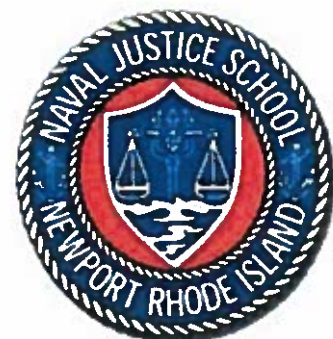




USN/USMC Commander's Quick Reference Legal Handbook (QUICKMAN)



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Most recent QUICKMAN available at:
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GIFTS BETWEEN EMPLOYEES

REFERENCES:

- (a) DoD 5500.07-R (JER), Section 2-203
- (b) 5 C.F.R. § 2635.304(c)(1)

GENERAL RULE: A junior Service Member may not offer, give, make a donation, or solicit contributions for a gift to a senior in the same chain of command. A senior Service Member may not accept such a gift.

EXCEPTIONS TO THE GENERAL RULE:

- Token gifts of a nominal value (less than \$10.00) may be given on non-frequent, occasional basis (e.g., a junior may give a superior a bag of candy when returning from vacation).
- Food and refreshments shared in the office.
- Reasonable personal hospitality at a residence or a gift in return for such hospitality (e.g., a junior could invite a superior to dinner).
- On special infrequent occasions—such as childbirth, marriage, retirement, change of command, etc.—a gift appropriate for the occasion may be given. Birthdays are not considered to be infrequent.

GROUP GIFTS: Authorized for special infrequent occasions (e.g., change of command or retirement). The advice of an Ethics Counselor should be sought. Total cost cannot exceed \$300 for the entire gift. All contributions must be voluntary. No more than \$10.00 may be solicited from a single person; however, individuals can choose to contribute more.

Creative attempts to avoid the \$300 maximum should be avoided (e.g., an organization should not be divided into different components solely to avoid the \$300 maximum by buying components of a larger gift).

A SUPERIOR MAY NOT COERCE A SUBORDINATE TO CONTRIBUTE OR PROVIDE A GIFT (THIS TYPICALLY IS WHERE INSPECTOR GENERAL CALLS COME FROM).

GIFTS FROM OUTSIDE SOURCES

REFERENCES:

- (a) DoD 5500.07-R (JER), Section 2-100
- (b) SECNAVINST 4001.2K
- (c) SECNAVINST 1650.1H
- (d) U.S. Constitution, Article I, §9
- (e) OPNAVINST 4001.1G
- (f) 5 C.F.R. § 2635.201-205
- (g) SECDEF Memo of 16 May 13

GENERAL RULE: Federal employees are forbidden from soliciting, coercing or accepting gifts from a prohibited source and gifts offered because of the employee's official position. Gifts to family members or a designee are "imputed" to the employee.

PROHIBITED SOURCES: A prohibited source is any entity or person who is seeking official action with a federal employee or a federal agent, is doing or seeking to do business with the agency, or is regulated or substantially affected by the agency.

GIFT: A gift is anything of monetary value. Items exempted from the definition, and therefore not considered gifts:

- Modest refreshments that are not offered as part of a meal (the "coffee and donut rule");
- Greeting cards;
- Widely available discounts available to the public, all government employees, or all military personnel;
- Prizes won in contests or events; including random drawings, which are open to the public; and
- Items for which you pay fair market value (if you pay for it, it's not a gift).

COMMON EXCEPTIONS TO THE GENERAL RULE PROHIBITING ACCEPTANCE OF A

GIFT: In all cases, and especially with regard to the exceptions listed below, an employee is prohibited from requesting, soliciting or coercing a gift; allowing or creating the appearance of bribery or graft or accepting gifts so frequently that it creates an appearance of impropriety.

- Gifts worth less than \$20.00 per occasion. No more than \$50.00 worth of gifts from anyone source per calendar year. Reference (g) allows enlisted members, E-6 and below, to receive gifts in excess of \$20 in value when received from charitable, tax-exempt organizations;
- Gifts given because of a bona fide personal relationship;
- Awards for meritorious service. Must typically be non-cash and worth less than \$200.00;
- Gifts based on outside employment, such as approved moonlighting job or due to a spouse's employment;
- Free attendance at an event when employee is speaking on behalf of the federal agency;
- Free attendance at "widely attended gatherings" where attendance is deemed by a supervisor to be in the interests of the agency; and
- Check reference (f) for other exceptions.

FOREIGN GIFTS: Gifts from foreign governments may be accepted if proper diplomacy requires:

- Gifts with a fair market value (FMV) less than \$390 may be kept by the employee
- Gifts with a FMV over \$390 may be accepted on behalf of Department of the Navy and processed in accordance with reference (b).

PROCUREMENT (CONTRACTING) OFFICIALS: Anyone in a procurement position or who has ultimate responsibility for procurement should see their Ethics Counselor (Staff Judge Advocate for the General Courts-Martial Convening Authority) before accepting any gift.

FINANCIAL DISCLOSURES: Combined gifts worth more than \$390 from the same source in a calendar year must be reported by financial disclosure filers on their annual report.

NEVER ASSUME: Past practice or custom in an organization to accept certain gifts is not a defense. ASK THE ETHICS COUNSELOR.

CIVIL AND CRIMINAL PENALTIES EXIST FOR VIOLATIONS OF THESE RULES.

GIFT ACCEPTANCE AUTHORITY: Per reference (b), the official or officer in the DoN who may accept gifts on behalf of the SECNAV. Authority to accept a gift depends upon the value and kind of property offered.

- UNSECNAV is the acceptance authority for gifts of real property with a value in excess of \$2,000,000. [reference (b)]
- ASN (EI&E) is the acceptance authority for gifts of real property valued at \$2,000,000 or less. [reference (b)]
- For gifts (other than real property) valued at \$200,000 or less [reference (b)]:
 - CNO, VCNO, DNS for gifts to activities under CNO's command
 - CMC, ACMC, DMCS, or SDMC for gifts to activities under CMC's command
 - DON/AA for gifts to any institution or organization not under the jurisdiction of CNO or CMC but under the jurisdiction of SECNAV
 - CNR for gifts to any institution or organization under CNR
 - Superintendent, USNA, for gifts to any organization reporting to Superintendent, USNA
 - President, NWC, President, NPC, and President, MCU for gifts to organizations reporting to NWC, NPC, and MCU
- CNO, VCNO, DNS, CMC, ACMC, DMCS/SDMC, DON/AA, and CNR may delegate their authority for gifts of a value of \$25,000 or less. In reference (e), CNO delegates as follows:
 - Gifts of a value of \$25,000 or less—the following officials who have a judge advocate or general counsel assigned to their immediate staffs:
 - All flag officers in command, who ultimately report to the CNO, and their deputies who are flag officers or Senior Executive Service officials
 - All Deputy Chiefs of Naval Operations
 - The Surgeon General of the Navy
 - The Chief of Chaplains
 - The Chief of the Navy Reserve
 - Gifts of a value of \$12,000 or less
 - The following officials who have a judge advocate or general counsel assigned on their immediate staffs: Commanders, commanding officers, and officers in charge of field activities of Naval Sea Systems Command; Naval Air Systems Command; Naval Facilities Engineering Command; Naval Supply Systems Command; and Space and Naval Warfare Systems Command
 - Commander, Strategic Communications Wing ONE
 - Director, Navy Safe Harbor Program
- Gifts to Vessels of the Navy under Section 7221 of Title 10, U.S.C.: the following officials are delegated gift acceptance authority for gifts of silver, colors, books, or other articles of equipment or furniture in accordance with custom, that are made to vessels of the Navy, with a value of \$12,000 or less [reference (e)]:

- Commander, Naval Sea Systems Command for vessels that are still under the cognizance of Naval Sea Systems Command and have not been transferred to the fleet commander
- Naval Supply Systems Command
- Type Commanders