

## GIFTS

### Group Donation to a Charity

This opinion is in response to your question regarding when, if ever, it is acceptable for a group to make a donation to a charity in the name of a visiting senior leader vice having the gift being treated as a prohibited gift to the senior leader from subordinates.

The fact scenario presented involves an installation visit and presentation by a senior military member or senior civilian personnel member in the Air Force or DoD. As a token of appreciation and in recognition of the presentation and visit, the installation Master of Ceremonies announces at the conclusion of the presentation/visit: “A \$50 donation is being made by personnel of the unit to the Air Force Enlisted Village in commemoration of Chief Jones’ visit today.”

What you have described is a gift between DoD employees that is governed by 5 CFR 2635.304<sup>1</sup>. Generally, a senior military or civilian personnel member in a superior position cannot accept a gift from a subordinate (or a group containing a subordinate), except gifts valued at \$10 or less or appropriate hospitality items (e.g., bringing a \$15 bottle of wine when you are invited to have dinner at your supervisor’s home.) More expensive gifts, appropriate to the occasion, may be given on occasions of personal significance (e.g., marriage, birth of a child, etc.) or on occasions that terminate the senior-subordinate relationship (e.g., PCS, retirement or separation) subject to the \$300 limit (**for gifts from groups that contain a subordinate**) contained within Joint Ethics Regulation (JER), DoD 5500.07-R, section 2-203.

Ethics counselors, generally, conservatively consider a gift to a charity that one designates to be a dollar-for-dollar gift to the individual. This is because JER 3-210 provides that the only charities that Federal employees can officially endorse are those specifically listed therein that includes the Air Force Assistance Fund (AFAF) and its four subordinate organizations. **5 CFR 2635.203(f)(2) defines a gift to include one given “to any other person, including any charitable organization, on the basis of designation, recommendation, or other specification by the employee....”** Accordingly, if the presentation went along these lines, “We all know that the American Heart Fund (AHF) is Chief Jones’ favorite charity and she has asked us to help them, so we have made a \$50 donation to the AHF,” then (assuming the group contained at least one subordinate and not just all peers), that would be a prohibited gift to Chief Jones.

On the other hand, if the donation were to be made to the AFAF (or one of the four subordinate organizations: Air Force Villages Charitable Foundation, Air Force Enlisted Village, Air Force Aid Society, and the General and Mrs. Curtis E. LeMay Foundation), we perceive that such a gift would be legally permissible and not a gift attributable to the visiting Chief Master Sergeant. This

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<sup>1</sup> **This information can now be found in 5 CFR 2635 Subpart C. The analysis in this opinion applies equally to gifts from outside sources governed by 5 CFR 2635 Subpart B. Generally, Federal employees cannot accept a gift offered to them from a prohibited source or because of their official position. 5 CFR 2635.202(a). This general rule is subject to several exceptions including a \$20 de minimis exception found at 5 CFR 2635.204(a). A gift from an outside source to a charity, in honor of a DoD employee, would be subject to the same analysis contained herein.**

is because the JER specifically permits the official endorsement of gifts to these designated organizations that primarily support the Air Force community.

In a broader context, however, we would discourage this practice because installation visits and giving speeches by senior leaders is routinely a part of their official duties that does not need to be memorialized with a gift. Accordingly, although legally permissible, such a practice should be extremely limited and reserved to very special occasions and events. In those rare instances, all contributions from Airmen at the base to be visited should be nominal and completely voluntary.<sup>2</sup>

**This opinion was certified current, as supplemented, on 11 January 2017.**

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<sup>2</sup> See JER section 2-203(b) (“the nominal amount of a voluntary contribution that a DoD employee may solicit from another DoD employee for a group gift to the contributing DoD employee's superior for any special, infrequent occasion shall not exceed \$10”).