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Office of the Staff Judge Advocate  
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**Ethics Training**



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# The Virgin Islands Consortium

## 15 August 2017

ST. THOMAS — Governor Kenneth Mapp dropped bombshell news regarding the Virgin Islands National Guard (V.I.N.G.) during a Government House press conference on Tuesday, revealing that following a yearlong investigation by the National Guard Bureau (N.G.B.) which is still ongoing, rampant sexual assault, harassment, assault, sexual intercourse for employment (quid pro quo) and fraud were found to be commonplace at the Virgin Islands National Guard for years, and that course-resetting changes at the organization were underway.

Without mincing words, the governor — joined at one point by V.I.N.G. Adjutant General Deborah Howell, Deputy Director of the Army National Guard, Major General Timothy McKeithen, and Special Assistant to the Director of the Army National Guard, Brigadier General John C. Boyd — said he was troubled by the findings of the investigators, which was relayed to the governor on July 24.

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# The Topeka Capital Journal

## 13 January 2017

**TOPEKA, Kan. (WIBW/AP)** -- The National Guard Bureau is stepping in to review the Kansas National Guard's investigation into enlistment document forgery and racism that led to reports questioning the Guard's leadership. The Bureau will also look into the actions taken by the state Guard. Kansas Adjutant General Lee Tafanelli made the request after "repeated and extensive investigations" that occurred between 2013 and 2015 and covered allegations spanning 2006 to 2014. The Topeka Capital Journal reported the Air Guard one-star general and Army Guard lieutenant colonel who led the probe separately concluded "toxic" leadership was damaging the Guard.

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# Portland Press Herald 1 December 2015

IG investigation found former Maine National Guard CofS violated **military ethics codes**:

- Misused government resources to cover his personal activities at Boston Marathon, violated travel regulations by traveling to & running marathon with no legitimate government purpose, indicated he was meeting with Guard counterparts in Massachusetts even though no evidence supports that he did meet



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# Core Values

- **Department of the Army**
  - **Loyalty**
  - **Duty**
  - **Respect**
  - **Selfless Service**
  - **Honor**
  - **Integrity**
  - **Personal Courage**

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# Core Values

- **Department of the Air Force**
  - **Integrity First**
  - **Service Before Self**
  - **Excellence in All We Do**

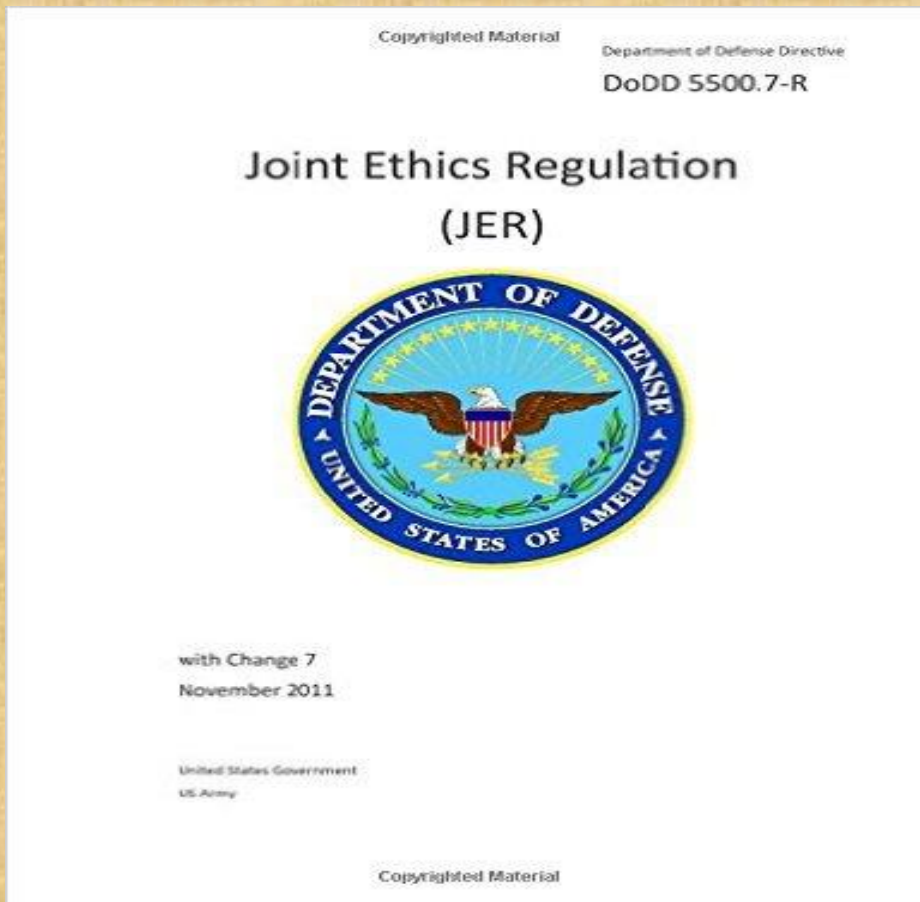
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# Pop-Quiz #1

- Name the Department of Defense Regulation that provides a single source of standards of ethical conduct and ethics guidance, including direction in the areas of financial and employment disclosure systems, post-employment rules, enforcement, and training.

# Joint Ethics Regulation (JER)

## DOD 5500.07-R



- Current version, Change 7, 17 November 2011
- Punitive
- Application to members of the National Guard

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# Application of JER to Members of the National Guard or Reserve

- Any Reserve / National Guard member while performing official duties or functions under the authority of either title 10 or title 32 of U.S. Code or while engaged in any activity related to the performance of such duties or functions, including any time the member uses his Reserve or National Guard of the United States title or position, or any authority derived there from.

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# JER 1-415

## Each DoD employee shall:

- Abide by ethical principles established by Executive Order 12674, ethics statutes and ethics regulations promulgated by Office of Government Ethics (OGE) & DoD;
- Set personal example for fellow DoD employees in performing official duties within the highest ethical standards;
- Perform all official duties so as to facilitate Federal Government efficiency and economy;

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# JER 1-415

## Each DoD employee shall:

- Attend ethics and procurement integrity training as required;
- File financial and employment disclosure reports as required.
- Report suspected violations of ethics regulations in accordance with subsection 10-200 of JER;

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# Reporting Suspected Violations

- DoD employees who suspect a JER violation shall report the matter to any of the following:
  - Agency Designee of DoD employee
  - Agency Designee of suspected violator
  - Head of the DoD Component command or organization
  - Any Ethics Counselor
  - DoD Component's Inspector General (IG)
  - DoD Component's Criminal Investigative Office
  - DoD hotline or DoD Component hotline

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# Pop-Quiz # 2

- Who in the room is an Agency Designee?

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# Agency Designee

- Defined in JER, paragraph 1-202 as  
The first supervisor who is a commissioned military officer or a civilian above GS-11 in chain of command or supervision of employee concerned.
- Except in remote locations, the Agency Designee may act only after consultation with local Ethics Counselor

# Pop-Quiz # 3

- Who in the room is an Ethics Counselor?

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# Ethics Counselor

- Me
- Appointed as Ethics Counselor for the Hawaii National Guard by Chief Counsel, National Guard Bureau, pursuant to delegation of authority by The Judge Advocate General
- Attorney-client or other confidential relationship is not created by a request.
- Communications made in my role as an Ethics Counselor are not privileged.

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# **Fourteen Ethical Principles**

## **5 C.F.R §2635.101 (b)**

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# Fourteen Ethical Principles

1. Trust: Public Service is a public trust, requiring employees to place loyalty to the Constitution, the laws & ethical principles above private gain.
2. Independence: Employees shall not hold financial interests that conflict with the conscientious performance of duty.

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# Fourteen Ethical Principles

3. Confidentiality: Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.

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# The Seattle Times

**30 March 2007 & 2 May 2007**

- Senior Interior Department Official disclosed confidential information to private groups seeking to affect policy decisions. Deputy Assistant Secretary for Fish and Wildlife and Parks “misused her position” by disclosing documents to the Pacific Legal Foundation & California Farm Bureau, both of which had challenged endangered-species listings.
- Submitted resignation as agency discussed plans to demote her.

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# Fourteen Ethical Principles

4. Incorruptibility: Employee shall not, except as permitted by law/regulation, solicit or accept any gift or other item of monetary value from any person/entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.

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# Gifts From Prohibited Sources

- Prohibited Sources – includes those that do/seek business/official action with HING
- Standards of Conduct Office publishes 317 page list of those that have contracts of \$25,000 or more with DoD.
- Gifts from Department of Defense contractors or other non-federal entities can be no more than \$20 per source per occasion and no more than \$50 from the same source in a calendar year

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# Gifts Between Employees

Leader/supervisor normally may not accept a gift from a subordinate. Exceptions may be occasion appropriate:

- Office Refreshments
- Personal Hospitality
- Tradition (birthday)
- Infrequent (marriage, illness, birth)
- Farewell

# Gifts Between Employees

- For infrequent occasions, each donating group of individuals may gather contributions for a gift, up to a market value of \$300, provided that such donations are not coerced but deemed strictly voluntary.
- \$10 limit on solicitation among subordinates



# Gifts From Foreign Governments

- Service Members may accept gift (or combination of gifts) of “minimal value”
- \$375 fair market value or less is cut off
- Rules are same re. what can do with gift:
  - Diplomatically decline
  - Pay fair market value
  - Accept on behalf of US government/becomes property of US government

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# Widely Attended Gatherings (WAG)

- WAG = A gathering is widely attended if it is: (1) expected that a large number of persons will attend & (2) that persons with a diversity of views or interests will be present
- Can accept cost of attendance if two-part test met and attendance in the interest of agency
- Can accept meals if offered to everyone in attendance
- If exclusive dinner/meal offered to only select individuals, can't accept or pay FMV

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# Fourteen Ethical Principles

5. Honesty: Employees shall put forth honest effort in the performance of their duties.

6. Veracity: Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government.

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# Fourteen Ethical Principles

7. Loyalty: Employees shall not use public office for private gain

8. Fairness: Employees shall act impartially and not give preferential treatment to any private organization or individual

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# Fourteen Ethical Principles

9. Conservation: Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

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# Fourteen Ethical Principles

10. Integrity: Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.

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# **TAG Policy for Employment Outside the Hawaii National Guard**

Any activity that could potentially interfere with obligation to protect the government's interests, affect objective judgment with regard to a business decision, or could reasonably bring discredit upon individual or the Hawaii National Guard creates a potential conflict of interest.

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# Outside (off-duty) Employment

- TAG policy seeks to avoid conflicts of interest or ethics regulation violations by Full Time Support Personnel (Military Technicians, Active Guard Reserve (AGR) & Full Time National Guard Duty Operational Support (FTNGD-OS) Soldiers and Airmen)
- Must not conflict with official duties, detract from readiness, pose workplace safety risks or reflect unfavorably on the Department of Defense
- TAG is approval authority for outside employment

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# Fourteen Ethical Principles

11. Candor: Employees shall disclose waste, fraud, abuse and corruption to appropriate authorities.

12. Citizenship: Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those – such as Federal, State or Local taxes – that are imposed by law.

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# Fourteen Ethical Principles

13. Compliance: Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age or handicap.

14. Visibility: Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part.

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# Fourteen Ethical Principles

- Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant fact.

# Political Activities (Hatch Act)

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# Partisan Political Politics

- Department of Defense (DoD) Directive 1344.10, Political Activities by Members of the Armed Forces on Active Duty Military covers members of the Armed Forces.
- Prohibits engaging in political activity while wearing a uniform or official insignia identifying the office or position of the DoD employee
- Prohibits engaging in partisan political activity in federal building

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# **DoD Political Activity Public Affairs Guidance**

- Federal civilian employees and active duty service members may generally express their own personal views on public issues or political candidates via social media platforms
- If social media site/post identifies the member as on active duty or federal employee, entry will clearly and prominently state that the views expressed are those of the individual only and not those of the Department of Defense

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# DoD Political Activity Public Affairs Guidance

- SMs may “follow” “friend” or “like” a political party or candidate running for partisan office
- SMs may not post links to, “share” or “re-tweet” comments or tweets from the Facebook page or twitter account of a political party or candidate running for partisan office (Such activity is deemed to constitute participation in political activities)

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# Final Considerations

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# Ethical Decision Making

Always ask yourself these questions when making a decision

- Do the ethics rules permit me to take a proposed action/may I proceed?
- If yes, should I proceed? What are the benefits to DoD if I take the proposed action and what are the RISKS?

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# THE LAST WORD

- Be familiar with the ethics rules that apply to you and your subordinates
- Lead by example...your actions, more than your words demonstrate your attitudes, values and expectations
- You do not have to be an ethics expert. Please contact your ethics counselor with any questions. The ethics counselor is here to help you!

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# Questions?



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