

INSPECTOR GENERAL COURSE

STUDENT TEXT 6

ETHICS & STANDARDS OF CONDUCT



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SOME THOUGHTS ON ETHICS

"To educate a man in mind but not in morals is to educate a menace to society."
--Theodore Roosevelt

"What you are speaking so loudly I cannot hear what you are saying."
--Ralph Waldo Emerson

"Duty Honor, Country. These three hallowed words reverently dictate what you ought to be, what you can be, what you will be."
--GENERAL Douglas MacArthur

"There is no witness so terrible -- no accuser so powerful as the conscience which dwells within us."
--Sophocles

"America is great because she is good and if America ever ceases to be good, America will cease to be great."
--Alexis de Tocqueville

"The problem with the rat race is that even if you win, you're still a rat."
--Lily Tomlin

Chapter 1

PROFESSIONAL ETHICS

Introduction

The intended outcome of professional ethics instruction is to graduate an IG who is sensitive to the ethical situations he or she will face as an IG, and to provide some tools (terms, definitions, case studies, decision making models) to help IGs deal successfully with ethical problems.

Why is ethics an item of interest to IGs?

Perceptions exist that the military services cannot police themselves, and agencies outside the military structure would be better disposed to investigate and report on sensitive matters involving alleged wrongdoing within the Service.

Often the problem with ethics in the military is one of coaxing people of good character to act in accordance with their beliefs when operating in stressful situations, sometimes with little moral support. The pressure to be expedient can be strong. Nevertheless, your ethical behavior must be above the suspicions that already exist. IGs are closely scrutinized by others, within and outside of the Army, at all times.

The history of the Army IG system shows continuous IG involvement in discipline, ethics, and standards since the beginning. The mission of IGs includes determining and reporting on the state of discipline, morale, esprit, and readiness. Ethics definitely affects these areas.

The IG is an extension of the eyes, ears, voice and conscience of the commander.

Many inquiries or investigations conducted by IGs will look into moral and ethical issues (for example, those dealing with honesty, fairness,

duty, and responsibility). The underpinnings for most standards used in inquiries and investigations are ethical values.

AR 600-100, states that The Inspector General (TIG) will, at the commander's direction, assess or investigate alleged violations of the Army's Professional Ethic and assist the commander in teaching and training leaders on the fundamental tenets of the Army Ethic (para 2-9)

Terms of Reference

Ethics is a system of rules based on universal moral duties and obligations or standards that guides individuals or groups to do the right thing. Ethics is about doing the right thing; making the right choice; choosing the harder right rather than the easier wrong.

Moral means "of or relating to principles of right and wrong in behavior." (For our purposes, moral is synonymous with ethical).

Beliefs are assumptions or convictions that you hold to be true regarding people, concepts, or things.

Values are attitudes about the worth or importance of people, concepts, or things. They guide or motivate behavior.

Some values are described as ethical because they are concerned with the notion of duty and moral obligation (e.g., honesty, fairness, loyalty). They reflect attitudes about what is right, good or proper. A quick test of whether or not a value is ethical is to ask: "Does possession of that value enable the person to be described as good?"

Other values are nonethical. This is not the same as unethical. Nonethical values, such as

happiness, fulfillment, pleasure, personal freedom, being liked, and being respected, are concerned with matters other than duty and moral obligation. These values are normally self-oriented. They are ethically neutral; e.g., being happy (a nonethical value) does not necessarily relate to being honest.

Norms are rules and laws, derived from beliefs and values upon which people agree, that enable them to live together in harmony. Formal norms are official standards or laws that govern behavior (traffic signals, UCMJ, etc.). Informal norms are unwritten rules or standards that govern behavior (evacuating wounded, alcohol abuse, etc.).

Professional military ethics is concerned with the criteria for distinguishing between right and wrong and for making good choices among competing values in the context of the military profession.

The Army requires its members to embrace a professional military ethic - the Army Ethic. The Army Ethic consists of seven essential values which form the acronym - **LDRSHIP**:

Loyalty to the nation, the Army, the unit, the soldiers and their families is essential.

Loyalty is defined in FM 22-100, Army Leadership, as bearing true faith and allegiance to the U.S. Constitution, the Army, your unit, and other soldiers and civilians. Loyalty means steadfastness, constancy, devotion and allegiance. Other values within the concept of loyalty include: faithfulness, fairness, compassion, respect for others and decency.

Duty means fulfilling your obligations. It also means doing what should be done when it should be done. It is a personal act of responsibility. Values within the concept of duty include: responsibility, excellence, accountability and competence.

Respect means treating people as they should be treated. Respect is indicative of compassion and consideration of others. Respect also involves the notion of fairness.

Selfless Service puts welfare of nation and accomplishment of mission ahead of individual desires. It requires us to put the collective good ahead of self-gain, personal advantage, and self interest. It demands a willingness to sacrifice and leads to teamwork. Values within the concept of selfless service include: sincerity, sacrifice, commitment and courage.

Honor means living up to all of the Army's values. Honesty and integrity form the foundation of honor.

Integrity means doing what's right, legally and morally. It also means honesty, uprightness and the avoidance of deception. It is the basis for the trust and confidence that must exist among members of the Army and between the Army and the American society we serve. Values within the concept of integrity include: honesty, promise-keeping, candor, honor, and courage of convictions.

Personal courage means to face fear, danger, or adversity both physical and moral. Physical courage is bravery. Moral courage is what enables us to stand up for what is right regardless of the consequences.

Professional ethics in the military service is derived from three principal sources: The moral, spiritual, and social values of our nation. Our country's values are contained in the Declaration of Independence and the Constitution. The fundamental character of our nation is defined in those documents.

The requirements of professionalism itself demand the observance of the professional military ethics as a condition of service.

The harsh realities of the battlefield demand the highest levels of ethical behavior; lives are at stake.

We recognize the link between societal values and values of Army Ethic in our Oaths of Enlistment and Commission. We take these oaths without reservation and regardless of personal sacrifice. Our oaths are a formal and public recognition of our commitment to our profession and its ethic.

All Army professionals are evaluated on their commitment to and accomplishment of the Army ethic. The OER, part IV b, requires a rating on professional ethics. The NCOER, part IV, requires that NCOs be evaluated on values.

Ethical Decision-Making

Ethical decision-making is the process of making daily personal and professional decisions in a manner consistent with ethical principles.

Ethical decision-making requires that you possess a strong desire to act ethically. It demands that you be able to recognize and perceive the ethical implications of your actions. It also demands ethical competency. In a complex situation involving moral judgment, both reasoning and problem-solving skills are necessary.

You will face three types of situations involving ethical values or principles:

Choices between ethical and unethical options. Examples of these choices are to not cheat or to cheat; to tell the truth or lie. These are right versus wrong questions. They are ethical decisions, but they are not ethical dilemmas. There are no competing ethical values in these choices. They are the easiest to resolve for an ethically committed person. Most ethical questions are not so simple.

Choices of options between those that foster ethical values (duty, integrity, etc.) and those that foster nonethical values (pleasure, prestige, etc.) are not ethical dilemmas. There are no competing ethical values here.

An ethical dilemma occurs when a person is faced with a situation where he or she must choose between competing ethical values in order to arrive at a solution that serves the highest moral good. An example could be when you have to choose between DUTY (to follow regulations and live up to your IG oath), and LOYALTY (to a highly respected commander who is "bending the rules").

Choices of options in which each option fosters ethical values are true ethical dilemmas. Choices with competing ethical values, such as, loyalty to your boss in conflict with loyalty to your subordinates, are the toughest ethical dilemmas to resolve.

Virtually all important decisions reflect the decision-maker's sensitivity and commitment to ethics. Decisions which affect other people have ethical implications and should take into account, and reflect a concern for, the interests and well-being of others. Each person who is likely to be affected by a decision is said to be a "stakeholder" in the decision. Ethical decisions should take into account the way in which stakeholders will be affected.

The "right" thing to do may be obvious in many situations. The "right" thing is the option which results in the highest moral good. Unethical options will normally be discarded. Examples of unethical options are lying, cheating, disobeying lawful orders, etc.

Options that foster ethical values and principles always take precedence over nonethical ones. Ethical values (honesty, loyalty, etc.) are morally superior to nonethical ones (pleasure, being respected, etc.).

You should ignore (or not choose) an option which is ethically sound only when it is clearly necessary to advance another ethical option or principle which you believe will result in the greatest moral good. This is a true ethical dilemma; one that requires a choice between competing ethical values, such as loyalty and duty or selfless service and integrity.

You must be alert for an automatic rationalization process, which can transform self-centered, nonethical motives into "others-centered," ethical ones. For example, construing what one wants as what one needs. Self interest does not justify violation of ethical values.

In the military environment, you must always consider laws, orders and regulations. A

decision which ignores regulatory guidelines would normally violate the ethical value of duty or responsibility (to uphold Army regulations). An option could be to seek a change or an exception to the regulation.

Identify those external pressures that could affect your decision. (Examples are: Deadlines, peer pressure, statements such as, "It's important to the boss", "I don't want to know how you did it.", or "Results are what count!", etc.)

A Model for Ethical Decision-Making

Follow these steps when faced with a situation requiring ethical decision-making:

Which values are apparent in this situation?

Which values are in conflict here? (Is this a true ethical dilemma?)

Who are the stakeholders? Who will be affected by your decision?

Are there any legal or regulatory standards that apply?

What are the external pressures?

What are your options to resolve the problem?

Which option should you choose?
REMEMBER:

Discard unethical options.

Choose ethical options over nonethical options.

With competing ethical options, choose the option that results in the highest moral good.

Ethical "Filters"

When you have chosen an option, double check yourself by asking these questions:

Why did you choose this option? Was it because of selfish reasons or a sincere desire to help the stakeholders?

Is your choice fair to all stakeholders? Does it harm anyone?

Does it violate any laws or regulations?

If your actions were published in the newspaper, or just became public knowledge, could you live with it?

If everyone followed your example, would the effect be favorable on the Army?

How would you feel if your family knew about your choice?

Would you personally feel guilty if you did this? Could you face yourself in the mirror?

Do you need to modify your option based upon your responses to these questions?

IG Ethical Responsibilities

Fulfilling your ethical responsibilities as an IG means always being a role model. You must set the standard. Be conscious of living in a "glass house." Be sensitive to ethical situations and the ethical climate within your command. Provide feedback to commanders (both yours and subordinate). Refer questions on Standards of Conduct to the command's Ethics Counselor. Always take the opportunity to teach and train.

Use the values of the Army Ethic (LDRSHIP) as the standard. Make commanders sensitive to the effects of statements such as "Results are what count!"

Finally, never back away from ethical situations, decisions, or dilemmas! Confront them head-on and resolve them so that the highest moral good is served. You must have the courage to support your convictions--
STAND UP AND BE COUNTED!

NOTE: Many of the principles, concepts, and terms used in this outline were developed and copyrighted by the Josephson Institute of Ethics, 310 Washington Blvd, Marina del Rey, CA 90292. Specifically used are the definitions of ethics and values, and many of the concepts and thoughts on ethical decision-making. Additionally,

the Ethical Decision-making Model and the ethical filters were adapted from models developed by the Josephson Institute. They are used here with the kind permission of Mr. Michael Josephson, President, Josephson Institute of Ethics.

CHAPTER 2

THE PROFESSION OF ARMS

Introduction

The men and women serving in today's Army are members of a proud profession long in history and rich in heritage and tradition. Military Service, over the long sweep of time has been profoundly affected by great changes in human and scientific affairs--changes which have had dramatic impact on the nature and substance of the military professional's role.

The essential leadership traits (discussed in Field Manual 22-103, Leadership and Command at Senior Levels, and Field Manual 100-5, Operations) required of the military profession today are the same as those in the days of George Washington, Ulysses S. Grant, John J. Pershing, or George C. Marshall. Similarly, the fundamental principles of war that have guided the fighting man in battle have not changed. They remain essential principles for the American military.

Sound leadership and the principles of war alone cannot provide the foundation for the U.S. Army. Rather, leadership is built on trust and integrity. Leadership in war must be framed by the values of the profession--tenets such as Duty, Honor, Country--that are consistent with the larger moral, spiritual, and social values upon which our nation was founded. These larger values are truth, justice, honesty, human worth and dignity, fairness, equality, and personal accountability. These define the fundamental character of our nation and, to a great extent, that of other democratic nations and of great civilizations of the past. An Army which springs from such a nation must reflect and be governed by those values.

Recognition of this linkage is formally affirmed in the Oath of Commission or Oath of Enlistment each soldier takes upon entry into military service. Each has pledged to support and defend the Constitution of the United States. This oath, taken without reservation and regardless of personal sacrifice, is a formal and public recognition of the commitment to an ethic that distinguishes soldiers in American society. This oath is as real as the wearing of the Army uniform.

The American soldier represents a wide range of cultural backgrounds. That diversity and the associated values represented are important in the fabric of American life, but upon entering the military service the soldier is called upon to adopt the values of the military profession, a profession of the service of a democratic state.

The Army ethic consists of seven professional values: Loyalty, Duty, Respect, Selfless Service, Honor, Integrity, and Personal Courage. Duty and Integrity are great moral imperatives which are also governed by the Uniform Code of Military Justice. The values of Loyalty, Respect, Selfless Service, Honor and Personal Courage are governed by convention, tradition, and the character of the profession. When internalized and adhered to, these values promote mutual confidence and understanding among all soldiers and inspire the special trust and confidence of the nation. Soldiers must be of upright character, from the private on guard duty to the general officer testifying before Congress. To violate the Army ethic or to tolerate its violation is to dishonor the profession and possibly compromise the nation's security

The Army Ethic

Since the Army ethic is the informal bond of trust between the nation and its soldiers, the Army requires all its members to embrace and live it. The ethic applies in peace and war, to active and reserve forces, and to Department of the Army civilians. It sets the moral context for the Army in its service to the nation and inspires the sense of purpose necessary to sustain soldiers in the stress of combat and in the ambiguities which characterize conduct of military operations in conflicts when war has not been declared. From the high ideals of the Constitution to the brutal realities of combat, the Army ethic guides the way we must live our professional and private lives. It sets standards by which we and those we serve will judge our character and our performance. Each leader is personally accountable to ensure these standards are upheld.

Duty is doing what needs to be done at the right time despite difficulty or danger; it is obedience and disciplined performance. Duty is an act of personal responsibility in accomplishing all assigned tasks to the fullest of one's capability, meeting all commitments, and exploiting opportunities to improve one's capabilities for the good of the group. Duty encompasses stewardship for the precious resources with which our Nation has entrusted us -- our soldiers, the bases and environment in which we live and work, and the taxpayers dollars which fund our programs. At all levels of the Army, we must institutionalize the preservation of these vital assets. Duty requires each of us to accept responsibility for our own actions and also for the actions of those entrusted to our care. It requires the impartial administration of standards without regard to friendship, personality, rank, or other favoritism.

Integrity is the strong thread woven through the whole fabric of the Army ethic. It means steadfast adherence to a standard of honesty, uprightness, and particularly to the avoidance of deception. Integrity demands a commitment to act according to the other values of the Army ethic. It is the basis for

the trust and confidence that must exist among members of the Army. Further, integrity is demonstrated, proven, and practiced by propriety in our personal lives. Integrity means that our personal standards must be consistent with the professional values we espouse. To compromise personal integrity means to break the bonds of trust inherent in the values of duty, loyalty, and selfless service.

Loyalty to the nation, to the Army, to the unit and its individual soldiers is essential. The oath we take requires loyalty to the nation and an obligation to support and defend the Constitution of the United States. Loyalty to the Army means supporting the military and civilian chain of command. This demands adherence to the spirit as well as letter of the lawful order. Loyalty to the unit is an expression of that obligation between those who lead, those who are led, and those who serve alongside the soldier. This obligation includes devotion to the welfare of one's comrades. It fosters cohesion and engenders a sincere concern for the well-being of fellow soldiers, thus producing dedication and pride in the unit.

Selfless Service puts the welfare of the nation and the accomplishment of the mission ahead of individual desires. All who serve the nation must resist the temptation to pursue self-gain, personal advantage and self-interest ahead of the collective good. What is best for the nation comes before personal interests. Soldiers who are self-serving cannot give full service to the Army or the nation. Selfless service, however, leads to teamwork and unity of effort on behalf of those whom we serve. Military service demands willingness to sacrifice, even to risk one's very life for the accomplishment of the mission.

Soldier Values

By instilling four values within each soldier and Army civilian we can strengthen the Army ethic. These four values are commitment, competence, candor, and courage.

Commitment means dedication to serving one's nation. Patriotism and esprit de corps are hallmarks of commitment. Serving with commitment may ultimately require a willingness to risk one's life in defense of our nation. On a daily basis, commitment to the unit is also important. Each of us is a member of a team which functions well only when all layers execute their assignments. All members must be committed to working as a team and must realize that other depend upon them.

Competence is finely-tuned proficiency. Crews, squads, and sections can function effectively only if the members know their jobs, do their best, and have developed their abilities to the utmost. Thus, competence is a required element for success on the battlefield. The increasing complexity of our weapons and other systems demands a high level of proficiency. Competence is also important because when people are part of a unit composed of well-trained and dedicated professionals, they gain confidence, pride, and unit esprit.

Candor is honesty and fidelity to the truth. There is no time in combat to verify reports, question the accuracy of information, or wonder about the reliability of equipment. The stakes are too high, and time too short, to communicate anything but the full truth--mission accomplishment and soldiers' lives are at stake. Candor, however, goes beyond combat. Soldiers must at all times demand honesty and candor from themselves and their fellow soldiers. Otherwise, we will not be able to live up to the Army ethic.

Courage is the ability to overcome fear and carry on with the mission. Courage makes it possible for soldier to fight and win. American history is replete with examples of valor by brave soldiers who accomplished what seemed impossible. Ask them and they will tell you that they were just as afraid as the next soldier, but managed to overcome their fear.

Courage, however transcends the physical dimension. Moral and spiritual courage are equally important. It takes a different kind of

courage to stand up for one's belief in what is right, particularly when it is contrary to what others believe is right.

An important aspect of duty is the courage for each of us to persevere in what we believe is right and not tolerate wrong behavior by friends, peers, comrades, or superiors.

Our professional ethic must not be compromised because of partiality toward rank, position, or circumstances. It takes moral courage to do the right thing, especially when we are tempted by opportunities to be self-serving or take ethical short-cuts.

There is an aspect of courage which comes from a deep spiritual faith which, when prevalent in an Army unit, can result in uncommon toughness and tenacity in combat.

Esprit de Corps and Pride

A well-trained, well-led military force will develop pride and esprit de corps. From esprit de corps comes cohesion and bonding. Leaders foster cohesion by ensuring that soldiers understand the unit's mission and its importance in the larger picture of national defense.

Leaders establish strong bonding with those entrusted to them by setting personal and professional examples of excellence and by unequivocal demonstration of their own commitment, competence, candor, and courage.

Every unit makes its unique contribution to the Army and every unit's mission is important to the Army's success. A unit that has esprit knows its own worth and its value to the Army.

When soldiers are motivated because of pride in themselves, the mission will be accomplished and unit effectiveness will be multiplied. Pride, as we demonstrate loyalty, duty, selfless service, and integrity--the Army ethic--is essential to building unit esprit and to maintaining an effective fighting force.

In Summary

The Army's fundamental purpose is to deter war and if deterrence fails, to gain victory on the battlefield. To be able to deter war, the Army must maintain trained and ready forces, either forward deployed or capable of rapid deployment. In the event of major hostilities, rapid expansion by both Active and Reserve Components will be required.

The Army's role is to gain victory on the battlefield through the swift, overwhelming application of maximum available combat power. This destructive act must be focused so as to insure the stability of the peace which must follow. We must at all times keep clearly in mind the ends for which we are fighting.

The Army may also be called upon to perform a variety of diverse missions in non-hostile environments. These tasks contribute to securing our national interests, promote the

maintenance of peace, and require the same level of professional execution as demanded in a hostile environment.

The Army must be a value-centered institution with a moral justification rooted in the fundamental principles cherished by all free people, and manifested in the values stated in our Constitution. The Army must be composed of professionals who understand and practice the soldier values and who support individual values of courage, commitment, candor, and competence.

The challenge facing the Army today is that somewhere, sometime, the success or failure of critical national policies will once again rest on the professionalism of well-trained, well-led soldiers. The Army of the United States of America must stand ready to meet that challenge.

EXTRACTED FROM FM 100-1.

Chapter 3

JOINT ETHICS REGULATION

Prior to 3 February 1993, the Army's Standards of Conduct were contained in AR 600-50. It was superseded by the DoD Joint Ethics Regulation (Directives 5500.7 and 5500.7-R), effective on 30 August 1993.

The Joint Ethics Regulation (JER) includes DoD professional ethics and standards of conduct. It replaced AR 600-50 as the Army source for specific guidance on standards of conduct.

The JER applies to officers, enlisted soldiers and DA civilian employees. It applies to members of the Army Reserve when on duty and members of the Army National Guard under certain circumstances.

The JER requires that ethics counselors be attorneys, and specifies an investigative role for IGs.

The JER lays out overall individual responsibilities to abide by ethical standards, set a personal example, report suspected violations of the JER and facilitate government efficiency and economy.

The JER requires those subject to it to attend ethics and procurement integrity training as required, file financial and employment disclosure reports as required and attend annual training.

Standards

**NOTE: These standards are extracts from the JER.
Use the actual JER when working a case.
Quotes are in italics.**

GIFTS BETWEEN DoD EMPLOYEES

(page 23)

1. GIFTS FROM A GROUP THAT INCLUDES A SUBORDINATE:

Regardless of the number of DoD employees contributing to a gift or gifts on a special, infrequent occasions . . . a DoD employee may not accept a gift or gifts if the market value exceeds an aggregate of \$300 and if the DoD employee knows or has reason to know that any member of the contributing group is his subordinate.¹

Add the following new subsection after 2-203(a)(2):

(3) Notwithstanding the \$300 limitation of section 2-203 of this regulation, gifts from a group that includes a subordinate may exceed \$300 if:

- (a) They are appropriate for the occasion,*
- (b) They are given on a special, infrequent occasion that terminates the subordinate-official superior relationship, such as retirement, resignation, or transfer, and,*
- (c) They are uniquely linked to the departing employee's position or tour of duty, and commemorate the same.*

2. VOLUNTARY CONTRIBUTIONS:

. . . the nominal amount of a voluntary contribution that a DoD employee may solicit from another DOD employee for a group gift to the contributing employee's superior for any special, infrequent occasion shall not exceed \$10. A nominal amount for food, refreshments, and entertainment for the superior, personal guests of the superior and other attendees at an event to mark the occasion for the group gift may be solicited as a separate voluntary contribution not subject to the \$10 limit.

¹ In a Standards of Conduct Office Advisory Memo #97092, dated 8 Jan 97, the DOD Office of General Counsel announced that on 3 Jan 97, the Deputy Secretary of Defense approved a change to section 2-203(a) of DOD 5500.7-R, Joint Ethics Regulation. The amended regulation permits groups of employees to give gifts exceeding \$300.00 in value to a superior on special, infrequent occasions that terminate the superior-subordinate relationship if the gifts are appropriate to the occasion and are uniquely linked to the departing employee's position or tour of duty, and commemorate the same. The change became effective 3 Jan 97, and will be included in the next change to the JER.

COMMERCIAL ACTIVITIES

(page 66)

5-409. Commercial Dealings Involving DoD Employees. A DoD employee shall not knowingly solicit or make solicited sales to DoD personnel who are junior in grade or position, or to the family members of such personnel, on or off duty. In the absence of coercion or intimidation, that does not prohibit sale or lease of a DOD employee's non-commercial real property or commercial sales solicited and made in a retail establishment during off-duty employment. The posting of advertisement in accordance with Federal Government building management policies does not constitute solicitation for purposes of this section.

a. In the absence of coercion or intimidation, this does not prohibit the sale or lease by an individual of one's non-commercial personal property or real estate, and commercial sales made in a retail establishment during off-duty employment. Solicitation does not include advertisements posted in accordance with Federal Government building management policies.

b. This prohibition includes the solicited sale of insurance, stocks, mutual funds, real estate, cosmetics, household supplies, vitamins, and other goods or services.

c. Both the act of soliciting and the act of selling as a result of solicitation are prohibited. In both cases, however, a solicitation is necessary for a violation to occur. . . .

d. Personal commercial solicitations by the spouse of other household member of a DoD employee to those who are junior in rank, grade, or position to the DoD employee, may give rise to the appearance that the DoD employee himself is using his public office for personal gain. When a spouse or household member of a DoD employee engages in such activity, the supervisor of the DoD employee must consult an Ethics Counselor, and counsel the DoD employee that such activity should be avoided where it may:

- (1) Cause actual or perceived partiality or unfairness;*
- (2) Involve the actual or apparent use of rank or position for personal gain; or*
- (3) Otherwise undermine discipline morale, or authority.*

GAMBLING

(page 28)

a. A DoD employee shall not participate while on Federally owned or leased property or while on duty (for military members, this means, in this context, present for duty) for the Federal Government in any gambling activity prohibited by 5 C.F.R. 735.208 (reference (i)) except:

(1) Activities necessitated by a DoD employee's law enforcement duties;

(2) Activities by organizations composed of DoD employees or their dependents when transacted entirely among their own members and approved by the Head of the DoD Component or designee; or

(3) Private wagers among DoD employees if based on a personal relationship and transacted entirely within assigned Federal Government living quarters and within limitations of local laws.

PERSONAL PARTICIPATION IN NON-FEDERAL ENTITIES

(page 38)

3-300. Participation

. . . Subject to other provisions of this Regulation, DoD employees may voluntarily participate in activities of non-Federal entities as individuals in their own personal capacities provided they act exclusively outside the scope of their official position. . . .

. . . Agency designees may permit their DoD employees to voluntarily participate in the activities of non-profit professional associations and learned societies without being charged leave and to use Federal government equipment and administrative support services to prepare papers to be presented at such association or society events or to be published in professional journals . . . when:

(1) The participation or paper is related to the DoD employee's official position or to DoD functions, management, or mission; and

(2) The participation or preparation of the paper does not interfere with the performance of official DoD duties.

3-305. Use of Federal Government Resources

a. Authorized Uses Other than Federal government time authorized (above) Federal Government assets, employees, or property may not be used in support of personal participation of non-Federal entities, except as follows:

(1) Agency Designees may permit occasional use of Federal Government telephone systems

(2) . . . the use of office telecommunications equipment for local calls, work processing equipment, libraries and similar resources and facilities whose use will not affect Federal Government costs significantly, may be permitted by the Agency Designee if:

(a) The non-Federal entity is not a prohibited source;

(b) The Agency Designee determines that:

1 A legitimate public interest is served.

2 The use would enhance the professional development or skills of the DoD employee in his current position.

(c) The use of such resources is made only during personal time, such as excused absence, lunch period, or after duty hours; and

(d) The use does not interfere with the performance of official duties.

b. Prohibited Uses

(1) Because of the potential for significant cost to the Federal Government and the potential for abuse, DoD employees such as secretaries, clerks, and military aides may not be used to

support the unofficial activity of another DoD employee in support of non-Federal entities except as provided in subsection 3-300.b. of this Regulation, above.

(2) For the same reasons, copiers and other duplicating equipment may not be used for unofficial activity in support of non-Federal entities.

USE OF TELEPHONE SYSTEM

(page 27)

a. The use of Federal Government telephone systems (including calls over commercial systems which will be paid for by the Federal Government), . . . shall be limited to the conduct of official business. (except)

b. Personal calls (such as calls to speak to spouse/minor children or to arrange for emergency repairs to residence or automobile) that must be made during working hours over the commercial/long distance network may properly be authorized as being in the best interest of the Federal Government if the call is consistent with the following criteria:

(1) It does not adversely affect the performance of official duties by the DoD employee or the DoD employee's organization;

(2) It is of reasonable duration and frequency, and

(3) It could not reasonably have been made at another time;

(4) And, in the case of long distance calls, is:

(a) Charged to the employee's home telephone number or other non-Federal Government number (third number call);

(b) Made to an 800 toll-free number;

(c) Charged to the called party if a non-Federal Government number (collect call);

(d) Charged to a personal telephone credit card; or

(e) When traveling for more than one night on Federal Government business in the United States, a brief call to his residence to notify family of a schedule change.

FUND-RAISING AND MEMBERSHIP DRIVES

(page 35)

a. Except as provided in subsection 3-211 of this Regulation, below, DoD Components shall not officially support and DoD employees shall not officially endorse or officially participate in membership drives or fund-raising for any non-Federal entity except the following organizations which are not subject to the provisions of subsection 3-211 of this Regulation, below:

(1) The Combined Federal Campaign (CFC);

(2) Emergency and disaster relief appeals approved by the Office of Personnel Management (OPM);

(3) Army Emergency Relief;

....

(6) Other organizations composed of DoD employees or their dependents when fund-raising among their own members for the benefit of welfare funds for their own members when approved by the head of the DoD Component command or organization.

SUPPORT OF NON FEDERAL ENTITY EVENTS

(page 36)

a. The head of a DoD Component command or organization may provide DoD employees in their official capacities as speakers, panel members or other participants, or, on a limited basis, the use of DoD equipment (and the services of DoD employees necessary to make proper use of the equipment), in support of an event sponsored by a non-Federal entity when the head of the DoD Component command or organization determines all of the following:

(1) The support does not interfere with the performance of official duties and would in no way detract from readiness;

(2) The sponsoring, non-Federal entity is not affiliated with the CFC (including local CFC) or, if affiliated with the CFC, the Director OPM or designee has no objection to DoD support of the event;

(3) The community relations with the immediate community and/or other legitimate DoD interests are served by the support;

(4) It is appropriate to associate DoD, including the concerned Military Department, with the event;

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

(6) The DoD Component command or organization is able and willing to provide similar support to similar events that meet the criteria sponsored by other non-Federal entities;

(7) The use is not restricted by other statutes or regulations; and

(8) Except for a fundraising event that meets all other criteria for DoD participation, no admission fee beyond reasonable costs is charged for the event, no admission fee beyond reasonable costs is charged for the portion of the event supported by DoD, or DoD support to the event is incidental to the entire event in accordance with public affairs guidance.

b. Involvement of DoD resources in air shows sponsored by non-Federal entities is approved or disapproved by the Office of the Assistant Secretary of Defense (Public Affairs).

c. 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 in accordance with public affairs guidance.

HONORARIA

(page 32-4)

5 CFR 2636, SUBPART B

GENERAL STANDARD

An individual may not receive any honorarium while that individual is an employee.

DEFINITIONS

(a) Honorarium means a payment of money or anything of value for an appearance, speech, or article.

(b) Appearance means attendance at a public or private conference, convention, meeting, hearing, event, or gathering and the incidental conversation and remarks made at the time. Unless the opportunity was extended to the employee wholly or in part because of his official position, the term does not include performances using artistic, athletic or other such skill or talent or primarily for the purpose of demonstration or display.

(c) Speech means an address, oration, or other form of oral presentation, whether made in person, recorded, or broadcast. Unless the opportunity was extended to the employee wholly or in part because of his official position, it does not include the recitation of scripted material, as for a live or recorded theatrical production or any oral presentation that is an incident of any performance that is excluded from the definition of an appearance in paragraph (b) of this section. It does not include the conduct of worship services or religious ceremonies.

(d) Article means a writing, other than a book or chapter in a book, which has been or is intended to be published or republished in a journal, newspaper, magazine or similar collection of writings. The term does not include works of fiction, poetry, lyrics, or script.

NOTES:

Honoraria does not include:

- Meals or other incidents of attendance (waiver of fees).
- Travel expenses.
- Actual expenses for typing, editing and reproduction.
- Salaries, wages and compensation paid on a continuing basis (newspaper reporter salary, for example).
- Compensation for teaching a course involving multiple presentations.
- Payment for a series of three or more related appearances, speeches or articles provided that the subject matter is not directly related to the employee's official duties.

TRAVEL BENEFITS

(page 45)

4-201. *Examples of Benefits Considered Federal Government Property*

a. *Frequent Flyer Mileage Credits.* Frequent Flyer mileage credits earned as a result of official travel are the property of the Federal Government. They shall not be used except in connection with official travel. . . .

b. *Other Awards to Users of Travel Services.* Travel companies sometimes give away merchandise, or award points toward merchandise or other prizes, to users of their services. If the travel services used are paid for by the Federal Government, any resulting award belongs to the Federal Government. . . .

4-202. *Examples of Benefits Treated as Gifts to an Individual*

a. *Travel Upgrades.* . . . DoD employees on official travel may accept benefits such as an airline seat upgrade to first class, a luxury rental car in place of a compact, or a hotel room with a view instead of an interior room as long as there is no extra charge to the Federal Government to obtain the upgrade . . . subject to the following:

(1) *On the Spot Upgrades.* DoD employees may accept an upgrade offered on the spot under circumstances in which such upgrades are generally available to the public or at least all Federal Government employees or all military members. . . . No upgrade may be accepted, however, if it is provided on the basis of the DoD employee's grade or position. Upgrades resulting from involuntary "bumping" while on official travel may not be used for personal travel.

(2) *Use of Upgrade Certificates (Other Than Those Obtained for Frequent Flyer Miles).* Some travel companies distribute coupons for free travel upgrades as a promotional offer. DoD employees may accept and use such coupons if they are realistically available to the general public (e.g., widely available coupons usable by the bearer) or to all Federal Government employees or all military members (e.g., coupons available to any Federal Government employee for official travel). DoD employees may not use coupons provided on the basis of their grade or position.

(3) *"Gold Card" or Similar Memberships.* Certain airlines offer special benefits, including free upgrades, to member of their traveler incentive programs (e.g., Gold card, Key club, etc.) Membership in these programs ordinarily is earned by accumulating a large number of travel miles during the current calendar year, or in some cases, memberships may be purchased. DoD employees who obtain eligibility under these circumstances (i.e., by purchasing a membership with their personal funds or by accumulating the necessary miles, even by official travel) may accept membership and resulting benefits, including travel upgrades. If membership in the program is offered to DoD employees who have not met the usual requirement for membership, however, primarily because of the DoD employee's grade of position, neither membership nor its benefits may be accepted.

c. *Prizes in "Open" and "Closed" Contests.* When travel companies and related organizations offer prizes in a competition that is open to the general public, so that no one must perform official travel to win, a DoD employee may keep any prize he wins, even if he happened to enter the contest only because of official travel. . . . If competition for a prize is limited to individuals using a certain kind of travel accommodation, which in the case of the DoD employee is paid for by the Federal Government, any prize won belongs to the Federal Government. . . .

d. Incentives for Voluntary Surrender of Flight Reservations. DoD employees may keep payments or free tickets received from a carrier for voluntarily giving up a seat on an overbooked flight. DoD employees on official travel may not voluntarily surrender their seats if the resulting delay would interfere with the performance of duties. The delay may not increase the cost to the Federal Government. Therefore, travel vouchers should disclose the voluntary surrender and resulting delays and leave must be taken as appropriate.

PRINCIPLES OF ETHICAL CONDUCT

(Executive Order 12674 - Page 150-1)

Public service is a public trust requiring employees to place loyalty to the constitution, the laws, and ethical principles above private gain.

Employees shall not hold financial interests that conflict with the conscientious performance of duty.

Employees shall not engage in financial transactions using nonpublic Government information and allow improper use of such information to further any private interest.

An employee shall not, except pursuant to such reasonable exceptions as are provided by regulation, solicit or accept any gift or other item of monetary value from 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.

Employees shall put forth honest effort in the performance of their duties.

Employees shall make no unauthorized commitments or promises of any kind purporting to bind the Government.

Employees shall not use public office for private gain.

Employees shall act impartially and not give preferential treatment to any private organization or individual.

Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.

Employees shall report waste, fraud, abuse, and corruption to appropriate authorities.

Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those such as Federal, State, or local taxes that are imposed by law.

Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, or handicap.

Employees shall endeavor to avoid any action creating the appearance that they are violating the law or the ethical standards promulgated pursuant to this Order.

MINI VIGNETTES

THESE MINI VIGNETTES WILL BE USED DURING CLASS TO EXAMINE HOW THE JER APPLIES TO PARTICULAR SITUATIONS.

Determine the standards of conduct issues in the following mini-vignettes.

1. A CSM coordinates a farewell gift for his departing division commander. The gift is a crystal punch service. Each battalion's NCOs will contribute a single crystal setting (cup and saucer) while the headquarters NCOs contribute the bowl and ladle. The total cost of the service is \$1000.
2. A general officer traveling on official status in uniform is invited to move up to first class by the flight attendants of a commercial airline flight. The flight is not overbooked.
3. A major traveling in uniform is "bumped" to first class on an overbooked flight. She is on official status. Enlisted soldiers are traveling in her party. They are not bumped.
4. A contractor conducts a program review for military and DoD civilian procurement officials at his plant. The contractor serves refreshments and lunch to the officials. The cost of the meals is less than \$20 per person.
5. An officer is TDY to CENTCOM Headquarters in Tampa. His official duty lasts through parts of two weeks. Over the weekend he drives his rental car to Orlando to visit Disney World.
6. An officer uses the PC in his office to prepare his resume. He prints the resume on the office laser printer and reproduces it on the office copier.
7. An officer is scheduled to travel on TDY to Washington. He uses E-Mail to coordinate dinner arrangements with several old friends who live in the DC area.
8. A contractor has a display at the AUSA annual meeting. When members of the Program Manager's office visit his display, he gives them baseball hats and belt buckles with either the corporate or weapon system logo. The hats and belt buckles are worth less than \$20.
9. A General Officer asks his secretary to make reservations for personal travel and lodging he will need for leave he will take in conjunction with a TDY trip. He also asks her to make reservations for his wife who will accompany him on both official and personal travel.
10. An automobile manufacturer offers a special discount to military members who purchase his cars. Similarly, Baretta offers a discount to military members who purchase their 9mm pistols.
11. A division chief of staff at staff call encourages a good turn out at the AUSA prayer breakfast scheduled for the following day.
12. A division commander sends an E-Mail message to his subordinate commanders encouraging them to support the officers' club membership drive.
13. A division commander in Europe must host a large number of official social events. He arranges for his enlisted aide to attend a French cooking school at government expense.

14. A general officer arranges to travel TDY to Fort Monroe for official business on 3 July. He remains over the 4th of July weekend on leave visiting family at the Ft. Story guest cottages. The next 4th of July he does the same thing.
15. An SES transfers from Atlanta to Washington. His family remains in Atlanta. During the next year he travels extensively on TDY. On 26 occasions he travels to Atlanta on Friday, remains in Atlanta in a non-duty status on Saturday and Sunday, and continues on his official travel on Monday. The government accrues no additional cost because of the delays.
16. A colonel's wife is a successful real estate agent in the local community. Military sponsors frequently refer incoming personnel to her when on-post quarters are not available.
17. Several colonels, a general, and an aide travel from a TRADOC installation travel on official status to the AUSA annual meeting in Washington. The general gives a speech to a panel on the 2d day of the convention.
18. A general is scheduled to give a keynote address to an American Defense Preparedness Association meeting. He has one of his staff officers prepare the speech. He has his secretary type his notes. He attends the event in an official status.
19. An shop employee at an AMC installation occasionally is required to make plaques or other similar mementos for visiting dignitaries or departing senior officers and civilians.
20. An installation commander allows the Armed Forces Communications Electronics Association to hold a local chapter symposium at the officers' club. Many civilian contractors are invited and attend. The commander coordinates several displays of division communications equipment which are set up in the club parking lot and manned by soldiers.
21. An officer assigned to HQDA travels extensively on official business. He saves his frequent flyer mileage until he retires and then (since he is no longer affiliated with the government) uses it for personal travel.
22. An installation travel office automatically upgrades the installation commander when he conducts either personal or official travel. These upgrades are complimentary because of the volume of business. There is no cost to the government.
23. An officer's wife owns and manages a local PX concession. The officer occasionally uses his office telephone to order supplies for her.
24. The officer wives' club at Fort Von Steuben planned to host an art auction to make money for their organization. To attract participation, they advertised the raffle of a door prize during the auction. A general officer from another installation (a friend of the Fort Von Steuben commander) recommended a civilian company to conduct the auction because he knew the owner and believed him to be a "straight shooter."
25. Because the commanding general has a busy official schedule, the starter at the installation golf club routinely adjusts other members' starting times to fit the general in on Saturday mornings.
26. A reserve general officer commands an organization that has its headquarters in a large city. Occasionally when the general comes to the headquarters on business his wife comes with him. As a courtesy, the general's secretary takes the wife shopping while he conducts business. The general, who never asks or directs the secretary to perform this service, appreciates it.

27. The mayor of a local community telephones the installation commander and inquires about the possibility of his son obtaining a part time summer job on the installation. The installation commander calls the DPCA who runs the summer hire program and requests the DPCA contact the mayor. The mayor's son receives a job in the recreation services division.