



Ethics Training for Designated OSD Personnel

DoD Standards of Conduct Office

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UNCLASSIFIED



Opening Remarks

- Welcome to your ethics training!
- This year we will focus on the general principles of ethical conduct and training scenarios modeled from real-world situations to illustrate potential ethics issues and their appropriate resolution.
- This training will take approximately one hour to complete, and satisfies the **2022** Annual Ethics Training requirement for financial disclosure filers.
- When authorized, this training can also satisfy the Initial Ethics Training requirement for new employees for calendar years **2022** and **2023**.
- This module should be completed during official business hours so that you may contact an ethics official if you have any questions.



Disclaimer

This training will not cover all the ethics rules or exceptions. However, this training should assist your understanding of the rules, and help you make value-based judgment calls. In turn, this training should help you avoid inadvertent violations of the rules that, in many cases, carry civil or even criminal penalties. **This training is not a substitute for legal advice. When in doubt, contact your ethics counselor!**

TAKE AWAY: If you have questions on how the ethics rules apply to a particular situation, contact an ethics counselor **before** taking action. Even with the best intentions, it is more prudent to consult with an ethics counselor **in advance** to avoid violating any of the ethics rules.



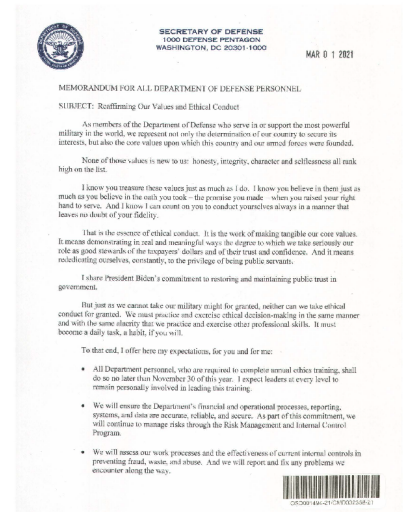
Purpose

The intent of this training module is to help DoD personnel better understand their responsibility to foster and encourage ethical conduct. Specifically, you are encouraged to think about the ethical culture in your organization and your contributions towards that culture.



Secretary Austin's Ethics Messages

- In the spirit of maintaining a culture of ethical conduct in DoD, Secretary of Defense Lloyd Austin released a video message in 2022 regarding ethical decision making. Please take a moment to view the Secretary's message [here](#).
- Secretary Austin also issued a memorandum, "Reaffirming Our Values and Ethical Conduct" in March 2021. Please double-click on the PDF to the right to read the Secretary's message





Training Topics

- Legal Sources of Ethics Rules
- General Principles of Public Service
- Gifts
- Conflicts of Interest & Impartiality
- Financial Disclosure
- Misuse: Public Office, Position, & Title
- Political Activity
- Post-Government Employment
- Ethical Decision Making



Legal Sources

Criminal Conflict of Interest Statutes

- **18 U.S.C. 201, Bribery and Gratuities.** Prohibits personnel from seeking, receiving or agreeing to accept anything of value to influence their Government actions or as a result of their Government actions.
- **18 U.S.C. 203, Representation of Others (Compensated).** Prohibits personnel from receiving compensation derived from representation of another before the executive branch or the courts when the United States is a party or has a direct and substantial interest.
- **18 U.S.C. 205, Representation of Others (Uncompensated).** Prohibits personnel from involvement in a claim against the U.S. or representing another before the Government in matters in which the U.S. is a party or has a direct and substantial interest, even if uncompensated.



Legal Sources

Criminal Conflict of Interest Statutes

- **18 U.S.C. 207, Post-Government Employment.** Places certain restrictions on former Federal personnel against representing the interests of others back to the Federal government after leaving Federal employment.
- **18 U.S.C. 208, Financial Conflict of Interest.** Bars Federal personnel from participating personally and substantially in an official capacity in any particular Government matter that would have a direct and predictable effect on the employee's actual or imputed financial interests.
- **18 U.S.C. 209, Dual Compensation.** Prohibits Federal personnel from being paid by someone other than the United States for doing their official Government duties.



Legal Sources

Ethics Regulations

- **5 C.F.R. 2635, Standards of Conduct for Employees of the Executive Branch.** The Federal-wide regulations that implement the conflict of interest laws and governs ethical conduct of all Federal employees. A summary can be found [here](#).
- **5 C.F.R. 3601, DoD Supplemental Standards of Conduct.** Provides additional DoD-specific Federal ethics regulations in the Code of Federal Regulations.
- **DoD 5500.07-R, Joint Ethics Regulation.** Provides additional DoD-specific ethics regulations through a DoD issuance.



Standards of Conduct for Employees of the Executive Branch

The Standards of Conduct regulations address the following topics.

- Conflicting Financial Interests
- Impartiality
- Gifts from outside sources and between employees
- Seeking Non-Federal Employment
- Misuse of Official Position, to include...
 - Nonpublic information;
 - Government property;
 - Official time; and
 - Use of public office for private gain;
- Outside Activities, to include...
 - Outside Employment;
 - Fundraising;
 - Teaching, Speaking, Writing; and
 - Providing Expert Testimony.



DoD Supplemental Standards of Conduct

The DoD Supplemental regulation addresses additional issues specific to DoD personnel such as:

- Monetary limit on value of group gift (currently no more than **\$300**) from subordinates to supervisor for special, infrequent occasions.
- Requirement to use a disclaimer when providing unofficial speeches.
- Prior approval by the supervisor for compensated outside employment with a prohibited source if the DoD employee is a financial disclosure filer.
- Prohibition on making solicited sales to DoD personnel (or their families) who are more junior in rank, grade, or position.



DoD Joint Ethics Regulations

- DoD's Joint Ethics Regulation (JER) is issued under the authority of DoD Directive 5500.7, "Standards of Conduct." It serves as a source of guidance on the standards of ethical conduct and other ethics rules.

- The JER also lists DoD's primary ethical values.
 - Honesty
 - Integrity
 - Loyalty
 - Accountability
 - Fairness
 - Caring
 - Respect
 - Promise Keeping
 - Responsible Citizenship
 - Pursuit of Excellence



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General Principles of Public Service

The [14 General Principles of Public Service](#) establish basic obligations and ethical values and goals for all Federal employees and form the foundation for most ethics laws and regulations.

DO:

- Place loyalty to the Constitution, the laws, and ethical principles above private gain.
- Put forth honest effort in performing duties.
- Act impartially to all groups, persons, and organizations.
- Protect and conserve Federal property.
- Disclose waste, fraud, abuse, and corruption to appropriate authorities.
- Fulfill in good faith your obligations as a citizen, and pay your Federal, State, and local taxes.
- Comply with all laws providing equal opportunity to all persons, regardless of their race, color, religion, sex, national origin, age, or handicap.

DON'T:

- Hold financial interests or positions that conflict with your Federal duties.
- Use or allow use of nonpublic information for private interests.
- Solicit or accept gifts from persons or parties that do business or seek official action from DoD (unless an exception applies).
- Make unauthorized commitments or promises that bind the Government.
- Use public office for private gain.
- Use Federal property for other than authorized activities.
- Take actions that give the appearance that they are illegal or unethical.



Gifts



Gifts: General Rules

- **Gifts from Outside Sources:** Federal personnel may not solicit or accept gifts given by a prohibited source, (e.g. a defense contractor) or because of their official position.
- **Gifts between Federal Employees:** General prohibition on acceptance of gifts from subordinates or people who earn less than you.



Gifts from Outside Sources - Definitions

A gift is any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or any other item having monetary value. It includes services as well as gifts of training, transportation, travel, lodging, and meals.

The following items are **not** considered gifts from outside sources:

- Modest items of food & non-alcoholic refreshments, not part of a meal.
- Items of little intrinsic value (e.g. plaques, certificates, and trophies), intended solely for presentation.
- Free attendance at an event on the day an employee is assigned to present information on behalf of the agency.
- Discounts and favorable rates available to the public, all Federal personnel, or all military personnel.
- Rewards and prizes from contests open to the public.
- Anything paid for by the Government or secured by the Government under a contract.
- Anything for which market value is paid by the employee.



Gifts from Outside Sources: Exceptions

Gifts from Outside Sources May be Accepted When:

- Gift has a value of \$20 or less, not to exceed \$50 from the same source in a single calendar year. No cash.
- Gift is based on a personal relationship.
- Discounts and similar benefits meeting certain requirements.
- Awards and honorary degrees.
- Gift is based on outside business or employment relationships.
- Gift is customarily offered by a prospective employer (i.e., interview travel expenses or meals).
- Social invitations from other than prohibited sources.
- Meals, refreshments, and entertainment in foreign areas.
- Gift is accepted under specific statutory authority (i.e. travel payments from non-federal sources).
- Free attendance at widely-attended gatherings (WAGs).



Gifts from Outside Sources: Exceptions

Travel Payments from Non-Federal Sources

- 31 U.S.C. § 1353 is the statute that permits Federal agencies to accept gifts of travel, meals, lodging, and/or registration fees associated with official travel (not mission essential) on behalf of the Government.
 - This is considered a gift to the Government and not to the employee. The employee cannot be directly reimbursed.
 - Under this law, you must obtain written approval before travel.
 - The person signing your travel orders (travel approval authority) must sign a memorandum approving acceptance of the gift.
 - An ethics counselor must also concur with the travel approval authority's determination before the travel begins.



Gifts from Outside Sources: Exceptions

Widely-Attended Gatherings (WAGs).

- The following criteria is required to accept free attendance at a WAG:
 - A large number of attendees will attend.
 - Diverse views must be represented.
 - There must be an opportunity to exchange views.
 - The supervisor must determine, in writing, that there is an agency interest in the subordinate's attendance.
 - An ethics counselor must concur.
 - The employee must attend in his or her personal capacity after duty hours or, if authorized, on excused absence pursuant to applicable guidelines for granting such absence.



Gifts Between Employees: Exceptions

Gifts between Federal Employees

- There is no prohibition on supervisors giving gifts to subordinates, provided no favoritism is shown and the gift is not associated with the subordinate's performance.

Gifts from subordinates to supervisors exceptions:

- A gift valued at \$10 or less on an occasional basis, to include traditional gift giving occasions (e.g. birthday). No cash.
- Personal hospitality provided at a residence which is of a type and value customarily provided by the employee to personal friends.
- Items given in connection with the receipt of personal hospitality if of a type and value customarily given on such occasions (e.g. host gift).
- Items given on special, *infrequent* occasions in recognition of events such as marriage, illness, the birth or adoption of a child, and retirement (e.g. a group retirement gift). The value of the gift is capped at \$300.



Considerations for Declining Gifts

- The Office of Government Ethics' regulations state that an employee should consider declining a gift *if a reasonable person with knowledge of the relevant facts would question the employee's integrity or impartiality.*

- Factors to consider when contemplating declining a gift include:
 - High market value of gift
 - Timing of the gift
 - Donor has interests that may be affected by the employee
 - Whether acceptance would create appearance of preferential treatment



Test Your Knowledge

You and your co-workers are on official Government travel and have been invited to attend a social event in a restaurant down the street from where you are attending a conference. You would like to attend and socialize in a relaxed atmosphere, with approximately 100 people from industry, state and local governments, and the media. Drinks and appetizers, valued at \$25, will be provided. The sponsor of the event is a defense contractor. This is the only time you have accepted a gift from this contractor in the current year. Your supervisor will be in attendance, as are several other employees.



Test Your Knowledge

Select the best answer:

1. Since the gift is of limited value, you graciously accept it.
2. Everyone else from DoD appears to be accepting the gift of free attendance, so you do so as well.
3. You accept the gift after consulting with an ethics counselor and your supervisor who determined, in writing, that this event is a widely-attended gathering and that there was an agency interest in your attending.
4. You decide the ethics rules prohibit you from accepting this gift and so you decline the invitation.



#1 - Please try again

This is not the correct answer.

- Absent the applicability of a gift exclusion or exception, you may not accept a gift valued in excess of \$20.
- You could also attend the event and pay your own way. It is never inappropriate, and often prudent, to decline a gift from an outside source.



#2 - Please try again

This is not the correct answer.

- Absent the applicability of a gift exclusion or exception, you may not accept a gift valued in excess of \$20.
- You could also attend the event and pay your own way. It is never inappropriate, and often prudent, to decline a gift from an outside source.



#3 - Correct

Great job! Answer #3 is the best answer!!

- You may accept this gift if the event is a widely attended gathering and you have consulted with an ethics counselor and your supervisor has determined, in writing, that there is an agency interest in your attending. SOCO has templates available on request.
- Absent the applicability of a gift exclusion or exception, you may **not** accept a gift in excess of \$20.
- You could also attend the event and pay your own way. It is never inappropriate, and often prudent, to decline a gift from an outside source.



#4 - Please try again

This is not (technically) the correct answer. However, it is never inappropriate, and often prudent, to decline a gift from an outside source. You could also choose to attend the event and pay your own way.



Conflicts of Interest (COI) and Impartiality



Financial Conflict of Interest Statute

18 U.S.C. § 208 Acts Affecting Personal Financial Interest.

- An employee may not *participate personally and substantially* in a *particular matter* that will have a direct and predictable effect on his or her financial interest or the interest of the spouse, minor child, general partner, or organization in which he or she is serving as an officer, director, trustee, general partner or employee, or any person or organization with whom he or she is negotiating or has any arrangement concerning prospective employment.



Financial Conflict of Interest Statute

Definitions:

- Participate: decision, approval, recommendation, investigation or rendering of advice.
- Personally: directly - includes the participation of a subordinate directed by the Government employee.
- Substantially: of significance to the matter (not administrative or ministerial)
- Particular Matter: matter focused upon the interests of specific persons, or a discrete and identifiable class of persons.



Financial Conflict of Interest Remedies

- Disqualification/Recusal
 - Must be in writing to supervisor with copy to ethics counsel.

- Regulatory exemptions – Most common are:
 - < \$15,000 for stocks
 - < \$50,000 for sector mutual funds

- Waiver
 - Extremely rare and requires coordination with Office of Government Ethics

- Reassignment/change of duty

- Divest financial interest



Conflicts of Interest: Investing

Federal personnel are prohibited from participating in any particular matter that will have a direct and predictable effect on their actual or imputed financial interests.

- Example 1: You are assigned to participate in an acquisition for artificial intelligence technology for unmanned vehicles. You cannot do so if you, or someone whose interests are imputed to you, hold stock valued at more than \$15,000 in one of the vendors or bidders.
- Example 2: Same as above, but you hold shares in a technology sector mutual fund that concentrates artificial intelligence. Your shares are valued at \$75,000. You cannot participate if any of the holdings in the fund are vendors or bidders. (*Note: Participation in any matter affecting the sector is risky as holdings can change without notice*).



Conflicts of Interest: Investing

Diversified Mutual Funds – Diversified funds are those not concentrated in any one geographic or market sector (e.g., S&P 500 Index Fund, Capital Growth Fund, Capital Appreciation Fund, etc., etc.)

- Regulatory exemption, so no potential conflicts of interest.
- Alleviates need for constant monitoring to avoid conflicts.

Stocks – Employees choosing to invest in stocks can minimize risk by avoiding stocks in entities that have any involvement with the employee’s organization (*e.g., if you work in IT, it is unlikely you would have a conflict with an energy or pharmaceutical company*).

Managed Accounts - If you choose to have a broker manage your accounts or select portfolios (asset management accounts), *please note that you are still responsible for identifying and managing the conflicts issues*, to include listing them on financial disclosure reports, even if you don’t personally determine what is purchased or sold.



“Former Employer” Recusal Requirement

Section 1117 of the National Defense Authorization Act for FY2022

- For two years from the date of last employment, all DoD employees are prohibited from participating in a particular matter if their **former employer** is a party to the matter or represents a party to the matter.

Definition of “Former Employer”

- Any organization, including a trade organization, for which the DoD employee served as an employee, officer, director, trustee, or general partner.



“Former Employer” Recusal Remedy

Authorization to Participate

- An agency designee may, **after consulting with an ethics counselor**, authorize a DoD employee to participate in a matter in which the employee is recused **if** a determination is made that the Government’s interest in the employee’s participation in the matter outweighs the concern that a reasonable person may question the integrity of DoD’s programs.



Impartiality Standard

5 CFR 2635.502 –Impartiality

- Even if there is no criminal conflict of interest, if a reasonable person with knowledge of the relevant facts would question the employee's impartiality, the employee may still need to recuse from the matter.
- Employees are prohibited from participating in particular matters if a person with whom they have a "covered relationship" is a party to the matter or represents a party to the matter.



Impartiality Standard

Definition of a “Covered Relationship”

- Business or a financial relationship (other than a routine consumer transaction);
- Members of employee’s household & close relatives;
- Employers and clients of employee’s parents, dependent children, and spouse;
- Former non-Federal employers and clients for a one-year period* after the date of resignation/separation (two years if received an extraordinary severance payment); and
- Organizations in which the employee is an active participant (other than political organizations).

*Section 1117 may impose a lengthier former employer recusal period. Consult with your ethics counselor for more details.



Impartiality Remedies

- **Disqualification/Recusal**
 - Must be in writing to supervisor with copy to ethics counsel.

- **Reassignment/change of duty**

- **Authorization to Participate**
 - An agency designee may, **after consulting with an ethics counselor**, authorize an employee to participate in a matter in which there is an impartiality issue **if** a determination is made that the Government's interest in the employee's participation in the matter outweighs the concern that a reasonable person may question the integrity of DoD's programs.



Test Your Knowledge

An acquisition official wins the lottery and uses her winnings to purchase stock in a Company X, a DoD contractor. Company X responds to a Request for Proposal that the acquisition official would normally review as part of her official duties. What should the acquisition official do?

1. Be careful to treat the Company X fairly when making the determination to award Company X a contract.
2. Recuse herself from any particular matters involving the Company X.
3. Immediately divest her Company X stock holdings.



#1 – Try Again

This is not the correct answer. Awarding a contract to Company X would constitute a conflict of interest if the acquisition official holds more than \$15,000 of Company X stock.



#2 - Correct

Great job! This is the best answer. The acquisition official must recuse herself from participation in particular matters involving Company X to avoid a conflict of interest.



#3 – Try Again

This is not the best answer. If the acquisition official is able to recuse herself from this particular matter while still performing her other duties, then divestiture is not required.



Financial Disclosure



Financial Disclosure

Electronic Filing Required:

OGE 278s – Integrity.gov system



OGE 450s – FDM system





Financial Disclosure

Purpose: Assist employees, supervisors, and ethics counselors identify and resolve actual and potential conflicts of interest.

Supervisor Role:

- Determine which employees should file confidential financial disclosure reports (OGE 450) based on regulatory standards.
- Ensure their employees file in a timely manner.
- Perform conflicts reviews and sign reports in a timely manner – notify ethics counsel of potential conflicts via comments in report or direct contact.
- Ensure employees are not assigned to work on matters in which they have a conflict of interest.



Financial Disclosure

OGE 278-T Periodic Transaction Reports

- Who: All OGE 278 Public Financial Disclosure Report filers are covered immediately upon appointment.
- When: Must file earlier of (a) 45 days after the transaction; or (b) 30 days after notification of the transaction.
- What: Report each individual purchase/sale/corporate exchange of securities for filer, spouse, and dependent child that meet reporting threshold (valued >\$1,000).
 - Do not report: cash accounts, real estate, excepted investment funds, Treasury bills, notes, and bonds, life insurance or annuities, or assets in a Federal retirement program (e.g., TSP).



Misuse: Public Office, Position, & Title



Misuse: Public Office, Position, & Title

Misuse includes improper:

- Use of public office for private gain;
- Use of nonpublic information;
- Use of government property & resources;
- Use of official time;
- Use of official title; and
- Endorsement.



Misuse: Public Office, Position, & Title

- **General Rule**: Personnel shall not use public office for their own private gain, for the endorsement of any product, service, or enterprise, or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.
- **Endorsement**: Personnel are prohibited from using their position, title or any authority associated with their position to endorse or imply endorsement of a non-Federal entity, its services, or products.
- **Nonpublic Information**: An employee shall not use or permit use of nonpublic information to further his own private interest or that of another. Nonpublic information is information gained by reason of Federal employment that the employee should know has not been made available to the general public.



Misuse: Public Office, Position, & Title

Teaching, speaking, & writing:

- You must use a disclaimer if:
 - You use your official title or position in any biographical data; or
 - The subject deals in significant part with any ongoing or announced DoD policy, program, or operation and you have not been authorized by the appropriate authority to present that material as the official DoD position.

- The disclaimer should:
 - Indicate that the views expressed are your own and do not represent the views of the Department of Defense;
 - Be in a prominent position;
 - Can be verbal.



Misuse: Public Office, Position, & Title

- Property of the Federal Government, including communications and electronics, may only be used for authorized purposes.

- Subject to supervisor approval, personal use of Government resources may be authorized IF the use:
 - Does not adversely affect the performance of official duties;
 - Is of reasonable duration and frequency;
 - Serves a legitimate public interest (such as keeping the employee at their desk);
 - Does not reflect adversely on or pose additional cost to DoD.

WARNING: You should also check other regulations applicable to particular categories of resources (e.g. – JTR, IT regulations, etc.). Even though personal use may not violate the ethics rules, it may violate other rules.



Misuse: Subordinates & Time

- **Subordinates**: Use of personnel for other than official purposes, to include personal errands, is never permitted.
 - Example – A supervisor serving on the board of her homeowners association may never request that her administrative staff prepare copies of documents for an upcoming association meeting.

- **Time**: While short breaks may be permitted, use of official time for other than authorized purposes is never permitted.
 - Example – The supervisor above may not use official time to review and edit the documents for the association meeting.

WARNING: This is a high risk area. Use of subordinates for personal errands (e.g., meal or dry cleaning pick up) is prohibited. Cases involving misuse of subordinates represent a significant portion of DoD OIG substantiated cases.



Test Your Knowledge

Your supervisor asks you to pick up flowers for her spouse. Is this acceptable?

1. Yes, as long as the supervisor is not asking for you to pay.
2. No, this is an improper use of Government resources.
3. Yes, you are there to be helpful to your supervisor.



#1 – Try Again

- **This is not the best answer.** Even if your supervisor pays for the flowers, this is considered an impermissible use of Government resources.



#2 - Correct

Great job! This is the best answer. Use of personnel for other than official purposes, to include personal errands, is prohibited.



#3 – Try Again

- **This is not the best answer.** Regardless of intent, this is considered an impermissible use of Government resources since it is not part of your official duties.



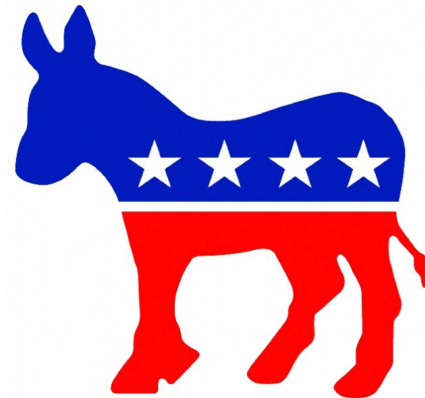
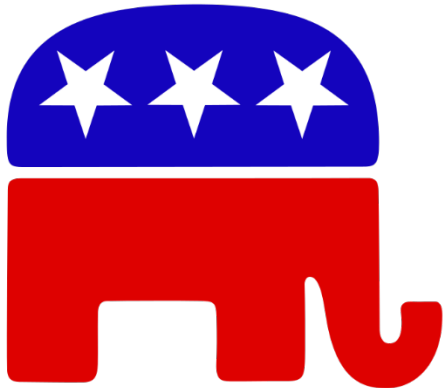
Political Activity



Political Activity

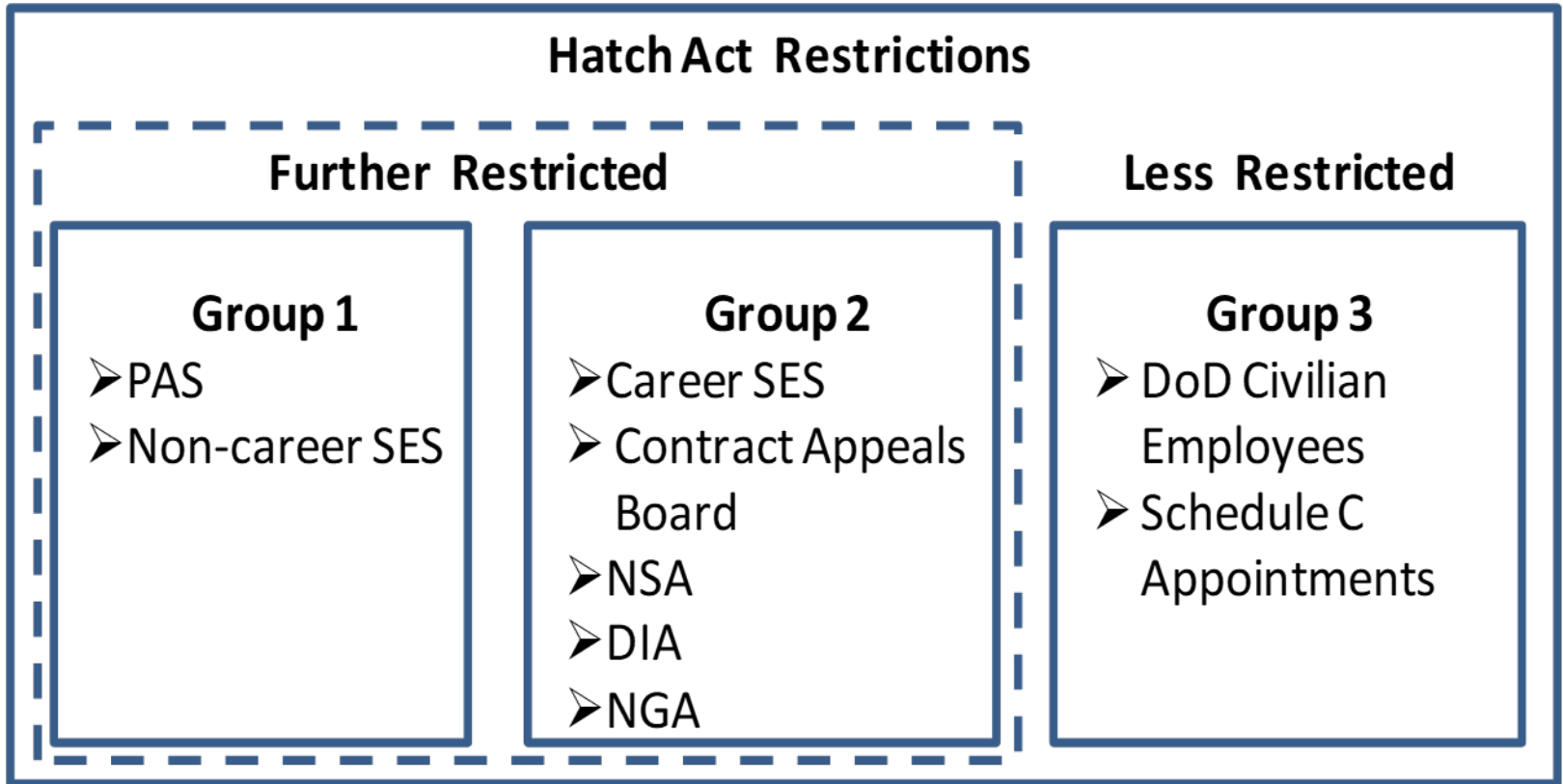
Political Activity is –

- An activity directed toward the success or failure of a:
 - Political Party
 - Candidate for Partisan Political Office, or a
 - Partisan Political Group



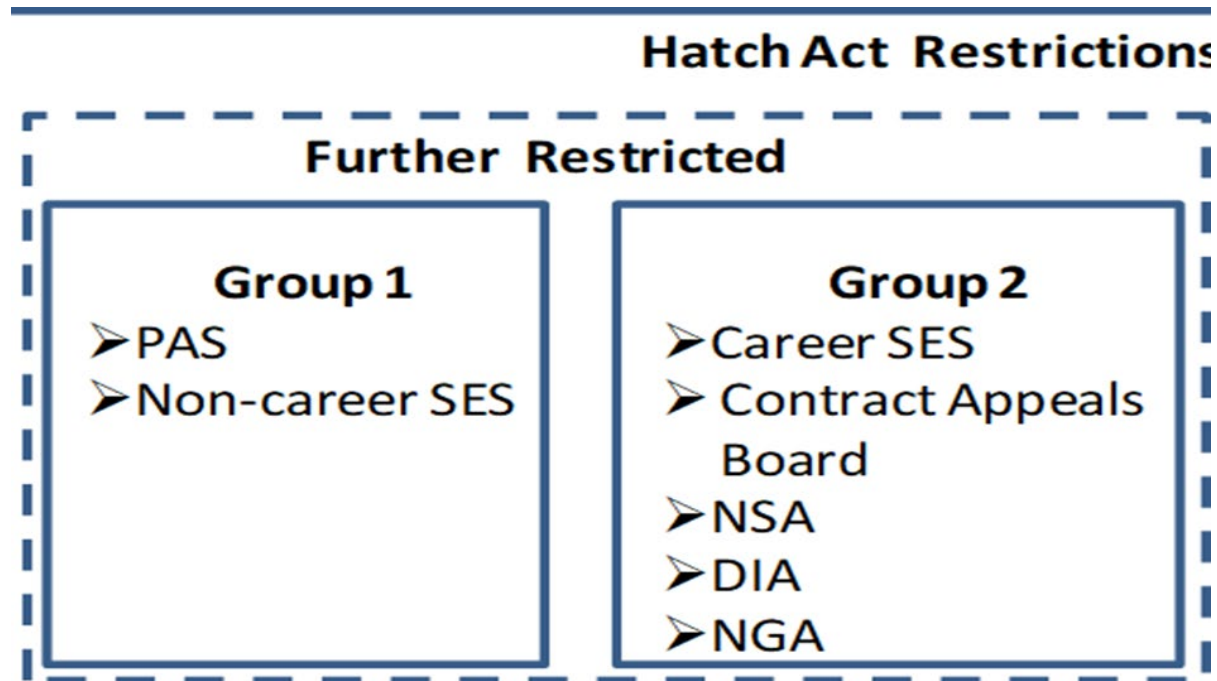


Political Activity





Political Activity



- Employees in Groups 1 and 2 are prohibited from taking an **active** part in partisan political management or political campaigns and are referred to as “further restricted” employees.



Political Activity

Hatch Act Restrictions

Less Restricted

Group 3

- DoD Civilian Employees
- Schedule C Appointments

- Less restricted employees (employees in Group 3), while in their personal capacities and outside of a Federal building, may engage in certain types of political activity with a political campaign or political organization.



Political Activity

DoD Civilian and Schedule C employees are permitted to engage in political activity if all three of the below are met:

- Not on Government time
- Not on Government property (owned or leased)
- Not using Government equipment, title, uniform

PAS officials, non-career SESs, and members of the military may not engage in partisan political activities.



Political Activity

All DoD Personnel are prohibited from:

- Soliciting contributions for a partisan political candidate.
- Participating in political activity in a Federal buildings or while on duty.
- Displaying political campaign paraphernalia in a Federal building.

Social Media

- More information on political activity restrictions on social media can be found [here](#).

These rules apply even when teleworking.



Political Activities Involving Military Members & Installations

Military Members:

- Authority: Military members are governed by [DoD Directive 1344.10](#).
- Restriction: Active duty members are prohibited from engaging in partisan political activity.

Military Installations:

- Candidates for public office may not engage in campaign or election-related activities while on a United States military installation:
 - Prohibited activities include: public assemblies, town hall meetings, speeches, fund-raisers, press conferences, post-election celebrations, and concession addresses.



Test Your Knowledge

A friend of yours declares her candidacy for the 2024 Presidential election. She asks you to spread the word among your colleagues that her campaign is starting a big fundraising push. Can you ask your coworkers and subordinates to contribute?

1. Yes, asking for contributions does not raise concerns.
2. Yes, if you are a civilian and not a further restricted employee.
3. No, you can never solicit political contributions for a partisan campaign.



#1 – Try Again

This is not the best answer. Both Further and Less restricted employees are prohibited in soliciting contributions for a partisan political candidate, whether or not they are on or off duty.



#2 – Try Again

This is not the best answer. Both Further and Less restricted employees are prohibited in soliciting contributions for a partisan political candidate, whether or not they are on or off duty.



#3 - Correct

Great job! This is the correct answer. Both Further and Less restricted employees are prohibited from soliciting contributions for a partisan political candidate, whether or not they are on or off duty.



Post-Government Employment (PGE)



PGE: Seeking Employment

General: If you are seeking **non-Federal employment** you may not work on a **particular matter that will affect the financial interests of your prospective employer(s)**.

- If the entity interacts with your office, you must provide your supervisor with a written recusal and copy ethics counsel.

Seeking: You are seeking employment if you:

- make unsolicited employment contact (e.g., send a resume);
- respond to unsolicited employment contact with anything other than unequivocal rejection.
- Cannot just “defer” the discussion (e.g., “can we talk in 6 months?”).

Remember: When in doubt, always consult ethics counselor.



STOCK Act Notice

- Public Financial Disclosure filers (278e filers) are required to file a written notice of *negotiation*, with their ethics counselor, within 3 days of commencing negotiations for employment or completing an arrangement for employment.

- Negotiating is any discussion with an organization, or its agent, with the mutual view of reaching an agreement regarding possible employment.
 - *It is not limited to just discussing specific terms and conditions of employment in a specific position.*



PGE: Representational Bans

18 U.S.C. § 207

After leaving the Federal Government, former employees are subject to additional **CRIMINAL** restrictions that may limit their interactions with the Federal Government when representing the interests of another person or entity.

Remember: Always consult your ethics counselor before separating from the Government unless you plan to just “go fishing.”



PGE: Representational Bans

18 U.S.C. § 207 - Prohibits representing another before U.S. Government with intent to influence. Bans that most often apply include:

- **Lifetime ban** – if you participated personally & substantially in a particular matter involving specific parties, can never represent back for life of that matter.
- **Two-Year ban** – similar to above, if you supervised others who participated in the matter during your last year, can not represent back for two years.
- **One-Year Cooling-off** – Senior employees cannot represent back to former agency for one year. (Senior employees include general/flag officers and members of the SES.)



Section 1045 of FY18 NDAA

Prohibits senior officials from engaging in lobby activities with respect to the DoD. For more information see **DoDI 1000.32**.

- Military officers in grades O-9 and O-10 and “civilian equivalents” are prohibited for two years after date of retirement or separation; most senior “civilian equivalents” are Tier 3 (and above) SES (career and non-career) and DISES, and all PAS.
- Military officers in grades O-7 and O-8 and “civilian equivalents” prohibited for one year period after date of retirement or separation; less senior “civilian equivalents” are Tier 1 and 2 SES (career and DISES).



Test Your Knowledge

Over the Thanksgiving holiday, your neighbor who works for Defense Contractor A (DCA), asks you if you are interested in a job in DCA's corporate headquarters. You reply that you'll have to think about it. When you return to work, you are asked to review and comment on a slide presentation concerning a sole source follow on award of a data analysis system for which DCA is the sole supplier. Is this a problem?

1. Yes, because you are seeking employment with DCA.
2. No, because you did not accept the offer.



#1 - Correct

Great job! This is the best answer. Since your reply to your neighbor did not consist of an unequivocal rejection, you are seeking employment and should not be involved in the matter. Otherwise, you would violate the criminal conflict of interest law.



#2 – Try Again

This is not the best answer. Under the criminal conflict of interest law, you are considered to be “seeking employment” if you respond to an unsolicited employment contact with anything other than unequivocal rejection, even if you defer the conversation. Once you are “seeking employment” with a company you have a conflict of interest with that company and are prohibited from participating in any matters that could affect the financial interest of that company. In this instance, you should recuse yourself from reviewing and commenting on the slide presentation and submit a written recusal to your supervisor and to an ethics official.



Ethical Decision Making



Ethical Decision Making

Evaluate the Big Picture

- ✓ Is it legally sound?
 - ✓ *Can* I do it?
 - ✓ *Should* I do it?
- ✓ Is it *right for the government*?
- ✓ How will it be perceived?

Remember your duty as a public servant.



Test Your Knowledge

When, while working for the Department, should you think about ethical choices?

1. Only when participating in acquisitions.
2. Only while seeking non-Federal employment.
3. In every decision you make.



#1 – Try Again

This is not the best answer. While you should think about ethical choices while participating in acquisitions, this is not the only time you should think about ethical choices.



#2 – Try Again

This is not the best answer. While you should think about ethical choices while seeking non-Federal employment, this is not the only time you should think about ethical choices.



#3 - Correct

Great job! This is the best answer. As Secretary Austin says in his video message, we should “incorporate ethical conduct in everything that we do. Before taking an action, you should not only ask yourself “can I do this” but you should also ask yourself “should I do this?”



Questions

For additional information or to contact DoD Ethics Counselors, please visit our website:

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

