

INFORMATION PAPER

1. SUBJECT: Gifts on Infrequent Occasions adapted for spouses.

2. REFERENCE:

DoD 5500.7-R (The Joint Ethics Regulation, Chapter 2)

3. PURPOSE: To give spouses guidance on the ethical considerations of giving gifts on special infrequent occasions such as the Permanent Change of Station (PCS).

4. DISCUSSION: The following is some information on PCS gifts. These rules are geared toward Soldiers to limit gifts from subordinates to superiors; however, they are fitting for spouses as well. Technically, a spouse or group of spouses are not limited by ethics rules when it comes to giving another spouse a gift; however, a gift given to a person as a result of his or her Soldier-spouse's position is deemed to be a gift to the Soldier.

Problems may occur where a gift is intended for the spouse and the Soldier and it is given by subordinate Soldiers' Spouses. That being said, an employee who is paid at a higher rate can spend as much as that person wants as long as they avoid the perception of unethical or inappropriate conduct. Still, that (higher-paid) employee cannot team with subordinate employees if the gift ends up exceeding the \$300 cap per donating group.

The basic principle for consideration is that a **Soldier** shall not, directly or indirectly, give a gift or contribute to a gift for a superior or solicit contributions from others for gifts to superiors nor shall a Soldier accept a gift from lower-paid employees unless the donor and recipient are personal friends who are not in the same chain of command (COC). Keep in mind; gifts to spouses are imputed to the Soldier when they are based on position and not personal relationship.

Gifts on special infrequent occasions such as the Permanent Change of Station are an exception to the general prohibition of giving/accepting gifts from within the COC.

a. Value of Gift. Gifts given for special, infrequent occasions, such as a permanent change of station, are limited to \$300 in value per donating group. A Soldier can accept gifts from multiple donating groups but should be wary of creating the appearance of impropriety.

(1) No Buy-Down. Although not specifically mentioned in the JER, the \$300 ceiling is subject to the no "buy-down" rule. That is to say, a commander cannot lawfully accept a gift valued at \$400 by agreeing to pay \$100 towards the gift.

(2) Gift Splitting. It is impermissible to split a gift into component parts in order to stay under the \$300 limit. For example, in recognition of their commander's exceptional service the battalion officers chose to present him with a print valued at \$225. Additionally, the noncommissioned officers spent \$100 to frame the print. Independently, each gift is under \$300

but because the donors intended to combine the gifts, they must aggregate the value of each gift. Thus, in this example, the total value of the gift is \$325, which is impermissible because it exceeds the \$300 limit.

b. Donating Groups. If one employee contributes to two or more donating groups, the value of the gifts from all groups with a common contributor must be added together for purposes of the \$300 limit. Additionally, with regard to multiple donating groups, it is important to remember that Executive Order 12674 directs employees to “**endeavor to avoid any action creating the appearance that they are violating the law or the ethical standards.**” 5 C.F.R. § 2635.101(b)(7) (2006). Thus, while it may very well be appropriate for each battalion to present a departing brigade commander with a gift, it would surely create an unseemly appearance if each company within the brigade presented the commander with a gift.

c. Contributions. Contributions are Voluntary. Although it is permissible to solicit donations, solicitations should not be onerous or oppressive and the organization should not maintain a list of contributors. In addition, it is critical to remember that the suggested donation amount cannot exceed 10\$ although the contributor can choose to contribute more than \$10.

d. Consider the Recipient’s Wishes. Commanders, and others, are often uncomfortable receiving gifts for their service. More than that, some commanders make a conscious decision to avoid potential ethical issues by limiting the number or types of gifts that they will accept. In this light, it makes good sense to consult the recipient prior to organizing the purchase of a gift.

****If you are unsure of the ethical rules you should consider contacting your Spouse’s Ethics Counselor.****