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WESTERN REGIONAL ETHICS ADVISORY

Subj: GIFT ACCEPTANCE PROCEDURES FOR FAMILY READINESS OFFICERS

Ref: (a) Standards of Ethical Conduct for Employees of the
Executive Branch, 5 C.F.R. Part 2635
(b) DoD 5500.07-R of 17 November 2011

1. Background. As a result of interest in supporting our service members, many individuals and organizations have offered gifts to the Department of Defense (DoD), military personnel, and their families. Consequently, various issues have arisen with Family Readiness Officers (FROs) and their capacity to receive gifts on behalf of service members. Confusion also exists in the area of promoting free events and services to military members. This memorandum is provided for clarification of these rules.

2. Purpose. To assist Family Readiness Officers (FROs) in identifying ethical issues that arise as a result of individuals and organizations offering gifts and promotions to the Department of Defense (DoD), military personnel, and their families.

3. General Guidelines. The purpose of restrictions on gift procurement and endorsement of promotions by federal employees is to prevent conflicts of interest and to preserve the public's confidence in government integrity.

4. What Are Gifts? Per reference (a), the term "gift" includes: "Any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or any other item having monetary value, service, and gifts of training, transportation, travel, lodging, and meals."

5. Gifts and Promotions That Are Always Acceptable. As a FRO you may always accept these gifts and promote the following:

a. Unsolicited Gifts to All Service Members. "Covered DoD service members," including their families, may accept unsolicited gifts from non-Federal sources. An unsolicited gift is one that was not sought after, coerced, or requested. The gift must be freely given and open to *all service members* or the public in general. An example would be the San Diego Padres offering free admission to all service members and their families to a baseball game.

b. The Coffee and Donut Rule. Some items are not considered to be gifts. Covered in this exception are modest items of food and refreshments, such as soft drinks, coffee, donuts, light snacks, greeting cards and items with little intrinsic value such as plaques, certificates and trophies which are intended solely for presentation.

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c. Other Allowable Gifts. FROs may also distribute information on opportunities and benefits, including favorable rates and commercial discounts available to the public and to large groups such as all uniformed military personnel (even if geographically restricted). The essential element in determining whether a FRO can promote these activities is whether or not the activity limits eligibility base on rank, sex, age, or official responsibility. Contests open to the public or all military personnel are also acceptable. Examples include a random drawing open to all military personnel for a seven day vacation in Hawaii.

d. MCCS Sponsored Giveaways. FROs may endorse all MCCS sponsored giveaways as there is no conflict of interest or impropriety. If the Marine Exchange were having a Super Bowl party giveaway drawing it would be acceptable for a FRO to promote the giveaway to a unit.

6. Gifts That A FRO Can Never Accept Or Promote.

a. Solicitation. A FRO may never solicit gifts from any Non-Federal Entity (NFE). An example would be a FRO calling the United Service Organizations (USO) and requesting that they provide care packages for Marines in the FRO's unit. Additionally, promotions that require military members to fill out an application in order to receive offered gifts are equivalent to solicitation and therefore may not be promoted by FROs. A promotion requiring military personnel to fill out an application on a website for free airline tickets that selects winners not on a first come, first serve, or on a random basis would trigger the solicitation prohibitions.

b. Endorsement of NFEs. Per reference (b), a FRO is prohibited from promoting gift giveaways that either directly state or imply DoD endorsement of NFEs, including commercial entities, charities, and NFEs that contain active duty Marines. This situation could arise if a FRO distributed information on a giveaway from one NFE which he or she preferred over a second similarly situated NFE that he or she did not prefer to the same extent.

c. Gifts That Target a Certain Group. FROs are always prohibited from receiving or promoting gifts that benefit those with higher rank or official responsibilities. Examples include promotions that are only for officers or for those with a specific MOS.

d. Quid Pro Quo. FROs are prohibited from endorsing or accepting any gift where a benefit is promised in exchange. For example, a FRO would be prohibited from promoting an event for the YMCA where the YMCA promised a free year membership in exchange for promoting its event.

e. Additional Prohibited Gifts. FROs should not accept a gift in return for being influenced or accept gifts from the same or different sources so frequently that a reasonable person would question their integrity. A FRO should never accept a gift that would place the public's trust in question. An example would be a FRO receiving promotional gift from Under Armour for several events leading to the appearance that Under Armour was acting as an official sponsor. Another example would be a grocery store giving away free turkeys to service members contingent on them taking a photo in uniform with the store manager which could lend to an appearance of preferential treatment for service members. Per reference (a), a FRO may not accept vendor promotional training. An example of this would be if Apple decided to donate iPads to all service members. FROs would be prohibited from accepting iPad training from Apple.

7. Situations Which Require FROs to Contact the Staff Judge Advocate (SJA) Office.

a. Gennerally. FROs should contact the Staff Judge Advocate (SJA) anytime they have a question or are unsure about a gift. The SJA will provide the FRO with guidance on whether the gift is acceptable or not.

b. Gifts to a Specific Individual or Small Group. FROs should always contact the SJA when the FRO is approached about a gift for a specific individual or a select group. This includes awards to individuals other than plaques and trophies. In some special instances, gifts to select groups are permissible, but only after an SJA has provided an ethics opinion and evaluated the facts. Possible acceptable group examples could include all members in a particular unit; all personnel who responded to a particular disaster or all personnel injured in a particular disaster or event. Per reference (a), gifts to an entire unit usually must be approved by the CO or higher authority as gifts to the Marine Corps and SJA review is required in such cases.

c. Wounded Warriors. Wounded Warriors have their own set of guidelines; contact the SJA when gifts concern Wounded Warriors.

8. Recommendation. For further clarification or to determine whether an exemption or exception applies in a specific situation, contact the unit's Office of the Staff Judge Advocate.


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