



# FUNDRAISING

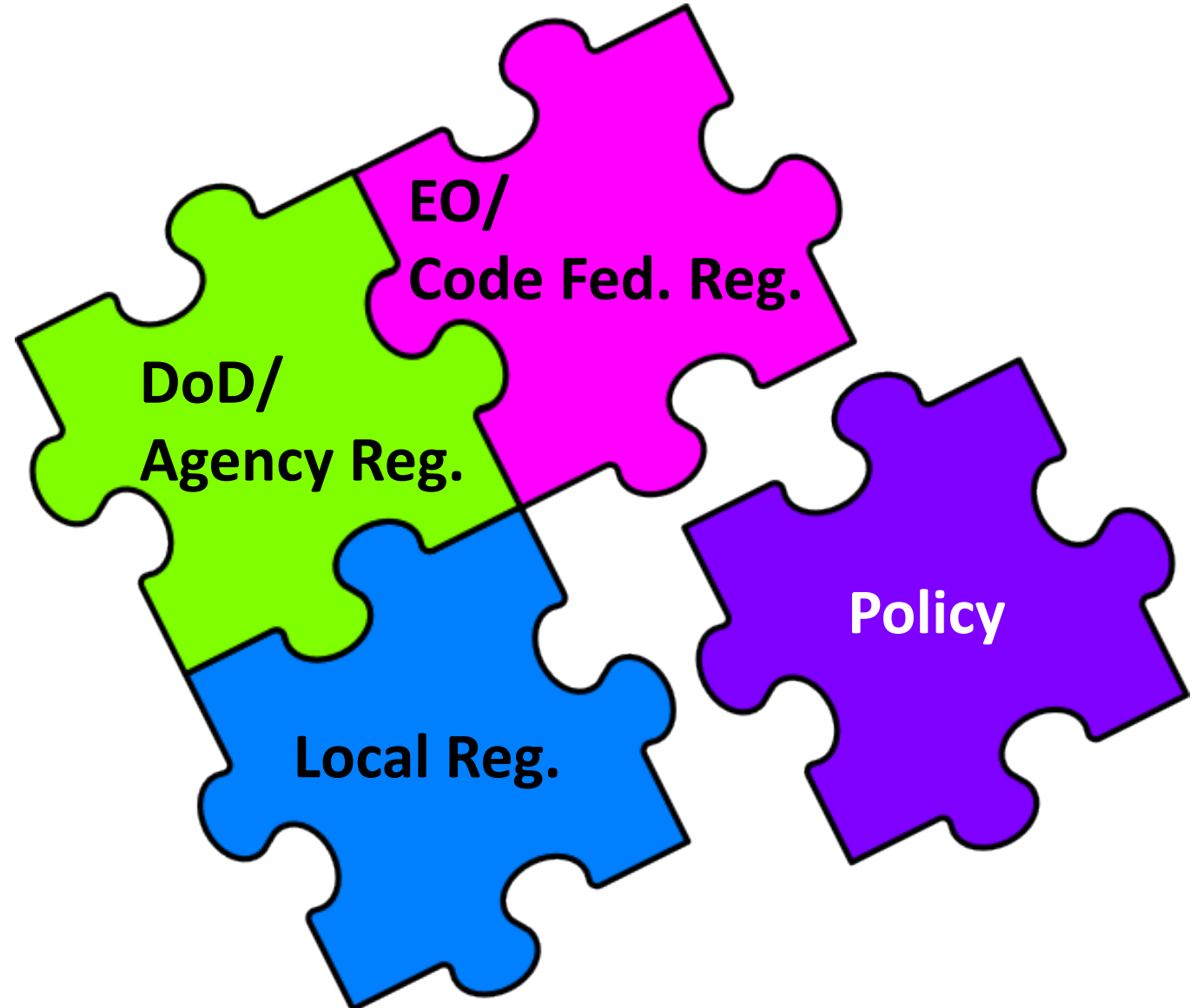
Standards of Conduct Office  
Office of General Counsel  
Department of Defense

June 2020



## *Challenge #1*

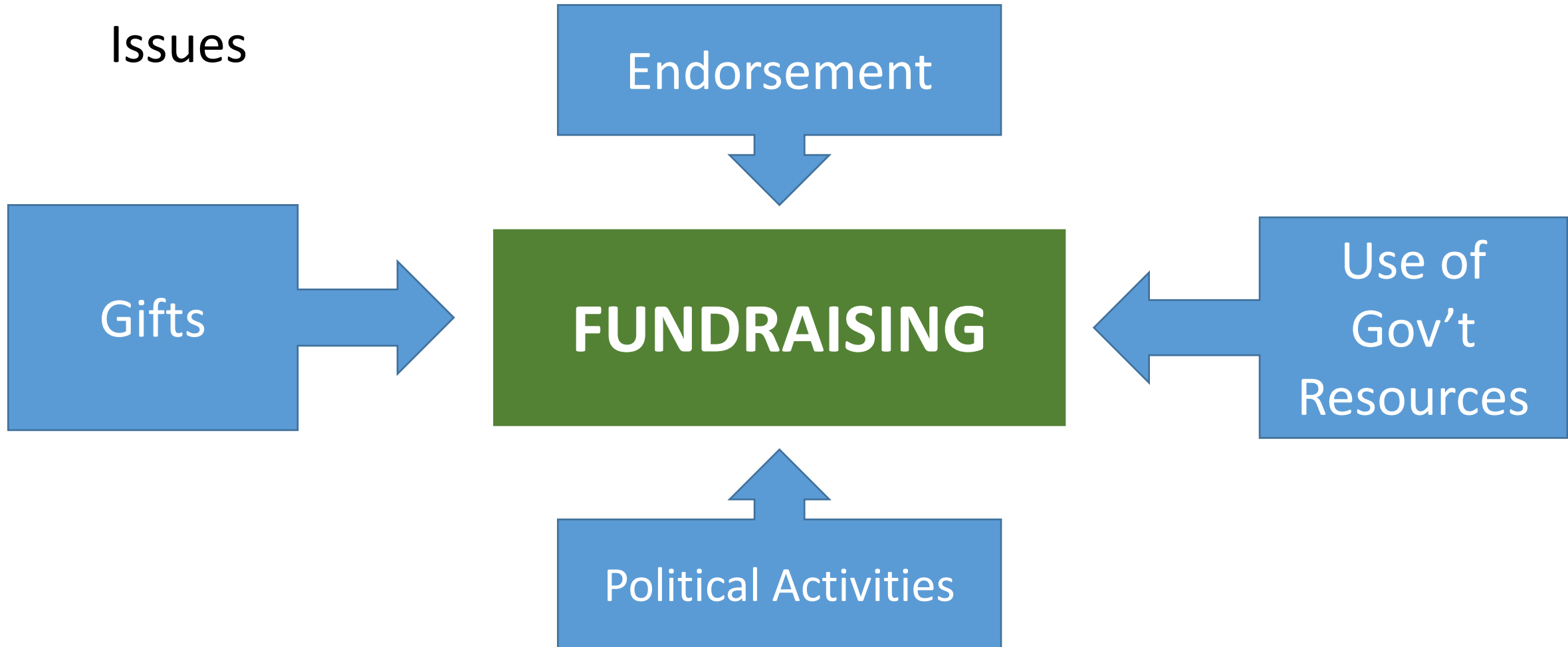
- No Comprehensive Guidance





## *Challenge #2*

- Overlapping Ethics Issues





## Challenge #3

- Everyone Wants to Fundraise!





## Challenge #3

- Everyone Wants to Fundraise!





# Roadmap

- Rules/References
- Fundraising defined
- Official Fundraising
- Personal Fundraising
- Common Scenarios 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

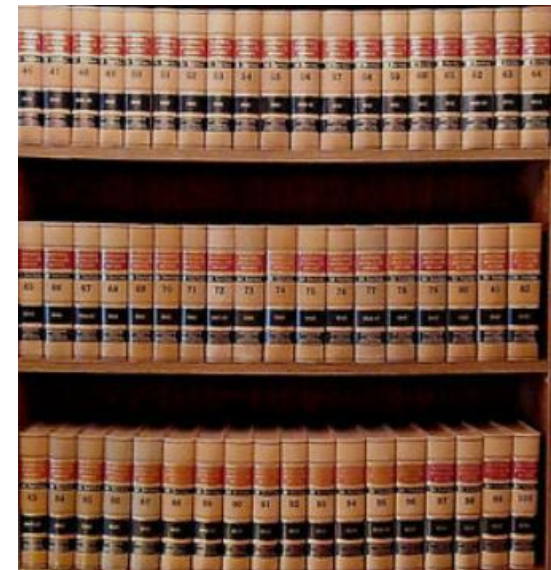






# Rules/References

- 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"*



# *Combined Federal Campaign*

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





# 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 examples

## **News Release**

FOR IMMEDIATE RELEASE

Wednesday, August 30, 2017

Contact: [Office of Communications](#)

Tel: 202-606-2402

## **OPM approves special solicitation to support Harvey victims**

Donations will help replenish and rebuild region's resources





# *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
- Practice Tip: Do you know your installation's policy?





# *Military Relief Societies*

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





# *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



# *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
- Gift?





# *Gambling*

- JER 2-302 prohibits gambling on Government-owned or leased property and/or while on official duty
- Fantasy Football 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)





# 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)*





- Endorsement
- Military Band support
- Color Guard support
- Political Fundraisers
- MWR Commercial Sponsorship
- National Military Association support (10 USC 2558)



## Misc Issues

**LOGOS**





# *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 ALL fundraising
- Areas to watch out for:
  - Solicitation of subordinates or prohibited sources (contractors)
  - Endorsement/active participation in NFE fundraiser





QUESTIONS

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