

# SOCO ADVISORY

Department of Defense  
Office of General Counsel  
Standards of Conduct Office

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## Application of the Standards of Conduct to Personal Social Media Accounts

This Advisory summarizes the rules that ethics counselors should consider when advising DoD personnel on ethics issues that can arise from the use of social media. While the existing rules are sufficient to address most issues, SOCO will continue to evaluate whether additional policy is required to address potential risks. As used in this Advisory, the term “employee” includes military personnel unless otherwise noted.

### 1. Appearance of Official Endorsement or Sanction:

*An employee shall not use or permit the use of his Government position or title or any authority associated with his public office in a manner that could reasonably be construed to imply that his agency or the Government sanctions or endorses his personal activities or those of another. 5 CFR 2635.702(b).*

*An employee shall not use or permit the use of his Government position or title or any authority associated with his public office to endorse any product, service or enterprise. See 5 CFR 2635.702(c).*

a. DoD employees should avoid engaging on their personal social media accounts as if they are presenting the official position of DoD. An employee does not create the appearance of government sanction merely by identifying his or her official title and position in the biographical section of a social media account (see OGE Legal Advisory 15-03<sup>1</sup>), but if an employee’s account has other indicia of his or her official DoD role, he or she may appear to be acting in an official capacity. OGE recommends that an agency ethics official consider the totality of circumstances to determine whether a reasonable person with knowledge of the relevant facts would conclude that the government sanctions or endorses content on a personal social media account. Factors to consider include:

- Whether the employee states that he or she is acting on behalf of the government;
- Whether the employee refers to his or her connection to the government as support for the employee’s statements;

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<sup>1</sup> OGE Legal Advisory LA-15-03, April 9, 2015, “The Standards of Conduct as Applied to Personal Social Media Use.”

[https://www.oge.gov/Web/OGE.nsf/News+Releases/195DAE83D38EF6A9852585BA005BEC69/\\$FILE/LA-15-03-2.pdf](https://www.oge.gov/Web/OGE.nsf/News+Releases/195DAE83D38EF6A9852585BA005BEC69/$FILE/LA-15-03-2.pdf)

- Whether the employee prominently features his or her agency's name, seal, uniform or similar items on the employee's social media account or in connection with specific social media activities;<sup>2</sup>
- Whether the employee refers to his or her government employment, title, or position in areas other than those designated for biographical information;
- Whether the employee holds a highly visible position in the Government, such as a senior or political position, or is authorized to speak for the Government as part of the employee's official duties;
- Whether other circumstances would lead a reasonable person to conclude that the government sanctions or endorses the employee's social media activities.

b. Where any confusion exists, employees should post a clear and conspicuous disclaimer. The following sample may be tailored as necessary:

*The views and opinions presented herein are those of the author and do not necessarily represent the views of DoD or its Components. Appearance of, or reference to, any commercial products or services does not constitute DoD endorsement of those products or services. The appearance of external hyperlinks does not constitute DoD endorsement of the linked websites, or the information, products or services therein.*

c. Social media networks, particularly those focused on job seeking, may allow users to recommend or endorse the skills of other users. The Standards of Conduct permit employees to use their personal social media account to make such recommendations or endorsements in their personal capacity. It is not a misuse of position for employees to provide such endorsements merely because they have provided their official titles or positions in areas of their personal social media accounts that are designated for biographical information. Where the social media platform automatically adds a user's name and title to an employment recommendation, OGE does not consider the recommendation to constitute a misuse of position. (See LA 15-03). An employee should not, however, affirmatively include a reference to the employee's title, position, or employer in a recommendation, except where 5 C.F.R. § 2635.702(b) expressly permits such references.

## **2. Government information:**

*An employee shall not engage in a financial transaction using nonpublic information, nor allow the improper use of nonpublic information to further his own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure. See 5 C.F.R. § 2635.703.*

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<sup>2</sup> The DoD Trademark Licensing Guide provides specific rules regarding use of protected marks. <https://www.defense.gov/Resources/Trademarks/DOD-Trademark-Licensing-Guide/>. DoD Instruction 1334.01 provides specific rules regarding wearing a military uniform. <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/133401p.pdf>

a. Employees may not disclose nonpublic information through their social media accounts.

b. The Standards of Conduct generally do not prevent employees from discussing or sharing Government information that is publicly available. Employees may not, however, accept compensation for statements made through social media that relate to their official duties. (See 5 C.F.R. § 2635.807(a)). Additionally, the more an employee discusses DoD information in a personal account, the greater the risk of creating an appearance that the social media is an official account, which should be avoided.

### **3. Impartiality:**

*Employees shall act impartially and not give preferential treatment to any private organization or individual. 5 CFR 2635.101(b)(8); 2635.501-503.*

a. An employee's social media account should not be an avenue for friends, followers, or private contacts to gain access to DoD programs or seek action from DoD officials in a manner not available to the general public.

b. Employees are encouraged to limit their personal social media accounts to non-DoD matters. If a member of the public attempts to use an employee's personal account to inquire or comment about an official matter, any response should be limited to directing that person to an official DoD account.

### **4. Fundraising:**

*An employee may engage in fundraising in his personal capacity provided that he does not personally solicit funds or other support from a subordinate or from a prohibited source, and provided that he does not use or permit the use of his official title, position or any authority associated with his public office to further the fundraising effort. See 5 CFR 2635.808(c).*

a. Employees are not considered to have used their official titles, positions or authority to engage in fundraising merely because they have identified such information in their personal social media account's biographical information. (See OGE LA 15-03).

b. "Personally solicit" does not include posting a general fundraising announcement through social media, even if a subordinate or a prohibited source is connected to the employee through social media. An employee may not, however, respond to inquiries from subordinates or a prohibited source regarding fundraising, nor may an employee specifically target a subordinate or prohibited source with a fundraising request or announcement. (See OGE LA 15-03).

c. Crowdsourced fundraising platforms like GoFundMe and Kickstarter raise additional ethics issues. OGE has provided specific guidance regarding crowdsourced fundraising in OGE Legal Advisory 20-07.<sup>3</sup>

d. Additional rules apply to the use of social media for political activity. For example, employees, even when not on duty or in the workplace, may not post or tweet or retweet a message that solicits political contributions or invites people to a fundraising event. Additional guidance and information can be found on the DoD SOCO website at <https://dodsoco.ogc.osd.mil/ETHICS-TOPICS/Political-Activities/>

**DISCLAIMER: The purpose of this advisory is to disseminate relevant information and sources of general guidance, policy and law on Government Ethics issues to the Department of Defense ethics community. Advisories are not intended to be and should not be cited as authoritative guidance, DoD policy, or law**

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<https://dodsoco.ogc.osd.mil/>

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<sup>3</sup> OGE Legal Advisory 20-07, October 6, 2020, “Answers to Frequently Asked Questions for Employees Engaged in Crowdsourced Fundraising.” [https://www.oge.gov/Web/OGEnsf/News+Releases/B97946E02378A576852585FA00522E03/\\$FILE/LA-20-07 Answers to Frequently Asked Questions for Employees Engaged in Crowdsourced Fundraising.pdf](https://www.oge.gov/Web/OGEnsf/News+Releases/B97946E02378A576852585FA00522E03/$FILE/LA-20-07%20Answers%20to%20Frequently%20Asked%20Questions%20for%20Employees%20Engaged%20in%20Crowdsourced%20Fundraising.pdf)