



# **2024 Defense Health Agency (DHA) Make-up Annual Ethics Training**

**Laurie Rafferty –Ethics Official and Associate General Counsel, DHA**

# Welcome Message from the Director



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# Laurie P. Rafferty, J.D.

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- Laurie Powell Rafferty is an ethics attorney for the Defense Health Agency (DHA). She has held this position since 2009. Prior to DHA, Laurie was an ethics attorney for the U.S. Department of Commerce, the National Aeronautics and Space Administration, and the U.S. Office of Government Ethics.
- She has given numerous presentations on the Criminal Conflict of Interest Statutes and the Standards of Conduct regulation, and reviewed tens of thousands of financial disclosure reports.
- Laurie also practiced in the Employment and Labor Law area for the Defense Contract Audit Agency, the Resolution Trust Corporation, and the Commerce Department.
- Prior to her Government service, Laurie worked for a small, private law firm in Washington, DC. Laurie graduated from the College of William and Mary in Virginia with an AB in English, and the George Mason University School of Law with a JD.
- She is a member of the Virginia, Maryland and District of Columbia Bars.



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# Disclosures

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- Ms. Rafferty has no relevant financial or non-financial relationships to disclose relating to the content of this activity.
- The views expressed in this presentation are those of the author and do not necessarily reflect the official policy or position of the Department of Defense, nor the U.S. Government.
- This continuing education activity is managed and accredited by the Defense Health Agency J-7 Continuing Education Program Office (DHA J-7 CEPO). DHA J-7 CEPO and all accrediting organizations do not support or endorse any product or service mentioned in this activity.
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- Commercial support was not received for this activity.



# Learning Objectives

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At the conclusion of this activity, participants will be able to:

1. Articulate why gifts are an ethical issue.
2. Recognize a conflict of interest issue.
3. Comprehend that new DoD/DHA employees cannot participate on matters where their former non-Government employer is a party *for two full years*.
4. Discuss generally what conduct the Post Government Employment restrictions prohibit.
5. Summarize when to disqualify when seeking employment.



# Rules of Engagement



All microphones will be muted.



When possible, questions submitted in the Q&A panel will be answered during the training. For questions that are missed, the Ethics Branch will address the questions post the event, and will post the responses on the Ethics Resource page on infoHub.



- **Standard Attendance Credit/Certificate** – available on JKO 2 weeks post the event
- **CE/CME Credit/Certificate** - Visit <https://www.dhaj7-cepo.com/>





# What to Know First

- 1 We serve the people of the U.S. and uphold the Constitution; not ourselves.
- 2 Prioritize ethics in all decision making.
- 3 Ask before you act. Ethics Officials can provide safe harbor.
- 4 If you think there is an ethical concern, let your supervisors know. They want to hear about an issue before it becomes a problem.
- 5 If unsure and do not want to raise an issue to a supervisor, reach out to an Ethics Official.
- 6 We are in the middle of a partisan political election season. Partisan politics does not belong in the workplace.
- 7 If you think it is an ethical issue, it probably is....



# Topics in Ethics

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- Financial Conflicts of Interest
- Appearances of Bias
- Gifts, Bribes & Salary Supplementation
- Outside Employment & Activities
- Political Activities
- Misuse of Government Position & Resources
- Seeking Employment & Post-Government Employment





# 14 Principles of Federal Ethical Conduct

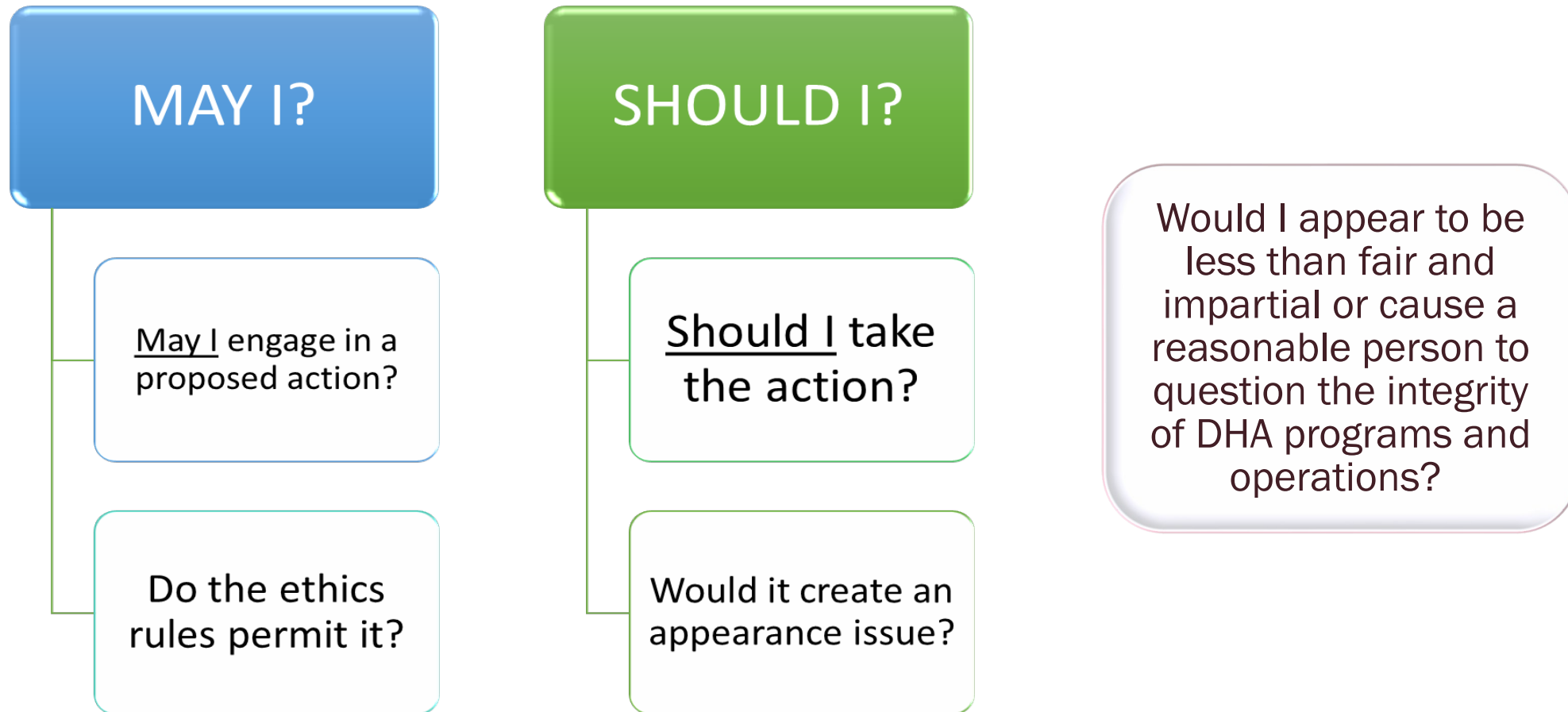
1. Public service is a public trust; place loyalty to the Constitution above private gain
2. Financial interests cannot conflict with official duties
3. Cannot use non-public information for private gain
4. No gifts from prohibited sources
5. Put forth honest effort in performance of your duties
6. No unauthorized promises to bind the Government
7. Cannot use public office for private gain
8. Act impartially and no preferential treatment
9. Protect and conserve government property and only use it for authorized purposes
10. No outside employment or job hunting that conflicts with your job
11. Duty to disclose waste, fraud, and abuse
12. Satisfy financial obligations in good faith
13. Uphold EEO laws and regulations
14. Avoid appearance of unethical conduct/violating the law or ethics regulations

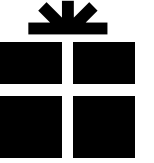


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# Ethical Decision Making





# Gifts from Outside Sources

**General rule:** Do not accept gifts (anything of value) given because of your official position or from a *prohibited source*. 5 C.F.R. § 2635.201.

**What is a prohibited source?** A prohibited source is any person who does business with the DHA/Department of Defense (DoD) or seeks to do business with the DHA/DoD, conducts activities regulated by the DHA/DoD; or is an organization, a majority of whose members are prohibited sources. 5 CFR § 2635.203(d).

It is never permissible to accept a gift in return for being influenced to make an official act – bribery. 18 U.S.C. 201 (Criminal Statute).

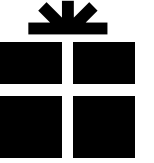




# Gifts from Outside Sources – Question 1

Tanya, a DHA Military Treatment Facility (MTF) pharmacist, attends a pharmaceutical conference. Tanya and a colleague, who works for a drug manufacturer, go to dinner. Tanya has known him for several years in a professional capacity. Her colleague offers to pay for their \$100 dinner. May she accept? **YES OR NO**





# Gifts from Outside Sources – Answer 1

We need to consider the following:

1. Is it a *gift*?
2. Given because of official position or from a prohibited source?
3. Should she accept the gift?
4. Is there an *exception* that would allow acceptance?

The Answer is NO.

- ✓ There is an exception that allows employees to accept gifts of \$20 or less, up to \$50 or less, in a calendar year from prohibited sources, but this does not fit because of value. 5 CFR § 2635.203(a).
- ✓ There is personal relationship exception, but even if Tanya considers her a friend, her primary relation with this person is professional and without other facts this does not meet that exception. 5 CFR § 2635.203(b).







## Gifts from Outside Sources – Question 2

Before attending the conference, Tanya is asked to speak and the conference sponsor, one of the manufacturers of a cancer drug, offers to pay for Tanya's hotel and airfare. May she accept?





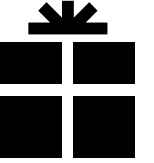


## Gifts from Outside Sources – Answer 2

Probably, *if* she seeks approval. Gifts of travel are a gift to the Government; not the employee. Requirements for gifts of travel:

1. May not be solicited.
2. Must be concurred on by an ethics official before traveling and approved by the deciding official.
3. Must be in the interest of the Government.
4. Cannot be for marketing purposes.
5. Traveler must not accept direct payments—it must be *in kind* or paid via check to the U.S. Treasury.
6. Travel must be reported semi-annually to Standards of Conduct Office (SOCO) and then Office of Government Ethics.



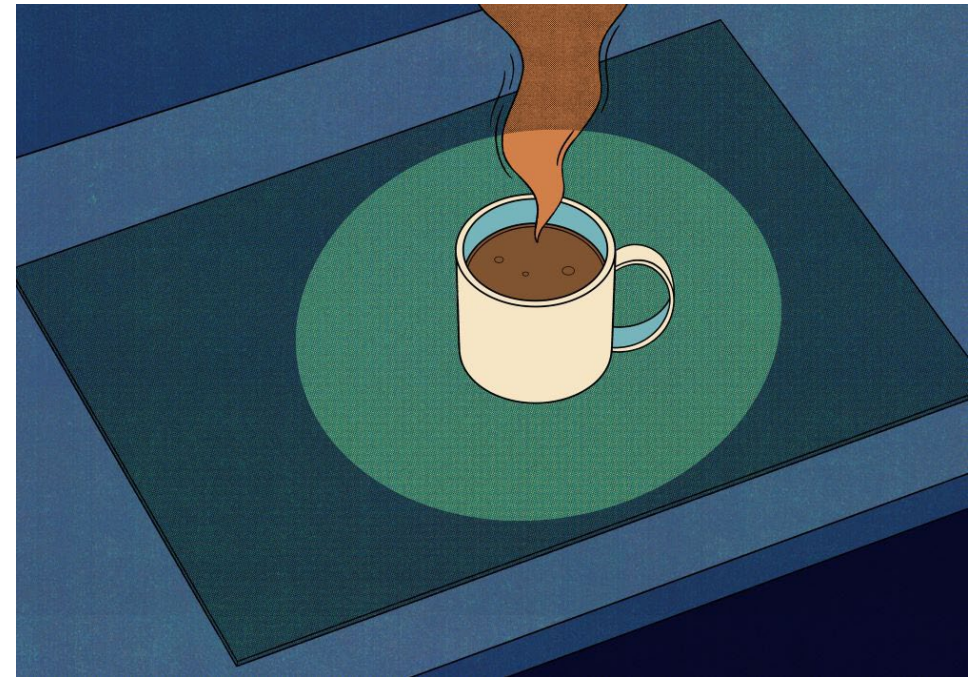


# Gifts from Outside Sources – Question 3

During the conference, Tanya passes display tables and picks up the following:

- \$15 coffee mug – Company X
- \$12 cell phone holder – Company Y
- \$19 deli lunch - Company Z
- Coffee and donuts at the vendor area

May she accept all or none?





# Gifts from Outside Sources – Answer 3

We need to consider:

1. Are the items *gifts*?
  2. Given because of official position or from a prohibited source?
  3. Should she accept the gifts?
  4. Is there an *exception* that would allow acceptance?
- ✓ She can use the \$20 gift exception: \$20 or less, up to \$50 in a calendar year from the same prohibited source.
  - ✓ She may accept the coffee and donuts as modest items of food and non-alcoholic refreshments, such as soft drinks, coffee and donuts offered other than as part of a meal are not considered gifts.





# Gifts Between Employees

## General Rule:

Employees cannot give, donate to, or ask for contributions for a gift to an official superior.

An official superior includes your immediate boss and anyone above your boss in the chain of command.

5 CFR § 2635.301.

## 2 Exceptions:

**Occasional Basis.** (holidays or birthdays)

- ✓ Non-cash gifts of up to \$10
- ✓ Personal hospitality provided at a residence
- ✓ Appropriate host/hostess gift or
- ✓ Food or refreshments shared in the office

**Special Infrequent Occasions.** (marriage, illness, birth of child)

- ✓ Gift that is appropriate to the occasion
- ✓ Group gifts that do not exceed \$480 are permitted (consult your ethics official when collecting for group gifts)





# Gifts Between Employees – Question 4

Doreen, a supervisor, is planning on retiring. Could her team get together and buy her a \$1,000 set of clubs?



If you find yourself in a similar situation, reach out to an ethics official!



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# Gifts Between Employees – Answer 4

We must evaluate it:

1. Is it a *gift*? YES
2. Is it given to a superior? YES
3. Is there an *exception* that would allow acceptance? No
4. What exception applies to retirement? Special Infrequent Occasion

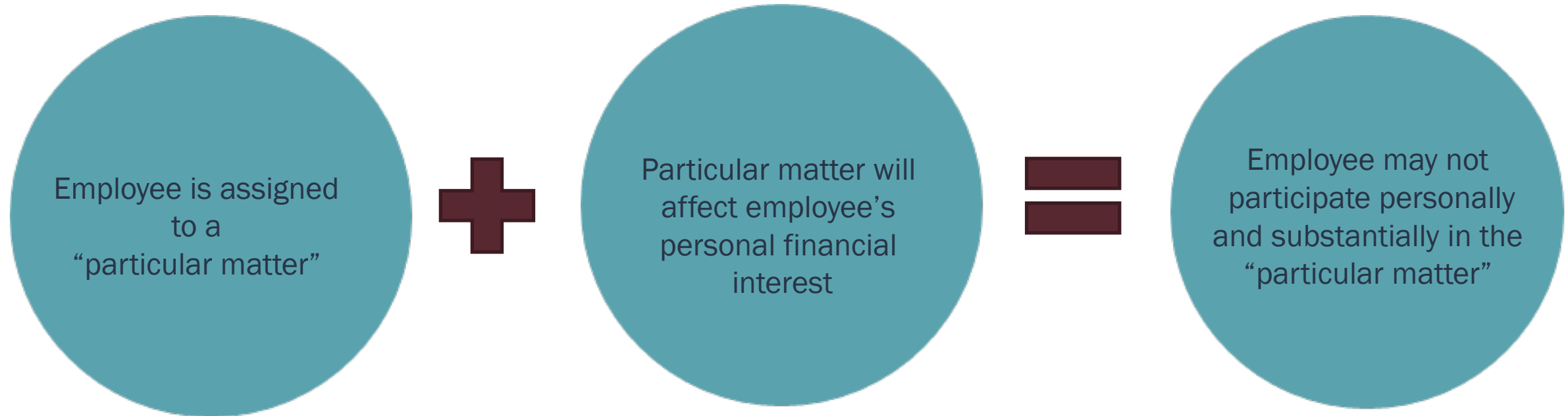
The answer is NO. Employees cannot pool together money for a gift for a supervisor that exceeds \$480. Always seek ethics advice for group gifts.







# Conflicts of Interest



The basic criminal conflict of interest statute, 18 U.S.C. § 208, prohibits Government employees from participating personally and substantially in official matters where they have a financial interest.





## Conflicts of Interest – Question 5

Bryan, a DHA MTF procurement officer, is about to award a contract for janitorial services. His wife owns a cleaning business that bid on the contract. Can Bryan participate in the procurement?

If you find yourself in a similar situation, reach out to an ethics official and your supervisor!





## Conflicts of Interest – Answer 5

No. Bryan may not take official action on a matter if he, his spouse, or his children have a financial interest that will be affected by the matter.

Their interests are imputed to him.

This would violate the conflict-of-interest criminal statute at 18 USC § 208 and the appearance of bias prohibition at 5 CFR § 2635.502.



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# Conflicts of Interest/Impartiality- Question 6

Chris, a Nurse Practitioner, is hired by a DHA MTF after working for University Medical Center (UMC). He learns that UMC has several training agreements in place with the MTF. A year after starting with DHA, Chris is tasked to review the renewal agreement with the UMC and determine how many MTF nurses should participate in the training.

Is there an issue with Chris making decisions at DHA that affect his former employer?





# Conflicts of Interest/Impartiality- Answer 6

Chris must recuse himself from matters involving his former employer.

- ✓ Chris has a covered relationship with his former employer and there is an impartiality concern.
- ✓ The NDAA for FY 2022, § 1117, extended this prohibition for DoD employees hired after December 27, 2021, from 1-year to 2-years.

If you find yourself in a similar situation, reach out to an ethics official and your supervisor!





# Seeking Employment

## What must you know when looking for post-DHA (non-Federal Government) work?

Get advice as soon as you are thinking about sending resumes, or meeting/discussing opportunities with a prospective employer.

- ✓ Your impartiality can be questioned – it can start with sending a resume.
- ✓ You may have a conflict of interest when negotiating (\*\*\*)much earlier than employees think.)

Senior Executive Service/Flag Officer/General Officer (SES/FO/GO) have additional considerations under the STOCK Act and Section 1045 of the 2017 Fiscal Year (FY) National Defense Authorization Act (NDAA) and 18 U.S.C. 207(c) - 1 year cooling off.

**Get advice early!**

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# Post Government Employment

## What must you know when looking for post-DHA (non-Federal Government) work?

Procurement Integrity Act, 41 U.S.C. § 2101 - 2107, bars compensation from a contractor for 1 year if involved (certain positions) in a contract over \$10 million with that contractor.

The representation bans limit what you may do for prospective employers.

- ✓ Lifetime Ban – 18 U.S.C. § 207(a)(1) - Personal and substantial participation in a particular matter bars employee from representing back on that matter.
- ✓ Two-Year Ban – 18 U.S.C. § 207(a)(2) - Supervise someone who is personally and substantially participating in a particular matter – barred from representing back on that matter.
- ✓ Emoluments Clause – Retired military may not represent foreign governments w/out Serv. Sec approval.

**Get advice early!**



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# Post-Government Employment – Question 7

DHA civilian Contracting Officer, Rafael, who handles purchasing medical devices for the MTF, is planning to retire. Two months before retirement he is approached by one of the DHA contractors, Company X, and offered a lucrative part-time position. Rafael tells Company X that he will think about the offer. There are no solicitations pending, but Company X does have a current contract.

Does Rafael have to do anything?





# Post Government Employment – Answer 7



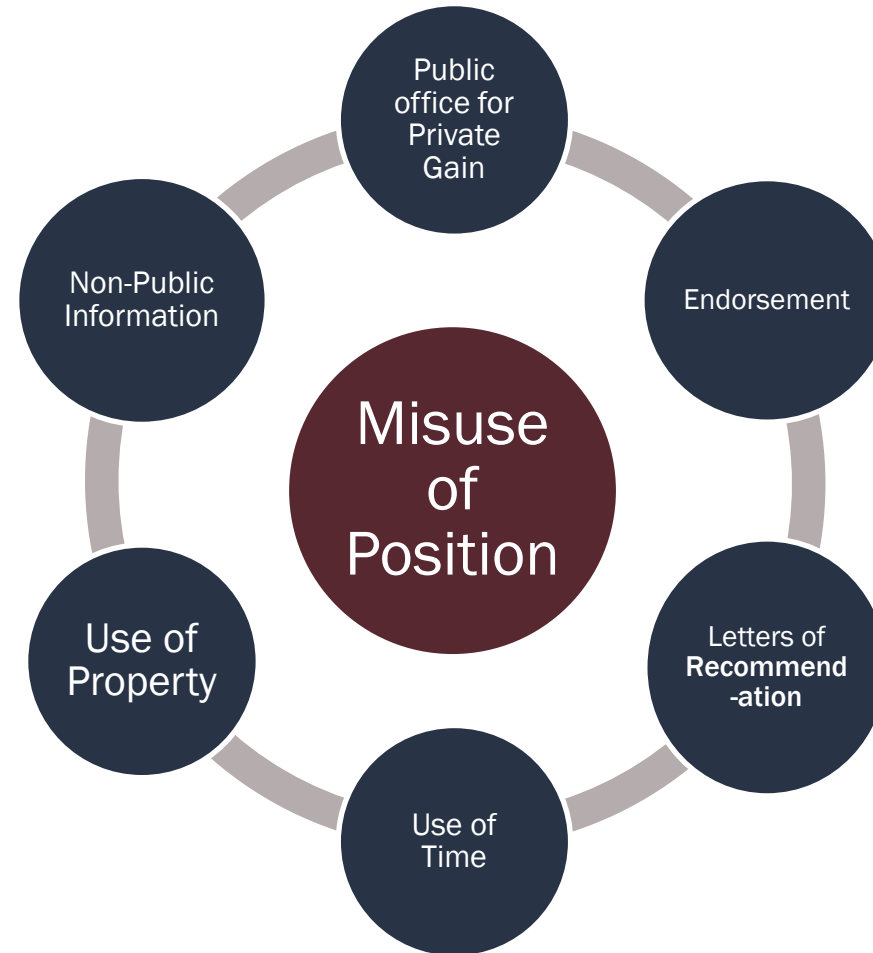
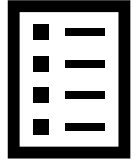
Rafael should alert his supervisor and recuse himself in writing from taking any actions involving Company X, Inc.

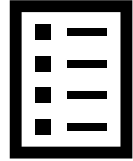
If not:

- ✓ Impartiality could be questioned as he is "seeking employment."
- ✓ If Rafael did not reject the offer, then he has an imputed financial interest in X, Inc.



# Misuse of Position



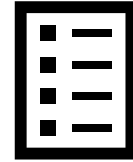


# Misuse of Position – Question 8

Joe is a supervisor at a DHA and has a friend who is applying for a job with a DHA contractor. His friend asks Joe to write a letter of recommendation. Joe has known him a long time and thinks highly of his education and interpersonal skills.

Can Joe write a letter of recommendation for his friend using official DHA letterhead with his official title and signature block? YES or NO





## Misuse of Position – Answer 8

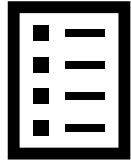
No. This request does not meet the regulatory requirement.

Employees may use their official titles on letters of recommendation ONLY in response to a request for an employment recommendation or character reference:

- ✓ based upon personal knowledge of the ability or character of an individual with whom he has dealt in the course of Federal employment, or
- ✓ whom he is recommending for Federal employment.



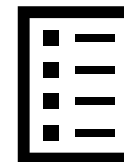




## Misuse of Position– Question 9

Sarah is a supervisory nurse at a DHA MTF. When off-duty, she works for a non-profit health care organization. She knows she cannot engage in her outside work in the office and during work hours but is not sure if she can solicit her DHA subordinates after work about volunteering on a project for the organization.





## Misuse of Position– Answer 9

No, she may not solicit her subordinates, even off-duty as it could be coercive and a misuse of position.



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# Outside Employment

Sarah knows she cannot engage in her outside work in the Government office and during her duty time, but must she seek approval, before she takes on a position with this non-profit?





# Outside Employment

Yes, Sarah's work with this non-profit health care organization may be permissible unless the non-profit does work with the Government, but as a health care worker she must discuss any potential conflicts of interest with her supervisor and ethics official before engaging in off-duty employment.

Consider:

- 18 USC 208 – Conflict of Interest statute that prohibits you from taking official action in your Government job on a matter that involves your outside employer.
- 18 USC 203 & 205 – Prohibits Federal employees from representing back to the Government on behalf of another, i.e., you cannot perform work off-duty where you would represent or communicate back to the Government as a Government contractor employee.



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# Fundraising in the Workplace



✓ or Office of Personnel Management (OPM) approved Disaster Fundraisers

## ✓ By Our Own, For Our Own - Exception to Fundraising

DoD members may fundraise for their own members if approved by the MTF Director, with ethics official review, provided:

- ✓ Personnel are not ordered, coerced or compelled to participate or give;
- ✓ Authorization for use of time and resources is limited in scope and duration and complies with applicable laws;
- ✓ Contractors may not be solicited for donations or allowed to participate; and keep contractors off any email distributions;
- ✓ Contributions are not tracked, except for accounting for funds.  
(Joint Ethics Regulation (JER) 2-400 – 402)





# By Our Own, For Our Own - Question



A retired military officer comes to your MTF and asks if he can conduct a fundraising event through his Wounded Warrior non-profit organization to help raise funds for service members' mental health issues. Is this something the MTF Director could approve? Yes or No.

No, not unless this non-profit organization is made up primarily of members from the MTF and is approved to operate on base. So even though the fundraising will benefit patients of the MTF, the organization is not made up of primarily DHA members and thus would not qualify as a 'By Our Own, For Our Own.'



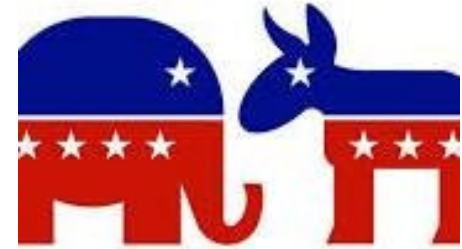


# Partisan Political Campaign Activity



Are you interested in engaging in partisan political campaign activity?

Seek Advice



## Considerations

- ✓ What is considered partisan political campaign activity?
- ✓ What are you prohibited from doing?
- ✓ Are you less or further restricted? What can you do?



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# Political Activity

All military members and civilians are **prohibited** from:

1. Engaging in partisan political campaign activity in the workplace or while on duty (or appearing to be on duty);
2. **Fundraising** for partisan candidates or parties at any time--24 hours per day, seven days per week (24/7); and
3. Using at any time (24/7) official authority or influence to affect the outcome of an election.

Additional Restrictions:

- ✓ Further restricted' employees (SES) and active-duty military members also have a 24/7 prohibition on engaging in political activity (**campaigning**) for a partisan group or candidate.
- ✓ Military members may not give speeches at partisan event, nor may they wear their uniform at any political event.



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# Hatch Act / Political Activities



**True or False?** A civilian or military nurse may wear a current political slogan shirt in the hospital on the way to her shift.

**False**

**True or False?** The Director of an MTF can have a bumper sticker on her car in support of a current Presidential candidate.

**True**

**True or False?** Liking a political statement on social media while teleworking from home is permitted.

**False**

**True or False?** Any employee may forward a political fundraiser to friends, as long as they are off duty.

**False**



# Important Points



Supervisors have a critical role in ethics to help their employees navigate issues.

Take advantage of the ethics resources/seek guidance from **ethics officials**. Ask before you act.

The goal is to avoid ethical failure, but when there are violations of the rules and law it is your responsibility report them.

The success of DHA and DoD depends on a strong foundation of integrity – **EVERYONE** has a part.



# Key Takeaways

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- The best time for a Government employee to seek ethics counsel is before she starts her job search
- Never use your public office for anyone's private gain
- Do not accept a gift that creates an appearance problem for you
- Never work on a matter for the Government if you or someone whose financial interests will be imputed to you has a financial interest in the matter that will be affected by the matter
- The two things that the post Government employment laws prohibit are representation and in some cases receipt of compensation



# Ethics Resources for All DHA Personnel

## DHA Ethics Resources

Witten, Christianne M CIV DHA DHA COF STAFF (USA)  
Chief of Internal Communications

### Welcome to the OGC Ethics Office Resource Page

The DHA Ethics Office is a division of the DHA Office of General Counsel. Sal Maida is currently the General Counsel and the Deputy Designated Agency Ethics Official for DHA. The DHA Ethics Branch administers the ethics program along three main lines of effort: providing ethics advice and counsel to DHA personnel, implementing training, and managing the financial disclosure program.

Find the information you need on this page or reach out to your assigned Ethics Official by using the selector below. You can always reach out to our central inbox [DHA-OGCEthicsOffice@health.mil](mailto:DHA-OGCEthicsOffice@health.mil) and you will receive a response.

### Featured Ethics Links:

- [Seeking Employment FAQs for DHA](#)
- [Post Government Employment FAQs for DHA](#)
- [OGE-450 FDM Common Supervisor Review Issues Walkthrough](#)

## [Ethics Resources on DHA infoHub.](#)

- This site is a starting point for DHA personnel with ethics questions:
  - Find your ethics attorney
  - Find Q&A by topic
  - Find training opportunities

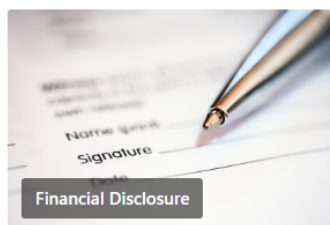


Information on mandatory ethics training sessions for new employees and financial disclosure filers and other ethics training opportunities.

Whenever in doubt, reach out to a delegated ethics attorney for advice.

You can find the attorney serving your MTF by expanding the Ethics Official List (--->) or reach out to our central inbox at: [DHA-OGCEthicsOffice@health.mil](mailto:DHA-OGCEthicsOffice@health.mil).

*TIP: To search for your MTF, expand the DHNs you would like to search, and use Find in Page (Shortcut Ctrl-F) to search for the MTF name*



Information on OGE-450 and OGE-278 Financial Disclosures - for filers, supervisors, and HR POCs.



Document library for resources and frequently asked questions on ethics matters.

### Ethics Official List

[See all](#)

[Share](#) [Export to Excel](#)

Ethics Attorney List by DHN [⌵](#) [ⓘ](#)

Attorney Name	Attorney Email	MTF Names	State/Country
> DHN : DHHQ (5)			
> DHN : DHN 1 Indo-Pacific (4)			
> DHN : DHN 2 Pacific Rim (4)			

- Inquiries can also be sent to:  
[DHA-OGCEthicsOffice@health.mil](mailto:DHA-OGCEthicsOffice@health.mil)



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# Ethics Resources (continued)

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Download the 2024 SOCO Handout



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# References

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5 C.F.R. Part 2635, Standards of Ethical Conduct for Employees of the Executive Branch

5 C.F.R. Part 3601, Supplemental Standards of Conduct for Employees of the DoD

14 Principles of Ethical Conduct, 5 C.F.R. § 2635.101b

Criminal Statutes, 18 U.S.C. §§ 201-209

Department of Defense Standards of Conduct Office. Ethics Laws and Regulations.

<https://dodsoco.ogc.osd.mil/Ethics-Program-Resources/Ethics-Laws-and-Regulations/>

DoD Joint Ethics Regulation (JER) (May 15, 2024)



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# How to Obtain CE/CME Credits

To receive CE/CME credit, you must register by 1000 ET on October 25, 2024, to qualify for the receipt of CE/CME credit or certificate of attendance. You must complete the program posttest and evaluation before collecting your certificate. The posttest and evaluation will be available through November 7, 2024, at 2359 ET. Please complete the following steps to obtain CE/CME credit:

1. Go to URL <https://www.dhaj7-cepo.com/>
2. Search for your course “2024 Annual Ethics” using the **Catalog**, **Calendar**, or **Find a course** search tool.
3. Click on the REGISTER/TAKE COURSE tab.
  - a. If you have previously used the CEPO CMS, click login.
  - b. If you have not previously used the CEPO CMS click register to create a new account.
4. Follow the onscreen prompts to complete the post-activity assessments:
  - a. Read the Accreditation Statement
  - b. Complete the Evaluation
  - c. Take the Posttest
5. After completing the posttest at 80% or above, your certificate will be available for print or download.
6. You can return to the site at any time in the future to print your certificate and transcripts at <https://www.dhaj7-cepo.com/>
7. If you require further support, please contact us at [dha.ncr.j7.mbx.cepo-cms-support@health.mil](mailto:dha.ncr.j7.mbx.cepo-cms-support@health.mil)



# CONGRATULATIONS!!!

You have completed your live, interactive DHA Annual Ethics Training. A certificate of completion may be obtained by accessing your JKO account. (*Please allow up to 7 days for staff to input rosters.*)

## HELPFUL RESOURCES

- If you have questions, **ask** your local DHA ethics official who can be found at: [DHA Ethics Resources](#)
- Inquiries can also be sent to: [DHA-OGCEthicsOffice@health.mil](mailto:DHA-OGCEthicsOffice@health.mil)



# WATCH FOR INVITATION:

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- Halloween Make-up Session
  - 31 October 1300 ET



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