



Code of Conduct

Federal Ethics Regulations
and their Application in the
Work of Partnerships and
Community Collaboration

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MANAGING BY NETWORK

Do The Right Thing

While agencies/bureaus are governed by the same Federal ethics regulations, some have variations contained in their supplemental regulations or leadership directives.

This Academy presentation is designed to heighten your awareness. You should seek guidance from your agency's Servicing Ethics Advisor, General Counselor or Solicitor's Office.



14 General Ethics Principles

A Closer Look at 3 Partnership Intersects

1. An employee shall not solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing, business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.
2. Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government.
3. Employees shall act impartially and not give preferential treatment to any private organization or individual.

Who You Gonna Call?

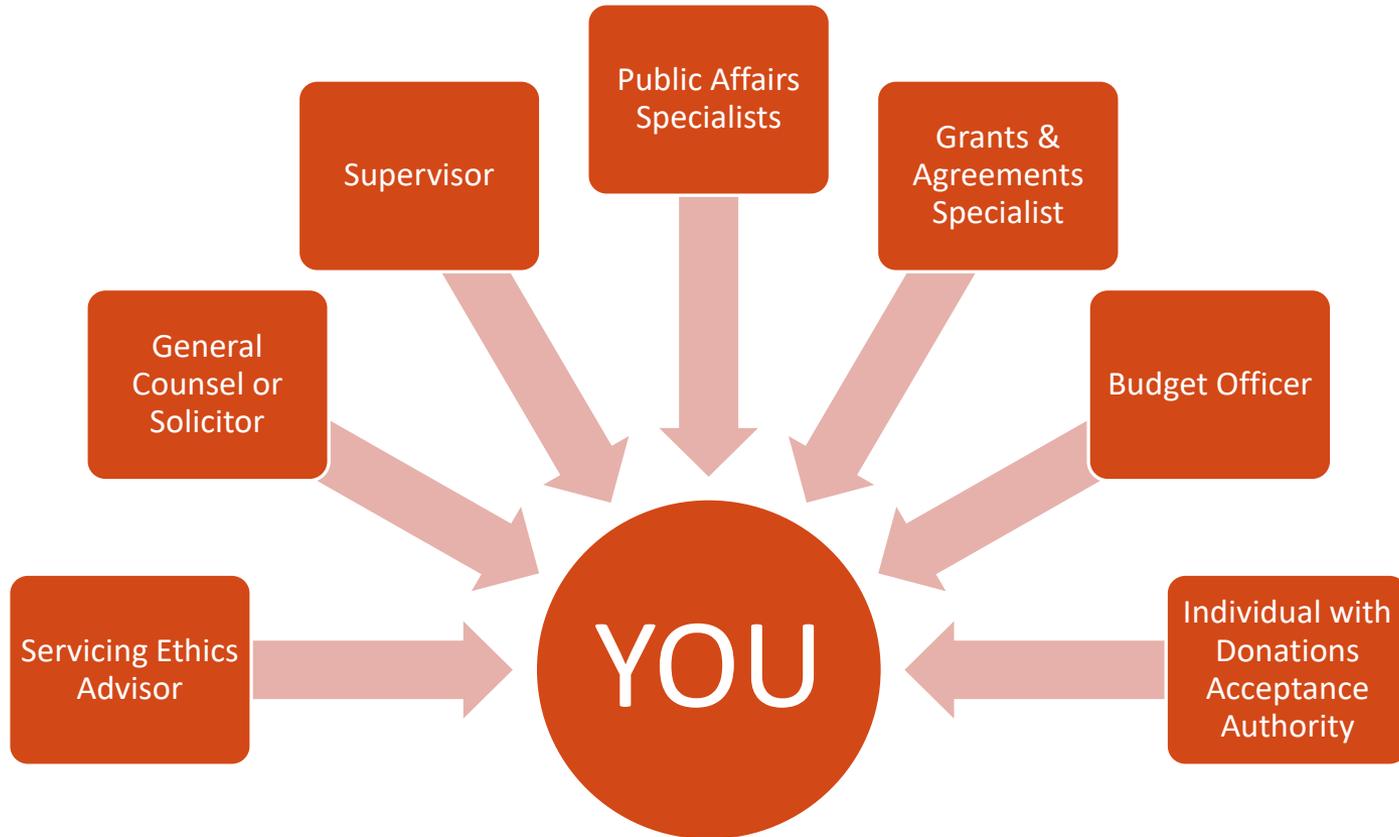
Can you provide an example of working with your servicing ethic advisor?

Or

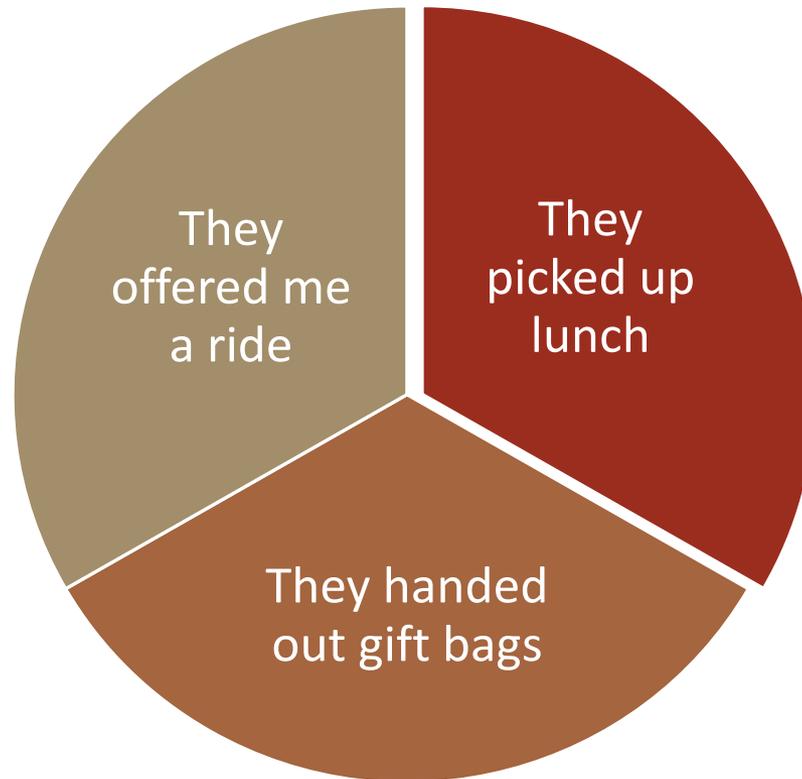
Who else might you seek guidance from in your professional network regarding federal ethics rules?



Who's in Your Ethics Network



Accepting a Kindness



Vocabulary

Non-Federal Travel Assistance

They offered me a ride . . . To the meeting, from the airport to the hotel, etc.

Requires written ethics approval and it must be outside of duty station [(31 U.S.C. 1353)]

This rule requires approval from manager and ethics counselor. (Accepting a gift without proper paperwork can have serious consequences.)

Example: USDA Form AD-1101 Acceptance of Payment for Travel Expenses from a Non-Federal Source provided in the course notebook.

What is a gift?

The 20/50 rule for gifts: refers to the acceptance of a gift with a fair market value of \$20 dollars or less and is limited of accepting no more than \$50 dollars a calendar year from the same Prohibited Source.

Remember to count employees from the same organization as ONE source.

The term “gift” includes the following: (See 5 CFR 2635.203(b)):

- Gratuity (freebie)
- Transportation
- Favor
- Training
- Discount
- Lodging
- Entertainment (e.g., amusement, hobby, leisure, etc...)
- Loans
- Forbearance – forgiveness of a debt owed when due
- Services

What is not a gift?

Rule of Thumb

Any item having monetary value is a gift, unless it is excluded from the definition of gift.

Exclusions

- Modest items of food and refreshments, i.e., soft drinks, coffee, donuts etc....
- Greeting cards, items of little intrinsic value (plaques, trophies)
- Loans from banks and other institutions; opportunities and benefits (items available to the general public)
- Anything for which market value is paid for by the employee.

Modest item of food?

Q: Does alcohol fit within the gift exclusion as a modest item of food?

A: No

Vocabulary

Prohibited Source

In addition to the guidance provided here, each federal agency identifies specific prohibited sources.

Example: BLM Oil & Gas companies

What's a prohibited source? 5 C.F.R. § 2635.203(d)

d) *Prohibited source* means any person who:

- (1) Is seeking official action by the employee's agency;
- (2) Does business or seeks to do business with the employee's agency;
- (3) Conducts activities regulated by the employee's agency;
- (4) Has interests that may be substantially affected by performance or nonperformance of the employee's official duties; or
- (5) Is an organization a majority of whose members are described in paragraphs (d) (1) through (4) of this section.

Spreading the Word



Requests a letter of support for fundraising activities.

Write the letter on agency letterhead.

Rationale: If the letter is **fact-based** and simply documents compliance, timeliness, completion, achievement, fulfillment, and the letter is being sent to the entity that requested (**requester**) it and not another source, it's o.k. to write the letter.

The DOI-Ethics Office has taken the stance that what the requester does with the letter after it's written is not of concern.

Note: If the letter is sent to a source (other than the requestor), we might have a problem. Why?

An employee is not permitted to use or permit the use of his/her position, title or any authority to endorse a product, service or enterprise, unless there is statutory authority or agency requirements [See 5 cfr 2635.702(c), Endorsement]

The letter may not contain flowery language or language that suggests that you or the agency endorses the product, service or enterprise.

Practice: Send a draft copy of the letter to your serving ethics officer for feedback.

Vocabulary

WAG

Invited to attend a conference, event, meeting with the host waiving the ticket or registration fee for the event because you are a federal employee.

Widely Attended Gathering (WAG). (Unless you serve as panel participant, speaker or otherwise have the venue to discuss agency programs and services, it requires written ethics approval)[See 5cfr 2635.204(g)(1) & (g)(2)].

This rules requires an analysis by ethics counselor of agency interest, diversity of views, etc.

Vocabulary

Participation in the conduct of an event

Participation in the conduct of an event means the active and visible participation in the promotion, production, or presentation of the event and includes:

- serving as honorary chairperson
- sitting at a head table during the event
- standing in a reception line

The term generally includes any public speaking (e.g., remarks) during the event, but does **not include delivery of an official speech**, or other seating or other participation appropriate to the delivery of such a speech.

The term does **not include mere attendance**, provided to the employee's knowledge, his attendance is not used by the non-profit to promote the event.

Vocabulary

Free Attendance at a Fundraising Event Official or Personal

An employee *participating in the conduct* of a fundraising event, officially or personally, may attend the event without having to pay the fee that others are being charged if the fee is being waived by the sponsor of the event; however...

- It is not a waiver if a **third party** pays the sponsor of the event for the employee to attend, even though the employee is a participant in the conduct of the event. The free attendance (waiver) is a **gift** to the employee.
- It is not waiver if an employee is not a **participant in the conduct** of the fundraising event, but would only be a **mere attendee**. The free attendance (waiver) is a gift to the employee at market value.

See OGE 93 x 19

Vocabulary

Official Capacity and
Agency Representation

And

Personal Capacity

Fundraising – Official Capacity

An employee may participate in fundraising in an **official capacity**, if in accordance with a Federal statute, Executive Order, regulation or otherwise as determined by the agency.

When authorized to participate in an **official capacity**, an employee may use his/her official, title, position and authority.

Fundraising - Personal Capacity

An employee may engage in fundraising in his **personal capacity**, provided he does not personally solicit funds from subordinates, or known **prohibited sources**, and does not use or permit the use of his official title, position or authority associated with his public office to further the fundraising effort.

Vocabulary

Cleansing Statement

Cleansing Statement – Don't Leave Home Without It

Preface your remarks with:

“I am here in my official/personal capacity, but I am not endorsing Partner ABC or Partner ABC’s fundraising activity. I am simply here to provide information about BLM/agency programs and services.”

Being in the Know



Vocabulary

Particular Matters

Particular matters include any matter that involves deliberation, decision, or action that involves one or more parties, involving legal rights such as judicial proceedings, applications, requests for rulings, contracts, grants, controversies, charges, investigations, accusations, and claims.

Representing Another Person(s)

An employee **may not represent** another person before a Federal agency/employee on a particular matter in which the U.S. is a party or has an interest.

Representing...serving as another's agent, or communicating (oral or written) with the intent to influence on behalf of another before a Federal agency/employee.

Note: This statute applies on and off duty as well as to paid and unpaid representation. It does not apply to the representation in connection with one's official duties or in the absence of an element of control or agency.

Rule: 18 U.S.C. § 205.

Vocabulary

Covered Relationship

The term “covered relationship” includes:

(1) someone with whom you are seeking employment;

(2) household members;

(3) close relatives;

(4) business and financial relationships;

(5) your non-federal employers in the last year;

(6) organizations (not political parties) in which you are an active participant; and

(7) organizations in which a spouse, parent, or dependent child serves as a fiduciary.

Vocabulary

Post Employment Ban

18 U.S.C. § 207

No former employee shall communicate (orally or in writing) with the intent to influence or appear before any Federal employee on behalf of another in connection with a **particular matter** involving a specific party/parties in which he **participated personally and substantially while an employee**, in which the U.S. is a party or has a direct and substantial interest.

(Life Time Post-Employment Ban)

Working with Retirees

Jeffrey Williams was employed as a full-time grant specialist with the (DOE)(GS-15), but he resigned after Specialty, Inc., hired him as its Vice President. His salary doubled.

Before he left DOE, Williams awarded a grant [DOE-Grant897] to Specialty, Inc., worth about \$1 million. The grant funded research to develop a process that changes tap water into a fuel source.

By law, Williams is entitled to ethics advice post-DOE. He sent you a list of questions. As the ethics counselor, please advise him appropriately.

Q: Can I compile a list of names, e-mail addresses, and phone numbers of the people who work in the Division of Grants?

A: There is no communication or appearance before a Federal official, so there is no violation.

Q: Can I review a letter for comment that will go to the grant lead at DOE pertaining to DOE-Grant-897? Remember, this is the same grant I awarded before leaving DOE.

A: There is no communication or appearance before a Federal official, so there is no violation. (Behind-the-scenes assistance is o.k.)

If Williams signed the letter or was identified within the body of the letter, it could prove problematic.

Q: Can I phone DOE personnel and ask about the status payment? Specifically, I want to know when Specialty, Inc. can expect its first disbursement of funding.

A: Making routine requests not involving a potential controversy does not rise to the level of a post-employment violation, unless it is made with the intent to influence.

The more you know. . .

Q: Do federal ethics rules apply to non-federal partners?

A: No, they do not apply. These Federal Ethics Regulations are a condition of employment. Partners are bound by their own ethics regulation.

Practice: Explain ethics rules to partners, so that they understand

Q: Can an employee serve on the board of a partner organization in his/her official capacity?

A: It Depends. Often the role is recognized as Ex-Officio or designated as an Agency Liaison.

If an employee serves on the board of a partner organization in his/her personal capacity does he/she have to avoid taking official action on matters in which the partner has a interest? Yes

Practice: Seek guidance from your Servicing Ethics Advisor and Supervisor

The more you know. . .

Q: Can a manager absolve an employee of a conflict of interest?

A: No, a manager cannot absolve an employee. You will be legally responsible for your actions.

Practice: Seek guidance from your Servicing Ethics Advisor

Q: Are there instances where supervising a subordinate equates to committing a conflict of interest?

A: Yes. i.e. grant program administrator is instructed by his/her supervisor to approve a grant application to an organization in which the supervisor has an interest. . . .

Practice: Seek guidance from your Servicing Ethics Advisor

Markci Metcalf Videos

Partnership Ethics Part 1 –
31 mins: 14 General Ethics
Principles and Fundraising
Events

Partnership Ethics Part 2 –
18 mins: Federal Conflicts
of Interest Statutes

Partnership Ethics
Fundraising Events - 12
mins: Gift Acceptance,
WAG and Non-Federal
Travel Assistance

Partnership Ethics Part 3 –
24 mins: Is it Ethics, Legal
or a Budget Query

Impartiality and Outside
Employment - 13 mins:
Appearance of Conflict



Markci Metcalf

Former Deputy Ethics Counselor
BLM

<https://www.partnership-academy.net/video-studio/partnership-ethics/>

Training Take Away . . .

Is this ethics training going to make you an expert?

Will you recall every ethics regulation, statute, or policy known to man?

Will you suddenly develop a desire to attend law school?

Just know who to go to for appropriate advice and guidance.

Doing this will ensure you do things right... the first time.



Take Away . . .

Is this ethical?

What statute, or policy known to me?

What is the requirement to attend law school?

Just know when to seek appropriate advice and guidance.

Doing this will ensure you are successful the first time.

Partnership Hospitality

Dinner with the Board is at the River Club. You'll be our guest.

Your daughter should come to camp as our guest.

We are so thrilled about the new addition to your family. We got you a stroller.

I'll pick you up for the next meeting. My new car has lots of room.

Our partner just gave us these gift cards. This one's near you.



Partnership Hospitality

The bottom line in developing and sustaining community outreach is your ability to build trust. Trust requires the avoidance of favoritism and conflicts of interest.

