DEPARTMENT OF THE ARMY
US ARMY COMMUNITY AND FAMILY SUPPORT CENTER
4700 KING STREET
ALEXANDRIA VA 22302-4419

REPLY TO
ATTENTION OF

CFSC-SP

15 October 1998

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Reference Guide for Relations with Private Organizations (POs)

1. The Department of the Army Inspector General (DAIG) Special Inspection of the Army's Relationship with Private Organizations (POs), February 1998, points out the need to assist commander awareness regarding relationships, authorized support provided to and activities of POs. Guidance on this subject was formerly contained in AR 210-1, which was rescinded in June 1998. Rescission was necessary as that regulation pre-dated DODD 5500.7-R, Joint Ethics Regulation (JER) and DODI 1000.15, Private Organizations and created some conflicts in operative guidance.

2. AR 210-1 is being re-written and will be published in FY 99. In the interim, the JER and DODI 1000.15 are source documents for policy guidance regarding POs. Attached is a *Reference Guide for Relationships with Private Organizations,* which supercedes the guide published in January 1995. While not directive in nature, this guide provides basic definitions and recaps major policy guidance. It also contains some hypothetical situations illustrative of common issues regarding POs that commanders may face.

Craig B. Whelden

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CRAIG B. WHELDEN
Brigadier General, USA
Commanding

DISTRIBUTION: SPECIAL

Printed on Recycled Paper

PRIVATE ORGANIZATIONS

REFERENCE GUIDE

OCTOBER 1998

(Supercedes January 1995 edition)

HOTLINES!!

DO YOU SUSPECT OR ARE YOU AWARE OF FRAUD, WASTE, ABUSE, OR POTENTIAL IMPROPRIETIES REGARDING SUPPORT TO PRIVATE ORGANIZATIONS???

REPORT SUSPECTED VIOLATIONS

Department of Defense employees who suspect that a violation of the Joint Ethics Regulation, DoD 5500.7-R has occurred shall report the matter to any of the following:

a. Your Agency Designee: the first supervisor who is a commissioned officer or GS11 or above in the chain of command or supervision of the DoD employee concerned.

b. The suspected violator's Agency Designee.

c. The head of the Army command or organization: commander, commanding officer, or other military or civilian employee who exercises command authority within a DoD component.

d. Any ethics counselor -- you have one on your installation.

e. The Army IG.

f. The Army Criminal Investigative Command.

g. The DoD or Army IG Hotlines.

CALL OR WRITE ONE OF THE AGENCIES LISTED BELOW

Department of Defense, Defense Hotline, The Pentagon, Washington, DC 20301-1900
HOT LINE: 1-800-424-9098; DSN 223-5080

Department of the Army, Office of the Inspector General, The Pentagon, Washington, DC 20310
HOT LINE: 1-800-752-9747; DSN 329-1060

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SECTION I

SPECIAL STATUS PRIVATE ORGANIZATIONS

In accordance with statutory authority and DoD policy, there are three types of organizations that have "special status" concerning the type of support they receive: National Military Associations; Federally Sanctioned Private Organizations; and the Boy/Girl Scouts of America. "Special status" means that there is a specific federal statute or DoD policy or directive that authorizes certain types of support to the organization under appropriate circumstances. It does not mean that unlimited support may be provided, nor does it mean that support must be provided at the expense of mission accomplishment or degraded readiness. Finally, it does not mean that the Joint Ethics Regulation (JER) does not apply; the JER applies fully unless it is inconsistent with the specific statute or DoD policy or directive.

National Military Associations (NMA)

10 United States Code (U.S.C.) § 2548 allows national military associations to receive support for annual conferences and conventions beyond that provided to other types of private organizations. Under this statutory authority, the Assistant Secretary of Defense for Public Affairs designates which associations are authorized support for their annual conference/convention. Support is authorized for only one conference/convention per year per association. Similar support cannot be provided to the regional or local chapters of any NMA or to veterans associations. An explanation of the type of support that is permissible by law to DoD designated associations for their annual conference/conventions and the procedure to obtain DoD designation are outlined below.

Designated Associations

Adjutant General Association of the United States
Air Force Association
Association of the United States Army
Enlisted Association of the National Guard
Marine Corps League
National Guard Association of the United States
Navy League
Non Commissioned Officers Association of the United States of America
Reserve Officers Association of the United States

Authorized Support

1. Limited air and ground transportation. Government travel and transportation resources are to be used for official purposes only. "Official Purposes" are those that are essential to the successful completion of a DoD mission. Accordingly, government air and ground transportation will not be used to support private individuals or organizations unless there is a direct benefit to the Army. All situations involving transportation support for

private individuals or organizations should be coordinated with legal counsel. Further, DoD employees may not use official transportation (air or ground) unless they are representing the DoD in an official capacity.

2. Communications. Limited communications support may be provided for such functions as—but not limited to—message distribution, communications system management, automation services, and use of portable radios and cellular phones.

3. Medical Assistance. Medical support may be provided only for support of emergency and lifesaving functions.

4. Administrative Support. Support may be provided for such functions as—but not limited to—typing, filing, photo copying, distribution processing, telephone answering, and accounting duties. All support must be related directly to official conference events and should be of a reasonable duration, generally no more than two weeks prior to and one week after the officially announced dates of the conference or convention.

5. Security support. Support may be provided if local civilian resources are not sufficient. A requirement for such support must be documented with official requests form local law enforcement agencies.

Requests for Designee Status

To be eligible for support, associations must be non-commercial in nature, national in scope, and focused on Active Duty, Reserve, and National Guard activities. A private organization may submit a request for this special designation to the Army or directly to the Directorate for Community Relations, Office of the Assistant to the Secretary of Defense for Public Affairs (OASD-PA), The Pentagon, Room 1E776, Washington, DC 20301-1400, at least 30 days prior to the scheduled event. If a private organization requests designation as an NMA from any level within the Army, the request must be submitted in writing and forwarded through appropriate channels, including the Community Relations Team, Office of the Chief of Public Affairs, 1500 Army Pentagon, Washington, DC 20310-1500, (703) 695-5732, DSN 225-5732, to SAPA-PCD. Such request may be disapproved at any level.

Federally/DoD-Sanctioned Private Organizations

In accordance with DoDI 1000.15, the amount and type of support authorized for private organizations varies according to the authority under which they are organized. Certain organizations are sanctioned by specific DoD authority or are Federally chartered. These organizations provide important services to the Army family and thereby receive both reimbursable and nonreimbursable support from the Army. Support for sanctioned organizations is usually addressed in stand-alone Army regulations. Example are:

Army Emergency Relief (AR 930-4)
Credit Unions (AR 210-135)
Banking Institutions (AR 210-135)
American National Red Cross (AR 930-5)
United Service Organization, Inc. (AR 930-1)
Labor organizations subject to Section 71, Title 5 U.S.C.

Boy/Girl Scouts of America

There are three circumstances in which scouting organizations may receive special support from the Army: scouting organizations located overseas and world and national scout jamborees.

Overseas Support for Boy/Girl Scouts

In accordance with 10 U.S.C. § 2606 and DoD Instruction 1015.9, there are special rules for Boy/Girl Scout operations at U.S. military installations overseas. These organizations are chartered by the Federal Government and are recognized for the support they provide to DoD personnel and their families assigned to overseas areas. An information paper on support to scouting activities is at Appendix A.

1. Appropriated Funds. Appropriated funds may be used to provide the following services on a non-reimbursable basis:

a. Transportation. Transportation is authorized for personnel (and their household goods/baggage) of qualified scouting organizations to and from overseas assignments and while providing scouting support to DoD personnel and their families. Transportation of supplies of qualified scouting organizations necessary to provide such support is also authorized.

b. Facilities and utilities. Also authorized are office space for regular meetings and space for recreational activities; warehousing; utilities; and means of communication.

2. Nonappropriated Funds. Nonappropriate fund support for the scouting program shall not exceed 70% of the total cost of the scouting program. Nonappropriated funds (NAF) may be used for:

a. Support to Scouts. To provide the same authorized for youth activities programs in accordance with DoD Directive 1015.6.

b. Reimbursement of salaries and benefits. Reimburse qualified scouting organizations for salaries and benefits of scouting employees for periods during which these employees perform services in overseas areas in direct support of DoD personnel and their families.

c. Reimbursement of travel. To reimburse travel to and form official meetings of the overseas scouting committee upon approval from the U.S. Unified Commander in the geographical area.

3. Additional guidance on the limitations of support is discussed in DoDI 1015.9.

World and National Boy Scout Jamboree Support

10 U.S.C. § 2544, permits the Secretary of Defense to lend the Boy Scouts of America (BSA) cots, blankets, commissary equipment, flags, refrigerators, and other equipment, and to furnish, without reimbursement, services and expendable medical supplies for the use and accommodation of scouts, scouters, and officials who attend any national or world boy scout jamboree. The U.S. shall incur no expense for the delivery, return, rehabilitation, or replacement of such equipment. The statute requires BSA to provide separate bonds for the safe return of loaned property and for the reimbursement of the actual cost of transportation furnished under the statute. To the extent such transportation will not interfere with the requirements of military operations, transportation may be provided without expense to the U.S. Government and for those boy scouts, scouters, and officials of BSA certified by BSA as representing the BSA at any world or national boy scout jamboree, for property and equipment of scouts, scouters, and officials, and for property loaned to BSA by the Secretary of Defense.

The Secretary of Defense had delegated this authority and responsibility for support of jamborees to the Secretary of the Army. Detailed guidance concerning authorized support is contained in AR 725-1, Special Authorization and Procedures for Issues, Sales, and Loans, Chapter 6.

International Transportation Support for Girl Scout (GSA) Events

Under 10 U.S.C. § 2545, to the extent such transportation will not interfere with the requirements of military operations, the Secretary of Defense may provide, without expense to the United States Government, transportation from the United States or military commands overseas on vessels or aircraft for:

1. Girl Scouts and officials certified by the Girl Scouts of the United States of America as representing that organization at any International World Friendship Event or Troops on Foreign Soil meeting that is endorsed by the National Board of Directors of that organization and is conducted outside the United States;

2. United States citizen delegates coming from outside the United States to triennial meetings of the National Council of the Girl Scouts of the United States of America; and

3. The equipment and property of such Girl Scouts and officials.

Before providing any transportation, the Secretary of Defense will obtain a bond from the Girl Scouts of the United States of America sufficient to cover reimbursement of the actual costs of transportation furnished.

SECTION II

GENERAL RULES

Section I summarizes support specifically authorized by statute and DoD policy to "special status" private organization defined as NMAs, DOD-sanctioned organizations, and the BSA/GSA. These "special status" organizations are not the only private organizations that may be supported, nor may the support described in Section I be the only support provided "special status" organizations.

This section addresses support authorized private organizations under DoD 5500.7-R, Joint Ethics Regulation (JER), Chapter 3. Delineated below are some key points describing the government's role and Army employee responsibilities in dealings with private organizations. These points are intended to familiarize senior leader with the issues concerning support to private organizations only. **Because the JER is somewhat complex, senior leaders should consult with their support legal advisor or ethics counselor when issues concerning support to private organizations arise.**

Official Relationships with POs

In their official capacities, Army employees (whether military or civilian) must be neutral in their dealings with private organizations to avoid the appearance of favoritism.

Because the Army does not play favorites, what the Army permits one organization to do, it must be ready to permit other similar types of private organizations to do.

As good stewards of tax dollars, Army officials keep attendance at private organization conferences to the minimum necessary to perform the Army mission and satisfy public relations and professional development requirements.

Appropriated funds (APF) and nonappropriated funds (NAF) may not be transferred, nor other assets given, to a private organization, except as authorized by law.

Army employees (military and civilian) may not use their titles, offices, or positions to officially endorse an organization or its activities beyond what is permitted by the JER, para. 3-210 (e.g., fundraising for the Combined Federal Campaign and Army Emergency Relief).

Without reference to specific organizations, Army personnel may be encouraged to join, support, and participate in service, professional, recreational, and benevolent organizations. Officials may describe various organizations and their goals, objectives, and activities; however, they cannot favor one over another.

A subordinate may not be appointed a unit point-of-contact for an organization's membership drive nor may privileges be awarded for the highest membership or participation rate in a private organization.

Army officials may not encourage their subordinates to participate in a particular private organization either in a formation, on Army letterhead, or by any other official action.

Army officials may not require subordinates to explain a decision not to join or participate in private organization.

Commanders and supervisors may not require subordinates to attend meetings to learn about and/or join a private organization.

Private organizations may not receive special treatment because they espouse Army goals or support the military community.

Army officials perform oversight of organizations allowed to meet on Army property only to the extent necessary to ensure compliance with DoD and Army policy.

Activities that have the potential to create a conflict or the appearance of a conflict of interest are to be avoided. An actual conflict of interest exists when an Army employee participates in an official Government matter that will have a direct and predictable effect on the financial interest of the Army employee or any organization for which the Army employee is an officer, director, trustee, or employee. NOTE: An appearance of a conflict of interest can arise in different ways. One example of an appearance is when an Army employee participates in an official Government matter to which a private organization is a party or represents a party, and the employee is an "active participant" in that organization.

The Army may provide support for certain events conducted by private organizations IAW JER 3-211. Examples of support that may be included are: speakers, panel members, or other participants and, on a limited basis, Army equipment.

The Army may also provide limited support to civic and community organizations when the support also qualifies as "Innovative Readiness Training." For example, rather than having engineers conduct a training exercise by building a bridge on a firing range, under the authority of this program, they could build a bridge for a local community that is not otherwise able to afford one. This program is administered under the authority of 10 U.S.C. 2012 and DoDD 1100.20. SJA involvement is necessary for its execution.

Allowing certain private organizations to conduct briefings, routinely, at official Army functions and mandatory training implies Army endorsement and creates the appearance that membership in certain organizations is officially sanctioned by government (JER 3-209).

Commanders may permit private organizations to meet and function on Army installations IAW DoDI 1000.15 and locally developed procedures.

Commanders may allow postings of membership information on non-official bulletin boards or placement of brochures in common areas, if all organizations have equal access.

Employees may not officially endorse or officially participate in fundraising for any organization beyond that permitted by the JER, para. 3-209 and 3-211.

When deciding whether to participate in or support events with organizations, IAW JER para. 3-211(a), Army officials must ensure that expenditures of time and resources are of direct benefit and interest. If there is a legitimate government interest and purpose for Army participation in a private organization event, Army employees may participate and TDY is authorized. Not only are commanders and supervisors accountable to ensure that any support provided is in accordance with the JER and other applicable laws and regulations, but also that the amount of support is appropriate taking into account budgetary constraints and mission accomplishment.

IAW the JER, para. 3-201, Army officials may be appointed to act as bona-fide liaisons with organizations if there is a significant and continuing Army interest to be served. If an individual is an officer, director, or active participant in a private organization, the individual may not be an Army liaison to that organization.

Liaisons may participate in, and vote on, matters of mutual interest to the Army and the organization. They may not participate in membership drives or similar activities.

If an individual has questions about the ethical, legal, or regulatory constraints on participation in a private organization, that individual should consult with the appropriate ethics counselor or legal advisor.

Except as discussed in Section I, Government services may not be used for private organizations—legal, audit, transportation, postal, printing, data processing, clerical, financial, management, purchasing, copying, etc.

Army authorities may allow organizations to use Army facilities (including utilities and in-place equipment) under license or lease agreements when in the best interest of the Army, and in accordance with governing regulations.

Employees may not personally solicit subordinates or prohibited sources for membership or contributions during fund raising campaigns or allow their names to be used in a solicitation that targets subordinates or prohibited sources. (5 C.F.R. § 2635.702 and .808)

Employees do not coerce, influence, or compel other employees to join private organizations.

Employees may participate in their official capacities as speakers and panel members at conferences, seminars, or similar events sponsored by private organizations subject to limitations in 31 U.S.C. 1345 and JER, para. 3-207 and 3-211, and applicable public affairs regulations.

Army speakers may not participate in partisan or political gathering IAW AR 360-61.

Speeches by DoD employees at events sponsored by non-federal entities are not precluded when the speech expresses an official DoD position in a public forum, IAW public affairs guidance.

The ASD(PA) approves community relations exhibits at national conventions of private organizations IAW AR 360-61.

Local SJAs should be consulted when Co-sponsorship agreements are under consideration. (JER changes regarding Co-sponsorship are pending.)

Management of Non-Federal Entities in an Official Capacity

A new statute, 10 U.S.C. § 1033, authorizes DoD employees, in the course of official duties, to participate in management of "designated" non-Federal entities. It is important to note that this law has a specific and limited impact. Very few non-Federal entities will be "designated," under the law and when participation is approved, it will only be for limited purposes.

To participate in management of a "designated" organization, individuals must be approved by the Secretary of the Army on a case-by-case basis. Secretarial authorization will be in writing, will identify the individual, the entity in which the employee will participate, and specify the capacity in which the employee will participate.

When employees have been authorized to participate in management of a non-Federal entity, they will not be allowed to participate in internal management or day-to-day operations. Employees may not receive compensation from the organization. Further, Congress specified that appropriated funds will not be used to pay for the employee's participation in the organization, to include travel expenses. Finally, the statute bars employees from being assigned as a primary duty to work full-time on the non-Federal entity's business. The practical effect of this authorization is that Army employees may only participate in management of activities that have relevance to Army programs.

The DoD General Counsel has responsibility for designating organizations. Army Emergency Relief, Air Force Aid Society, Navy-Marine Corps Relief Society, and Coast Guard Mutual Assistance have been designated as eligible organizations. The DoD General Counsel may also designate any of the following:

- An entity that regulates and supports the athletic programs of the service academies (including athletic conferences);
- An entity that regulates international athletic competitions (such as the U.S. (Olympic Committee);
- An entity that accredits service academies and other DoD schools;
- An entity that regulates the performance, standards and policies of military health care (including health care associations and professional societies).

Requests for designation must be submitted in writing to the General Counsel. Designations, and the individuals authorized for participation, will be published in the Federal Register. (An information paper on management of private organizations is at Appendix B).

Personal Relationship with POs

Participation in a private organization is a personal decision. Employees may not be coerced or influenced to join or participate.

If an individual has questions about the ethical, legal, or regulatory constraints on participation in a private organization, that individual should consult with the command ethics counselor or other appropriate Army attorneys.

An officer or civilian employee who is an officer or director of a private organization may not participate in official Army matters affecting the financial interests of that private organization even though someone else makes the final decision (18 U.S.C. § 208).

If an employee is an officer, director, or employee of a private organization, was recently an officer, director or employee of the organization or is otherwise an active participant, the employee should not participate as an Army official in such matters as permitting the organization to use space on an installation, engaging in cooperative efforts with the organization, approving or recommending approval of other employees' TDY or permissive TDY to attend a training seminar sponsored by the organization, determining agency interest for an employee to attend a "widely attended gathering" sponsored by the organization, and approving an employee's acceptance of travel benefits under 31 U.S.C. § 1353. (18 U.S.C. § 208; 5 C.F.R. § 2653.502)

An employee who is not an officer or director of a private organization, but who is an active participant in a private organization, must consider the appearances and probably should not participate in official Army matters if the private organization is a party to, or represents a party to, the matter (5 C.F.R. § 2635.502).

Generally, military officers and civilians may not personally seek official action on behalf of non-Federal organizations. (18 U.S.C. § 205) However, when the organization is composed primarily of DoD employees and dependents, they may represent such organizations in discussions with the Army on matters of mutual interest.

Army employees may <u>not</u> accept positions as officers, directors, or similar positions offered because of their official duty positions (JER para. 3-301) with exceptions very limited.

Employees may not use their office, title, or position in connection with their personal participation in private organizations.

Employees may be given time off without being charged leave and may use some government resources in their personal participation with private organizations (e.g., writing papers for professional associations or certain community support activities) under the limited circumstances discussed in the JER, paras. 2-301, 3-300b, 3-300c, 3-305.

DoD employees, in their personal capacity, may join and participate in organizations. Purely personal, unofficial efforts to support fundraising outside the workplace and off of Army installations is not prohibited, when efforts do not imply Army endorsement and when no official time or resources are used. An information paper at Appendix C discusses fundraising issues in detail.

SECTION III

WAR STORIES

(YOU be the judge!)

The Fort Brown Chief of Staff, a member of an off-post chess club, sponsored by the local YMCA, calls the G-1 and asks that the chess club's application to hold meetings on post be moved to the top of the pile. **VIOLATON!** ☹ (Use of public office for personal/private gain, conflict of interest; acting as an agent for a private organization before the federal government- -18 U.S.C. § 205)

During a membership campaign for the National Enlisted Association of America (NEAA), the 802d Military Intelligence Brigade command sergeant major gives a cocktail party to recognize the new president of the NEAA. She has invited all senior enlisted personnel living within 50 miles. After a toast to the guest of honor, she has an official photograph taken and hands each guest a printed pocket calendar listing NEAA membership benefits and the local chapter's phone number and address. **VIOLATION!** ☹ (Appearance of official participation in a membership drive, misuse of government resources- -JER, para. 3-210 and 3-305)

In the division commander's outer office, a display contains information about professional organizations. Included are a "please take" sign and brochures for 5 military-related associations and 10 technology-oriented national organizations. **OK!** ☺ (Such displays are permissible when displays are open to contributions from other similar organizations)

After arriving at a new duty assignment, LTC Jones is asked by his new commander, an officer of the Assembly of Uniformed Services Association (AUSA), to explain why he is not a member of AUSA. **VIOLATION!** ☹ (Coercion for the benefit of a private organization- -5 C.F.R. § 2635.702(a))

The Fort Smith Chief of Staff accepts an appointment to the Board of Directors for the local Chamber of Commerce that was offered because of her duty position. **VIOLATION!** ☹ (You cannot serve as a director of an organization offered because of your official position- -JER 3-301; and you cannot serve as a director of an organization in your official capacity without prior approval of the DOD DAEO (the DoD General Counsel), approval of which will not be forth coming without a statutory basis for the request- -JER, para. 3-202)

The commander of XX Corps allows his duty position be used on the letterhead of the Humane Society of the United States. **VIOLATION!** ☹ (Improper endorsement- -5 C.F.R. § 2635.702; JER, para. 3-300)

The civilian personnel officer at Fort Paper solicits subordinates to join the Toastmaster's Club via E-Mail and at staff meetings. **VIOLATION!** ☹ (Misuse of public office, appearance of official endorsement- -5 C.F.R. § 2635.702; JER, para. 3-209 and 3-210)

The garrison commander at Fort Sumter, a member of Aviators Association of America (AAA), actively participates in the association's activities. He also decides who in the command will attend AAA's national convention in an official capacity. **VIOLATION!** ☹ (Appearance of conflicts of interest- -5 C.F.R. § 2635.502; JER, para. 3-203 and 3-204)

An Assistant Secretary of the Army, who previously soldiered in an Armored Division, provides to the Society of Army Tankers (SAT) an official photograph and letter on official letterhead pointing out the benefits of membership in the Society. The letter and photo will be used in membership drives. **VIOLATION!** ☹ (Misuse of public office, appearance of official endorsement- -5 C.F.R. § 2635.702; JER para. 3-209 and 3-210)

Major Smith is a member of the Association of American Cavalrymen that sponsors a car wash to raise funds. Major Smith helps wash cars during his off-duty time. **OK!** ☺ (Fundraising in a personal capacity is permissible- -5 C.F.R. § 2635.808 (c); JER, para. 3-300)

Captain Day, a finance officer, has her supervisor's approval and is writing a paper that she will present at the national conference of the Organization of Army Comptrollers. The topic is related to her official position and preparation of the paper has not interfered with her official duties. She has used government equipment to prepare the paper. **OK!** ☺ (Use of government equipment under these circumstance is permissible- -JER, para. 3-300)

Colonel Johnson is the treasurer of the Military Intelligence Association of America (MIAA) and is responsible for MIAA's monthly billing statements for dues. He tasks his secretary to prepare statements during duty hours on government equipment. **VIOLATION!** ☹ (Misuse of government resources and time- -5 C.F.R. § 2635.704, .705; JER, para. 3-305b)

The Deputy Commanding General at Fort Wall attends a fundraising banquet held on behalf of the local American Society for the Prevention of Cruelty to Animals (ASPCA). He is in uniform, sits at the head table, and makes a speech encouraging contributions. **VIOLATION!** ☹ (No official support of fundraising for private organizations- -5 C.F.R. § 2635.808; JER, para. 3-210)

Colonel Ping, assigned to HQs, TROOPSCOM, is an active member of the Fall River Graduate School Alumni Association. He visits the Commander of MDW in an effort to convince him to reverse a recent denial of the association's request for certain support. After discussing his concerns with the MDW commander, Colonel Ping flies back to Atlanta and completes a travel voucher for per diem and transportation expense reimbursement. **VIOLATION!** ☹ (Using appropriated funds and official time for personal business, government employee acting as an agent for a non-federal agency, using government position to further personal interests- -18 U.S.C. § 205; 5 C.F.R. § 2635.702, .704, .705)

Sergeant Lee conducts door-to-door solicitation for the American Cancer Society (ACS) during annual fundraising drives. Several junior enlisted personnel with whom the sergeant works live in the area he canvasses. In the process of solicitation, he knocks on doors and pitches the ACS and its need for money. The sergeant does not knock on doors of the enlisted personnel with whom he has an official relationship- another volunteer in the community does that. **OK!** ☺ (Avoided coercion, fundraising in personal capacity is allowed- -5 C.F.R. § 2635.808 (c); JER, para. 3-300a)

A unit commander appoints a unit point-of-contact for the local Military Spouse Organization membership drive. **VIOLATION!** ☹ (Misuse of position, misuse of government resources, endorsement of a private organization, official participation in membership drive- -5 C.F.R. § 2635.702, .705; JER, para. 3-209 and 3-210)

The Assistant Secretary of the Army for International Affairs, ASA(IA), is the treasurer of the General Officer/SES Organization of Federalists. In her official capacity, she approves TDY for several members of her staff to attend the GOSOP annual symposium. **VIOLATION!** ☹ (Conflict of interest- -18 U.S.C. § 208; 5 C.F.R. § 2635.402; JER, para. 3-300d)

An officer of the Coalition of Enlisted Personnel (CEP) participates in a Leadership Development graduation ceremony at Fort James. CEP appointment cards are in each chair when attendees arrive. When the CEP presenter is introduced, attendees are told that his organization is the only one authorized to sell insurance on the installation. **VIOLATION!** ☹ (Implies endorsement- -JER 3-209 and 3-210; violates commercial solicitation rules- -AR 210-7)

Mr. Civilian circulates information about the annual Combined Federal Campaign and collects donations during duty hours. **OK!** ☺ (CFC and AER fundraising permitted in duty status, during duty hours- -5 C.F.R. § 2635.705 and JER, para. 3-210)

The president of the Ladies Auxiliary of Warriors (LAW), a Camp Reno employee, contacts the Nonappropriated Fund Contracting Office. She asks for assistance in writing an agreement with a company that will be a concessionaire at an upcoming LAW event. The contracting official advises that he cannot provide such service; he suggests that she contact members of other organizations who have engaged in concession agreements. **OK!** ☺ (You can direct people to appropriate resources, but you cannot provide unauthorized services- -DODI 1000.15 and JER 3-305b)

The installation commander at Fort Purple has allowed sole or exclusive use of Army facilities by the Association of Community Members without initiating a license or lease agreement. **VIOLATION!** ☹ (AR 405-80)

Captain Green, Commander, A Company, is a member of the National Association of Officers (NAO). He directed his soldiers to sell raffle tickets for NAO's major fundraising event during duty hours while in a duty status. **VIOLATION!** ☹ (Misuse of position/ resources- -5 C.F.R. § 2635.702, .705; JER, para. 3-210 and 3-300)

Colonel Crawford, Director of Engineering and Housing, is the President of the National Housing Association of the Army (NAA). NAA is having computer problems, so Colonel Crawford asks one of his subordinates with computer expertise to assist NAA in fixing its problems. The subordinate uses his lunch or leave to go to NAA Headquarters and works on their computers. **VIOLATION!** ☹ (Misuse of position- - 5 C.F.R. § 2635.702; JER, para. 3-305b)

At his weekly staff meeting, the Commander, XXI Corps, a member of the National Officers Association (NOA), announces that his command will provide speakers and other limited support (including the loan of a sound system and soldiers necessary to operate it) for NOA's upcoming regional conference. He has decided that the conference will be useful for the local military community and will not detract from mission accomplishment. **OK!** ☺ (Assuming all other criteria in JER para. 3-211 are met; also, mere membership in an organization does not create a conflict or an appearance of a conflict of interest issue.)

The G2 at XXII Corps is the treasurer of the Electronic Surveillance Association (ESA). He decides who in his office attends ESA's national conference by selecting those individuals who have done the most work for ESA during the year. **VIOLATION!** ☹ (Conflict of interest, misuse of personnel/resources/position, endorsement- - 18 U.S.C. § 208; 5 C.F.R. § 2635.702, .704, .705; JER, 3-209)

LTC Speer, Acting Director of Resource Management at Fort Samson, used Army letterhead and his official signature block to strongly encourage membership amongst his subordinates in the Comptrollers of America. The Chief of Staff is made aware of LTC Speer's action, and advises LTC Speer and all members of his staff that this type of endorsement is improper. LTC Speer apologizes to his subordinates for the error. **OK!** ☺ (Good leadership; the Chief of Staff recognized the misuse of official position and that an Army official may not endorse a private organization- -5 C.F.R. § 2635.702; JER, para. 3-210)

When the Under Secretary of Procurement visits installations, his schedule usually includes a dinner meeting with the local chapter of the Association of Contractors (AOC). Generally, functions are at the O'Club, and most attendees are installation employees and local community leaders. When it is brought to his attention that the media coverage of his visits to military installations focuses on attendance at AOC gatherings, rather than the installation, he directs his staff to ensure that future visits do not include his attendance at AOC meetings. He will, however, speak at command sponsored functions which could include guests from the community. **OK!** ☺ (Good leadership; the Under recognizes his public relations role and implications of endorsement or preferential treatment of a specific organization. The installation will get the media coverage, not the organization)

SECTION IV

REFERENCE LISTING

The following list of Army regulations, Department of Defense Directives and Instructions, and United States Codes is provided as a quick reference should you require information concerning a specific subject area. This is not an all inclusive listing. Questions or concerns regarding support should be directed to your command legal office.

Department of the Army Regulations

AR 1-100.....Gifts and Donations
AR 1-101.....Gifts for Distribution to Indivduals
AR 1-211.....Attendance of Military and/or Civilian Personnel at Private Organization Meetings
AR 11-2.....Management Control
AR 25-1.....The Army Information Resources Management Program
AR 37-60.....Pricing for Materiel and Services
AR 58-1.....Management, Acquisition, and Use of Administrative Motor Vehicles
AR 70-26.....Department of the Army Sponsorship of Unclassified Scientific or Technical Meetings
AR 210-7.....Commercial Solicitation on Army Installations
AR 215-1.....Administration and Operation of Morale, Welfare, and Recreation Activities and Nonappropriated Fund Instrumentalities
AR 220-90.....Army Bands
AR 360-61.....Community Relations
AR 405-80.....Management of Title and Granting Use of Real Property
AR 600-20.....Army Command Policy
AR 600-29.....Fund-Raising Within the Department of the Army
AR 725-1.....Special Authorization and Procedures for Issues, Sales, and Loans
AR 840-10.....Flags, Guidons, Streamers, Tabards, Automobile and Aircraft Plates
AR 870-20.....Museums and Historical Artifacts

Department of Defense Directives/Instructions:

DOD 5500.7-R.....Joint Ethics Regulation
DODI 1000.15.....Private Organizations on DoD Installations
DODI 1015.9.....Professional United States Scouting Organization Operations at United States Military Installations Located Overseas
DODD 1100.20.....Support and Services for Eligible Organizations and Activities Outside the Department of Defense
DODD 1344.7.....Personal Commercial Solicitation on DoD Installations
DODD 4500.36.....Management, Acquisition, and Use of Motor Vehicles
DODD 5410.18.....Community Relations
DODI 5410.19.....Armed Forces Community Relations
DODI 5410.20.....Public Affairs Relations with Business and Non-governmental Organizations Representing Business

United States Code and Code of Federal Regulations:

5 CFR, 2635.....Standards of Ethical Conduct for Employees of the Executive Branch
5 U.S.C. 4110.....Expense of Attendance at Meetings
5 U.S.C. 4111.....Acceptance of Contributions, Awards, and Other Payments
10 U.S.C. 2012.....Support and Services for Eligible Organizations and Activities Outside Department of Defense
10 U.S.C. 2544.....Equipment and Other Services: Boy Scott Jamborees
10 U.S.C. 2545.....Transportation Services to: International Girl Scout Events
10 U.S.C. 2548.....National Military Associations: Assistance at National Conventions
10 U.S.C. 2606.....Scouting: Cooperation and Assistance in Foreign Areas
18 U.S.C. 205.....Activities of Officers and Employees in Claims against and other Matters Affecting the Government
18 U.S.C. 208.....Acts Affecting a Personal Financial Interest
31 U.S.C. 1353.....Acceptance of Travel and Related Expenses from Non-Federal Sources
37 U.S.C. 412.....Appropriations for Travel: May Not be Used for Attendance at Certain Meetings

INFORMATION PAPER

DAJA-SC
7 October 1998

SUBJECT: Army Relations with Boy Scout Organizations

1. PURPOSE: To provide information on official Army relations with, and support to the Boy Scouts.

2. FACTS:

a. Prohibited Activities.

(1) **Fundraising and Membership Drives**. No official endorsement or participation in Boy Scout fundraising or membership drives is allowed. (***Joint Ethics Regulation*** (JER), DOD 5500.7-R, para. 3-210)

(2) **Endorsement or Sanction**. Official endorsement or sanction may be neither stated nor implied, and Army officials may not give preferential treatment to the Boy Scouts. (JER, para. 3-209). However, as noted below, there are statutes authorizing specific support to overseas scouting, and to Jamborees. Commanders may support Boy Scout events (as opposed to fundraising) where there are legitimate community relations, morale and welfare, or other DOD interests.

(3) **Official Participation in Management**. Army personnel may not participate in management of the Boy Scouts in their official capacities. However, they may be appointed as official liaisons when there is a continuing Army interest in discussion of matters of mutual interest. (JER, para. 3-201; 3-202)

(4) **Conflicts of Interest**. Army personnel may not take official actions that affect the financial interests of the Boy Scouts if they are an officer, director, or employee of the organization. (18 U.S.C. 208) Even if Army personnel are not officers in the Boy Scouts, if they are "active participants" in scouting, they should refrain from taking official actions which affect the Boy Scouts interests in order to avoid the appearance of favoritism. (5 C.F.R. § 2635.502) An "active participant" is someone, such as a Scoutmaster, who does not necessarily have input to organization policy, but has a visible and significant role with the Scouts.

(5) **Gratuitous Membership**. Army personnel may not accept an office, directorship or similar leadership position in the Boy Scouts offered because of their official duty position. (JER, para. 3-201)

b. National and International Jamborees. The Army may provide the following services to national and world Jamborees. Prior to these types of support being provided, the Boy Scouts must provide a bond to cover the items and the risk of loss or damage costs associated with

A.

transportation. (10 U.S.C. § 2544)

(1) Loan of cots, blankets, commissary equipment, flags, refrigerators, and other equipment;

(2) Services and expendable medical supplies, as available, without reimbursement;

(3) Transportation, as available, without expense to the U.S. Government, and which does not interfere with military operations.

(4) In the case of a Jamboree held on a military installation, DoD may provide personnel and logistic support at the military installation, in addition to the areas of support listed in the three paragraphs above. (10 U.S.C. § 2544(g)).

c. Overseas Scouting. Subject to various levels of delegation and authorization, the Army may provide overseas scouting organizations transportation, office space, recreational space, warehousing, utilities, and communications without seeking reimbursement. (10 U.S.C. § 2606). DOD Instruction 1015.9 should be consulted before deciding what support to provide for overseas scouting activities.

d. Marksmanship. As part of the civilian marksmanship program, the Army may issue ammunition and loan weapons, targets and related equipment to qualified Boy Scout troops. (*Promotion of Practice With Rifled Arms*, AR 920-20, paras. 3-5; 3-6(i))

e. Use of DOD Property.

(1) On a limited basis, commanders may authorize the use of DOD equipment (and manpower to operate the equipment) in support of Boy Scout activities which are legitimate community relations events or provide genuine benefit to the morale and welfare of the military community. (JER, para. 3-211; *see also*, 10 U.S.C. § 2012) Commanders must determine that:

(a) there is no interference with unit readiness and mission accomplishment;

(b) support serves a legitimate Army interest, such as community relations; (*Community Relations*, AR 360-61, Chap. 3)

(c) the event is of interest and benefit to the local civilian or military community as a whole;

(d) the command is willing and able to provide support to other similar events and organizations (such as Girl Scouts);

(e) no admission fee beyond reasonable cost is charged either for the whole event or for

that part supported by DOD, or that the DOD support is incidental to the event.

(2) Installation commanders may authorize use of space for Boy Scout meetings and storage of equipment. (*Private Organizations on Military Installations*, AR 210-1)

(3) Government equipment may be loaned or rented if there is no interference with mission accomplishment. However, the Boy Scouts may not use installation auditing, data processing, financial management, legal, or purchasing services. (*Special Authorization and Procedures for Issues, Sales, and Loans*, AR 725-1, Chap. 6)

(4) Army personnel who volunteer to participate may be given uncharged leave (a "permissive TDY") to support Boy Scout events that otherwise meet the requirements of a community relations event. *Leaves and Passes*, AR 600-8-10, para. 5-32k.

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INFORMATION PAPER

DAJA-SC
14 August 1998

SUBJECT: Official Participation in Management of Private Organizations

1. PURPOSE: To summarize recent changes to private organization management rules.

2. FACTS:

a. On 6 August 1998, Change 4 to the ***Joint Ethics Regulation(JER)*, DOD 5500.7-R** was signed. The Change involves two subjects: designation of public areas for fundraising and management of private organizations. The Change clarifies that post and facility commanders have authority to designate areas of the post that are open to the public for fundraising purposes. When an area, such as the entrance to a building, has been so designated, it is not governed by restrictions on fundraising in the federal workplace.

b. Official Management of Private Organizations. Congress recently passed 10 U.S.C. § 1033, authorizing DoD employees, in the course of their official duties, to participate in management of "designated" non-Federal entities. The statute requires implementing regulations. Change 4 is that regulation

(1) To participate in management of a "designated" organization, individuals must be approved by the Secretary of the Army on a case-by-case basis. Secretarial authorization must be in writing, identify the individual employee, the entity in which the employee will participate, and specify the capacity in which the employee will participate.

(2) Limitations.

(a) Employees are not allowed to participate in internal management or day-to-day operations.

(b) Employees may not receive compensation from the organization.

(c) Appropriated funds will not be used to pay for the employee's participation in the organization, to include travel expenses.

(d) Employees will not be assigned as a primary duty to work full-time on the non-Federal entity's business.

B.

(e) The net effect of the limitations is that Army employees may only participate in management of questions that have relevance to Army operations.

(4) "Designated" Organizations. Under the statute, the DoD General Counsel designates eligible organizations. Change 4 designates *Army Emergency Relief, Aid Force Aid Society, Navy-Marine Corps Relief Society,* and *Coast Guard Mutual Assistance* as eligible organizations. The DoD General Counsel may also designate:

(a) Entities that regulate and support the athletic programs of the service academies (including athletic conferences);

(b) Entities that regulate international athletic competitions (such as the U.S. Olympic Committee);

(c) Entities that accredit service academies and other DoD schools; and,

(d) Entities that regulate the performance, standards and policies of military health care (including health care associations and professional societies).

(e) Requests for designation must be submitted in writing to the General Counsel. Designations, and the individuals authorized for participation, will be published in the Federal Register.

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INFORMATION PAPER

DAJA-SC
2 June 1998

SUBJECT: Support to Private Organization Fund-Raising

1. PURPOSE: To provide information on a Post Commander's ability to have fund-raising activities in support of a non-Federal entity (NFE).

2. FACTS:

a. A Post Commander may provide logistical support to NFE fundraising activities on his installation only if he has obtained permission, in advance, from the Office of Personnel Management (OPM). The reason for this rule is that most NFEs are affiliated with the Combined Federal Campaign (CFC). As such, all fund-raising by the organization should be within the context of the CFC. This rule would also apply to a local chapters which are affiliated with the CFC. [**NOTE:** OPM has indicated that, generally, it will not approve exceptions for fund-raising outside of the CFC.]

Example: *The local Amvets chapter, a CFC affiliate, wants to host a fund-raising 10K race on post and asks for logistical support. Without OPM approval, the Post Commander cannot approve either the race or the support.*

b. The exception to this general rule is when the NFE fund-raising event is in direct response to an OPM approved emergency or disaster relief appeal.

Example: *A branch of the local river has flooded in a nearby community. The President has designated the area eligible for Federal disaster relief, and OPM has announced that Federal agencies may allow employees to collect food, blankets and funds to assist victims of the flood. The Post Commander may authorize soldiers and employees to use official time and resources to collect donations to be given to the Red Cross for relief in this disaster.*

c. OPM permission is not required if the event raises gifts-in-kind such as food, clothing or toys, rather than funds.

Example: *The United Way sponsors a Food Bank for needy families. They have asked for access to the post housing area to conduct the collection. The Post Commander can approve the request.*

d. OPM approval is not required if the fund-raising does not occur in the Federal workplace. The Federal workplace includes, by definition, the entire DoD installation. The installation commander may, however, designate limited areas as public places on the

installation where similarly situated groups may solicit funds.

Example: The Red Cross has asked whether it can set up a card table and a "Cross Your Heart" display soliciting donations outside of the PX on Valentine's Day weekend. In the past the Post Commander designated this area as a public area. He has authorized both the Girl Scouts to sell cookies and the Disabled American Veterans to sell poppies in this area. The Commander has the authority to authorize the Red Cross appeal in the same place because it is a designated public area, and similar organizations have been granted access in the past.

e. After obtaining OPM approval for an on-post an NFE fund-raising event, a commander may provide logistical support. On a limited basis, DoD facilities and equipment (and the personnel necessary for proper use of the equipment) may be provided when the head of the DoD command determines:

(1) The support does not interfere with the performance of official duties and does not detract from readiness.

(2) The support promotes legitimate DoD community relations, public relations or recruiting interests, or military training objectives can be met by providing the support.

(3) The event is appropriate for DoD support.

(4) The command is able and willing to provide the same support to comparable events sponsored by similar organizations.

(5) No admission fee beyond the reasonable cost of the event itself will be charged, or no fee will be charged for **that portion** of the event supported by DoD. (That is, DoD support to an event must be incidental to the fund-raising purpose, and cannot be the basis of the fund-raising.)

(6) The support is not restricted by other statutes.

Example: The USO has obtained OPM approval to conduct a fund-raising concert in conjunction with the CFC. Local celebrities and entertainers have offered their services. The USO has asked if the post theater may be used for the concert. Use of the post theater can be authorized. (This scenario is a good example of how DoD may support a fund-raising event without directly contributing assets to the fund-raising itself.)

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