

## Information Paper

SUBJECT: DoD Support of and Participation in Military Balls

1. PURPOSE. To provide information concerning the rules governing DoD support for Military Balls, including fundraising and the use of DoD assets.

2. FACTS.

a. The two primary references governing support of Military Balls are Department of Defense Directive 5500.7-R, Joint Ethics Regulation (JER), and 5 Code of Federal Regulations (CFR), Part 2635.

b. Official or Unofficial Event. Military Balls are an important part of building unit cohesion in a professional setting with military spouses and honored guests. Several ethics and fiscal law rules govern how DoD personnel and assets can be used to support Military Balls. Government resources, including personnel, equipment, and property, may only be used for “official purposes.” Official purposes are those specifically provided for by law or are essential for successful completion of a DOD function, action, or operation. Military Balls, as a general rule, are unofficial events because they are not essential for the success of the organization. If a Military Ball is an “official event,” no fundraising can occur on its behalf, no gifts can be given, no entertainment can be purchased, and all costs incurred must be borne by the Army. For that reason, even though the great majority of attendees are in uniform or affiliated with the military, Military Balls are usually “unofficial events” sponsored by private organizations. Accordingly, DoD appropriated funds, logistical support, and personnel should not be used to support the Ball except as explained below.

c. Specific Issues.

(1) Fundraisers to Support a Military Ball. DoD personnel, in their official capacity, cannot solicit or accept gifts to support a Military Ball (5 CFR 2635.202). The JER permits DoD personnel to voluntarily participate in Military Ball fundraising activities in their personal capacities as long as they act outside the scope of their official positions (5 CFR 2635.202). From a practical standpoint, it is best that a Private Organization (PO) such as the Armor Association or the Armor Ball Association sponsor a Military Ball. When a PO sponsors the event, a large number of ethics issues are avoided. There is generally no prohibition on a PO or its members voluntarily soliciting gifts.

(2) The Unofficial Nature of the Event. DoD personnel cannot be required to attend the unofficial portions of a Military Ball unless they are to perform official duties there, such as being a member of a color guard or military band. Members may be required to attend the “official” portion of the event, but cannot be required to pay for a ticket. In most Military Balls, the “official” portion of the event is rather short and limited to the time the guest speaker is speaking.

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(3) Guest Speakers. The presence of a guest speaker attending a Military Ball in an official capacity does not render the entire event an official event. While the guest speaker may be acting in an official capacity while delivering a scheduled speech, this action is insufficient to justify designating a Military Ball as an official event. If there is a DoD guest speaker who attends in an official capacity, and he or she delivers an official speech, that speaker may appear in uniform. Personnel who normally travel with the speaker, such as security personnel and aides, may also officially attend. That portion of the event in which a speaker is acting in his or her official capacity is the “official” portion of the event and can be supported by appropriated funds and government personnel on duty. The remaining portions of the event are “unofficial.”

(4) Gifts to Guest Speakers. A DoD employee cannot accept a gift from a subordinate in excess of \$10. Appropriated funds cannot be used to purchase gifts or presentation items for guest speakers. A DoD employee cannot accept a gift from a “prohibited source” valued in excess of \$20. A prohibited source is any person or organization that does, or seeks to do, business with the DoD, conducts activities regulated by the DoD, or has interests that may be affected by the performance of a DoD employee in their official duty. Due to the quasi official nature of a Military Ball, a PO involved in sponsoring or supporting the ball is a prohibited source. A representative of a PO can, however, present a “presentation item” to a guest speaker if the item meets the requirements below. A presentation item such as a plaque, certificate, or trophy can be accepted by a DoD guest speaker if the item has “little intrinsic value,” or is not worth more than \$20. If the guest speaker is not a DoD employee, this restriction is not applicable. Coordination should be made with the guest speaker, however, to determine if his or her agency or employer has restrictions on accepting a gift or presentation item.

(5) Lodging for Guest Speakers. If a guest speaker is a DoD employee, then any lodging arranged or provided to the guest speaker by a prohibited source, including a PO sponsoring a Military Ball, in excess of the federal lodging rate for the area, is an improper gift. The only exception to this rule is if a government ethics counselor determines in writing that the lodging is “comparable in value to that offered to or purchased by meeting attendees.” 41 CFR 304-5.4. Accordingly, if a PO is given “comp” credit for booking a large number of rooms, the PO cannot then use that “comp” credit to provide the visiting DoD guest speaker or another DoD employee a room of greater value than that purchased by other Military Ball attendees. A DoD employee attending the Military Ball in their personal capacity cannot accept a complimentary room provided by a prohibited source such as a PO sponsoring the Military Ball, or other POs who do, or seek to do, business with the Army, unless use of the room was won in a random drawing.

(6) Limited Logistical Support for Military Balls. In spite of the general prohibition on the use of government resources for unofficial purposes, JER paragraph 3-211 permits the use of appropriated funds and DoD personnel to provide limited logistical support to unofficial events. In the case of Military Balls, that support includes: 1) providing audio/visual equipment; 2) tasking DoD personnel to operate the audio/visual equipment and assist in the planning of the event; 3) tasking DoD personnel to participate in the ceremonial portions of the event (color guard,

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ceremonial cake-cutting, providing a military band to provide music), and 4) disseminating information about the event through unit or PAO channels.

(7) Entertainment, Non-Military Band Music, and Photographer. Appropriated funds cannot be used to hire an entertainer, disc jockey, or photographer for a Military Ball (64 Comp. Gen. 802, U.S. Comp. Gen. 1985). A PO may, however, contract for these services.

(8) Transportation. When an agency determines that personnel will attend a Military Ball to perform an official function, those personnel may use government transportation. Those personnel attending in their personal capacities must use personal transportation. Government vehicles cannot be used to support a "DUI" prevention plan. Recommended options include: the PO sponsoring the event coordinating transportation, units attending the ball preparing designated driver plans, or servicemembers staying overnight at the location of the ball rather than driving home.

(9) Door Prizes. DoD personnel in their official capacities cannot solicit door prizes from area businesses which seek to do business with the Army, or from POs. These are "prohibited sources." Accordingly, no solicitation should be sent to businesses on unit letterhead. A PO may, however, solicit door prizes or other items from a prohibited source. DoD personnel may accept door prizes at a Military Ball if the awardee is selected from a random drawing, and the Military Ball is open to the public. 5 CFR 2635.203(b)(5).

(10) Government Printing of the Military Ball Program. The use of government printing is permissible for official functions or events. Accordingly, the portions of the Military Ball program relating to official functions or events including, but not limited to, guest speaker biographical information, may be printed using government assets. Government printing of those portions of the program recognizing a PO, a hotel or other non-government source, or recognizing non-federal entities that contributed to support the Military Ball, is improper. This information could, however, be printed from a non-government source, and be included as an insert in the Military Ball program if an appropriate disclaimer is included.

(11) AUSA or other PO Displays. The JER, paragraph 3-211, prohibits DoD components or organizations from granting any preferential treatment to a PO or prohibited sources. Accordingly, "displays" by POs are inappropriate if only select POs are permitted displays, if DoD personnel are used to set them up as part of their duties, or if appropriated funds are used to transport them. PO displays are permissible if no preferential treatment is involved and the PO sets up its own display.

(12) Appearance Concerns. Caution should be used when an event includes both official and unofficial functions to ensure that there is no appearance of impropriety. DoD personnel are to avoid even the appearance of impropriety. Events involving the coupling of official and unofficial

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functions are especially susceptible to negative appearance issues. Accordingly, every effort should be made to ensure the demarcation between the official and unofficial portions of the event is clear.

3. POC is the Military Law & Ethics Division, 4-7414/4668.

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