to public affairs coordination.”

Practice tip: These concepts are defined in DoDI 5410.19.



Incidental Support

- **DoD support must be incidental to NFE events**
- **Incidental = when the total DoD support or participation does not constitute the main component of the planning, scheduling, functioning, or audience draw of the event.**
 - **Ask: Can the “show go on” without the DoD support?**
- **Speakers**
 - **DoDI 5410.19, Vol 2, Para 5.3(j)**
 - **Exceptions (C2, Aug. 7, 2025)**
 - **Professional Dev’t; DoD personnel attendees; DoD speakers <50%; no charge for DoD personnel**
 - **Ex: NMA annual conferences**
- **Logistical**
 - **DoDI 5410.19, Vol 1, Para 4.8**



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Fundraising Events



A Force of Nearly 600 Celebrates the Northwest's Service Members of the Year and Raises Over \$600,000 at 2019 USO Five-Star Gala



- Any military support in fundraising events must be incidental.
- DoD Components will not actively and visibly participate in fundraising events as proscribed by Subpart 2635.808 of Title 5, CFR.
- Military musical units may perform a patriotic opener at an NFE-sponsored fundraising event.
 1. No Service member or DoD employee will engage in direct appeals for funds.
 2. Musical unit's appearance must not be used as a draw.
 3. Military musical units must depart the premises following the presentation of colors and may not remain for any other portion of a fundraising event.
 4. Military musicians performing in a personal capacity must wear civilian attire and may not be identified by their military service, rank, or unit.



Trademarks, Awards, Bands

DOD Trademark Licensing Guide

[Part I: Official Military Service Seals & Other Trademarks](#)

[Part II: General Guidance](#)

[Part III: NFE's Use of Military Service Marks](#)

[Part IV: Colleges and Universities Use of Military Service Marks](#)

[Part V: Legislative References](#)



Important Information and Guidelines About the
Use of Department of Defense Seals, Logos,
Insignia, and Service Medals

Use of Logos

- Endorsement
- Protection of Intellectual Property
- DoD Trademark Licensing Guide:
<https://www.defense.gov/Resources/Branding-and-Trademarks/DOD-Trademark-Licensing-Guide/>

NFE Award Presentations

- Avoid DoD personnel presenting NFE awards
- OK to be on stage during presentation

Bands (primarily patriotic openers)

- Statutory prohibition against use at activity not paid for by appropriated funds





Co-Sponsorship

- Addressed in previous version of Joint Ethics Regulation
- Similar guidance is being incorporated to revision of DoD Conference Policy
 - Anticipate publication in September 2025 (Version 5.0)



Practice tip: Use old JER co-sponsorship guidance until new DoD Conf. Policy is published. (SOCO website)



Final Thoughts

- Engagement with NFEs is permissible
- When participating in NFE matters ensure there is no
 - *Conflict of interest*
 - *Endorsement*
 - *Preferential treatment*
- When participating in NFE activities in an official capacity, determine authority/approval, and limits of activities
- When analyzing requests for NFE support, determine whether authority exists to provide the requested support
 - Specific statutory/regulatory authority
 - Community Outreach (*Add DoD 5410.19 to your library*)
- Identify other ethics issues (*i.e., gifts*)
- **Coordinate with PA on all “support to NFE” questions**



Questions?



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