

SOCO ADVISORY

Department of Defense
Office of General Counsel
Standards of Conduct Office

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1. **SOCO Website Migration.** The SOCO website is currently being migrated to a new web hosting service. While the website will remain available, please note that information has not been updated in CY2020. Therefore, ethics officials must reference source authority and documents to ensure they are citing the most current information. Additionally, remember to always delete your cache when viewing the SOCO website to ensure you are viewing the most up to date page. Otherwise, you may be viewing a stored version with incorrect data. SOCO anticipates migration and updates will be completed by May 1st, if not sooner. In the meantime, a banner will be placed on the SOCO homepage reminding officials to verify information using source documents/sites.
2. **New Instruction DoDI 1000.32 interpreting Section 1045 of the NDAA for Fiscal Year 2018 (“Section 1045”).** The new Instruction interpreting Section 1045 is now available at:

<https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/100032p.PDF?ver=2020-03-26-142804-367>

This instruction supersedes all previous guidance and reflects the Department’s official interpretation of Section 1045.

There have been changes to the guidance we previously provided on Section 1045, so be sure to review the DoDI carefully. These changes are the result of consultation with Congressional staff and excellent input from many DoD ethics counsel during informal and formal coordination of the instruction. In particular, SOCO has revised the Department’s interpretation regarding applicability of the prohibition on certain “behind the scenes” assistance. Such “behind the scenes” assistance is only prohibited when performed by a former senior official in support of a *lobbying activity* with a covered executive branch official *outside of* the Department of Defense (DoD) pertaining to *a matter with respect to the DoD*. “Behind the scenes” assistance is NOT prohibited in support of lobbying activities with a covered executive branch official in DoD. Former senior officials are still prohibited from participating in a *lobbying contact* with a covered executive branch official in DoD or outside of DoD pertaining to a matter with respect to DoD.

Also, please note the following key points when applying Section 1045:

- The DoD is not divided into separate agency components for purposes of applying Section 1045;
- The length of the restriction depends entirely on the senior official’s grade on the date of his/her retirement.
- Section 1045 applies to officers in the Reserve Component who served 60 days or

more on active duty in the one year period prior to their retirement or separation from service in the Armed Forces.

- Section 1045 does not apply to certain positions, such as HQEs, SLs, IPAs, etc...
- Section 1045 does not apply to personnel whose basic pay is below 86.5 percent of the rate for Executive Schedule Level II.
- The exceptions in the criminal post-government employment conflict of interest statute at 18 U.S.C. § 207 apply, as do the Lobbying Disclosure Act's exceptions to "lobbying contacts."

3. **Change in the Minimal Value.** On March 10, 2020 the General Services Administration published a notice which increased the "minimal value" for purposes of accepting gifts from foreign governments under the Foreign Gifts and Decorations Act from \$390 to \$415 retroactive to January 1, 2020. (Note: The GSA notice incorrectly cites the effective date as January 1, 2017. FMR Bulletin B-50 provides the correct effective date of January 1, 2020). The notice is posted at:

<https://www.gsa.gov/policy-regulations/policy/personal-property-management-policy/foreign-gifts>

FMR Bulletin B-50 is posted at:

https://www.gsa.gov/cdnstatic/FMR%20Bulletin%20B-50%20Signed%20Foreign_Gift_Minimal_Value_Mar_2020.pdf

4. **Determining Reasonable Costs Under JER 3-211(a)(7).** The "reasonable attendance fee" for DoD employees to attend a conference where DoD personnel will be speaking, as outlined in JER 3-211(a)(7), has been updated. Consistent with past practice, the reasonable attendance fee is adjusted every three years by the same percentage increase or decrease in the "minimal value" amount established by GSA under the Foreign Gifts and Decorations Act (FGDA). As reported above, GSA announced that the "minimal value" for purposes of the FGDA has increased to \$415. Accordingly, the reasonable per day attendance fee for purposes of JER 3-211(a)(7) is now \$804.
5. **Compensated Employment While on Administrative Leave.** OGE has informally opined that an employee may accept compensated employment with a nonfederal entity while on administrative leave from their Federal employment due to the COVID-19 pandemic. However, that employee is still subject to all of the ethics rules and statutes. Also, the employee must comply with any supplemental agency regulations requiring prior approval for outside activities. DoD has such a requirement at 5 C.F.R. 3601.107.
6. **Extensions for 2020 OGE 278 Filings in Integrity.** OGE has indicated that they are monitoring the current situation involving COVID-19 pandemic response, but do not have any immediate plans to issue a blanket extension for all filers at this time. Since Integrity permits access without a CAC/PIV enabled computer current, social distancing/stay at home requirements alone do not justify a blanket extension under the requirements of 5 C.F.R. §2634.201(g) and implementing guidance. Filing data for DoD indicates that individuals working from home have been able to access

Integrity and any necessary financial records. Therefore, in accordance with 5 C.F.R. §2634.201(g), DoD DAEOs and other ethics officials will only grant extensions to individuals on a case-by-case basis in unique circumstances (e.g., those who are ill, don't have access to their records, or other reasons normally accepted in granting extensions). If OGE does decide to issue a blanket extension, SOCO will issue updated guidance.

7. **Updated Integrity User Guide Now Available.** An updated OGE Integrity User Guide (v2.3) is now available and can be downloaded from the “Learn About Integrity” site at <https://community.max.gov/x/SYI-L>. Specific updates include:
 - a. Chapters 4 and 5 - Guidance for filing reports.
 - b. Sections 1.9.1 and 7.2.5 - Information on Cascading roles
 - c. Section 4.3.9 - OGE 278e Data Entry Grids and Bulk Actions (Delete, Move or Select a Parent)
 - d. Section 4.3.12, - Submit an Early Termination Report
 - e. Section 5.3.4-6 – 278-T Data Entry Grid, including Add an Entry, Import Entries from a Spreadsheet, and Edit an Entry
 - f. Section 6.7.3 - Edit General Information Page Fields
 - g. Section 7.2.2-7 - Edit the Basic information Tab, Edit the Agency Staff tab, Edit the Workflows Tab, Edit the System Tab, Edit the Support Tab, and Edit the Notices Tab.

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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http://www.defenselink.mil/dodgc/defense_ethics