

# Ethics Counselor Fundamentals



# Background

- DoD 5500.07-R, The Joint Ethics Regulation
- 5 C.F.R. part 3601
- Ethics Counselor Desk Book

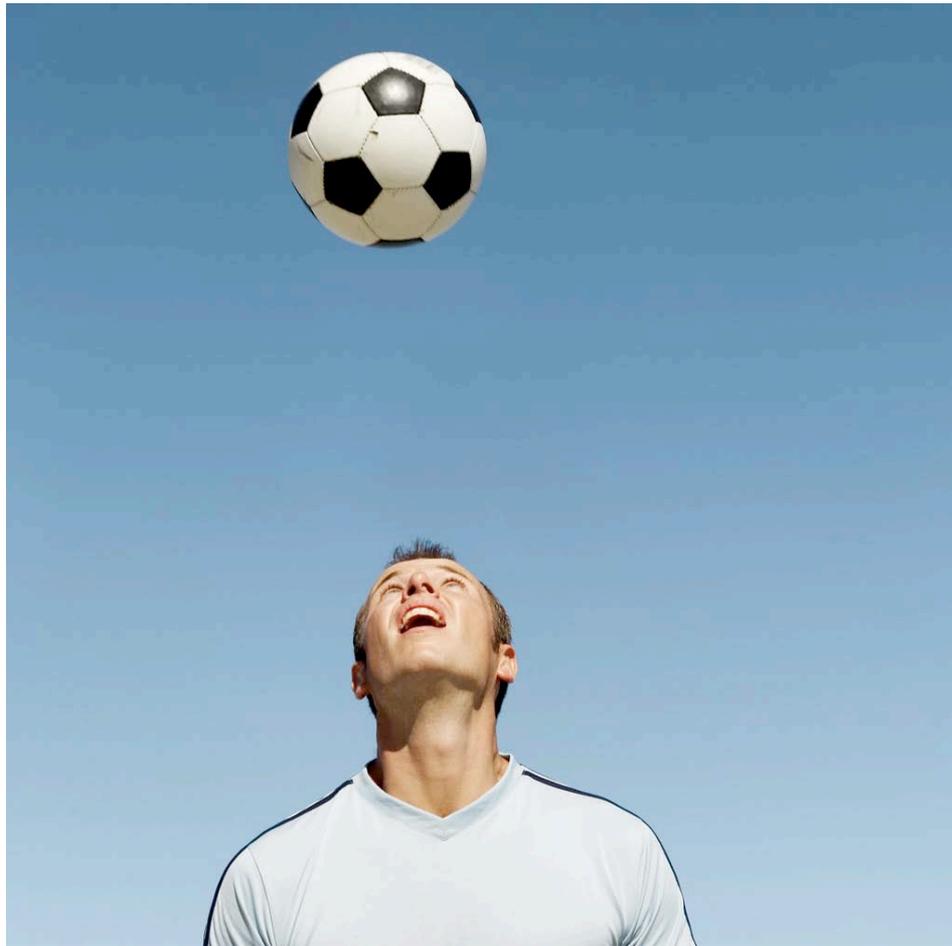
# History

- Conflicts (Civil War)
- Congress reactive
- Texas Gulf Sulphur
- Civil Service Commission authorized agencies to issue ethics regulations
- DoD origins 1961 but values back to 1800s
- Watergate
- Ethics in Government Act
- Iran Contra
- Office of Government Ethics
- Standards of Ethical Conduct
- DoD 5500.07-R (JER) 1993
- Standards are in Chapter 2

# JER



# Highlights



# Definitions (Chapter 1)



# Deputy DAEO v. Ethics Counselor

- Deputy runs program, and EC assists
  - Provide ethics guidance
  - Training
  - Ensure Financial Disclosure Reports are filed
- NOTE: (1-202) BOTH DDAEOs and ECs are “agency Designees” for 0-7+ in command
- Practically, no difference but check the delegation of authority:
  - Certifying SF 278?
  - Granting waivers of \$200 late filing fee?

# Definitions (Chapter 1)

## Application to Enlisted

JER 1-300(b), 5-301, 5-404

- Criminal conflict of interest statutes do not apply to enlisted,, except for bribery  
(18 U.S.C. 201)
- Application of ethics rules for enlisted is through JER
- Bold faced provisions in JER, which are punitive under UCMJ, Article 92

# Chapter 2 (Primarily Incorporating Standards of Ethical Conduct for Employees of the Executive Branch—5 C.F.R. part 2635)

- Principles
  - Public office for private gain
  - Impartiality
- Gifts
  - Outside
  - Subordinates
- Conflicts
- Appearance of Conflict
- Seeking Employment
- Misuse of Office or Personnel
- Outside Activities and Fundraising

# JER Chapter 3

## **Activities with Non-Federal Entities** **(NFEs)**

incorporating 5 C.F.R. part 2636

- Official Participation in NFEs
- Personal Participation in NFEs
- Why this can be a problem

# JER Chapter 4

- Travel
  - Frequent Flyer
  - Awards

# JER Chapter 5

## **Conflicts of Interest**

- Applies financial interest and supplementation of salary conflict laws to enlisted( 18 U.S.C. 208 and 209)
- Solicitation prohibitions (JER 5-409)

# JER Chapter 6

## Political Activities

- Hatch Act (5 C.F.R. part 734)
- DoD additional policy restrictions for Presidential Appointees, Political Appointees, and Non-Career SES (6-202)
- DoD Directive 1344.10

# JER Chapter 7

- Financial Disclosure
  - Public
  - Confidential

# JER Chapter 8

## **Seeking Employment**

- Seeking & Negotiating for outside employment
- Procurement Integrity Act
- DoD Policy Guidance

# JER Chapter 9

## Post Employment

- Post Employment rules and exceptions (18 U.S.C. 207, 5 C.F.R. part 2641)
- Requirement to receive counseling & written guidance
- Procurement Integrity Act compensation ban
- Military Officers Restrictions (terminal leave and emoluments clause)

# JER Chapter 10

## Enforcement

- What violations are reportable
  - See DoD Directive 5505.06, Investigations of Allegations Against Senior Officials of the Department of Defense
- When is a violation reportable
- How to report violations to the Inspector General

# JER Chapter 11

## Training

(5 C.F.R. part 2638)

- DoD Guidance
- Procedures
- Annual Ethics Training
- Annual Ethics Training Plans

# JER Chapter 12

- Presidential Executive Order authorizing Standards
- Pledge
- Display of Code of Conduct requirement
- DoD Human Resources Goals
- Ethical Values and Decision-Making