



Eye on Ethics

January 2014

SPECIAL EDITION: Navy Supply Corps Balls

With the dawn of 2014, so comes the season for the Navy Supply Corps Balls. This paper addresses the appropriate characterization and permissible level of support for these events. Succinctly, the Navy Supply Corps Ball, as organized by the Navy Supply Corps Foundation (Foundation), is NOT an official event and very limited support may be provided. Consequently, the committees that plan, fundraise, and execute military balls are made up of persons performing tasks in their personal capacities, not in their official capacities. In this regard, military ball committees are non-Federal entities and official support and participation in them is strictly governed. Here are several important points:

- It may be appropriate and permissible for the Chief of the Supply Corps or other DON/DOD officer to speak in his/her official capacity at the Ball. Personnel who normally travel with the speaker, such as security personnel and aides, may attend in an official capacity.
- If the military dignitary is speaking in an official capacity, free attendance may be authorized (10 U.S.C. §2601).
- The officer, who attends in an official capacity and delivers an official speech, may appear in uniform.
- Generally, active duty military members will attend in their personal capacities. As such, Government transportation cannot be provided.
- Because of the overwhelmingly military nature of a military ball and attendance by current and former military personnel, the DoD Standards of Conduct Office has consistently opined that the wearing of military uniforms at a military ball is permissible.
- The Foundation members should not use Government time to organize the event.
- While the Command can disseminate information of common interest to its workforce, the communication should be limited to general information regarding the event.
- The Foundation should not use Government telephone numbers or email addresses to conduct event planning.
- Federal personnel acting in their official capacity are never permitted to solicit gifts for the Foundation.
- Federal personnel who are soliciting funds must do so without referring to their office, title, position, or authority. They cannot be in uniform; they cannot solicit from subordinates; and they cannot solicit from prohibited sources.
- Supervisors cannot coerce subordinates to support the event (by attendance or otherwise).
- The Foundation, as a private, unofficial organization, is responsible for all aspects of the event planning to include printing and sending invitations, gathering responses, collecting payments, entertainment, etc.

For a more detailed examination of the issues, please see the Navy JAG guidance on the following three pages.

QUESTIONS

If you have questions, please ask your local OGC attorney or NAVSUP Counsel, Sandra Jumper, at 717-605-7753 or sandra.jumper@navy.mil.

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From: Deputy Assistant Judge Advocate General (Administrative Law)

To: Navy JAG Corps Ethics Community

Subj: ETHICS-GRAM 05-12 – GUIDANCE ON DOD PARTICIPATION IN MILITARY BALLS

1. As a result of several recent questions on the participation by DOD agencies and personnel in military balls sponsored by non-Federal entities, we are providing this summary of advice originally provided by the DOD General Counsel, Standards of Conduct Office in April 2004. In advising on this issue you may also wish to review Ethics-Gram 05-07, Endorsement of Non-Federal Entities, available on Navy Knowledge Online.
2. Private Function. Unless designated by the Secretary of the Navy or CNO, military balls are not official functions but private functions for which the expenditure of appropriated funds is not authorized. (*See* SECNAVINT 5603.2D). The committees that plan, fundraise and execute military balls are made up of persons performing tasks in their personal capacities, not in their official capacities. In this regard, military ball committees are non-Federal entities, and official support and participation in them is strictly governed.
3. Fundraising. The Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635, severely limit the activities of both civilian and military Federal personnel in official fundraising for non-Federal entities. Section 2635.808 restricts fundraising in an official capacity to those very few activities that are authorized by statute, Executive Order, or regulation. DoD agencies may endorse the fundraising of organizations listed in Section 3-210 of DoD 5500.7-R, Joint Ethics Regulation (JER); however, military ball committees are not among the listed organizations. Still, certain DoD facilities and equipment may be provided as logistical support of fundraising events when the factors of JER 3-211(b) are favorable evaluated by the cognizant commander.
4. Title 5 C.F.R. 2635 acknowledges two activities that are not considered fundraising. First, personnel may deliver an official speech, given in an official capacity at an appropriate forum, if it is focused on the responsibilities, or ongoing policy, programs, or operations of DoD. Second, personnel may “merely attend” a fundraising event, meaning that they play no official role, are not an active or visible part of the promotion, production, or presentation of the event, and their attendance is not used to promote the event.

5. Section 5 C.F.R. 2635.808 and JER, Section 3-300 generally permit Federal personnel to voluntarily participate in ball fundraising activities in their personal capacities as long as they act exclusively outside the scope of their official positions and do not personally solicit from organizations that do business with the DoD or solicit from subordinates. DoD employees may not permit the use of their official titles, positions, or organization names to further fundraising efforts, but may be identified by their rank and service, *e.g.*, Lieutenant James Smith, U.S. Navy.

6. Attendance. For most, attendance at military balls is done in a private capacity. A DoD officer who delivers an official speech may attend in his/her official capacity. Likewise, personnel who normally travel with the speaker, such as security personnel and aides, may attend in an official capacity. Other active duty military members may "merely attend" in either a personal capacity or in an official capacity upon a determination of agency interest in attendance. The determination of agency interest must be made at the cognizant command level. Ordinarily a determination of agency interest should be made for very few people at any particular military ball and should include only local attendees.

7. Federally-Funded Travel. Even when an agency determines that personnel may attend in an official capacity, it may still be inappropriate to expend appropriated funds to pay travel expenses to the ball. Travel expenses require a separate analysis conducted at the cognizant command level. If members attend in their personal capacities, Federal funds may not be used.

8. Uniforms. In general, military personnel may not wear their uniforms to assemblies or activities that imply support of commercial or political interests or official sponsorship of an activity or interest. The regulations generally permit active duty personnel to wear uniforms at social functions and informal gatherings of a military nature. Sometimes the wearing of a military uniform at an event is so unique that it constitutes "active and visible participation" in the event, and therefore is not permissible. Because of the overwhelmingly military nature of a military ball and attendance by current and former military personnel, the DoD Standards of Conduct Office has consistently opined that the wearing of military uniforms at a military ball is permissible.

9. Offers of Free Attendance. Any offers of free attendance to invited DoD personnel must be analyzed according to the capacity in which these personnel are attending. If a military ball is determined to be a widely attended gathering (WAG) in accordance with 5 C.F.R. 2635.204(g)(2), DoD personnel in their personal capacities may accept an unsolicited offer of free attendance (food, refreshments, and entertainment furnished to all attendees as an integral part of the event) if the employee's supervisor determines that there is an agency interest (furthering agency programs and operations) that the employee attend the ball. Similar offers of free attendance to DoD personnel who are attending in their official capacities, may be accepted as gifts to the Navy under 10 U.S.C. 2601.

10. Offers of Travel Accommodations. In an official capacity, the cognizant agency may accept an unsolicited offer of travel accommodations for DoD employees and accompanying spouses under 31 U.S.C. 1353, or if that is not available, as a gift to the Navy under 10 U.S.C. 2601. DoD personnel who attend in their personal capacities may accept such offers as long as acceptance does not violate the prohibitions of acceptance of gifts from outside sources in 5 C.F.R. 2635, subpart B.

11. Former Military Personnel. Former military personnel, unless they are otherwise current Federal employees, may only attend in their personal capacities but are not constrained by Title 5 C.F.R. 2635 or the JER. However, like active duty military personnel, their respective military services determine when they may wear the uniform. In general, the regulations permit wearing the uniform by former military personnel at events of an essentially military character, such as military balls, parades, weddings, and memorial services.

12. Navy Knowledge Online (NKO). All ethics-grams and enclosures from 1998 to the present, as well as the ethics-gram index, are posted on NKO (<https://wwwa.nko.navy.mil>) in the Administrative Law Knowledge Center. Once you have logged onto NKO, follow these steps to access the ethics-grams:

- a. Click on “JAG” on the right-hand side of the page.
- b. Follow the column on the right-hand side to “Administrative Law Material”.
- c. Click on “Ethics Grams”.
- d. Choose the year you wish to access or click on “Fleet Index” for a listing of all ethics-grams arranged by topic.

13. Points of contact. LCDR Aaron Rugh at DSN 664-8280, 703-604-8280, or aaron.rugh@navy.mil, or LT Dave Furry at DSN 664-8218, 703-604-8218, or david.furry@navy.mil.

/s/

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