

SOCO ADVISORY

**Department of Defense
Office of General Counsel
Standards of Conduct Office**

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Special Edition: ETHICS REMINDERS DURING COVID-19 PANDEMIC

In this unprecedented time, many of us find ourselves living and working in a significantly altered environment. We may be working from home with new “co-workers” (e.g. family members also performing professional or school work remotely), working from deserted offices, or having to balance telework and family care obligations. In the midst of these unique circumstances, there are myriad ethics issues that may arise and we want to remind you that DoD ethics officials are available to assist you in avoiding any inadvertent violations of the ethics rules.

Please keep in mind that even though you may be working from home, the rules and policies that govern your official (and some personal) activities as Federal employees continue to apply. Here are a few of the rules to keep in mind:

1. Partisan Political Activities: Federal civilian employees may not engage in political activity (defined as an activity directed toward the success or failure of a political party, candidate for partisan political office or partisan political group) while in a federal workplace; while on duty; while using Government equipment; while wearing a Government uniform/badge; or while in a Government vehicle. (5 U.S.C. §§ 7321-7326; 5 C.F.R. Part 734)

During your scheduled telework hours, you are on-duty and you may not engage in political activity. Furthermore, you may never engage in political activity using your Government laptop, email, or phone, whether at home, in the office, or on a lunch break. Employees who may engage in political activity (“less restricted” employees) may engage in permissible political activity using their personal computer or phone as long as they are not on-duty and not in a federal workplace.

Please remember that “further restricted” employees, such as SES and political appointees, are prohibited from engaging in political activity as defined above. Further Restricted Employees include, Career SES/DISES, Political Appointees (other than Schedule C), Administrative Law Judges, Contract Appeals Board Members and employees at the National Security Agency, the Defense Intelligence Agency, and the National Geospatial-Intelligence Agency. Less Restricted Employees include all other employees, including Schedule C appointees. Per longstanding DoD policy, active duty personnel may not engage in partisan political activities.

More information can be found in the attached “Political Activities and the Hatch Act Guidance When Teleworking.”

2. Gifts: Many employees may experience a range of hardships due to the COVID-19 pandemic. Additionally, public support for our activities can lead to offers of gifts to Federal personnel or to DoD. For example:

- a. Gifts from Outside Sources: Employees on duty on the front lines, such as medical and relief workers, may be able to accept unsolicited gifts from the general public. Please remember to contact your local ethics official to determine whether you can keep these gifts or how to dispose of them otherwise.

Some employees, or their friends or family members on their behalf, may seek financial assistance from crowdsourced fundraising platforms such as GoFundMe. However, crowdsourced or web-based fundraising poses several ethical issues, such as misuse of position, improper solicitation, and acceptance of prohibited gifts. Given the potential ethical pitfalls, we encourage employees to consult with their ethics officials before any such campaign begins or immediately upon learning that a friend or family member might be crowdsourcing on your behalf.

- b. Gifts between employees: Employees may also want to help each other. However, remember that the ethics rules provide that employees cannot accept gifts from subordinates or from other officials paid less than they are, with very limited exceptions. (5 C.F.R. 2635.302 and 5 C.F.R. 3601.104)

- c. Gifts to DoD: Employees may receive offers of gifts to the Department, whether tangible items, services, to support our missions. If you receive such offers, remember that only certain officials in the Department can accept gifts on behalf of the Department. Contact your Component's legal office to determine the way forward. If you receive offers of travel related expenses, you must consult with your local ethics counsel and complete certain statutorily required documents prior to acceptance.

REMEMBER: You should NEVER solicit or ask for a gift for yourself or for the Department. Solicited gifts cannot be accepted.

More information can be found in the attached “Gift Issues During COVID-19 Pandemic.”

3. Outside Employment: Employees enduring hardship due to COVID-19 may decide to seek other employment. As a reminder, DoD regulations require that employees who file a financial disclosure report must seek prior written approval from their supervisor for outside employment with a prohibited source. A prohibited source is any entity doing or seeking to do business with the Department or otherwise seeking official action from the Department. (5 C.F.R. 3601.107) You should also remember that criminal statutes prohibit Federal employees from representing any non-federal person or entity back to the Government, with or without compensation, except in certain limited circumstances. Contact your local ethics official for more information.

4. Conflicts of Interest and Impartiality: With the response to the COVID-19 pandemic requiring concerted and rapid action, we must all remain vigilant to ensure that we are not participating in matters where we have a personal or imputed financial interest or where our impartiality might be questioned. As a reminder, the criminal conflict of interest statute prohibits you from participating personally and substantially in any matter where you, your spouse, or minor child have a financial interest. Interests also imputed to you include any organization where you serve as an officer, director, trustee, general partner or employee; and any person or organization with which you are negotiating or have an arrangement concerning prospective employment. If you become aware of a potential conflict, refrain from further participation and contact your local ethics official for more information.

The impartiality rule also provides that you should recuse yourself from working on matters that have a financial impact on persons or entities with whom you have a covered relationship, such as members of your household, a relative with whom you have a close personal relationship, or where a reasonable person with knowledge about the situation might question your integrity.

5. Use of Government Resources: Finally, remember to use your work time, equipment, and information only for official purposes, unless otherwise authorized. Most organizations have authorized some minimal personal use of such resources provided that the use does not involve additional cost to the Government, result in significant use of official time, reflect poorly on DoD, or otherwise negatively impact mission. Check with your local ethics counsel and supervisor if you have questions regarding the use of a particular Government resource. Remember that the equipment issuer likely also has rules about appropriate use, such as those contained in most DoD computer user agreements.

The information above is intended to assist you in identifying potential ethics issues and provide you with general guidance. You should reach out to your local ethics office if you have specific questions or concerns and for Component specific policies.

From everyone here at SOCO, we thank you for your dedication and service during these unprecedented times.

DISCLAIMER: The purpose of this advisory is to disseminate relevant information and sources of general guidance, policy and law on Government Ethics issues to the Department of Defense ethics community. Advisories are not intended to be and should not be cited as authoritative guidance, DoD policy, or law

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