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From: Commanding Officer, Marine Corps Air Station, Cherry Point
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Subj: ETHICS GUIDANCE

- Ref:
- (a) DoD Directive 5500.07, "Standards of Conduct," November 29, 2007
 - (b) DoD 5500.07-R, "The Joint Ethics Regulation," including changes 1-7, November 17, 2011
 - (c) 5 C.F.R. § 2635
 - (d) Executive Order 12674, "Principles of Ethical Conduct for Government Officers and Employees," April 12, 1989 (as modified by Executive Order 12731)
 - (e) 5 C.F.R. § 2634
 - (f) 18 U.S.C. §§ 202-209
 - (g) 10 U.S.C. § 2012
 - (h) 31 U.S.C. § 1301
 - (i) 15 U.S.C. § 1125
 - (j) SOCO Advisory Number 06-06
 - (k) 31 U.S.C. § 1353
 - (l) 41 C.F.R. § 304
 - (m) DoD Directive 5230.09, "Clearance of DoD Information for Public Release," August 22, 2008
 - (n) SECNAVINST 5720.44C
 - (o) DoD Instruction 5320.29, "Security and Policy Review of DoD Information for Public Release," January 8, 2009
 - (p) DoD Directive 1344.10, "Political Activities by Members of the Armed Forces," February 19, 2008
 - (q) 5 U.S.C. §§ 7321-7326, Hatch Act
 - (r) 5 C.F.R. §§ 733-734
 - (s) DoD Instruction 1315.09, "Utilization of Enlisted Personnel on Personal Staffs of General and Flag Officers," October 2, 2007
 - (t) MCO P5800.16A W/CH 1-7 LEGADMINMAN
 - (u) 5 C.F.R. § 3601
 - (v) DoD 4500.36-R, "Management, Acquisition, and Use of Motor Vehicles," March 16, 2007
 - (w) DoD Directive 4500.56, "DoD Policy on the Use of Government Aircraft and Air Travel," April 14, 2009, incorporating Change 3, June 24, 2014
 - (x) 31 U.S.C. § 1344(a)(1)
 - (y) 5 C.F.R. § 2637
 - (z) 41 U.S.C. §§ 2103-2107

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- (aa) U. S. Constitution, Article I, Section 9, Clause 8
- (bb) 5 U.S.C. § 3326
- (cc) 10 U.S.C. § 973(b)
- (dd) 5 U.S.C. § 5534a
- (ee) 18 U.S.C. § 219
- (ff) Pub. L. No. 110-181 § 847, NDAA for FY 2008

Encl: (1) Ethics Guidance
(2) Request for Legal Review Form
(3) Sample Disqualification Letter

1. Situation. The American public places special trust and confidence in all personnel, uniformed and civilian, assigned or attached to Marine Corps Air Station, Cherry Point (MCASCP). As such, it is the duty of all MCASCP personnel to be good stewards of this trust and comply with all ethics regulations that govern the executive branch of the Federal Government. References (a) through (ff) are the primary sources for information relative to ethics and ethical practices within the Department of Defense (DoD). This Guidance applies to MCASCP, its subordinate commands, and personnel, either permanently assigned, or attached.

2. Mission. Promulgate procedures and guidance for MCASCP and subordinate command personnel regarding ethics and ethical practices. Although MCASCP Ethics Guidance is not punitive, failure to follow the underlying ethics regulations and laws may subject an offender to administrative and/or disciplinary action, including loss of employment, prosecution, fines, and prison.

3. Execution

a. Commander's Intent and Concept of Operations

(1) Commander's Intent. This Guidance provides a summary of ethical rules detailing the standards of conduct expected of all MCASCP personnel. It's intended to alert you to common ethical conflicts and describes procedures for obtaining an ethics opinion. If you encounter an ethical dilemma and are unsure of what to do, contact your Ethics Counselor before you act. The end state is that all MCASCP personnel are aware of applicable ethics regulations, understand the procedures for handling ethics issues, and are perceived by the general public as trusted Government employees who act beyond reproach in all responsibilities.

(2) Concept of Operations. All MCASCP personnel will proactively use the resources and follow the procedures detailed in the chapters below. Personnel will consult their MCASCP Ethics Counselors (Staff Judge Advocate or Deputy Staff Judge Advocate) on all ethics and Standard of Conduct issues to ensure individual

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and staff compliance with all Government ethics regulations. Personnel will lead by example. Conduct will be anchored on core values, personal integrity, and principles of ethical conduct that nurture a strong moral culture and promote accountability and transparency throughout the command.

b. Tasks

(1) Directorate Executives. Assist Ethics Counselors in identifying and maintaining a list of billets and personnel that must comply with certain ethics regulations, including those who receive annual ethics training and file annual financial disclosure reports, or who serve in a position in which a supervisor determines that the duties and responsibilities of the position require the employee to file such a report to avoid an actual or apparent conflict of interest, and to carry out the purpose of any statute, Executive Order, or regulation applicable to or administered by that reporting individual.

(2) Staff Judge Advocate (SJA). Administer the ethics program as the command Ethics Counselor. Provide ethics advice and opinions on MCASCP ethics and Standard of Conduct issues as they arise. Provide periodic ethics guidance to personnel as reminders, to include informing personnel of all modifications to ethics related regulations. Perform all detailed Ethics Counselor duties described in this Guidance.

4. Administration and Logistics

a. Administration. Recommendations for changes to this Guidance are invited and should be submitted to SJA, MCASCP.

b. Logistics. Not applicable.

5. Command and Signal

a. Command. This Guidance is applicable to MCASCP and all MCASCP subordinate command personnel.

b. Signal. This Guidance is effective on the date signed.



C. PAPPAS III

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CHAPTER 1

GENERAL PRINCIPLES OF ETHICAL GOVERNMENT SERVICE

1. PURPOSE. To ensure all Marine Corps Air Station, Cherry Point (MCASCP) personnel, as well as, the general public have complete confidence in the integrity of the Federal Government. They are designed to remind employees of the ethical performance standards required of all DoD servicemembers and employees. These principles detail the minimum requirements for ethical conduct by DoD employees (references (a), (b), (c), and (d)).

2. PRINCIPLES OF ETHICAL CONDUCT

a. DO

(1) Place loyalty to the Constitution, the laws, and ethical principles above private gain.

(2) Act impartially to all groups, persons, and organizations.

(3) Give an honest effort while performing your duties.

(4) Protect and conserve Federal property.

(5) Disclose waste, fraud, abuse, and corruption to appropriate authorities.

(6) Fulfill in good faith your obligations as a citizen, and pay your Federal, State, and local taxes.

(7) Comply with all laws providing equal opportunity to all persons, regardless of their race, color, religion, sex, national origin, age, or handicap (while sexual orientation has not been identified as a protected class one should also not discriminate on this basis).

b. DO NOT

(1) Use non-public information to benefit yourself or anyone else.

(2) Solicit or accept gifts from persons or parties that do business with or seek official action from DoD (unless permitted by an exception).

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(3) Make unauthorized commitments or promises that bind the Government.

(4) Use Federal property for unauthorized purposes.

(5) Take jobs or hold financial interests that conflict with the conscientious performance of duty.

(6) Take actions that give the appearance that they are illegal or unethical.

3. REMEMBER. Violating ethical conduct principles may result in administrative, disciplinary, or other actions, including suspension, loss of job, fines, and/or criminal prosecution. Protect yourself from these consequences by seeking advice from your Ethics Counselor (SJA, MCASCP).

a. If you're not positive what you're about to do is appropriate, ask your Ethics Counselor. An Office of SJA (OSJA) mission is to advise MCASCP personnel in accomplishing their responsibilities within the stated guidelines of ethical conduct.

b. Disciplinary action for violating standards of ethical conduct will not be taken against you if you act in good faith reliance upon advice from your Ethics Counselor, provided you made full disclosure of the relevant circumstances.

c. The principles of ethical conduct are intended to alert you to possible ethical conflicts. If you are unsure of the appropriateness of your intended actions, call your Ethics Counselor before you act.

4. ADDITIONAL INFORMATION. If specific questions or situations arise, consult your MCASCP, Ethics Counselor for advice and guidance.

a. The MCASCP, Ethics Counselor may be reached by telephone at: (252) 466-7860 or DSN 582-7860.

b. For general ethics information, you may also contact any member of the OSJA, MCASCP. If you need assistance other than advice or counseling, such as general information, forms, or training, you may contact the Legal Services Chief by telephone at: (252) 466-6651 or DSN 582-6651.

CHAPTER 2

FINANCIAL DISCLOSURE REPORTING

1. PURPOSE. This chapter prescribes MCASCP policy on public and confidential financial disclosure report filing requirements (reference (e)). The purpose of the financial disclosure program is to identify, prevent, and resolve any conflicts of interest that could cast doubt on the ability of MCASCP and subordinate command personnel to act as stewards of public trust. This chapter promulgates procedures for MCASCP and subordinate command personnel in submitting and processing Confidential Financial Disclosure Forms OGE-450 and OGE-450A.

2. APPLICABILITY. This Guidance applies to all military and civilian personnel permanently assigned to MCASCP and its subordinate command units. Certain personnel are required to file Form OGE-450 or Form OGE-450A.

3. BACKGROUND. Federal employees shall not use public office for private gain, and persons to whom this regulation applies shall not hold financial interests conflicting with the conscientious and impartial performance of duty.

a. Personnel shall not engage in financial transactions using non-public Government information or allow its use to further any private interest of oneself or family.

b. Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official duties and responsibilities, even if the service is not-for-profit or honorary.

c. An overarching principle regarding ethical standards of conduct is that, Federal employees shall "endeavor to avoid any actions creating the appearance that they are violating the law or ethical standards" (references (c) and (d)). Proper reporting of financial and other external interests acts as a prophylactic measure to preserve the public trust.

4. GENERAL RULE. Employees, who are in a "covered position," as determined by one's supervisor in consultation with the Ethics Counselor, must timely file Form OGE-450 or Form OGE 450A.

a. A Fillable Version of Form OGE 450 is Available at:
<http://www.oge.gov/Forms-Library/OGE-Form-450--Confidential-Financial-Disclosure-Report/>.

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b. Form OGE 450A is Available at: [http://www.oge.gov/Forms-Library/OGE-Form-450-A---Confidential-Certificate-of-No-New-Interests-\(Executive-Branch\)/](http://www.oge.gov/Forms-Library/OGE-Form-450-A---Confidential-Certificate-of-No-New-Interests-(Executive-Branch)/).

c. Covered Position. Commanding Officers, heads, deputy heads, and executive officers of Navy shore installations with 500 or more employees, and all Marine Corps installations, bases, air stations or activities.

d. Personal Participation. Additionally, a MCASCP employee is in a covered position if their official responsibilities require them to participate personally and substantially in taking official action for contracting or procurement, or other activities in which their final decision or action may have a direct and substantial economic impact on the interests of any non-Federal entity.

e. Personal and Substantial Participation. An employee is directly participating in a matter if that employee or one of that employee's subordinates, whom he/she is directing, is participating.

f. Micro-Purchaser Exclusion. Employees not employed in contracting or procurement, who make purchases below the Simplified Acquisition Threshold as defined in the Federal Acquisition Regulation (currently \$150,000, or, for support to contingency operations, \$300,000 CONUS/\$1,000,000 OCONUS) do not have to file an OGE Form 450 unless their supervisor, in consultation with the Ethics Counselor, decides otherwise.

5. RESPONSIBILITIES

a. Manpower. Per section 7-301 of reference (b), Manpower shall coordinate as follows with the OSJA:

(1) When a new civilian or uniformed employee is hired or checks in for a covered position or billet, immediately provide the name of the employee, the position or billet, the office and section, and the date the employee began work in the position in order to allow the OSJA to ensure required training and prompt filing of a new entrant form occurs.

(2) Not later than 31 October of each calendar year, provide a list of all personnel assigned to MCASCP who are in covered positions.

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(3) Ensure that the position or billet descriptions for all covered positions indicate that a financial disclosure report is mandatory.

b. Staff Judge Advocate (SJA). As the Ethics Counselor, the SJA shall:

(1) Review and maintain all completed OGE financial disclosure forms in accordance with references (b) and (e).

(2) Coordinate with Manpower to maintain an updated list of which MCASCP billets are covered positions.

(3) Advise employees and supervisors regarding those positions for which filing is required.

(4) Provide mandatory annual training for all employees in covered positions.

c. MCASCP Staff Directors

(1) Not later than 1 October of each calendar year, provide a list of covered positions to Manpower. The list should include the name of the employee, the position or billet, the office and section, and the date the employee began work. Use paragraph 4, above, to determine if an employee should file a financial disclosure form.

(2) Ensure that all new entrant personnel in a covered position submit an OGE-450 form within 25 days of starting work.

(3) Review, certify and forward the OGE-450 report to the OSJA within 5 working days from the date of receipt of the new entrant form.

(4) Ensure all personnel in a covered position submit an annual report no later than 31 January of each calendar year.

(5) Review, certify, and forward annual reports to the OSJA no later than 15 February of each calendar year.

(6) Ensure any covered employee in your section completes annual ethics training NLT 31 December of each calendar year.

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d. Form OGE-450/450A Covered Position Filers

(1) New entrants file OGE-450 with their supervisor no later than 25 days after beginning employment in a covered position. The new entrant OGE-450 form must reflect all reportable financial interests held during the 12 months prior to the report being filed. However, a new entrant report is not required when the employee assumes the new position within 30 days of leaving another covered position. Only parts I through IV of the form must be completed by a new entrant.

(2) Annually file an OGE-450 or OGE-450A with their supervisor no earlier than 1 January, but no later than 31 January of each calendar year.

(a) An annual report will cover financial interests held during the preceding calendar year.

(b) An annual report is not required if the employee is a new entrant and was employed in the reporting year for less than 60 days.

6. EXTENSIONS

a. Pursuant to reference (e), the Ethics Counselor may grant extensions for a deployed OGE-450 filer in a combat zone.

b. The extension can be no longer than 90 days after the last day of:

(1) The individual filer's service in the combat zone or away from his/her permanent duty station; or

(2) The individual's hospitalization resulting from an injury received or disease contracted while serving during the national emergency.

c. It is the personal responsibility of the OGE-450/A report filer to ensure submission of the completed OGE-450/A report within the period of the extension.

CHAPTER 3

CONFLICTS OF INTEREST

1. PURPOSE. This chapter discusses conflicts of interest likely to be encountered by MCASCP employees; and provides tips on how to handle them correctly.

2. BACKGROUND. A conflict of interest is a personal interest or relationship that conflicts with the objective performance of an official duty. There are two types of conflicts: Actual and Apparent.

a. Actual Conflict. Per section 208 of reference (f) (a Federal criminal statute), an employee is prohibited from participating personally and substantially in an official capacity in a matter where the employee has financial interest.

(1) The employee's financial interests, for purposes of this law, include those of the employee's spouse, minor children, business organization, or prospective employer.

(2) "Participate" means decision, recommendation, approval, investigation, or rendering advice.

(3) There are two purposes to this rule:

(a) To maintain public trust and confidence by making clear that public officials act only for the benefit of the public and not themselves.

(b) To ensure the employee remains impartial when making governmental decisions.

** *EXAMPLE*: Bryan, a DoD procurement officer, is about to award a contract for new computers. His wife, Deanna, owns a computer sales business, which has bid on the contract. Bryan may not participate in the contract award decision, since the decision will affect his wife's financial interests (thus his own).

b. Apparent Conflict. Per paragraph 502 of reference (c), an employee may not participate in a particular matter where the employee:

(1) Knows that a matter is likely to have a direct and predictable effect on the financial interest of a member of his household.

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(2) Knows that a person with whom he has a covered relationship is or represents a party to such matter.

(3) The circumstances would cause a reasonable person with knowledge of the relevant facts to question his impartiality.

c. An Employee Has a Covered Relationship With:

(1) A person, other than prospective employer, with whom the employee has or seeks a business, contractual, or other financial relationship (beyond routine consumer transaction).

(2) Members of the household and relatives with whom the employee has a close personal relationship.

(3) A person for whom the employee's spouse, parent or dependent child serves as an officer, director, trustee, general partner agent, attorney, consultant, contractor or employee.

(4) Former business partners, clients, and employers (within last year or last two years if received extraordinary severance payment).

(5) Organizations in which the employee is an active member.

(6) When there is a covered relationship, there is a presumption that the employee's impartiality will be questioned.

**** EXAMPLE:** A senior VP from Blatz Corp. recently resigned from Blatz to become a senior official in DoD. Shortly after his arrival, the official's office is tasked to decide whether or not to renew Blatz's contract with the DoD. Because the senior official was employed by Blatz within the last year, he may not make the decision.

3. RESOLVING CONFLICTS OF INTEREST. If you think you may have a conflicting financial interest, consult your Ethics Counselor immediately to determine the appropriate remedy. Some remedies available include the following:

a. Disqualification. Stop work on actions relating to the matter and submit a written disqualification statement to your supervisor.

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b. Rejection of Job Prospect/Resignation

(1) Decline a job prospect or resign from an outside position. Verbal or e-mail rejection/resignation is sufficient.

(2) If the conflict is related to a procurement, then written rejection of a job prospect may be required.

c. Divest Conflicting Financial Interest

(1) Sell the stock or other financial interest which caused the conflict.

(2) If you are directed to sell, contact your Ethics Counselor before the sale, as you may be eligible for a Certificate of Divestiture from the Office of Government Ethics.

d. Waiver - Before granted, all other remedies should be examined and determined inadequate or inappropriate.

4. BRIBERY AND GRAFT. You may not seek or accept anything of value, other than your salary, for being influenced in your official duties.

5. COMMERCIAL DEALINGS BETWEEN DOD EMPLOYEES. You may not knowingly solicit or make solicited sales to personnel who are junior in rank, grade, or position (or their families). This includes insurance, stocks, real estate, cosmetics, household supplies, and other such goods and services.

** *EXAMPLE*: Sue operates a cosmetics sales business out of her home after hours. During the day she is a supervisor at DoD. She may not make solicited sales to her DoD subordinates on the job or after work by calling them at home.

6. SUPPLEMENTATION OF FEDERAL SALARY. You may not accept compensation from any source other than the U. S. Government for the performance of your services as a Government employee. This rule does not apply if you are a "Special Government Employee" - i.e., a consultant, or you serve without compensation, or your supplementation is a result of a public service award.

7. OUTSIDE ACTIVITIES

a. If you file a financial disclosure report, you need your supervisor's prior written approval before you engage in business activity or employment with a DoD "prohibited source" (see

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paragraph 4, Chapter 8). Presidential appointees and certain non-career employees have additional restrictions that require consultation with your Ethics Counselor.

b. You may not have outside employment or activities that would materially impair your ability to perform your duties.

** EXAMPLE: Jill, who tests new computers for the office, wants to work on weekends for the vendor of those computers. Since her outside employment would cause a conflict of interest with her Government duties, she should not accept the job.

8. RESPONSIBILITIES

a. Staff Judge Advocate. As Ethics Counselor, provide training as needed or required. Upon request and receipt of all relevant information, provide an ethics opinion to any MCASCP employee.

b. Marine Corps Air Station, Cherry Point Personnel. Immediately report any suspected conflict of interest to your Ethics Counselor and your supervisor.

CHAPTER 4

SUPPORT TO NON-FEDERAL ENTITIES

1. PURPOSE. This chapter prescribes MCASCP policy and summarizes permissive and restrictive relations and activities with non-Federal entities (NFEs).

2. BACKGROUND. An NFE is a self-sustaining organization, incorporated or unincorporated, that is not an agency of the Federal Government. They are established, comprised of, operated, and controlled by any individuals acting outside the scope of any official capacity as officers, employees, or agents of the Federal Government. An NFE can be as small as a single individual or as large as an entire multinational corporation. In short, an NFE is any organization that is not part of the Federal Government. NFEs encompass a wide range of organizations that include, for example, an Officers' Spouses Club, an NFL football team, a church, food pantry, homeless shelter, or a local school.

3. ETHICAL PRINCIPLES. The following ethical principles warrant attention regarding relations with NFEs. Personnel:

a. Shall not use Government resources, time, and equipment for other than authorized purposes.

b. Shall not use public office for private gain.

c. Shall not give preferential treatment to any private organization or individual.

d. May not use or permit use of their Government position, title, or authority to endorse a product, service, or enterprise.

e. Shall not participate in official matters that conflict with personal interests.

4. PARTICIPATION IN A NON-FEDERAL ENTITY ACTIVITY. If you receive a request to participate in or with an NFE, the first step is to decide whether the support is in your official or unofficial (personal) capacity. Any DoD servicemember or employee is free to volunteer during his/her off-duty time in his/her personal capacity, unless the activity is prohibited by statute, regulation, or otherwise conflicts with official duties, such as the case with participation in racist, hate, or other extremist organizations. Official support to NFEs is permissible, but only within specific parameters.

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a. Official Capacity

(1) Attendance. Attending a NFE meeting or event in an official capacity may be permitted, even at Government expense, provided the event has a legitimate official purpose or provides a legitimate benefit to the DoD, as determined by the Commander after consulting the Ethics Counselor (see section 3-200 of reference (b)).

(2) Serving as NFE Leadership. Generally, MCASCP personnel may not serve in their official capacity on a NFE's board, council, or committee because this would require them to owe a measure of loyalty to serve the NFE's interests, contrary to employee's official duties. There are limited exceptions to this rule, such as the Navy and Marine Corps Relief Society (see section 3-202 of reference (b)).

(3) Serving as a Liaison. MCASCP personnel may serve as official liaisons to represent DoD interests to NFEs where there is a significant and continuing DoD interest. Such determination is made by the Commander after consulting the Ethics Counselor (see section 3-201 of reference (b)).

(4) Co-sponsorship. All DoD organizations are prohibited from co-sponsoring events with an NFE, except in the case of civic or community activities unrelated to the NFE's or the NFE's members' purpose or business, or in other limited circumstances as determined by the Commander after consulting the Ethics Counselor (see section 3-206 of reference (b)).

b. Unofficial Capacity (Personal)

(1) MCASCP personnel may actively participate in NFEs, provided they act completely outside the scope of their official position. However, MCASCP personnel may not participate if the NFE position is offered because of the individual's official assignment or position (see section 3-301 of reference (b)).

(2) MCASCP personnel may never represent the NFE in actions before or against MCASCP or the DoD (reference (f)).

5. RESTRICTIONS AND LIMITATIONS ON PARTICIPATING IN AND WITH NON-FEDERAL ENTITIES

a. DoD personnel are prohibited from endorsing or providing preferential treatment to NFEs in their official capacities, or using their official titles, positions, or organizational names in

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their personal capacities to imply DoD endorsement or preferential treatment. Exceptions to this are:

- (1) The Armed Forces Relief Societies,
- (2) The Combined Federal Campaign,
- (3) Office of Personnel Management approved emergency and disaster appeals.

(4) Other organizations composed primarily of DoD employees or their dependents when fundraising among their own members for the benefit of welfare funds for their own members or their dependents when approved by the Commander after consultation with the Ethics Counselor (see sections 3-209 and 3-210 of reference (b)).

b. See Chapter 5 for restrictions and limitations on teaching, speaking, and writing activities with NFEs.

6. FUNDRAISING AND LOGISTICAL SUPPORT REQUESTS BY NON-FEDERAL ENTITIES

a. Per section 3-211 of reference (b), a Commanding Officer may provide logistical support, such as: speakers, facilities, or equipment for NFE events (on a limited basis), provided the following seven criteria are met:

(1) The support does not interfere with the performance of official duties or detract from readiness.

(2) The support serves legitimate DoD public affairs, training, or community relations interests.

(3) The event is appropriate for DoD association.

(4) The event is of interest and benefit to the community or DoD.

(5) MCASCP is willing and able to provide the same support to comparable events sponsored by similar NFEs (i.e., no preferential treatment).

(6) The use is not otherwise restricted by statute or regulation (e.g., references (g), (h) and (i)).

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(7) Admission to the event is free to the public (otherwise DoD involvement is further limited).

b. Requests to conduct fundraising events by servicemembers or civilian DoD personnel aboard MCAS, Cherry Point are initiated by submitting a Request for Legal Review (enclosure (2)) to MCCA. If a DoD servicemember or employee has additional questions concerning fundraising or membership drives he/she should consult an Ethics Counselor (SJA) for guidance.

c. The Community Relations Support Board processes most other NFE logistical support requests for speakers, equipment, resources, tours, activities, fundraising, or membership drives aboard MCASCP. The Joint Public Affairs Office is the point of contact and provides station-wide awareness for all Community Relations requests.

d. MCASCP may use official channels, such as e-mail or newspaper, to notify DoD personnel of events of common interest sponsored by an NFE, but such notices may not endorse, solicit donations for, or promote the event (see section 3-208 of reference (b)).

e. NFEs may not use official DoD seals or emblems in connection with an event, even if DoD personnel are speaking, since NFE-sponsored events are not official DoD activities (e.g., reference (j)).

7. RESPONSIBILITIES

a. Staff Judge Advocate. As Ethics Counselor, provide an ethics opinion (as required) in response to a properly documented logistical support request from a MCASCP employee.

b. Joint Public Affairs Office. Process NFE requests for logistical support through the Community Relations Support Board.

c. Marine Corps Air Station, Cherry Point Personnel. Personnel who solicit support for, request to advertise an NFE activity, or conduct a fundraising event must submit a Request for Legal Review Form, (enclosure (2)) to MCCA.

CHAPTER 5

TEACHING, SPEAKING, AND WRITING

1. PURPOSE. This chapter outlines the rules affecting outside activities involving teaching, speaking, and writing by active duty and civilian MCASCP personnel.
2. GENERAL RULE. MCASCP personnel may participate in outside activities, subject to some limitations. MCASCP personnel may not have outside employment or be involved in an outside activity that conflicts with their official duties.
3. TEACHING, SPEAKING, OR WRITING RELATED TO OFFICIAL DUTIES

a. A MCASCP employee may not use his/her public office for private gain. There are common pitfalls and things to consider, such as paragraph 807 of reference (c), that prohibit accepting compensation from an NFE for teaching, speaking, or writing when:

- (1) The activity is undertaken as part of the employee's official duties.
- (2) The invitation was extended because of the employee's official position rather than his expertise.
- (3) The invitation is from a person whose interest may be affected by the employee's official duties.
- (4) The presentation is based on non-public or privileged information (disclosure of which is itself prohibited by paragraph 703 of reference (c)).
- (5) The topic deals with the employee's current duties or those during the previous year, or the topic deals with a policy, program, or operation of the employee's agency.

b. DoD personnel are prohibited from using appropriated funds to solicit speaking invitations from NFEs (reference (j)).

c. In determining the legality and appropriateness of teaching, speaking or writing activities by a MCASCP employee, it is critical to understand whether the employee is providing any such activity in his/her personal or official capacity. This determination is fact specific and requires review by an Ethics Counselor.

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4. EXCEPTIONS

a. The prohibition against accepting compensation does not apply to matters within the employee's discipline or expertise based on education or experience (paragraph 807(a)(2)(i)(E) of reference (c)).

b. An employee may accept compensation for teaching a course of the regularly established curriculum of an elementary school, high school, or institution of higher education (paragraph 807(a)(3) of reference (c)).

c. An employee may accept a gift of official travel and related expenses from an NFE on behalf of the Federal Government to attend a meeting or similar function in an official capacity, when the travel is away from the employee's assigned duty station. Prior to accepting a gift of official travel or related expenses, the employee shall obtain approval in a written ethics opinion from an Ethics Counselor. Such travel must be reported semi-annually to the Office of Government Ethics through the OSJA (references (k) and (l)).

5. POLICY & SECURITY REVIEWS. A lecture, speech, or writing that pertains to military matters, national security issues, or subjects of significant DoD concern must be reviewed for clearance by appropriate security and public affairs offices. Additionally, any lecture, speech, or writing by a MCASCP employee to an NFE should be reviewed by the Ethics Counselor to ensure there is no actual or implied NFE endorsement (references (m), (n), and (o)).

6. DISCLAIMERS. MCASCP employees who permit the use of their military grade, title, or position while teaching, speaking, or writing regarding DoD policies, programs, or operations shall indicate that the views are those of the speaker and not DoD or its components. Where a disclaimer is required for a written presentation, the disclaimer must be prominently printed in the presentation. Where a disclaimer is required for a speech, the disclaimer may be given orally at the beginning of the presentation (section 2-207 of reference (b)).

7. HONORARIA. An honorarium is payment to an individual in recognition of a special service for which custom or propriety forbids any fixed price to be set. Honoraria services may include speeches, panel participation, reviewing manuscripts, and leading group discussions. An honorarium may only be accepted if it is not for speaking, teaching, or writing related to official duties and the employee is a GS-15 (or equivalent) or below (see

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subsection 3-307.c of reference (b), paragraph 807 of reference (c), and section 209 of reference (f)).

8. PARTICIPATION IN MEDIA PRODUCTIONS. The rise of interest in reality television coupled with increased appreciation of servicemembers' efforts and sacrifices has resulted in various media productions that make servicemembers the focus of reality or life-improvement programs (e.g., Extreme Home Make-Over, Pimp My Ride, Underage and Engaged, etc.). These programs are primarily Public Affairs or Community Relations events. Accordingly, the PAO has the lead (with legal support) on production assistance agreements, base use, etc., (reference (n)). In several cases, DoD determined the items received by a servicemember (or his family) in connection with the production of a television program was personal appearance compensation, and not a gift from the production company or product source. However, any offer to appear in a media production shall be reviewed by MCASCP PAO and SJA, and approved by the Commander prior to the servicemember's (including members of his/her family) or other DoD employee's participation.

9. USE OF OFFICIAL TITLE

a. Generally, a MCASCP employee shall not use or permit the use of official position or title or any authority associated with public office in a manner that could reasonably be construed as or implying sanction or endorsement by DoD (or any of its components), of his/her personal activities or those of another (sections 3-209 and 3-300 of reference (b)). When teaching, speaking, or writing in a personal capacity, a MCASCP employee may:

(1) Include or permit the inclusion of his/her title or position as one of several biographical details when such information is given to identify him/her in connection with his/her teaching, speaking or writing, provided that his/her title or position is given no more prominence than other significant biographical details (paragraph 807 of reference (c)).

(2) Use or permit the use of his/her title or position in connection with an article published in a scientific or professional journal, provided that the title or position is accompanied by a reasonably prominent disclaimer stating that the views expressed in the article do not necessarily represent the views of the United States, DoD, U. S. Marine Corps, or MCASCP (section 2-207 of reference (b)).

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(3) Use or permit the use of address ordinarily used as a general term or rank (e.g., by military rank) in connection with teaching, speaking or writing (sections 3-209 and 3-300 of reference (b)).

b. It is important to remember that while MCASCP employees may write a letter of recommendation supporting an employment application, they cannot use their official title and position or DoD letterhead to endorse either their own personal activities, services, or products, or those of another. Furthermore, DoD employees cannot state or imply that DoD or the Government endorses or sanctions their personal activities or those of another (section 3-209 of reference (b)).

10. RESPONSIBILITIES

a. Staff Judge Advocate. Upon request and receipt of all relevant information, provide an ethics opinion to any MCASCP employee.

b. Marine Corps Air Station, Cherry Point Personnel

(1) If you are asked to teach, speak, or write to any NFE, contact the JPAO Community Relations Board. The board will submit the request to the OSJA to obtain an ethics opinion.

(2) Prior to any MCASCP personnel teaching, speaking, or writing outside of the Federal Government, they shall seek an ethics opinion from the OSJA.

CHAPTER 6

POLITICAL ACTIVITIES

1. PURPOSE. This section details MCASCP policy and assigns responsibilities, as required, to comply with the references regarding MCASCP personnel involvement in political activities. These limitations are intended to prevent, identify, and resolve any conflicts of interest that could cast doubt on the ability of MCASCP personnel to act as stewards of the public trust.

2. APPLICABILITY. The references (below) apply to all active and Reserve military servicemembers and civilian personnel permanently assigned to MCASCP and MCASCP subordinate units.

3. MILITARY PERSONNEL. Uniformed MCASCP personnel are prohibited from acting in any manner that reasonably gives rise to the inference of approval or endorsement of candidates for political office by the DoD or U. S. military (reference (p)). For example, personnel may not engage in political activity while in uniform because a member of the public may reasonably infer military endorsement of the particular issues or candidates. All servicemembers shall avoid any activity that may be contrary to the spirit or intent of reference (p).

a. Active duty (and activated) military personnel may:

(1) Vote.

(2) Express personal opinions about political candidates and issues, but not as a representative of the U. S. military.

(3) Join a political club and attend partisan and nonpartisan political meetings, debates, conventions, or activities as a spectator, when not in uniform.

(4) Sign a petition to place a candidate's name on an official election ballot.

(5) Make monetary contributions to a political campaign or party.

(6) Display a political bumper sticker on a personal vehicle.

(7) Write a letter to the editor or post a blog, stating a personal opinion. The opinion must provide a disclaimer specifying that the stated views are those of the individual and

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not of the DoD or U. S. Government, and it may not solicit votes for or against a partisan candidate.

(8) Participate in nonpartisan activities that are not specifically identified with a political party, such as a referendum question or a municipal ordinance on, for example, tax or environmental issues.

b. Active Duty and Activated Military Personnel May Not:

(1) Actively fundraise or participate in partisan political activities (mere attendance at an activity does not constitute participation).

(2) Serve as an officer of a political club.

(3) Speak at a partisan gathering or participate in any radio or television programs (including organized blog debates or discussions) that advocate for or against a political party, candidate, or cause.

(4) Seek nomination or candidacy for civil office (consult the Ethics Counselor for limited exceptions).

(5) Display a large political sign, banner, or poster (as distinguished from a bumper sticker) on a personal vehicle.

(6) Display a political sign, poster, banner, or other campaign material visible to the public (as distinguished from a bumper sticker on a personal vehicle) at one's residence on a military installation (including homes located in privatized housing), or otherwise act in a manner that could reasonably give rise to the inference or appearance of official sponsorship, approval, or endorsement of a partisan political candidate.

(7) Attend political events as an official representative of the Armed Forces unless authorized by the Service Secretary concerned.

4. NON-ACTIVATED RESERVISTS. A servicemember not on active duty may take the actions or participate in the activities prohibited for active duty members, provided the member is not in uniform and does not otherwise act in a manner that could reasonably give rise to the inference or appearance of official sponsorship, approval, or endorsement.

5. DOD CIVILIAN PERSONNEL. References (q) and (r) govern civilian employees' participation in political activities. As a

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general matter, activity is political if its primary purpose involves activity directed toward the success or failure of a political party or organization or the election of a partisan candidate.

a. DoD Civilian Employees May:

- (1) Vote.
- (2) Express personal opinions about political candidates and issues.
- (3) Make monetary contributions to a political campaign or party (except while on duty or using government equipment);
- (4) Display a political bumper sticker on a personal vehicle.
- (5) Attend political events.
- (6) Sign a petition to place a candidate's name on an official election ballot.
- (7) Display a political sign at one's personal residence.
- (8) Participate in nonpartisan activities that are not specifically identified with a political party, such as a referendum question or a municipal ordinance on, for example, tax or environmental issues.

b. DoD Civilian Employees May Not:

- (1) Participate in any political activity while on duty or in a Federal building.
- (2) Use the insignia of a Government office or any aspect of one's official authority while participating in political activities.
- (3) Solicit, accept, or receive political contributions (regardless of when or where these actions take place).
- (4) Display campaign photos, posters, banners, bumper stickers, screen savers, t-shirts, buttons or other campaign materials in a Federal building.
- (5) Engage in political activity while using a Government owned or leased vehicle.

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(6) Host a fundraiser for a partisan candidate.

(7) Run for public office in a partisan election.

6. RESPONSIBILITIES. Whether you are an active duty servicemember, a reservist, or a DoD civilian, the rules that govern your political activities are circumstance specific. If you plan to engage in any partisan political activity, consult your Ethics Counselor beforehand.

CHAPTER 7

USE OF GOVERNMENT RESOURCES

1. PURPOSE. This section prescribes MCASCP policy on the use of Government resources.

2. GENERAL PRINCIPLES

a. Employees shall protect and conserve Federal property and shall not use it for other than authorized activities (paragraph 101(b)(9) of reference (c)).

b. An employee has a duty to protect and conserve Government property and shall not use such property, or allow its use, for other than authorized purposes (paragraph 704(a) of reference (c)).

3. GENERAL RULE. All Federal Government equipment and property, (most commonly involving office supplies, telephone and other communication equipment, computer systems, printer, scanners and faxes, Government mail, and Government vehicles) are for official or authorized purposes only.

a. "Official" means it is part of your job requirement. Official time (working hours) is to be used in an honest effort to perform your job. If the use is not "official" then it must be "authorized", which generally refers to reasonable exceptions to official use of resources that are recognized by statute.

b. Generally, you should only use your time and Government resources to perform official duties. However, reasonable use of Government equipment during periods of personal time or breaks for unofficial purposes is permitted, provided the activity is not otherwise unlawful (e.g., gambling, pornography, etc.).

4. AUTHORIZED USE OF INFORMATION TECHNOLOGY AND COMMUNICATIONS OUTSIDE OFFICIAL DUTIES

a. Brief calls home while TAD to notify family of official transportation or schedule changes.

b. Personal communications from the workplace that are of reasonable duration and frequency and do not adversely affect official duty performance.

c. Brief internet searches and use for unofficial purposes, such as online banking, directions, etc.

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d. Activities that serve a legitimate public interest, (e.g., enhancing professional skills or job searches in response to Government downsizing).

5. COMMON GENERAL PROHIBITIONS INVOLVING GOVERNMENT RESOURCES

a. Communications Systems. The use of communications systems that would adversely reflect on DoD are strictly prohibited (e.g., uses involving pornography, chain e-mail messages, unofficial advertising, soliciting, or selling via e-mail, and other uses incompatible with public service).

b. Non-Public Information. Information gained through Federal employment that you know or should know is unavailable publicly may not be used in financial transactions or to further private interests (paragraph 703 of reference (c)).

c. Subordinates. MCASCP personnel are prohibited from encouraging, directing, coercing, or requesting a subordinate to use official or personal time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation.

**EXAMPLE: You decide to purchase GPS stock based on a tip that the DoD is about to award a large GPS contract.

or

Major Smith asks Lance Corporal Jones to watch his dogs while he performs Temporary Additional Duty.

d. MCASCP personnel cannot use their public office for private gain, including the use of title or position where it can reasonably be construed to be an official Government endorsement of personal activities.

6. USE OF GOVERNMENT VEHICLES. See Chapter 9.

7. USE OF ENLISTED AIDES. Employment of enlisted aides is highly regulated and their use is closely scrutinized. See reference (s) for guidance, and consult an Ethics Counselor.

8. RESPONSIBILITIES

a. Staff Judge Advocate. As Ethics Counselor, upon request and receipt of all relevant information, provide an ethics opinion to any MCASCP employee.

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b. Marine Corps Air Station, Cherry Point Personnel. Use Government resources consistent with this Guidance and immediately report any suspected misuse of Government resources to your Ethics Counselor and your supervisor.

CHAPTER 8

GIFTS

1. PURPOSE. This chapter provides an overview of the ethical rules associated with giving, soliciting, or receiving gifts. It specifies the process to obtain an ethics opinion, document received gifts, and comply with higher headquarters' reporting requirements (references (c), (t), and (u)).

2. GENERAL RULE. You may not accept a gift given because of your official position, or from a prohibited source. Regardless of any exceptions that might ordinarily allow you to accept gifts, it is always unlawful to:

a. Accept a gift in return for being influenced in the performance of an official act (this is a bribe!).

b. Solicit or coerce the offering of a gift.

c. Accept gifts from the same or different sources so frequently that a reasonable person would think you are using your office for private gain.

d. Accept a gift in violation of a statute.

** EXAMPLE: Patty, a DoD employee, meets informally every week with representatives of DoD contractors, who customarily treat her to a small breakfast. Although an exception might permit acceptance of these small breakfasts, Patty's recurring practice of accepting them is improper.

3. PROHIBITED SOURCE. A prohibited source is any person who is, or any organization whose majority of members are:

a. Seeking official action by DoD.

b. Doing or seeking to do business with DoD.

c. Regulated by the DoD.

d. Substantially affected by the performance of your official duties.

** EXAMPLE: Joe, a Computer.Com representative, is seeking to do business with the DoD. Joe invites members of the MCASCP Supply Directorate to a golf tournament, which is paid for by his company. MCASCP Supply personnel cannot accept the gift of free

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golf or greens fees unless an exception to the gift rule applies. Because Computer.Com seeks to do business with the DoD, it is classified as a prohibited source.

4. GIFTS. Anything of monetary value, including services, given to the servicemember or any immediate family member is considered to be a gift. The following items are not defined as gifts:

a. Modest items of food and refreshments (like coffee and donuts) when not served as a meal.

b. Prizes in contests open to the public.

c. Greeting cards and items with little intrinsic value, such as plaques, certificates, and trophies, intended only for presentation.

d. Commercial discounts available to the public or to all Government civilian or military personnel.

e. Anything the Government acquires by contract or otherwise legally accepts.

f. Anything for which you pay market value.

g. If you enter your business card in a drawing sponsored by a DoD contractor that is open to the public, you may keep the prize.

5. GIFTS THAT YOU MAY USUALLY KEEP

a. A gift from a prohibited source valued at \$20 or less, (but not more than \$50 in total from one source in a year) may be accepted. However, it may be best practice, depending of the circumstances, to decline a gift, even if allowed by an exception.

b. Gifts motivated by truly personal relationships.

** EXAMPLE: On each of his quarterly visits, the sales representative of Overpriced Computers, Inc. gave Bonnie, a DoD employee, a company T-shirt valued at \$10 each. During that period Bonnie's brother Steve, who also works for Overpriced Computers, Inc., bought her a birthday present valued at \$60. Bonnie may keep all of the gifts given to her. The T-shirts don't exceed the \$50 annual limit from one source, and the gift from her brother Steve is the result of a personal, not business, relationship.

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c. Certain discounts and similar benefits offered:

(1) By professional organizations (e.g., ABA).

(2) To groups unrelated to Government employment.

(3) To groups in which membership is related to Government employment, if the same benefits are available to other, similar organizations (e.g., discounted loans to Government credit union members).

d. Gifts resulting from your or your spouse's outside business activities.

e. Free attendance provided by a state, local government, or tax exempt civic organization when there is a community relations interest.

f. Gifts accepted under specific statutory authority, such as certain gifts from a foreign government.

g. Certain educational scholarships and grants (consult your Ethics Counselor).

h. Free attendance, food, and entertainment (not travel) at certain conferences or professional events under limited circumstances:

(1) Meals, lodging, transportation, and other benefits in connection with employment discussions.

(2) Awards for meritorious public service or achievement, and honorary degrees (consult your Ethics Counselor).

(3) Travel benefits and free attendance from political organizations in connection with certain political activities.

(4) Food and entertainment, not travel and lodging, at social events, if the invitation is not from a prohibited source, and the event is free to all attendees.

(5) Gifts of food and entertainment, not to exceed the per diem rate, at meetings or events attended in an official capacity in foreign areas, when not provided by a foreign government, and non-U. S. citizens participate in the meeting or event.

** EXAMPLE: On account of his DoD position, an arms trade association invites Jared, a DoD officer, to an industry-wide,

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one-day seminar sponsored by the association, a \$200 value. He is also invited to dinner, which costs \$100, at a restaurant after the seminar with several industry executives. Jared may accept the seminar invitation, provided that his supervisor determines that his attendance furthers DoD's interests. Jared may not accept the free dinner invitation, which is not part of the seminar and is closed to other interested participants.

i. You may NOT accept cash or investment interests.

6. FOREIGN GIFTS. Federal employees may accept gifts from foreign governments if the fair market value of the gift is below the "minimal value," (currently \$375). All foreign gifts require an ethics opinion from your Ethics Counselor.

a. Fair Market Value. The retail cost that the recipient would pay to purchase the item. Estimates of fair market value can be obtained from online websites or professional appraisers. (Note: The value of an item researched on 'E-bay' is NOT recognized as representing the fair market value of an item.)

b. Gift That Exceeds Minimal Value. Any gift from a foreign government that exceeds the minimal value becomes property of the command. The gift may be purchased by the servicemember by paying fair market value to the Department of Treasury. Any gift in excess of the minimal value that is retained by the command must be reported to HQMC, Judge Advocate Division (Civil and Administrative Law Branch (JCA)).

7. DISPOSITION OF IMPROPER GIFTS. If you are offered a gift that you cannot accept, you should:

a. Decline the gift.

b. Return the gift.

c. Pay the donor the gift's fair market value (Subsequent reciprocity is not a solution).

** EXAMPLE: Tom was offered two tickets valued at \$30 each, to a baseball game, from an employee of a DoD contractor. Since the price of each ticket exceeds the \$20 limit, Tom may only accept the tickets if he pays the contractor \$60, the full market value of the tickets. Paying only \$40 is not permissible.

d. Under certain circumstances perishable items that may not properly be accepted by the individual, may be:

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- (1) Donated to charity.
- (2) Destroyed.
- (3) Consumed within the office.

8. GIFTS BETWEEN EMPLOYEES

a. You may not accept a gift from an employee who earns less than you (unless you have a personal relationship with the employee, and you are not in the chain of command).

b. You may not give, make a donation toward, or solicit a gift for someone superior to you in the chain of command.

** EXAMPLE: Bill asks his 4 co-workers to each pitch in \$20 to purchase a \$100 golf putter for Doreen, their boss, for Christmas. Doreen invites the office to a New Year's party, serving meals valued at \$25. Bill brings a \$20 bottle of wine.

- Bill may not solicit his co-workers for, and he and his co-workers may not give their boss, a group gift or individual gifts at Christmas that exceeds \$10.

- The dinner and the wine are both appropriate.

c. Exceptions

(1) On an occasional basis, such as holidays or birthdays, you may give to a superior or receive from a subordinate:

(a) Non-monetary gifts of up to \$10.

(b) Personal hospitality provided at a residence (or an appropriate and reasonable host/hostess gift).

(c) Food or refreshments shared in the office.

** EXAMPLE: Doreen decides to retire. Bill, who works for Doreen, gives her a \$20 book and again solicits for a going-away gift. He would like to get her a golf-related desk set that costs about \$50.

- Bill may give the \$20 book, as it is an appropriate gift.

- Bill may also solicit for a gift and contribute toward the group gift. (Bill has learned his lesson and does not suggest an amount to contribute.)

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(2) On special, infrequent occasions, of personal significance, such as marriage, illness, birth or adoption of a child, or occasions that terminate the chain of command, such as retirement, resignation, or transfer, you may:

(a) solicit voluntary contributions up to \$10/person for a group gift.

(b) personally give an appropriate gift to a superior.

(c) accept appropriate gifts and group gifts that do not exceed \$300 from subordinates (contact your Ethics Counselor for exceptions).

9. RESPONSIBILITIES

a. Staff Judge Advocate

(1) As Ethics Counselor, upon request and receipt of all relevant information, provide an ethics opinion to any MCASCP employee.

(2) Ensure MCASCP complies with reporting requirements for (1) general gifts, (2) gifts of travel and travel related benefits, and (3) gifts from foreign governments exceeding the minimal value of \$375.

b. Marine Corps Air Station, Cherry Point Personnel.

Immediately report any suspected conflict of interest regarding received gifts, to the OSJA and your supervisor. You must report any gift from a foreign government. It is highly recommended that you report ANY gift you receive because of your official capacity to the OSJA for an ethics review.

c. Station Protocol Officer. Maintain a gift log documenting all official gifts received.

CHAPTER 9

TRAVEL

1. PURPOSE. This chapter provides a general overview of the ethical rules associated with travel on official business and the use of Government transportation resources, either as physical assets, such as Government-owned vehicles, or funds in support of such travel.
2. GENERAL PRINCIPLE. It is essential that leaders and commanders at all levels prevent the misuse of transportation resources as well as the perception of their misuse (see references (b), (v), (w), and the Joint Federal Travel Regulations (JFTR)).
3. GENERAL RULE. Only persons whose transportation benefits the Government should use Government owned or funded transportation assets. Exceptions for other travelers should be granted only when there is no impact on the Government's cost or mission. Government transportation should be scheduled and arranged to be the most cost-effective for the Government, not to maximize the personal convenience of the traveler.
4. MILITARY AIR TRAVEL. Generally speaking and per reference (s), a request to use Government aircraft must be submitted in writing to the appropriate authorizing officials for approval on a case-by-case basis. Use of Government aircraft shall not be approved if commercial airline or aircraft (including charter) service is reasonably available (i.e., commercial airline or airlift service is available to effectively fulfill the mission requirement and is able to meet the traveler's departure and arrival requirements in a 24-hour period) **unless**:
 - a. Highly unusual circumstances present a clear and present danger.
 - b. An emergency exists.
 - c. Use of Government aircraft is more cost-effective than commercial air.
 - d. Other compelling operational considerations make commercial transportation unacceptable.
 - e. All requests for use of military air travel will be submitted to the OSJA for review by the Ethics Counselor.

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5. SPOUSAL TRAVEL. Any official spousal travel may only be approved by the Assistant Commandant of the Marine Corps.

a. Official Travel by Spouse. A MCASCP spouse may be authorized to travel in his or her official capacity only when:

(1) Attendance is in an "unquestionably official function" in which the spouse will actually participate in an official capacity.

(2) Such travel is deemed in the national interest because of diplomatic or public relations benefit to the United States (section E5 of reference (s) and JFTR Appendix E, Part 1.A.).

(3) Ordinarily a spouse is reimbursed for travel costs only, NOT per diem. However, per diem can be approved when the spouse is approved for travel on an independent basis, (i.e., the spouse will confer with DoD officials on official matters, as a subject matter expert). This exception does not include mere attendance at a meeting or conference, even if hosted by the DoD or one of its components.

b. Unofficial Travel by Spouse. Spouses may accompany their sponsors on official business in a Government aircraft on a space-available basis only when:

(1) The aircraft is already scheduled for an official purpose.

(2) The noninterference use does not require a larger or additional aircraft than needed for the official purpose.

(3) Official travelers are not displaced.

(4) The travel results in negligible additional cost to the Government.

(5) The Government is reimbursed at the full coach fare based on comparable commercial flight.

6. TRAVEL BENEFITS. MCASCP personnel should never arrange travel for the purpose of accruing travel benefits. However, personnel may keep such benefits if the benefits are incidental to official travel.

a. Frequent Flyer Miles. MCASCP personnel may retain promotional items (including frequent flyer miles, upgrades, or access to carrier club or facilities) received as a result of

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using travel or transportation services obtained at Federal Government expense or accepted under reference (b) for personal use provided any such benefit is obtained under the same terms as those offered to the general public and at no additional cost to the Federal Government.

b. Upgrades. MCASCP personnel may accept on the spot upgrades to first class or a larger rental car due to overcrowding or shortage of smaller cars, upgrades due to promotional offers, upgrades available to the public, or upgrades due to individual accumulation of frequent flyer miles. MCASCP personnel may NOT solicit upgrades based on their military or Federal status.

c. Involuntary vs. Voluntary Bump. If a MCASCP employee is involuntarily "bumped" from an overbooked flight, any compensation (check, complimentary ticket) belongs to the Government. A MCASCP employee may keep the benefit if he/she voluntarily relinquishes his/her seat as long as taking a later flight does not result in any additional cost to the Government.

7. GOVERNMENT VEHICLES

a. Use of Government Vehicles. Use of Government-owned or leased motor vehicles is restricted to official purposes only (references (v) and (x)). Official purpose means any application of a motor vehicle in support of authorized DoD functions, activities, or operations. This means that Government vehicles may not be used to conduct personal business. Some incidental uses of Government vehicles may be authorized, however, for non-official business only when such use is clearly in the interest of MCASCP and after consultation with the Ethics Counselor.

(1) Home to Work. Using Government vehicles to transport individuals between their residences and places of work is not transportation for an Official purpose and is prohibited (references (v) and (x)). Rare exceptions exist and they require written pre-approval and consultation with your Ethics Counselor.

(2) Spouses or Family Members Traveling in Government Vehicles. The spouse or family member(s) of a MCASCP employee may be transported in a Government-owned or leased motor vehicle only when accompanying the MCASCP employee in the Government vehicle, the use of which has already been authorized to accomplish Official business, and there is space available. Such transportation can be provided only at no additional cost to the Government. The size of the vehicle authorized must be no larger than that required for the performance of the Official business (reference (v)).

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c. Use of Rental Vehicles While TAD. Vehicles rented by MCASCP personnel using their Government travel cards are not subject to the same restrictions as the use of Government-owned vehicles; however, personnel may be reimbursed only for costs associated with the official use of rental vehicles. Important liability issues also exist when personnel use rental vehicles for transportation outside of official purposes (to include use for personal activities or the transport of a spouse, family member, or friends). YOU (not the Government) may be liable for injuries or damages incurred when using such transportation for Unofficial purposes. If you intend to use rental vehicles for Unofficial purposes, you should consider personally purchasing insurance offered by the rental company.

8. RESPONSIBILITIES

a. Staff Judge Advocate. As Ethics Counselor, upon request and receipt of all relevant information, provide an ethics opinion to any MCASCP employee.

b. Marine Corps Air Station, Cherry Point Personnel

(1) Prior to conducting any official travel, seek approval through chain of command.

(2) Prior to conducting any travel using military air, seek an ethics opinion from the Ethics Counselor.

CHAPTER 10

POST-GOVERNMENT SERVICE EMPLOYMENT

1. PURPOSE. This chapter provides guidance to MCASCP personnel on the ethical steps and considerations when transitioning from Government to post-Government service employment. The restrictions while seeking post-Government service employment are straight forward; however, the restrictions are complex while serving in a post-Government service employment position, and they depend on the actual duties one performed while in Government service (reference (y)).

2. GENERAL RULES

a. Restrictions While Seeking Post-Government Service Employment

(1) Once a MCASCP employee has started seeking and/or negotiating for employment with a prospective employer, he/she may not take official action that will affect the financial interests of that prospective employer.

(2) If a MCASCP employee, uniformed or civilian, is seeking non-Federal employment (e.g., sending resumes to select employers or responding to an employer solicitation other than with an outright declination) that employee may not perform any Government work on a particular matter that will affect the financial interests of any prospective employers. The employee must give a written disqualification statement to his/her supervisor, disqualifying him/herself from continuing work on a particular matter that might affect the financial interests of a prospective employer. See enclosure (3) for a sample letter.

b. Restrictions While Serving In Post-Government Service Employment. Before separating from the Government, MCASCP personnel should consult with the OSJA for advice on restrictions that apply to activities in the private sector in light of their specific duties and level of responsibility while serving as a Government employee.

3. DEFINITIONS

a. Particular Matter. A Particular Matter is one that involves deliberation, decision, or action that is focused on the interests of specific persons or a discrete and identifiable class of persons. These matters may include a contract, claim, application, judicial or other proceeding, request for a ruling or

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other determination, controversy, investigation, or charge. A Particular Matter could even include legislation or policy-making that is narrowly focused on the interests of a discrete and identifiable group of parties or organizations (e.g., DoD policy affecting only military aircraft manufacturers).

b. Personal and Substantial Participation. The same as defined in paragraph 4.c. of Chapter 2.

c. Direct and Predictable Effect. A close, causal link between any action taken on the matter and any expected effect of the matter on the financial interest. An effect may be direct even though it does not occur immediately. A matter that may affect the financial interest only because of its effects on the general economy is not direct. There must also be a real, not speculative, possibility that the matter will affect the financial interest, but the size of the gain or loss is not relevant.

d. Seeking Employment. This includes a MCASCP employee's inquiries regarding potential future employment, including negotiations; and his/her responses, other than an immediate and clear rejection, to an unsolicited communication regarding possible employment. Seeking employment does not include requesting a job application but does include forwarding a resume. If a MCASCP employee sends a resume, he/she is considered to be seeking employment for two months unless either the employee or the company rejects the possibility of employment prior to that time.

e. Negotiating for Employment. Any discussion with an organization, or an agent of an organization, with the mutual view of reaching an agreement regarding possible employment is deemed to be negotiating for employment. It is not limited to just discussing specific terms and conditions of employment in a specific position.

f. Senior Official. All Flag and General Officers, and civilian personnel whose basic rate of pay is at or above 86.5% of the basic rate for Executive Schedule Level II employees, are considered to be Senior Officials.

g. Disqualification. This means 'Do not do ANY work on a task touched on by the disqualified matter.' A written disqualification provided to the MCASCP employee's supervisor is required by references (j) and (y). The written disqualification must state that the employee will not participate in any official matter that has a direct and substantial effect on the prospective employer(s) that he/she identified. A sample of a

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Disqualification letter can be found in enclosure (3). Prior to submitting a disqualification to a supervisor, a MCASCP employee must first consult with the OSJA.

h. Official Responsibility. The direct administrative or operating authority to approve, disapprove, or otherwise determine Government actions is Official Responsibility. It includes a supervisor at any level having responsibility for the actions of a subordinate employee who actually participates in a matter.

i. Covered Information. Agency records accessible to the employee, but exempt from disclosure under the Freedom of Information Act are considered to be Covered Information.

4. OFFICIAL RESTRICTIONS WHILE SEEKING AND NEGOTIATING POST-GOVERNMENT SERVICE EMPLOYMENT

a. A MCASCP officer or DoD civilian employee (does not include enlisted personnel) may not participate personally and substantially in a particular matter that, to his/her knowledge, will have a direct and predictable effect on the financial interests of a prospective employer with whom he/she is seeking employment.

(1) If the factors set forth in paragraph 5.a. of this chapter are met, disqualification from doing any task that touches on the particular matter is required unless a supervisor determines to the contrary (as described in paragraph (3) of this paragraph).

(2) MCASCP procurement personnel may not participate personally and substantially in a DoD procurement valued at more than \$150,000 when seeking employment with a bidder or offeror. The rules require that personnel file written disqualification statements with the contracting officer, source selection authority, and immediate supervisor, identifying the procurement, describing the nature and specific dates of participation in the procurement, and identifying the bidder or offeror, and describing its interest. Further, MCASCP procurement personnel must promptly report, in writing, to their supervisors and ethics officials any employment contact with a bidder or offeror in a DoD procurement valued at more than \$150,000, even when he/she promptly rejects the employment contact (reference (2)).

(3) Supervisory Determination. When a MCASCP employee seeks employment, but has not yet entered into negotiations with the prospective employer, his/her supervisor may authorize the employee's participation in a matter if the supervisor

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determines that the Government's interests outweigh the concern that the integrity of the agency's program and operation may be questioned. The supervisor must consider specific factors and must consult with the DoD General Counsel Standards of Conduct Office through the OSJA before making such determination.

b. An officer or DoD civilian employee may not personally and substantially participate in a particular matter in which, to the officer or employee's knowledge, the officer or employee (or their spouse, child, partner, organization in which the officer or employee serves as an officer/director/trustee/partner/or employee, or organization with whom he or she is negotiating or has any arrangement concerning prospective employment) has a financial interest. An arrangement or negotiation for prospective employment is considered to create a financial interest of the officer or employee in the company with whom he or she is seeking employment. It has the same effect as if the employee purchased stock in the company. When negotiations have terminated with a decision not to work for the prospective employer, the MCASCP employee should withdraw his/her disqualification.

5. POST-GOVERNMENT SERVICE EMPLOYMENT RESTRICTIONS

a. Lifetime Ban. Former Government officers and employees may not knowingly make a communication or appearance on behalf of any other person, with the intent to influence, before any officer or employee of any Federal agency or court in connection with a particular matter in which the officer or employee personally and substantially participated, which involved a specific party at the time of the participation and representation, and in which the United States is a party or has a direct and substantial interest (reference (b)). This rule does not apply to former military enlisted personnel.

b. Two-Year Ban. A former MCASCP employee may not represent someone else to the Government regarding particular matters that he/she did not personally work on, but were pending under his/her official responsibility during the employee's last year of Government service for two years after leaving Government service (reference (b)).

c. One-Year Ban

(1) A former MCASCP employee may not knowingly represent, aid, or advise someone else on the basis of covered information, concerning any ongoing trade or treaty negotiation in which the employee participated personally and substantially in his/her last year of Government service, for a period of one year after leaving

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Government service (reference (b)). This rule does not apply to former military enlisted personnel. There are exceptions to this rule, such as when acting pursuant to official Government duties or when acting with prior approval of the Secretary of State; consult the OSJA for further guidance regarding these exceptions.

(2) No former assignee shall knowingly represent, aid, counsel or assist in representing any other person in connection with any contract with that agency for one year after termination of an employee's assignment from a private sector organization to DoD under the Information Technology Exchange Program (5 U.S.C. chapter 37). Exceptions to this rule include when acting pursuant to official Government duties or when acting with prior approval of the Secretary of State. However, consult the OSJA for further guidance regarding any exceptions.

(3) Former senior officials may not make any communication or appearance on behalf of any other person, with intent to influence, before any officer or employee of the agency or agencies in which the individual served within 1 year prior to leaving the senior position, in connection with any matter on which official action is sought by such individual for a period of one year after leaving a senior position.

(4) Former senior officials may not knowingly aid, advise, or represent a foreign government or foreign political party, with the intent to influence any officer or employee of any Federal department, agency, or Member of Congress for a period of one year after leaving a senior position.

d. Ban on Compensation for Representation to the Government by Others. After a MCASCP employee leaves Government service, he/she may not accept compensation for representational services, which were provided by anyone while the employee was a Government employee, before a Federal agency or court regarding particular matters in which the Government was a party or had a substantial interest. This prohibition may affect personnel who leave the Government and share in the proceeds of the partnership or business for representational services that occurred before the employee terminated Federal service, e.g., lobbying, consulting, and law firms (reference (b)). This rule does not apply to former enlisted military personnel.

e. Restrictions for Retired Military Personnel

(1) Foreign Employment. Reference (aa) prohibits retired military personnel and reservists from receiving pay from foreign governments, including educational and commercial entities that

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are substantially owned or controlled by foreign governments, without Congressional authorization. This can extend to receipt of pay from a U. S. contractor or subcontractor for providing services to a foreign government. In 37 U.S.C. § 908, Congress gave the Secretary of State and Secretary of the appropriate Military Department the authority to approve receipt of such pay. Retired personnel and reservists who violate this Constitutional proscription may forfeit pay equal in amount to their foreign pay.

(2) Employment by DoD. Reference (bb) prohibits the appointment of retired military personnel to civil service positions (including a non-appropriated fund activity) in any DoD component for 6 months after retirement. This restriction may be temporarily waived during national emergencies declared by the President or Secretary concerned.

f. Restrictions on Employment During Terminal Leave

(1) Holding a Civil Office in State or Local Government. While on active duty, including while on terminal leave, military officers are prohibited by from holding a civil office with a state or local government (references (p) and (cc)). Because a servicemember is still on active duty while on terminal leave, the restrictions on political activities still apply.

(2) Civilian Position in the U. S. Government. Military personnel on terminal leave are authorized to accept a civilian position in the U. S. Government and receive the pay and allowances of that position as well as their military pay and allowances (reference (dd)).

(3) Outside Employment. If a MCASCP employee is currently required to obtain permission prior to engaging in outside employment, that requirement will most likely carry over during terminal leave. Therefore, comply with the steps set forth in Chapter 3 of this instruction regarding conflicts of interest and outside employment.

(4) Restriction on Representing Others to the Federal Government. A MCASCP employee may not represent anybody outside the Government to the Government on any particular matter involving the Government. Military officers working on terminal leave, like all Federal employees, are prohibited by references (b) and (f) from representing their new employer to the Government. In almost every case, this precludes a member from interacting or appearing in the Federal workplace as a contractor. Being present in Government offices on behalf of a contractor inherently is a representation. Military officers on terminal

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leave may begin work with the contractor, but only "behind the scenes" at a contractor's office or otherwise away from the Government workplace. This rule does not apply to enlisted members.

(5) Prohibition on Working for a Foreign Principal. Over and above the restriction of receiving compensation from a foreign government, reference (ee) places a specific prohibition of a public official from being or acting as an agent of a foreign principal required to register under the Foreign Agents Registration Act of 1938, thereby, expanding the restriction beyond foreign governments to include persons, partnerships, and corporations.

g. Exceptions. There are limited exceptions to the post-Government service employment restrictions. For further information on these exceptions, complete DD Form 2945, Post-Government Employment Advice Opinion Request (Appendix 10-B).

6. POST-GOVERNMENT SERVICE ETHICS COUNSELING AND OPINION

a. Mandatory Opinion. Per reference (ff), prior to accepting compensation from a defense contractor within two years of leaving MCASCP or the DoD, a current or former MCASCP employee must receive a written opinion from the Ethics Counselor if:

(1) The employee participated personally and substantially in an acquisition with a value in excess of \$10 million, and

(2) The employee serves or served in:

(a) An Executive Schedule position;

(b) A Senior Executive Service position; or

(c) In the position of program manager, deputy program manager, procuring contracting officer, administrative contracting officer, source selection authority, member of the source selection evaluation board, or chief of a financial or technical evaluation.

b. Optional Opinion. Upon request, the Ethics Counselor will provide post-Government service ethics counseling and opinion at the request of a MCASCP employee.

c. No Employer Opinion. The Ethics Counselor will NOT provide a post-Government service ethics opinion at the request of an employer.

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d. DD Form 2945. Prior to receiving any counseling or written opinion, a MCASCP employee must provide a completed DD Form 2945, Post-Government Employment Advice Opinion Request, and any additional information required, to the OSJA. A fillable version of DD Form 2945 is available at:
<http://www.dtic.mil/whs/directives/infomgt/forms/efoms/dd2945.pdf>

7. RESPONSIBILITIES

a. Staff Judge Advocate. As Ethics Counselor, upon request and receipt of all relevant information, provide an ethics opinion to any MCASCP employee.

b. Marine Corps Air Station, Cherry Point Personnel

(1) Prior to conducting any job search with a DoD contractor or other employer who does business with MCASCP or DoD, consult with an Ethics Counselor.

(2) Prior to accepting a job with a DoD contractor or other employer who does business with MCASCP or DoD consult with an Ethics Counselor and if a potential conflict of interest exists, seek a written ethics opinion from the Ethics Counselor addressing any potential conflict.

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CHAPTER 11

ETHICS TRAINING AND INSPECTION

1. PURPOSE. This Chapter prescribes MCASCP policy and assigns responsibilities as required to comply with U. S. Law, Executive Orders, and DoD Directives and Instructions concerning ethics training and the inspection program.
2. PROCEDURES. Identified employees start the process by completing required annual ethics training. The ethics training may be completed online at: <https://twms.navy.mil>. This is a calendar year requirement and must be completed by 31 December. Once the training is complete, employees must either print out the completion certificate or save it to their computer. The completion certificate must be provided to the OSJA as directed by 31 December.
3. INSPECTION. The OSJA, in conjunction with the Staff Secretary, will keep hard copies of reviews of reportable general fund gifts and gifts of travel and other travel benefits. The OSJA will be the responsible party who will maintain these records.

CHAPTER 12

STANDARDS OF CONDUCT, ENFORCEMENT, AND REPORTING REQUIREMENTS

1. PURPOSE. This Chapter briefly describes DoD employee Standards of Conduct, and possible sanctions for violation of the various Standards of Conduct or Ethics regulations. It also details the reporting requirements that apply to DoD employees.

2. STANDARDS OF CONDUCT. Per references (c) and (d), the 14 Principles of the Standards of Conduct are:

a. Place loyalty to the Constitution, the laws and ethical principles above private gain.

b. Do not hold financial interests that conflict with the conscientious performance of duty.

c. Do not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.

d. Do not solicit or accept any gift from any person or entity seeking official action from, doing business with DoD, or whose interests may be substantially affected by the performance or nonperformance of your duties.

e. Put forth honest effort in the performance of your duties.

f. Do not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government.

g. Do not use public office for private gain.

h. Act impartially and not give preferential treatment to any private organization or individual.

i. Protect and conserve Federal property and shall not use it for other than authorized activities.

j. Do not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.

k. Disclose waste, fraud, abuse, and corruption to appropriate authorities. The best starting place is the Inspector General (24-hour hotline 800-424-9098 or hotline@dodig.mil).

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l. Satisfy in good faith their obligations as citizens, including all just financial obligations, especially those--such as Federal, State, or local taxes--that are imposed by law.

m. Follow all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.

n. Avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part.

3. PENALTIES. Although this Ethics Guidance is not punitive, DoD employee violation of the provisions in reference (b), or the laws, regulations and rules referred to therein, may include criminal, civil, and administrative sanctions, including punishment of servicemembers under the Uniform Code of Military Justice. Many of the statutes that regulate the post-Government service employment activities of former or retired DoD employees also provide for specific criminal and administrative sanctions.

4. REPORTING REQUIREMENTS. DoD employees who suspect that a violation of reference (b) has occurred shall report the matter to any of the following:

a. The DoD employee's Agency Designee (first supervisor who is a commissioned officer or a GS/GM-11 in the chain of command or supervision of the DoD employee).

b. The suspected violator's Agency Designee.

c. The Commanding Officer.

d. Any Ethics Counselor (i.e., Staff Judge Advocate or Deputy Staff Judge Advocate).

e. The U. S. Navy or U. S. Marine Corps Inspector General or the command Inspector.

f. Criminal Investigations Division.

g. A DoD or command hotline.

If a suspected violation is reported to some entity other than those listed above, then the notified person shall promptly report the matter to an Ethics Counselor (Staff Judge Advocate or Deputy Staff Judge Advocate).

**REQUEST FOR LEGAL REVIEW (RLR) - FUNDRAISING
(REQUIRES 5 BUSINESS DAYS TO PROCESS)**

1. NAME (Last, First, MI): _____ 2. DATE: _____

3. RANK: _____ 4. BILLET: _____ 5. WORK PHONE: _____

6. UNIT: _____ 7. WORK EMAIL: _____

8. FUNDRAISER EVENT: _____

9. INFORMATION:

a. What is the objective of the fundraiser?

b. How will funds be raised? What is the format of the fundraiser?

c. Who will be participating in the fundraiser?

d. Who will be asked to contribute funds?

e. What is the physical location of the event?

f. What is the date and time of your event(s)?

g. Where will the funds collected be deposited?

10. DETAILED DESCRIPTION OF YOUR EVENT:

Signature: _____ Signature: _____

Note: Send this form to your MCCS coordinator, MCCS will approve and submit. You will be contacted directly by the civil law section upon completion of the legal review. Submission of this form alone does not constitute legal review.

ENCLOSURE (2)

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LETTERHEAD

[DATE]

TO: [Employee's Supervisor's Name, Title]

FROM: [Employee's Name, Title]

SUBJECT: DISQUALIFICATION - EMPLOYMENT DISCUSSIONS

1. I anticipate commencing employment discussions with the companies listed below. In accordance with section 208 of title 18 of the United States Code, a criminal statute, and section 2635.604 of title 5 of the Code of Federal Regulations, I am disqualified from participating personally and substantially as a Government officer or employee in any particular matter that would have a direct and predictable effect on the financial interests of them, their parent companies, subsidiaries, affiliates, and joint ventures (covered parties).

2. I am taking the following steps to ensure that I do not participate in any particular matter affecting the covered parties:

a. I am instructing [Screener's Name, Title] to screen all matters directed to my attention that involve any persons or organizations outside the Federal Government, and to determine whether such matters involve the covered parties. I have directed [Screener's Name] to consult an ethics counselor if there is any uncertainty as to whether I am disqualified from participating.

b. If [Screener's Name] determines that a matter directly or indirectly involves a covered party, the matter will be referred to [Name and Title of person with authority to act on behalf of Employee] for action or assignment, without my knowledge or involvement.

c. I will advise my immediate subordinates of this disqualification, and also instruct them to direct all inquiries regarding matters directly or indirectly involving the covered parties to [Name and Title of person with authority to act on behalf of Employee], without my knowledge or involvement.

d. Covered Parties:

Enclosure (3)

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3. This disqualification remains in effect until further notice. In the event of changed circumstances, such as rejecting the possibility of employment with one of the covered parties or the passage of a two (2) month period during which I have received no indication of interest in employment discussions from one of the covered parties, I will consult an ethics counselor, update this memorandum and notify everyone concerned.

[Employee's Signature]
[Employee's Name, Title]

cc: [Agency Ethics Counselor]

[Screener's Name]

[Name and Title of person with authority to act on behalf of
Employee]

[Additional supervisors or subordinates, as appropriate]