

## INFORMATION PAPER

SUBJECT: Holiday Parties - Selected Legal and Ethics Issues

1. PURPOSE: To avoid common problems and legal issues when conducting office holiday parties.

2. FACTS. Holiday parties are a special time of year when many organizations traditionally have unofficial functions (parties) to celebrate the season. Here are some general guidelines to keep in mind:

a. **Use of Government Time.**

(1) Preparations for the office holiday party may occur on government time if approved in advance by the supervisor. Supervisors may permit use of duty time within reasonable limits, for preparations by a committee or chairperson. However, preparing for a holiday party should not become a significant part of any employee's duties.

(2) While an office holiday party is a well-established tradition in many offices, the inclusion of contractor personnel raises legal issues. To put it simply, taxpayer dollars cannot be used to "pay" contractor personnel for time spent at an office holiday party occurring during duty hours. If authorized to attend under the criteria below, contractor employees may bring food to share or make a fair-share contribution of money to cover the cost of refreshments, as these contributions are not considered to be gifts. Contractor employees who are in a leave status may participate in an office party that occurs during duty hours. However, contractor employees not in a leave status may only participate in an office holiday party provided:

(a) the office party takes place after duty hours;

(b) the office party takes place entirely during the employee's daily lunchtime; or

(c) the contractor decides to let its employees attend and foregoes payment for their time. If contractor employees are allowed to attend, the contractor must also decide whether it would pay its employees for that time, even though the government would not reimburse it. The contractor does not have to pay its employees for that time. Consult the contracting officer and ethics counselor before inviting contractor employees to a function during their duty hours.

(3) An office party should be considered an alternate duty site for federal employees. Employees who choose not to participate in the office party may remain at their work stations and perform normal duties or take leave.

(4) Supervisors may not "encourage" attendance at holiday parties by giving attendees "59 minutes" off while not giving non-attendees this same benefit.

b. **Use of Government Vehicles.** AR 58-1, Management , Acquisition, and Use of Motor Vehicles, provides that government vehicles will only be used to support official functions. As a general rule, participation at a holiday office party or similar social event is personal participation, not official participation. Therefore, use of government vehicles to/from such events would not be authorized. Very limited fact-specific exceptions exist for senior officers. All requests for use of a government vehicle to attend holiday social events should be reviewed by the Office of the Staff Judge Advocate on a case-by-case basis.

c. **Use of Government Resources.** The DoD Joint Ethics Regulation (JER), Section 2-301 provides that federal government communication systems and equipment (including government owned telephones, facsimile machines, electronic mail, internet systems, and commercial systems when use is paid for by the federal government) shall be for Official use and authorized purposes only. Government resources also include office supplies, printing and reproduction equipment and government mail. It would be an authorized use to present information of common interest (for example, an event such as a holiday party) to DoD employees via e-mail or a similar government communication system.

d. **Gift Exchanges, Including Contractor Employee Issues.**

(1) Random Gift Exchanges. If the office party includes a gift exchange in which gifts are chosen at random or traded, there are usually no ethical issues with monetary limits on the gift because the purchaser does not know who will receive the gift. However, it is advisable and prudent to establish a reasonable value for individual gifts. A \$10 limit eliminates the vast majority of potential gift-giving issues.

(2) Gift exchanges that include drawing a name and giving a gift to a specific person create more complex issues due to restrictions on gifts from “prohibited sources” (such as contractors) and limitations on gifts that cross superior-subordinate lines. A gift not exceeding \$20 may be accepted from a contractor employee, so long as the federal employee receiving the gift has not accepted other gifts from that contractor exceeding a total of \$50 for the calendar year. The JER limits the acceptance of gifts from subordinates to a value of \$10 or less on an occasional basis. Therefore, at a holiday party, supervisors may accept gifts of \$10 or less from subordinate or federal personnel who receive less pay. Gifts of cash, no matter the amount, are never to be given or accepted.

e. **Office Party Fundraising.**

(1) Generally, an office party is an unofficial event. Therefore, appropriated funds may not be used to pay for them. Often an office or unit will seek to defray the costs of a holiday party by engaging in fundraising activities. Very specific rules and procedures apply. For fundraising activities occurring on Fort Leonard Wood, the Garrison Commander must approve all fundraising requests in advance of the actual event. Considerations for the Garrison Commander in the approval/disapproval process include the frequency of fundraising requests for a particular organization, the length of the proposed fundraiser, conflicts with CFC and AER, and potential disruption of the workplace.

(2) The general rule is “no fundraising in the federal workplace.” However, an exception exists for office events (such as a holiday party) if the money is to be raised only from among the members of the group for their own benefit and when approved by the head of the organization and Garrison commander after consultation with an ethics advisor.

(3) Any fundraising efforts should be low key, use minimal government time and resources (at no cost to the government, like email), and should not include any solicitation of outside sources. An outside source refers primarily to off-post business, but you are also prohibited from soliciting AAFES, the Commissary and MWR for donations or donated items.

f. **Gift Collection for Private Organizations.** During the holiday season, there are often on-post fundraising requests to collect goods/presents for the less fortunate. One prominent example is the Fort Leonard Wood Lions Club sponsorship of the St. Nick’s Benefit. This Benefit provides community members the opportunity to sponsor children by purchasing a Christmas gift for them.

(1) In a Guidon article in the Community Section of the October 23, 2008 edition, the procedures for requesting information about a child or special adult and gift donation were outlined, as well as the points of contact for further information. The points of contact were also listed in the October 30, 2008 edition. There can be no official coercion to participate in this event. The donation of a gift is made in your personal capacity.

(2) TRADOC Regulation 350-6, Enlisted Initial Entry Training (IET) Policies and Administration, paragraph 2-3j, prohibits cadre from directing IET Soldiers to participate in or make purchases at fund-raising activities conducted in the brigade, battalion, company area, or in any training area. No fundraising activities that directly involve IET soldiers, as primary or sole customers may be conducted during the training cycle by IET units, informal funds, family readiness groups or private organizations associated with IET units. Family readiness group activities, such as bake sales at the commissary, PX area, or other public locations, would not violate this provision because the activities are aimed at a wide range of patrons, and not solely IET Soldiers.

(3) IET soldiers cannot be solicited by cadre members to donate to private organization fundraising activities no matter how worthy the cause. On a voluntary basis, IET soldiers may contribute to officially authorized campaigns such as the Combined Federal Campaign, Army Emergency Relief Fund, blood donation campaigns, and chapel offerings.

g. **Holiday Greetings.** Appropriated funds may not be used to purchase holiday greeting cards. Likewise, official resources—including paper, printers, envelopes and postage—may not be used for holiday greeting cards. Electronic greeting cards with large file attachments or executable files should not be transmitted on official Army systems. Moreover, subordinates may not be tasked to prepare or address personal greetings.

h. **Alcohol.** Consistent with AR 600-85, paragraph 2-3, Army Substance Abuse Program (ASAP), official and unofficial functions will not encourage or glamorize consumption of alcohol and alcoholic beverages may not be given as prizes. Gift exchanges are not included in

the “prize” prohibition (if recipients limited to 21 years old and over), but of course the alcohol cannot be consumed during an event held during official-time without the advance written permission of the first general officer in the chain of command IAW FLW Command Policy #35-04.

i. **Soliciting Businesses for Donations.**

(1) Units/offices may **not** solicit local businesses (or DMWR, or AAFES) for donations to their holiday parties. This is a clear violation of AR 1-100, Gifts and Donations, as well as federal law. Soldiers and Army employees should pay for the expenses of their party. FRG groups are **not** to solicit gifts or donations either. See, AR 608-1, Army Community Service Center, Appendix J, paragraph J-8.

(2) Only **unsolicited** gifts may be accepted, and, even then, only within restricted limits. Please contact the Administrative Law Divisions if unsolicited gifts issues arise.

j. **Door Prizes.** Giving a door prize away to an attendee in a random drawing is not gambling. However, selling chances to a drawing could involve gambling and would require compliance with Missouri law and federal regulations. The JER prohibits gambling in the federal workplace or while present for official duties.

3. Questions about this guidance may be addressed to the Administrative and Civil Law Division, Office of the SJA at 6-0626.

PREPARED BY: Mr. Hebl/ATZT-JA/6-6924  
APPROVED BY COL Walburn *[Signature]* 25 Nov 08