

DEPARTMENT OF THE NAVY 2017 INITIAL ETHICS ORIENTATION/ANNUAL ETHICS TRAINING

Public Service is a Public Trust

PREPARED BY:
ASSISTANT GENERAL COUNSEL (ETHICS)



Navy Core Values: Honor; Courage; Commitment

Secretary of Defense James Mattis



SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

AUG - 4 2017

MEMORANDUM FOR ALL DEPARTMENT OF DEFENSE EMPLOYEES

SUBJECT: Ethical Standards for All Hands

Those entrusted by our nation with carrying out violence, those entrusted with the lives of our troops, and those entrusted with enormous sums of taxpayer money must set an honorable example in all we do.

I expect every member of the Department to play the ethical midfield. I need you to be aggressive and show initiative without running the ethical sidelines, where even one misstep will have you out of bounds. I want our focus to be on the essence of ethical conduct: doing what is right at all times, regardless of the circumstances or whether anyone is watching.

To ensure each of us is ready to do what is right, without hesitation, when ethical dilemmas arise, we must train and prepare ourselves and our subordinates. Our prior reflection and our choice to live by an ethical code will reinforce what we stand for, so we remain morally strong especially in the face of adversity.

Through our example and through coaching of all hands, we will ensure ethical standards are maintained. Never forget, our willingness to take the Oath of Office and to accept the associated responsibilities means that even citizens who have never met us trust us to do the right thing, never abusing our position nor looking the other way when we see something wrong.

I am proud to serve alongside you.

cc:
Deputy Secretary of Defense



SENTINELS FOR ETHICAL DECISION- MAKING

"I expect every member of the Department to play the ethical midfield. I need you to be aggressive and show initiative without running the ethical sidelines, where even one misstep will have you out of bounds."

Secretary of Defense James N. Mattis

OBJECTIVES OF THIS TRAINING

- Understand the importance of ethics to the Navy and our mission.
- Develop *awareness* of the Standards of Conduct so that you can abide by them throughout your public service.
- Be able to *spot ethics issues* when they arise so that you can seek guidance when necessary.
- Know who your *ethics officials* are so that you can contact them with any ethical questions you may have now or in the future.

AGENDA

- Principles of Ethical Conduct
- Navy Core Values
- Statutory and Regulatory Framework
- Conflicts of Interest
- Impartiality
- Misuse of Position
- Gifts
- Seeking/Post Government Employment
- Points of Contact for your Ethics official
- Quiz

PRINCIPLES OF ETHICAL CONDUCT (EXECUTIVE ORDER 12674)

Employees' Responsibilities under Executive Order 12674

Do:

- Place loyalty to the Constitution, the laws, and ethical principles above private gain.
- Act impartially to all groups, persons, and organizations.
- Give an honest effort in the performance of your duties.
- Protect and conserve Federal property.
- Disclose fraud, waste, and abuse, and corruption to appropriate authorities.
- Fulfill in good faith your obligations as citizens, 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.

PRINCIPLES OF ETHICAL CONDUCT (EXECUTIVE ORDER 12674)

Employees' Responsibilities under Executive Order 12674

Do NOT:

- Use nonpublic information to benefit yourself or anyone else.
- Solicit or accept gifts from persons or parties that do business with or seek official action from DOD (unless permitted by an exception).
- Make unauthorized commitments or promises that bind the government.
- Use Federal property for unauthorized purposes.
- Take jobs or hold financial interests that conflict with your government responsibilities.
- Take actions that give the appearance that they are illegal or unethical.

NAVY CORE VALUES HONOR. COURAGE. COMMITMENT.

- The Department of Defense **Standards of Conduct** and the **Navy Core Values** are founded in the concept that public service is a public trust.
- All military members and civilian employees are charged with acting in the public's best interest.
- The Federal government's ethics rules are a "rules-based system, not a "rights-based system."
 - By accepting a position in the Government, you give up some rights and agree to abide by a set of ethics rules which ***protect the integrity of the Government.***

NAVY CORE VALUES HONOR. COURAGE. COMMITMENT.

- As a public servant, your commitment to ethical service is vital to performing your work and supporting the Navy's mission with honesty, integrity, impartiality, and in the spirit of service to others.
- Fulfilling the expectations of ethical service requires:
 - **Awareness**: becoming familiar with the principles, rules, and laws that define what is and isn't appropriate conduct.
 - **Engagement**: cultivating habits of asking questions and seeking advice.
 - **Accountability**: acting in ways that reflect the expectations of public service and holding ourselves and each other accountable.

STATUTES

- 18 U.S.C. §201 – Bribery & Illegal Gratuities
 - Prohibits giving or receiving something of value in exchange for an official act (bribery – “quid pro quo”) or as a reward for some future act that the public official will take/has taken (gratuities).
- 18 U.S.C. §203 – Paid Representation of NFE (Current Employee)
 - Prohibits employee from receiving compensation derived from representational services of others in matters before a Federal court or agency.
- 18 U.S.C. §205 – Unpaid Representation of NFE (Current Employee)
 - Prohibits employee from representing anyone other than themselves on any matter before a Federal court or agency, if the United States is a party or has an interest, even if not compensated.
- 18 U.S.C. §207 – Post-Government Employment Restrictions
 - Prohibits former employees from engaging in certain activities on behalf of persons or entities after they leave Government service.
- 18 U.S.C. §208 – Conflicts of Interest
 - Prohibits employee from participating in a particular Government matter that will affect his own financial interests or interests imputed to him.
- 18 U.S.C. §209 – Supplementation of Salary
 - Prohibits employees from being paid by someone other than the U.S. for doing their official Government duties.

Note: These are criminal statutes!

THE STANDARDS OF CONDUCT

- **Part A: General Provisions**
 - Establishes Framework
- **Part B: Gifts from Outside Sources**
 - Prohibits employees from soliciting/accepting gifts from prohibited sources or given because of official position.
- **Part C: Gifts Between Employees**
 - Prohibition on gifts between supervisor/subordinate or from lower paid employee.
- **Part D: Conflicting Financial Interests**
 - Prohibition on working on particular matters in which employee has a financial interest (includes imputed interests).
- **Part E: Impartiality**
 - Requires specific authorization to work on particular matters when impartiality questioned.
- **Part F: Seeking Other Employment**
 - Prohibits employee from working on a particular matter that have a direct & predictable effect on their financial interest of a person with whom the employee is seeking employment.
- **Part G: Misuse of Position**
 - Prohibits the use of public office for private gain of employee, friends, relatives, and other affiliates.
- **Part H: Outside Activities**
 - Provisions governing employees involvement in outside activities and employment.

DOD GUIDANCE

- **DoD Supplemental Ethics Rules (5 C.F.R. Part 3601)**
 - Caps group gifts to supervisors for special infrequent occasions to gifts not to exceed \$300, where voluntary nominal contributions solicited cannot exceed \$10
 - Requires that when a conflict arises DoD personnel complete a written disqualification.
 - Requires prior approval for outside employment for financial disclosure filers.
 - Requires disclaimer for speeches and writings devoted to agency matters.
 - Creates additional gift exceptions for free attendance at events sponsored by State or local governments and other designated entities.
- **Joint Ethics Regulation (JER) – Issued by Department of Defense & applies to all DoD and Military Services**

Ch. 1: General Information	Ch. 7: Financial & Employment Disclosures
Ch. 2: Standards of Ethical Conduct	Ch. 8: Seeking Other Employment
Ch. 3: Activities with NFEs	Ch. 9: Post-Government Service Employment
Ch. 4: Travel Benefits	Ch. 10: Enforcement
Ch. 5: Conflicts of Interest	Ch. 11: Training
Ch. 6: Political Activities	Ch. 12: Ethical Conduct

CONFLICTS OF INTEREST

Statute
(18 U.S.C. § 208)

- Prohibits employees from:
 1. Participating personally and substantially;
 2. In a particular matter;
 3. In which the employee has an actual or imputed financial interest.
- Definitions:
 - **Personal & Substantial** = decision, recommendation, advice, investigation, coordination. Generally anything other than ministerial functions.
 - **Particular Matter** = a matter that involves deliberation, decision or action that is focused on the interests of specific persons or a discrete and identifiable class of persons (contract, claim, controversy)
 - **Imputed Interests** = Financial interests of
 - Spouse
 - Minor child
 - Partner
 - Organization in which the employee is an officer or employee
 - Entity with whom the employee is negotiating for employment

ADDRESSING CONFLICTS OF INTEREST

- **IDENTIFYING CONFLICTS:** Supervisors **MUST** promptly review employees' financial disclosure for potential conflicts and determine whether corrective action is needed. Corrective actions are:
 1. Recusal/Disqualification – Provided mission/resources permit and with approval of your supervisor, you may recuse yourself from participation in the matter and your supervisor may assign the matter to another employee;
 2. Divestiture – You may sell or otherwise dispose of the conflicting financial interest;
 - If you are directed to sell you may be eligible for a Certificate of Divestiture from the Office of Government Ethics, but you must request it **before** the sale. Contact your ethics counsel for details.
 3. Waiver – In rare circumstances, you may be authorized continued participation. Before granted, all other remedies should be examined and determined inadequate or inappropriate. Requires DAEO recommendation and approval by the appointing official.
- **De Minimis Exceptions:** Permit employees to continue to hold certain conflicting financial interests valued below a stated threshold. (5 C.F.R. § 2640.201, et. Seq.)

Supervisors & Employees should consult with their Ethics Counselor when questions arise!

IMPARTIALITY

Rule

(5 C.F.R. § 2635.502)

- “Impartiality Rule” - Employee may not participate in a particular matter where the employee knows:
 1. The matter is likely to have a direct and predictable effect on the financial interests of a member of his household;
 - OR
 - 2. A person with whom he has a **covered relationship** is or represents a party to the matter and the employee determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality.
-
- “**Covered relationship**” includes person/entity :
 - With whom employee has or seeks a business, contractual or financial relationship (other than routine consumer transaction);
 - Who are members of household or relatives with a close personal relationship;
 - For whom employee’s spouse, parent or dependent child serves as an officer, director, trustee, general partner agent, attorney, consultant, contractor or employee;
 - Who are former business partners, clients, and employers (within last year or last two years if received extraordinary severance payment);
 - Organizations in which the employee is an active member.

FINANCIAL CONFLICT OF INTEREST REAL LIFE EXAMPLE

THE WASHINGTON POST 7/24/97

THE FEDERAL PAGE

Runyon Probed for Possible Conflict in Coca-Cola Vending Plan

By Bill Malabar
Reporter for Post Staff



The Justice Department is investigating Postmaster General Marvin T. Runyon for possible violations of conflict-of-interest laws in connection with a Postal Service proposal that would have given the Coca-Cola Co. exclusive rights to install vending machines in the nation's post offices.

Such an agreement, allowing machines in the billions of 40,000 post offices, would be extremely lucrative to both the federal agency and the soda company. Coca-Cola, the nation's largest soft drink company, and PepsiCo Inc., the second largest, separately have expressed interest in such a venture.

The vending proposal became controversial when Runyon, a wealthy former automobile executive who then held stock in Coca-Cola, became personally involved with the discussions, several postal sources said. According to a disclosure statement filed with the Office of Government Ethics in 1995, Runyon's holdings in Coca-Cola were valued at between \$50,000 and \$100,000.

Conflicting laws governing federal workers, including postal workers, prohibit individuals from having business dealings with firms in which they have a financial interest.

Runyon acknowledged in a statement yesterday that he is under investigation by the Justice Department. And he said he had been a party to "inter management discussions" last year over

"a potential alliance between the Postal Service and Coca-Cola."

But he said he assuaged himself from further discussion of the issue and sold the Coca-Cola stock "upon learning of a potential conflict." The stock, which sources said may have been sold for more than the value listed on the 1995 disclosure form, had been in a blind trust from 1989 to 1994. Runyon said he purchased the stock in 1977 while a Ford Motor Co. executive.

Runyon declined a request to be interviewed yesterday and his statement failed to explain why the blind trust ended in 1994. Many senior public officials keep their stocks in blind trusts throughout their tenure in office.

The postmaster general said he is cooperating "fully" with the investigation and said he had "never" given any consideration to the possibility that he might personally gain from a Postal Service deal with the soft drink giant. He said he was "unable to insure of the appearance of potential conflict."

The federal investigation is being handled by the Justice Department's public integrity section. Two postal sources said the office recently took the case before a federal grand jury in Washington, which has heard testimony from postal employees and others.

An postmaster general, the 72-year-old Runyon serves at the pleasure of the vice presidentially appointed postal governors, a panel charged with overseeing the independent federal agency. Runyon recently completed four years in office and succeeded by his son

- In 1997, then Postmaster General Marvin T. Runyon was investigated by the Department of Justice for alleged violation of 18 U.S.C. §208.
- Runyon attending meetings and participated in discussions in connection with a proposed strategic marketing alliance between the United States Post Office and the Coca-Cola Company despite the fact that he owned stock in Coca-Cola (worth between \$50-100k).
- He was fined \$27,550 in a civil settlement

CONFLICTS OF INTEREST REAL LIFE EXAMPLE

Defendant Loman, an Item Manager at Tinker, AFB was responsible for locating airplane parts on the surplus market and soliciting bids from suppliers. In this position, Loman had significant influence over which suppliers would receive Air Force contracts. From 2002-2006, Loman provided favorable treatment to Henry McFlicker, a seller of surplus parts, in exchange for a kickback of 5-10% of the total amount of the purchase order.

Loman was charged with conspiracy to defraud through bribery in violation of 18 U.S.C. §§ 1343 and 1346, accepting a bribe in violation of 18 U.S.C. § 201(b)(2), and knowingly and willfully participating personally and substantially in contracts and other matters in which he had a financial interest in violation of 18 U.S.C. § 208. Mr. Loman was found guilty on all counts and was sentenced to 30 months in prison, \$843,200 in criminal monetary penalties, and a \$300 special assessment.

United States v. Loman, 597 Fed. Appx. 518 (2014).

CONFLICTS OF INTEREST REAL LIFE EXAMPLE

Awarding Contracts to Spouse

A contracting officer for the General Services Administration (GSA) wound up in Federal court after funneling contracts to her husband's employer.

Investigators discovered that the officer had directed over \$11.5 million to the company that employed her husband over the span of 15 months, all in the form of GSA purchases of food preparation and serving equipment items. As a result of these purchases, the officer's husband received raises and a Jaguar from his employer.

The officer pled guilty to violating conflict of interest laws, and was sentenced to 180 days of home confinement and five years of probation. She additionally was ordered to pay \$161,000 in restitution.

Source: DoD Encyclopedia of Ethical Failure, September 2016

MISUSE OF POSITION

5 CFR Part 2635, Subpart G

- You **may not** use public office
 - (1) for private gain,
 - (2) for the endorsement of any product, service or enterprise, or
 - (3) for the private gain of
 - (a) friends,
 - (b) relatives,
 - (c) persons with whom you are affiliated in a nongovernmental capacity or
 - (d) Persons with whom you have or seek to have employment or business relations
- You **may not** use Government property, nonpublic information, or time (including the time of subordinates) for other than ***authorized purposes***.

MISUSE OF POSITION REAL LIFE EXAMPLE

Field Activity Employee Solicitation

An employee recently received a letter of warning for soliciting donations while on duty on a military installation. As a general rule, employees are barred from soliciting gifts while on duty. This employee, however, whether ignorant, defiant, or indifferent to the rules, spent a week asking individuals visiting the base if they would be willing to donate items for a school event. In doing so, the employee, according to witness testimony, would actually accompany willing individuals around and point out items to be bought and donated. Upon purchase, the employee would spend additional time preparing and wrapping the gifts. The letter of warning included a discussion of his violations such as gift solicitations, misuse of official position, and misuse of government time.

Source: Department of Defense, Office of Inspector General; 2015.

MISUSE OF POSITION REAL LIFE EXAMPLE

Prime Contract, Turned Subcontractor, Turned Convict

The former Project Manager (PM) in charge of a prime contract in theatre is now serving a 30 month prison sentence and is required to make restitution in excess of \$2,300,000 for criminal conflict of interest and misuse of position violations stemming from misconduct in the execution of his contract. The prime contractor responsible for providing vehicle maintenance support to local units. In executing the contract, the Project Manager decided to try cheating the system by creating his own supply company and funneling subcontract opportunities to it. In executing this plan, the Project Manager awarded Blanket Purchase Agreements in excess of \$10 million to his subcontracted supply company and marked up the price of his goods by 100% or more. When the Project Manager was promoted, his replacement discovered this misconduct and reported it.

Source: DoD Encyclopedia of Ethical Failure, September 2016

MISUSE OF POSITION REAL LIFE EXAMPLE

A Navy Captain used his official position as a reservist to obtain contracts for private sector companies with which he had an affiliation. In addition, the Captain accepted a “finder’s fee” (i.e., kickbacks) from one company for his efforts in helping the company obtain government contract work.

For his significant ethical failure, the Captain was “allowed” to retire at the grade of Commander, though he had been selected to be an Admiral. In addition, the Captain was debarred for one year, while two of the affiliated companies entered into administrative agreements (for 3 years) with the military service. SLT2

GIFTS IN THE WORKPLACE

Gifts Between Employees – General Rules:

- An employee may not give a gift to their supervisor.
- An employee may not accept a gift from a lower graded employee; AND
- An employee may not ask another employee to contribute toward a gift for their supervisor or for the other employee's supervisor.
- All gifts must be voluntary.

Exceptions

- The Friend Exception – gifts based on a preexisting personal relationship (does not apply where the two employees are in a subordinate-official superior relationship).
- The Occasional Basis Exception – birthdays and holidays, valued at \$10 or less.
- The Special Infrequent Occasion Exception
 - Wedding, illness, adoption/birth of a child or occasion that terminates official superior-subordinate relationship (retirement, transfer, resignation).
- The Special Infrequent Occasion Group Gift Exception
 - Total value of gift is limited to \$300 if group includes a subordinate.
 - If the same person contributes to more than one group gift, the gifts are aggregated for purposes of reaching \$300.

GIFTS

REAL LIFE EXAMPLE

A Gold Plated Retirement

A former General commanding U.S. forces in South Korea improperly accepted over \$5,000 in gifts and cash, including gold-plated pens, from a South Korean benefactor. The General claimed that the gifts were accepted because the South Korean was a longtime and personal friend, despite the fact that the South Korean did not speak English and they were forced to communicate through hand signals and gestures. The General repaid the South Korean in full and was allowed to retire at a lower grade.

Source: DoD Encyclopedia of Ethical Failure, September 2016

GIFTS FROM OUTSIDE SOURCES

Gifts from Outside Sources

- Unless expressly permitted, employees shall not solicit or accept a gift or other item of monetary value given because of the employee's official position or from a prohibited source. A prohibited source is any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.

Exclusions:

- Greeting cards and plaques
- Modest refreshments served as other than part of a meal (coffee, donuts, etc.)
- Benefits/discounts available to the public, Government employees, or all military
- Gifts to the Government
- Free attendance to an event from the sponsor the day an employee is presenting information on behalf of the Navy
- Anything paid for by the Government under a contract.

Exceptions:

- Unsolicited gifts with a market value of \$20 or less per source, per occasion, so long as the value of all gifts received from a single source during a calendar year does not exceed \$50.
- Gifts based on a personal relationship
- Unsolicited gift of free attendance at certain Widely Attended Gatherings
- Unsolicited social invitations (other than from prohibited sources)
- Unsolicited gifts of certain informational materials

GIFTS FROM FOREIGN GOVERNMENT

Tangible Gifts from Foreign Government:

- At or below Minimal Value (currently \$390) – may accept & retain.
 - Must report on financial disclosure report (OGE 450 or 278e).
 - Must aggregate value of all gifts presented at the same time by representatives of the same government.
- Above Minimal Value
 - SHALL be refused and donor advised that U.S. law prohibits acceptance whenever possible UNLESS it appears refusal may offend/embarrass donor or adversely affect U.S. foreign relations (DoDD 1005.13 §4.4)
 - If unable to refuse, gift may be accepted on behalf of the Navy.
- Consumable Gifts from Foreign Government
 - May accept gifts of travel/travel expenses (transportation, food & lodging) of more than minimal value if the travel takes place entirely outside the U.S. and acceptance is:
 - Appropriate
 - Consistent with the interests of the U.S.;
 - Permitted by DoD regulations (which do not prohibit acceptance); AND
 - Permitted under SECNAVINST 1650.1H

CONSIDERATIONS FOR DECLINING AN OTHERWISE PERMISSIBLE GIFT

- Every employee has a fundamental responsibility to the United States and its citizens to place loyalty to the Constitution, laws, and ethical principles above private gains. An employee's actions should promote the public's trust that this responsibility is being met.
- For this reason, you should consider declining otherwise permissible gifts if you believe that a reasonable person with knowledge of the relevant facts would question your integrity or impartiality as a result of accepting the gift.
- If you are not certain – consult with your Ethics Counselor!

CONSIDERATIONS FOR DECLINING AN OTHERWISE PERMISSIBLE GIFT

- Factors to consider when determining whether to decline an otherwise permissible gift:
 - Whether the gift has a high market **value**;
 - Whether the **timing** creates the appearance that the donor is seeking to influence an official action;
 - Whether the **donor** has interests that may be substantially affected by the performance or nonperformance of the employee's official duties; and
 - Acceptance of the gift would provide the donor with significantly disproportionate **access**.

PROPER DISPOSITION OF PROHIBITED GIFTS

- An employee who has received a gift that cannot be accepted pursuant to the Standards of Conduct, must dispose of the gift.
- Gifts of *tangible items* - the employee must:
 - Promptly return the gift; or
 - Pay the donor its market value.
 - Gifts with a market value less than \$100, the employee may destroy the item

PROPER DISPOSITION OF PROHIBITED GIFTS

- ***Perishable items***: the employee may, at the discretion of his supervisor, give the item to an appropriate charity, share the items with the recipient's office, or destroy the item.
- ***Intangible items***: the employee must promptly reimburse the donor the market value for any entertainment, favor, service, benefit or other intangible.
- ***Foreign governments*** or international organizations: the employee must dispose of such gifts in accordance with 41 C.F.R. §102-42.

SEEKING & POST-GOVERNMENT EMPLOYMENT

- **General Rule**: When seeking non-Federal employment, employees **MUST**:
 - *Disqualify* themselves from official participation
 - In any particular matter
 - That has a direct and predictable effect on the financial interests
 - Of entities with whom the employee is discussing future employment.

Disqualifications must be in writing and delivered to, at a minimum, your supervisor and to ethics counsel.

VIOLATIONS CAN BE PROSECUTED.

SEEKING & POST-GOVERNMENT EMPLOYMENT

Representational Bans

(18 U.S.C. §207)

- Permanent (“Lifetime”) Ban: Bars all former employees from representing another before any Federal agency or court regarding particular matters involving specific parties in which they participated personally and substantially at anytime during Federal service. “Lifetime” means the lifetime of the particular matter (e.g., contract).
- 2-Year Ban: Bars all former employees from representing before any Federal agency or court regarding particular matters involving specific parties that were under their official responsibility during their last year of Federal employment.
- 1-Year Cooling Off: Bars members of the Senior Executive Service and General and Flag Officers for one year after leaving a senior position from representing another before their former agency to seek official action.

POST-GOVERNMENT EMPLOYMENT *REAL LIFE EXAMPLE*

Once I Get a Post-Government Employment Letter, I Don't Have to Actually Read or Comply with It ...

A former Air Force Captain oversaw major contracts in Afghanistan that procured clothing and footwear, and participated on the source selection team for a boot supply contract. Upon retirement, the Captain accepted employment with the company that supplied the boots as well as clothing and footwear. His post-Government employment letter stated that he could not represent the Afghan company, his new employer, before the US Government on the same contracts he worked on while with the Air Force. Undaunted, the former Captain repeatedly lobbied US Government officials in person and via email on behalf of his Afghan employer about those same Air Force contracts.

The AFOSI, DCIS, Army CID, SIGAR and the FBI discovered what he was doing. He was sentenced to two concurrent three-year prison terms and forfeited his home in the US.

Source: Encyclopedia of Ethical Failure, September 2016

POST-GOVERNMENT EMPLOYMENT REAL LIFE EXAMPLE

PowerPoint

A Military Service Captain had, under his official responsibility, a program with a government contractor during his last year of service. The Captain prepared a PowerPoint presentation recommending the service contract with this company. After leaving the service, the Captain went to work for the same government contractor. He was treated to an ethics counseling session after he approached the Government on behalf of his new company and delivered – as the company's representative – the same PowerPoint presentation recommending the service contract with his company.

The Captain's actions violated 18 U.S.C. § 207 which prohibits former officers or employees of the executive branch from making (with the intent to influence) communications or appearances before a Federal Government officer or employee in connection with a particular matter in which the former officer or employee participated personally or substantially while an officer or employee.

Source: Encyclopedia of Ethical Failure, September 2016

ETHICS OFFICIALS

- Your main POC should be your ***Ethics Counselor*** who will be the Office of General Counsel (OGC) or Judge Advocate General (JAG) assigned to your office
 - If you're not positive that what you're about to do is appropriate, ask your ethics counselor.
 - Disciplinary action for violating the standards of conduct will **not** be taken against you if you act in good faith reliance upon the advice of your ethics counselor following a full disclosure of all relevant circumstances.
- The ***Assistant General Counsel (Ethics)*** is the POC for Navy Ethics issues and can be reached at ethics@navy.mil.
- The DOD General Counsel is the ***Designated Agency Ethics Official (DAEO)*** for DOD employees (military and civilian).

ETHICS RESOURCES

- The Office of Government Ethics: <https://www.oge.gov>
- The DOD Standards of Conduct Office (SOCO): http://ogc.osd.mil/defense_ethics.
- The DOD Employee's Guide to the Standards of Conduct: http://ogc.osd.mil/defense_ethics.
- Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR Part 2635.
- DOD Supplemental Standards of Ethical Conduct, 5 CFR Part 3601.
- DOD Joint Ethics Regulations, DOD 5500.07-R
- Criminal Conflict of Interest Statutes, Chapter 11 of Title 18 (18 USC § § 201-209, 216).

QUIZ

1. Sam works as a NCIS special agent. Sam was a passenger in her spouse's car when they are pulled over by a local police officer for speeding. When the officer approaches the vehicle, Sam provides the officer with her credentials identifying her as a NCIS special agent. Has Sam violated the ethics regulations? If yes, how?
2. Georgina, a hardworking Navy employee is asked to serve as a member of a Selection Panel hiring a contracting officer. One of the applicants selected for an interview is Georgina's favorite nephew. Georgina fails to disclose her relationship with her nephew and strongly pushes for his selection. Has Georgina violated the Standards of Conduct?

3. Max, an employee of NAVSEA, gave an official speech in Singapore at a conference with representatives of Asian nations and companies. Ships R US, a ship parts manufactures association whose membership consists of several Navy contractors, offers to pay Max's travel expenses. Max's travel expenses are estimated at \$1,900. May Tony accept the offer from Ships R Us?

4. The owner of a corporation that serviced and provided landing facilities for military aircraft gave a helicopter ride to work, a shirt with the corporation's logo, a miniature model airplane, meals at a Christmas party, and a leather jacket to a senior military officer. The officer returned the jacket but did nothing to compensate for receipt of the other gifts, the value of which exceeded \$100. Did the officer commit any violation?

5. Mark is an SES at NASA. Mark's wife Joan owns a small tech company and wants NASA to purchase services from her company. Mark asked a NASA colleague to approve spending \$20,000 on a project that Joan was connected do. Has Mark done anything wrong?

6. Charles, a GS-15 contracting officer for NAVAIR, awarded several contracts to XYZ, Inc. a few months ago valued over \$10 million. Charles submitted his resignation and has accepted a position with XYZ, Inc. beginning in two weeks. XYZ, Inc. is giving Charles a \$50,000 signing bonus. Has Charles violated any ethics rules?

ANSWER KEY

1. **Yes.** Sam identified herself as a special agent. While Sam isn't overtly asking for special treatment, the implication is that Sam wants special treatment and to have her spouse let out of the speeding ticket. This is a misuse of Sam's official position for the private gain of her spouse.
2. **Yes.** Georgina abused her position, acted impartially and gave preferential treatment to your niece in violation of 5 CFR 2635.704. This is also a violation of 5 U.S.C. § 3110, Employment of relatives; restrictions, commonly known as the anti-nepotism statute.
3. **Yes.** 31 U.S.C. § 1353, permits an employee's travel approving authority to accept, on behalf of the agency, a gift of travel expenses for employees in a travel status to attend a meeting or similar event. The employee must be on travel orders. Travel must be approved in advance of the employee's travel and requires coordination with the employee's servicing ethics counselor. Max's travel approving authority may determine that it would be in the Navy's interest to accept the travel benefits from Ships R US. In making the determination, the travel approving authority should take potential appearance/optics concerns into account. While it may save the Navy funds, does Navy's acceptance indicate Navy is providing preferential treatment to a contractor.

4. **Yes.** The officer accepted several gifts in violation of 5 CFR § 2635.202(b) which prohibits an employee from accepting a gift from a prohibited source or given because of the employee's official position. In this case, the gifts were given to the senior officer due to his position on the Source Selection Board. The gifts do not fall within an exception to this prohibition. In addition, 5 C.F.R. § 2635.101(b)(14) requires all Federal employees to avoid any actions that a reasonable person, who knew the relevant facts, could take to be a violation of the law—including the prohibition on providing "preferential treatment to any private organization or individual. In this case, the type and value of the gifts the officer accepted could make it appear that he might influence Government contracting in favor of the corporation. To be sure, he enjoyed some neat gifts—for a time. However: "Public service is a public trust," and it requires that Federal employees place loyalty to "the laws and ethical principles above private gain" (§ 2635.101(b)(1)).
5. **Yes.** An Executive Branch employee may not participate personally and substantially in any particular matter in which his or her spouse has a financial interest. 18 U.S.C. § 208. It doesn't matter that the employee did not approve anything. Mark had the ability to influence a contract and inserting himself into the process was in violation of the ethics rules. This was a true story. In addition to asking a colleague to spend \$20,000 on a project that his wife's company was connected to, the SES also drafted a sole source contract that would be awarded to his wife's company and pressured other NASA employees to approve it. The employee plead guilty to a criminal conflict of interest violation.
6. **Yes.** Although the facts do not state that Charles was given the signing bonus due to his awarding the contracts to XYZ, Inc., other restrictions apply to him. Under the post-employment statute Charles may not represent back to the Navy on behalf of XYZ, Inc. regarding any particular matter that he was personally and substantially involved in while a Navy employee. While this statute does not prohibit Charles from working behind the scenes on these contracts, he would need to consult with his Ethics Counselor to make sure that he does not violate the Procurement Integrity Act (PIA). Charles would violate the PIA if he accepts compensation from XYZ, Inc. within one year of making the award decision on the contracts he awarded a few months ago.

Congratulations

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If you cannot determine who your Ethics Counselor is, please contact the Assistant General Counsel (Ethics) Office via email at ethics@navy.mil or via phone at (703) 614-7425 or (703) 614-7433.