



DoD DIRECTIVE 5500.07

ETHICS AND STANDARDS OF CONDUCT

Originating Component: Office of the General Counsel of the Department of Defense

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Reissues and Cancels: DoD Directive 5500.07, "Standards of Conduct," November 29, 2007

Incorporates and Cancels: See Paragraph 1.3.

Approved by: Lloyd J. Austin, Secretary of Defense

Purpose: This issuance:

- Establishes policy and assigns responsibilities for the administration of the DoD ethics program in accordance with Chapter 131 of Title 5, United States Code (U.S.C.), also known and referred to in this issuance as the "Ethics in Government Act."
- Clarifies the relationship between, and authorities of, the various DoD agencies with designated agency ethics officials (DAEOs) (referred to in this issuance as "DoD DAEO agencies").
- Authorizes maintenance by the Office of the General Counsel of the Department of Defense (GC DoD) of the Joint Ethics Regulation (JER) on the public website of their Standards of Conduct Office (SOCO) at <https://dodsoco.ogc.osd.mil/>.
- Assigns responsibility to the Secretary of the Army to operate, manage, and fund the DoD Financial Disclosure Management (FDM) and After Government Employment Advice Repository (AGEAR) systems and rescinds the designations of the Secretary of the Army as the DoD Executive Agent for those systems.

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SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY.

a. This issuance applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this issuance as the “DoD Components”).

b. Nothing in this issuance should be construed as preventing the Inspector General of the Department of Defense from fulfilling their duties pursuant to Sections 401-424 of Title 5, U.S.C., also known as the “Inspector General Act of 1978, as amended.”

1.2. POLICY.

a. Ethical Conduct.

(1) DoD personnel will be held to the highest standards of ethical conduct. All DoD personnel should seek to avoid or resolve situations that call into question the impartiality or integrity of DoD personnel or programs.

(2) To help ensure these standards are upheld, DoD personnel will seek appropriate guidance, which may include consultation with a supervisor, leadership, or ethics official within their DoD Component.

b. JER Punitive Provisions.

A violation of any provision identified as punitive in the JER may result in judicial or administrative action, or both, in accordance with applicable law, regulation, or policy.

(1) Persons subject to Chapter 47 of Title 10, U.S.C. (also known and referred to in this issuance as “the Uniform Code of Military Justice (UCMJ)”) who violate the specific punitive provisions of the JER, as annotated by bold italicized font in the JER, may be subject to punitive action in accordance with Article 92 of the UCMJ.

(2) Violation of any provision of the JER by a DoD civilian employee may result in appropriate criminal prosecution, civil judicial action, disciplinary or adverse administrative action, or other administrative action authorized by law or regulation.

c. DAEO Designation.

In accordance with Paragraph 3.f. of DoD Directive (DoDD) 5145.01, the GC DoD serves as the DAEO for the DoD remainder agencies and as the principal DoD DAEO.

d. Coordination with GC DoD.

(1) DoD Components may not approve directives, regulations, or other similar documents that supplement, restrict, or modify this issuance, or the JER, without GC DoD concurrence. Implementing guidance must be consistent with this issuance and the JER.

(2) DoD DAEO agencies must coordinate with the GC DoD:

(a) On significant issues or questions that have the potential to impact other DoD DAEO agencies.

(b) Before requesting changes to law, regulation, or policy from the Office of Government Ethics (OGE), agencies in the Executive Branch other than DoD, or Congress.

e. Applicability to Members of National Guard and Reserve.

Members of the National Guard and Reserve are subject to the JER when in a Title 10 or Title 32 duty status (including Inactive Duty for Training and Title 32 drills) or at any time when taking affirmative action to use their Title 10 or Title 32 position or authority.

f. Applicability to Enlisted Service Members.

Enlisted Service members, including members of the National Guard and Reserve, are considered special government employees to the same extent that Reserve officers are considered special government employees in accordance with Section 202 of Title 18, U.S.C.

g. Delegation of Authority Pursuant to This Issuance.

Any delegation of authority pursuant to this issuance must be in writing.

h. JER.

A uniform source of standards of ethical conduct and ethics guidance will be maintained within DoD, to be known as the JER, and each DoD Component head will implement and administer a comprehensive program to ensure compliance with such standards and guidance.

i. Rights or Benefits.

This issuance and the JER are not intended to, and do not, create any right or benefit, substantive or procedural, enforceable by any person against the United States, its agencies, its Service members or employees, or any other person.

1.3. CANCELLED DOCUMENTS.

a. DoD 5500.7-R, “Joint Ethics Regulation (JER),” August 30, 1993, as amended.

b. The substance of the following cancelled memoranda are incorporated and revised by this issuance:

(1) Principal Deputy General Counsel of the Department of Defense Memorandum, “Designation of Secretary of Army as Executive Agent for Financial Disclosure Management (FDM) – Ethics Reporting System,” January 8, 2009.

(2) Deputy Secretary of Defense Memorandum, “Mandatory DoD-Wide Use of After Government Employment Advice Repository (AGEAR) and Designation of Secretary of the Army as DoD Executive Agent for Operation of AGEAR,” September 19, 2011.

SECTION 2: RESPONSIBILITIES

2.1. GC DOD.

The GC DoD:

- a. In their capacity as the principal DoD DAEO pursuant to DoDD 5145.01:
 - (1) Oversees the DoD ethics program, notwithstanding designation of additional DoD DAEO agencies and appointment of other officials as the DAEOs for those agencies.
 - (2) Implements consistent ethics policy and standards throughout the DoD.
 - (3) Resolves any inconsistencies in the interpretation or application of law, regulation, or policy among DoD DAEO agencies.
 - (4) Incorporates changes to Executive Branch ethics regulations in DoD issuances.
 - (5) Creates or changes designations of organizations as DoD DAEO agencies, in coordination with the OGE.
- b. Issues criminal conflict of interest waivers for DoD personnel assigned to the DoD Remainder Agency, except for the Secretary of Defense, the Deputy Secretary of Defense, or GC DoD, pursuant to Section 208(b)(1) and (3) of Title 18, U.S.C and Sections 301 and 302 of Title 5, Code of Federal Regulation (CFR). This authority may not be further delegated.
- c. Establishes and maintains the JER and Section 3601 of Title 5, CFR and ensures that updates or amendments to the provisions of the JER that are punitive pursuant to the UCMJ, as directed by the Secretary of Defense, are maintained in the JER.
- d. Has authority to grant exceptions to the policies in the JER, except for those provisions that are punitive pursuant to the UCMJ. This authority may not be further delegated.
- e. Approves all directives, regulations, or similar documents that implement, supplement, restrict, or modify this issuance or the JER.
- f. Oversees SOCO and provides sufficient resources to enable SOCO to manage the DoD ethics program.
- g. Establishes and oversees the DoD Committee on Standards of Conduct.
- h. Represents DoD to the OGE, agencies in the Executive Branch other than DoD, Congress, and the public on matters related to DoD ethics programs and policies.
- i. In accordance with Sections 1033(b) and 1589(b) of Title 10, U.S.C., designates entities to which certain support may be provided.

j. Makes referrals to the Attorney General required pursuant to Section 13106(b) of Title 5, U.S.C., for personnel assigned to:

- (1) OSD.
- (2) DoD remainder agencies, as necessary and appropriate.

2.2. UNDER SECRETARY OF DEFENSE FOR ACQUISITION AND SUSTAINMENT.

The Under Secretary of Defense for Acquisition and Sustainment, in coordination with the GC DoD, designates key acquisition positions within the DoD as required by Section 988 of Title 10, U.S.C.

2.3. DOD COMPONENT HEADS.

The DoD Component heads:

- a. Establish and administer a comprehensive ethics program for their Component and ensure compliance with the standards and guidance in the JER.
- b. When authorized by the OGE and the GC DoD, appoint the Component General Counsel (GC), or other Component attorney, as the DAEO for their Component.
- c. Ensure that sufficient resources are provided for their DAEO to execute an effective agency ethics program.
- d. Ensure that their Component servicing personnel offices provide accurate information required by Section 2638.105 of Title 5, CFR, to their ethics officials in a timely manner.
- e. Must obtain GC DoD concurrence on any directives, regulations, or similar documents that implement, supplement, restrict, or modify this issuance or the JER.

2.4. SECRETARY OF THE ARMY.

In addition to the responsibilities in Paragraph 2.3., the Secretary of the Army:

- a. Operates, maintains, and manages the FDM system and ensures that FDM's funding requirements, consistent with DoDD 7045.14, are planned to be fully met during the Planning, Programming, Budgeting, and Execution Process and that FDM is fully funded at the beginning of each fiscal year.
- b. Operates, maintains, and manages the AGEAR system and ensures that AGEAR's funding requirements, consistent with DoDD 7045.14, are planned to be fully met during the Planning, Programming, Budgeting, and Execution Process and that AGEAR is fully funded at the beginning of each fiscal year.

c. Provides FDM and AGEAR on a non-reimbursable basis to current and former DoD Component personnel.

2.5. GCS WHO ARE DESIGNATED AS DAEO.

The GCs of the organizations listed in Section 1 of Chapter 1 of the JER:

a. Serve as DAEO for their respective organization unless another Component attorney is designated in writing, with the concurrence of the GC DoD, by that DAEO agency head.

b. Lead and manage their DAEO agency's ethics program by exercising the authority and responsibility in applicable laws, regulations, and policies.

2.6. INSPECTOR GENERAL OF EACH DOD COMPONENT.

The Inspector General of each DoD Component:

a. When appropriate, investigates ethics matters arising in the DoD Component and refers any such matters that involve suspected criminal violations to the responsible criminal investigative office for that DoD Component. This is not intended to limit the authority of DoD Components to conduct investigations or other inquiries, as authorized by law, regulation, or policy.

b. Completes and submits to the OGE the OGE Form 202, "Notification of Conflict of Interest Referral" (available at www.oge.gov), with a copy to their Component's DAEO, on investigations that result in referrals to the U.S. Department of Justice.

c. Reports to the respective DAEO on disciplinary actions that must be reported in response to the OGE annual ethics questionnaire.

d. Educates inspectors and agents in ethics matters to ensure appropriate handling of ethics related cases and reports.

e. Consults with the respective DAEO on interpretation of ethics laws and regulations as necessary and appropriate.

GLOSSARY

G.1. ACRONYMS.

ACRONYM	MEANING
AGEAR	After Government Employment Advice Repository
CFR	Code of Federal Regulations
DAEO DoDD	designated agency ethics official DoD directive
FDM	Financial Disclosure Management
GC GC DoD	general counsel General Counsel of the Department of Defense
JER	Joint Ethics Regulation
OGE	Office of Government Ethics
SOCO	Standards of Conduct Office
UCMJ U.S.C.	Uniform Code of Military Justice United States Code

G.2. DEFINITIONS.

These terms and their definitions are for the purpose of this issuance.

TERM	DEFINITION
DAEO	A DoD attorney with the qualifications required in accordance with Section 2638.104(b) of Title 5, CFR, who is appointed in writing by the DAEO agency head when authorized by the OGE and the GC DoD to administer the provisions of the Ethics in Government Act, this issuance, and the JER. The GC DoD is the principal DoD DAEO, with authorities as established in DoDD 5145.01.
DoD DAEO agencies	DoD Remainder Agency and organizations listed in Section 1 of Chapter 1 of the JER.

TERM	DEFINITION
DoD personnel	<p>Includes:</p> <p>Any DoD civilian official or employee, including special government employees, of any DoD Component and any non-appropriated fund activity.</p> <p>Any active duty Regular or Reserve military commissioned and warrant officer.</p> <p>Any active duty enlisted Service member.</p> <p>Any Reserve or National Guard member on active duty under orders issued pursuant to Title 10, U.S.C.</p> <p>Any Reserve or National Guard member while performing official duties or functions under the authority of Title 10 or Title 32, U.S.C., or while engaged in any activity related to the performance of such duties or functions, including any time the member uses their Reserve or National Guard of the United States title or position, or any authority derived therefrom.</p> <p>Any faculty member in a civil service position or hired pursuant to Title 10, U.S.C., and any student (including a cadet or midshipman) of an academy, college, university, or school of DoD.</p> <p>Consistent with labor agreements, international treaties and agreements, and host country laws, any foreign national working for a DoD Component, except those hired pursuant to a defense contract.</p>
DoD Remainder Agency	<p>Comprised of OSD and all DoD Components and organizations that are not designated as separate DAEO agencies in accordance with Paragraph 2.1.a.(5) of this issuance.</p>

TERM	DEFINITION
ethics official	<p>Includes:</p> <p>Any DAEO, Alternate DAEO, or Deputy DAEO within the DoD.</p> <p>A DoD attorney designated in writing by the respective DAEO, or designee, to assist in carrying out the responsibilities of the ethics program. The appointing authority is responsible for ensuring that these individuals have the skills and expertise needed to perform their assigned duties related to the ethics program and must provide appropriate training for this purpose.</p> <p>Ethics officials are subject to the direction of their DAEO with respect to the functions of the organization's ethics program and may not perform functions that are reserved exclusively to the DAEO, Alternate DAEO, or Deputy DAEO by Federal or DoD regulations and policy or by the terms of the ethics official's designation document.</p> <p>Ethics officials represent the U.S. Government and U.S. Government personnel who are acting in their official capacities. There is no attorney-client relationship between an ethics official and an individual in that individual's personal capacity. This does not prevent the U.S. Government from asserting the attorney-client privilege for communications between an ethics official and a client acting in an official capacity.</p> <p>Unless a waiver has been granted by GC DoD, all DoD ethics officials must be licensed attorneys serving as such within the DoD Component issuing the ethics official designation. The term "ethics official" includes individuals previously referred to as "ethics counsel" or "ethics counselor."</p>
special government employee	Defined in Section 202(a) of Title 18, U.S.C.

REFERENCES

Code of Federal Regulations, Title 5

DoD Directive 5145.01, “General Counsel of the Department of Defense (GC DoD),”
December 2, 2013, as amended

DoD Directive 7045.14, “The Planning, Programming, Budgeting, and Execution (PPBE)
Process,” January 25, 2013, as amended

United States Code, Title 5

United States Code, Title 10

United States Code, Title 18

United States Code, Title 32