



Welcome!

Ethics for the Special Government
Employee

Bottom Line:

Public Service is a Public Trust



Questions You Should Be Able to Answer

- Where do the standards come from?
- How are the standards implemented?
- Where may I find the standards?
- What are the standards?
- Where should I direct my questions?
- Summary

Where do the Standards of Conduct come from?

- Title 18, United States Code, Chapter 11, Bribery, Graft, & Conflicts of Interest
- Executive Order 12,731
- Joint Ethics Regulation (JER), DOD 5500.7-R
- 5 C.F.R. Part 2634 (Financial Disclosure)

Where do the Standards of Conduct come from?

- 5 C.F.R. Part 2635 (Standards of Conduct)
- 5 C.F.R. Part 2637 (Post-Government Service Employment) Revised Part 2641 is forthcoming--68 FR 7,843(amendment at 68 FR 15,383)
- 5 C.F.R. Part 2640 (Interpretation of 18 USC 208)



How are the Standards implemented in DoD

- The DoD General Counsel is the Designated Agency Ethics Official (DAEO) and he has appointed others including the General Counsel, TMA, to assist him.
- The General Counsel, TMA, in turn has appointed ethics counselors on his staff to fulfill these responsibilities



How are the Standards implemented in DoD

- First-line supervisor of employee whose interests are at issue has been designated the “agency designee” as that term is used in the Standards of Conduct. COL Roger Gibson is the agency designee for Defense Health Board members.

Where Do You Find the Standards

- U.S. Office of Government Ethics–
www.usoge.gov
- Office of Special Counsel
 - Hatch Act/political activities -
www.osc.gov/hatchact.htm
 - Whistleblower -
www.osc.gov/wbdisc.htm



The Essence of the Ethics Program

- The 14 Bedrock Principles – See handout
- Public service is public trust
- May not allow improper use of Government information for private gain
- Shall not use public office for private gain



Criminal Prohibitions – during your service

- 203/205 – Representing others to the Government
- 208 – Conflicting interests & affiliations
- 219 – Agent of a foreign principal

18 U.S.C. §§ 203/205

- Prohibits communicating on behalf of another to the Government with intent to influence
- Only in connection with “particular matters involving specific parties”
- Only as to matters you actually participated in for the Government
- Remember § 2635.702--appearances



18 U.S.C. § 208

- Prohibits acting as Government official in matters that will have an economic impact on the official's financial interests or affiliations
- Waivers in regard to your employment do not extend to ownership of stock



18 U.S.C. § 219

- Prohibits service as a representative of a foreign principal that requires registration under either the Foreign Agents Act or the Lobbying Disclosure Act
- Emoluments clause may apply



43 U.S.C. § 423

- Prohibits disclosing and obtaining certain information regarding procurements
- Requires reporting of employment contacts by an offeror
- It is anticipated that your duties will not involve you in matters covered by this statute



Criminal Prohibitions -- after you leave the Government

- 18 U.S.C § 207 – Restrictions on Communicating

18 U.S.C. § 207(a)(1)

- Prohibits communicating to the Government regarding any “particular matter” involving specific parties that you worked on personally and substantially
- Prohibition last for life of “particular matter.”

18 U.S.C. § 207(a)(2)

- Prohibits communicating to the Government regarding any “particular matter” involving specific parties that was actually pending under your supervision during your last one year of Government service
- Prohibition lasts for first two years after leaving Government
- Should not apply as a matter of fact to your service



Regulatory Standards

- All of the regulatory standards, 5 C.F.R. Part 2635, apply to Special Government Employees, except § 804, outside earned income
- Rules regarding serving as an expert witness (805) and compensated outside speaking, writing, & teaching (807) are substantially narrowed to those to which actual assigned and personally involved



Regulatory Standards – Gifts from outside sources

- The prohibition on receiving gifts applies fully to SGEs
- The exception that is tailored to SGEs is that permitting accepting gifts based on outside business or employment relationships--
§2635.204(e)



Regulatory Standards—Misuse of position or inside information

- Prohibited from using either for the gain of a private interest—your own or anyone else's
- You must know whether you are acting as Defense Health Board member or as a private person
- Those you deal with must know the capacity in which you are acting



Fundraising – for nonprofits

- Fundraising means solicitation of cash for nonprofit organizations
- Barred from personally soliciting from those whose interests may be affected substantially by the performance or nonperformance of your duties



Fundraising – for political causes

- You are barred from soliciting contributions--as well as other acts serving political purposes, while you are on Government duty or on Government property



Financial Disclosure

- Questions?



Summary

- Public service is a public trust
- Know in what capacity you are acting/appearing and ensure those seeing/hearing/dealing with you know the capacity in which you are appearing
- Use your official position and official information for authorized official purposes



Questions

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