

FACT SHEET

SUBJECT: Summary of Rules for Acceptance of Gifts to Wounded, Injured or Ill Service Members

1. Federal gift acceptance rules contain a general prohibition on Federal personnel accepting gifts offered because of their official positions or offered by a “prohibited source”. (5 CFR 2635.201(b)(4) and 2635.202(a)). There are exceptions, however, that normally will permit acceptance of gifts by wounded, injured, or ill service members even though the gift is offered because of the Soldier’s official position.

2. A “prohibited source” means any person or entity that is seeking official action by the employee’s agency; does business or seeks to do business with the employee’s agency; conducts activities regulated by the employee’s agency; has interests that may be substantially affected by performance or nonperformance of the employee’s official duties; or is an organization a majority of whose members are such persons.

a. Excepted from this restriction are:

1) Items of value less than \$20; however, there is a \$50/year limit on gifts from the same source.

2) Benefits available to the public or all military personnel, whether or not restricted on the basis of geographic considerations. (5 CFR 2635.203(b)(4)). This covers most broad military discount or free attendance offers or “bulk gifts” (like 10,000 football tickets).

3) Awards for meritorious public service or achievement from a person who does not have interests that may be substantially affected by the recipient (5 CFR 2635.204(d)). All cash awards and any award of value over \$200 require a written ethics counselor determination that the award is regularly made pursuant to written standards. Many gifts to “heroes,” “combated-decorated veterans,” and similar categories may be accepted under this provision.

b. Under no circumstances may service members or federal employees solicit gifts from prohibited sources. (5 CFR 2635.202(c)(2)).

3. The National Defense Appropriations Act for Fiscal Year 2006, P.L. 109-148, sec. 8127 provides an exception to the general rule regarding the receipt of gifts for injured or ill Soldiers and their family Members. That law added paragraph 3-400 to the Joint Ethics Regulation, DoD Directive 5500.7-R. Paragraph 3-400 states that DoD service members and their families may accept unsolicited gifts from non-Federal sources as long as:

a. Gifts are not offered by foreign governments,

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- b. Gifts are not accepted in return for being influenced in the performance of official duties,
 - c. Gifts are not accepted in violation of any other statute (such as bribery and compensation from other sources for performing Federal duties), and
 - d. Gifts with an aggregate market value exceeding the minimal value (\$305 in 2008) from one source on any particular occasion, or \$1000 from one source in a calendar year have required agency ethics official written determination that:
 - 1) The gift is not offered in a manner that discriminates among covered DoD employees on the basis of the type of official responsibility or of favoring those of higher rank or rate of pay;
 - 2) The donor does not have interests that may be affected substantially by the performance or nonperformance of the covered DoD employee's official duties; and
 - 3) Acceptance would not cause a reasonable person with knowledge of the relevant facts to question the integrity of DoD programs or operations.
4. If you have any questions, contact an ethics counselor at the Military Law and Ethics Division, (502) 624-7414.

Chief, Military Law and Ethics Division