



PRIVATE ORGANIZATION REFERENCE GUIDE

Summary. This Reference Guide provides a compilation of the major rules, policies and procedures relating to the Private Organization Program at installations within the US Army Installation Management Agency, Southeast Region. It is meant to assist the garrison staff to promulgate the Private Organization Program. Due to the complexity of the Private Organization Program, the information in this Reference Guide is not all-inclusive; commanders, supervisors, and staff associated with the Private Organization Program are encouraged to contact their Staff Judge Advocates or Ethics Counselors when issues concerning private organizations arise to ensure they are acting properly.

Suggested Improvements. The proponent of this Reference Guide is the Southeast Regional Office (SERO) Morale, Welfare, and Recreation (MWR) Division. Users are invited to send comments and suggested improvements to the US Army Installation Management Agency, Southeast Region, SFIM-SE-MW, 1593 Hardee Avenue, SW, Fort McPherson, GA 30330-1057.



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**CHAPTER 1
INTRODUCTION**

1-1. INTRODUCTION. Private organizations play an important role in creating a positive community environment and improving the quality of life on Army installations. Private organizations offer a wide variety of valuable activities and services which provide avenues of support, esprit de corps, relaxation, and social interaction which would not otherwise be available. All individuals living and/or working on our installations are encouraged to participate in recognized private organizations. However, it is important that individuals who elect to participate in these private organizations do so on their own free will without coercion or pressure from commanders and supervisors.

1-2. REFERENCES.

a. AR 210-22, Private Organizations on Department of the Army Installations, is the primary regulation governing the operation of private organizations on Army installations.

b. Appendix A, References, contains a list of applicable regulations and publications which provide guidance on the operation of private organizations on Army installations.

1-3. RESTRICTION ON GUIDANCE. This Reference Guide does not apply to:

a. Off-post private organizations which do not wish to operate on an Army installation.

- b. Organizations operating off or outside of the Army installations that occasionally request use of Army facilities or other resources.
- c. Appropriated fund (APF) or nonappropriated fund (NAF) contractor and subcontractor organizations and funds on Army installations.
- d. Patients' trust funds.
- e. Prisoner of war funds.
- f. Prisoners' personal deposit funds.
- g. Funds established for civilian employees at civil works activities of the Corps of Engineers.
- h. Army gift funds (see AR 1-100).
- i. Chapel organizations operating as extensions of the Army Chapel Program (see AR 165-1).
- j. Credit unions and banking offices or institutions (see AR 210-135).
- k. American Red Cross (see AR 930-5).
- l. United Services Organization, Inc. or USO (see AR 930-1).
- m. United Seamen's Service (see AR 700-83).
- n. Labor organizations subject to section 71, title 5, United States Code (USC) or 5 USC 71.
- o. Association of Supervisors and Managers (see DOD 1400.25-M, Subchapter 251).
- p. Civil Air Patrols (see Air Force Reg 46-6).
- q. Army Emergency Relief (see AR 930-4).

1-4. RESPONSIBILITIES.

a. Director, Installation Management Agency, Southeast Region.

(1) Ensure Southeast Regional Office (SERO) staff and Southeast Region (SER) installations comply with AR 210-22, Private Organizations on Department of the Army Installations and other applicable regulations and policies.

(2) Review installation procedures for monitoring private organizations.

b. Garrison Commanders.

(1) Ensure Army personnel and private organizations operating on the installation comply with AR 210-22 and other applicable regulations and policies.

(2) Terminate private organization operations on the installation when a private organization does not adhere to Army regulations and policies.

(3) Inform military and civilian personnel working on the installation of restrictions concerning official and unofficial relationships with private organizations.

(4) Establish procedures for private organization fundraising, ensuring the private organizations do not compete with the Army and Air Force Exchange Service (AAFES) or Morale, Welfare, and Recreation (MWR) activities.

(5) Refer private organization requests for support and fundraising for legal review. Establish procedures for approving, monitoring, and/or providing such support.

(6) May delegate authority to approve private organizations and monitor the overall private organization program. If approval authority is delegated, it should not be delegated below director level, e.g. Director of Morale, Welfare, and Recreation (DMWR).

c. Southeast Region Private Organization Program Manager. Administer the SER's Private Organization Program for the Southeast Region Director.

d. Garrison Private Organization Program Manager. Administer the Private Organization Program at the installation as delegated by the respective Garrison Commander.

e. Garrison Staff Judge Advocates (SJA). Provide legal advice to the Garrison Commander and his/her staff. The SJA may designate his military and civilian staff to act on his/her behalf. The SJA may not provide legal guidance to private organizations directly; however, the SJA may provide legal interpretation to questions concerning the installation's relationship with private organizations posed by the Garrison Commander and his/her staff.

f. Ethics Counselor. Provide guidance to the Garrison Commander and his/her staff, as well as,

military and civilian employees concerning the application of and compliance with DOD 55007-R, Joint Ethics Regulation (JER).

g. Private Organizations. Comply with all applicable regulations, policies and procedures when operating on an Army installation.

1-5. GENERAL PRINCIPLES.

a. Private organizations are not nonappropriated fund instrumentalities (NAFIs). As such, they are not entitled to the immunities and privileges given NAFIs.

b. Private organizations are not entitled to and will not receive Army endorsement by virtue of their contributions to the military community or installation, their promotion or support of Army goals and objectives, or for any other reason.

c. Subject to the provisions of 10 USC 1033 and the Joint Ethics Regulation (JER) there is no official relationship between private organization activities and official duties and responsibilities of Army personnel who are private organization members or participants.

d. Since private organizations are not part of the military, they may only receive limited government supervision. The loan of government resources does not create a government obligation or liability for private organization activities.

e. Only the private organization can choose its specific functions and expenditures. DOD personnel acting in an official capacity will not influence these choices. Likewise, DOD personnel in their official capacity are not authorized to participate in day-to-day management for a private organization nor authorized to act as a fiduciary for a private organization.

f. Private organizations are operated on a financially and operationally self-sustaining basis.

g. Neither the Federal government nor its NAFIs have any vested interest in the assets of a private organization. Neither the government nor its NAFIs will make any claim to private organization assets or incur or assume any obligation of a private organization.

h. Neither soldiers nor civilian employees will be assigned to work for private organizations as an official duty.

CHAPTER 2 APPROVAL TO OPERATE ON AN INSTALLATION

2-1. APPROVAL PROCESS.

a. Before operating on Army installations, private organizations must request and receive written permission from the Garrison Commander.

b. Private organizations seeking permission to operate on an Army installation will furnish the following documentation with a written application or request to the Garrison Commander:

(1) A charter, articles of agreement, constitution, bylaws, or other authorization document which complies with paragraph 3-14 of this guide. If affiliated with a national, regional, or State organization, the private organization will include documentation of the parent organization.

(2) Agreement to reimburse the Army for utility expenses, unless use is incidental (would cost more to bill and collect than it costs to provide the utility).

(3) A request to incorporate the name or abbreviation of DOD components, organizational units or installation names into the approved name of the private organization when used in conjunction with its on-post activities. See paragraph 3-6.

(4) Provide proof of liability insurance or a request for a waiver of the liability insurance requirements. See paragraph 3-10.

(5) An income producing private organization must provide documentation of its federal income tax status. (Note: Proceeds of fundraisers are not always considered income.)

(6) Agreement to remove all private organization property from the installation if approval to operate is terminated.

2-2. APPLICATION REVIEWS AND APPROVAL.

a. The Garrison Commander will establish procedures for the review of requests for permission to operate. Applications will include all documentation required by AR 210-22 and any additional

documentation required by the installation (see paragraph 2-1b).

b. Application review includes a legal review.

c. Reviews ensure that individual members do not personally profit from private organization income, except through:

(1) Salaries and wages as private organization employees.

(2) Award recognition for services rendered to the organization or community.

(3) Exception for investment clubs. The Garrison Commander may grant exceptions for investment clubs. See paragraph 4-1 for more information concerning investment clubs.

d. The Garrison Commander, or his/her designated representative, may approve private organizations to operate on the installation for a period up to two years.

e. The approval document will include:

(1) A statement that neither the installation nor the government will have any liability for the private organization's actions or debts.

(2) A statement that the Garrison Commander may revoke permission to operate at any time.

(3) A statement that the approval to operate as a private organization on the installation automatically expires on a specific date (not more than two years from approval date), unless revalidated by the Garrison Commander.

2-3. REPORTING REQUIREMENTS.

a. In addition to information required when approval is requested, approved private organizations will provide the following on a routine basis (as determined by the Garrison Commander, but not less than annually) to the Garrison Private Organization Program Manager:

(1) Minutes or summaries of private organization meetings.

(2) Financial statements.

(3) Any major changes in the private organization's activities, objectives, organization,

constitution, membership, constitution and bylaws, and management functions.

(4) Names, addresses, and phone numbers of officers.

(5) A copy of audit reports.

(6) A copy of any correspondence about applicability of Federal, State, or local laws.

b. Garrison Private Organization Program Managers will maintain a file for each private organization. The file will contain, at a minimum, the following:

(1) The private organization's initial request to operate on the installation.

(2) Any subsequent requests to revalidate the approval to operate on the installation.

(3) A copy of the Garrison Commander's letter of approval.

(4) Information provided in accordance with (IAW) paragraph 2-3a.

2-4. REVALIDATION.

a. The revalidation process should be established by the Garrison Commander, but normally follows a process similar to the initial approval process.

b. Private organizations have approval to operate for up to 2 years, unless cancelled by the private organization or the Garrison Commander.

c. Approval expires automatically 2 years from the date of last approval, unless revalidated or an earlier expiration date has been set by the Garrison Commander.

d. Private organizations should submit revalidation requests to the Garrison Commander no less than 90 days before the expiration of their approval to operate on the installation. Garrison Commander may establish longer periods. This will allow adequate time for the required review process.

e. Requests will include documentation of any changes in private organization's activities, objectives, organization, constitution, membership, and so forth.

f. Revalidation will not occur unless all the reporting requirements outlined above have been met.

2-5. TERMINATION OF OPERATIONS.

- a. The Garrison Commander may withdraw approval for a private organization to operate on the Army installation at any time.
- b. A private organization may notify the Garrison Commander it no longer desires to operate on the installation.
- c. Notification by either party will be in writing.
- d. The Garrison Commander has the absolute discretion to determine whether a private organization's continued operation is compatible with the Army's interest.

CHAPTER 3 POLICIES

3-1. FUNDING FOR PRIVATE ORGANIZATIONS.

- a. All private organizations are self-sustaining, non-Federal entities, incorporated or unincorporated, which operate on Army installations with the written permission of the Garrison Commander.
- b. Neither NAFIs nor APF activities may incur or assume any obligation of any private organization, except as may arise out of a contractual relationship.
- c. Private organizations will not receive financial assistance from a NAFI in the form of contributions, repairs, services, dividends, or other donations of money or other assets. NAFI funds and other assets will not be transferred to private organizations, directly or indirectly, unless there is legislative authority. (see DODI 1015.9, Scouting Organizations Operating at US Military Installation Located Overseas).

3-2. USE OF GOVERNMENT RESOURCES.

- a. Private organizations will not use Army services. This includes legal, audit, transportation, postal, printing, information management activities, clerical, financial, copying, management, and procurement services.
- b. Army authorities may allow private organizations to use Army real estate (including utilities and in-place equipment) under license or lease agreements, per AR 405-80 and JER, when in the best interests of the Army.

(1) License. Use may be granted by means of a revocable-at-will license when private organization use is occasional, non-regular, regular part-time, or full-time. The license may permit storage of equipment and supplies if it does not interfere with, nor restrict, the normal use of the facility by other users.

(2) Lease. Use may be granted by lease when the private organization is guaranteed sole use on a full-time basis, is guaranteed use for a specific period, or stores in-place equipment or supplies that impair or restrict normal use of the facility by other users. Rent in the continental United States (CONUS) is determined by the US Army Corps of Engineer District Engineer.

c. For fiscal and logistical support for United States scouting organizations (the Girl Scouts of the United States of America and the Boy Scouts of America) operating on US military installations located overseas see DOD 1015.9 and the following paragraphs/appendixes locations in this Reference Guide: paragraph 3-18, Scouting Activities (Boy & Girl); paragraph 7-4, Boy/Girl Scouts; and Appendix H, Army Relations with Boy Scout Organizations.

3-3. FUNDRAISING.

- a. Fundraising on military installations is governed by 5 CFR 2635.808 and AR 600-29.
- b. The Garrison Commander will develop local procedures for approving private organization fundraisers to include designating locations where such fundraisers may be held.
- c. An organization composed primarily of DOD employees and/or dependents may fundraise among its own members, for the benefit of its own members and/or family members, when approved by the Garrison Commander.
- d. Private organization fundraisers will not be conducted in the workplace, except in areas designated by the Garrison Commander. Members of the private organization who are on official government duty time will not participate in fundraising activities. It is permissible for government employees (military or civilian) to participate in fundraising events during non-duty time.
- e. At the discretion of the Garrison Commander, private organizations may conduct fundraising sales when sales are not in competition with AAFES or the installation NAFIs.

f. Installation fundraising procedures should include requirements for coordinating with AAFES and installation NAFI resale activities when appropriate.

g. Installation fundraising procedures should include requirements for coordinating with the local Preventive Medicine Office when the fundraising event involves the sale or distribution of food. This is to ensure that health and sanitation requirements are met.

h. Family Readiness Groups must request approval for fundraising. (See paragraph 4-3 for more information on Family Readiness Groups.)

3-4. COMMERCIAL SPONSORSHIP.

a. The US Army's Commercial Sponsorship Program allows each installation's MWR Commercial Sponsorship Office to obtain commercial sponsorship for MWR programs and events, as well as for Army Family Action Plan (AFAP) and Army Family Team Building (AFTB) programs and events. Family Readiness Groups are not authorized to participate in the MWR Commercial Sponsorship Program. Commercial sponsorship, as defined by AR 215-1 and the Commercial Sponsorship Desk Reference as an "exchange of values." Thus commercial sponsorship is not a "donation". Events co-sponsored by MWR and a private organization may receive Commercial Sponsorship. Commercial sponsorship received for co-sponsored events are for the MWR program and do not belong to the private organization even though this

sponsorship may offset the total cost of the program. Commercial sponsorship funds, good, or services may only be used for the specific programs for which they were provided.

b. Commercial Sponsorship will not be solicited from companies in the tobacco and/or alcoholic beverages (including beer) business. Unsolicited sponsorship may be accepted only if such sponsorship is not directed predominantly or exclusively at military personnel. A responsible use campaign and the Surgeon General's warning will be included in the sponsorship.

c. It is important to realize the local community has only a small pool of advertising dollars available for which both the MWR Commercial Sponsorship Office and the Public Affairs Office's (PAO) commercial enterprise newspaper are competing. The introduction of private organizations into this small pool may result in reluctance by local merchants to participate in the MWR Commercial Sponsorship Program or with the PAO commercial enterprise newspaper. Many times the merchants do not understand "who is who" and identify all as "the Army". These local merchants feel "tapped out" or that they are always giving to the same organization (the Army).

d. For the specific rules associated with Commercial Sponsorship, contact your Commercial Sponsorship Office; normally located in the MWR Marketing Office.

DISCLAIMER

To Whom It May Concern

I/We (name of local business) agree to participate in (private organization event name) hosted by (name of private organization) and provide a donation of services, goods, displays, etc., free of charge on (date of private organization event). I/We (name of local business) understand that this donations is specifically for the benefit of (name of private organization) and not for (name of local installation, e.g., Fort Excellence) or the US Army. Participation by (name of local business) does not indicate endorsement by (name of local installation) or the Department of the Army.

Signature of Private Organization Representative
Printed Name of Private Organization Representative
Name of Private Organization
Dated Signed

Signature of Local Business Representative
Printed Name of Local Business Representative
Name of Local Business
Date Signed

Figure 3-5 Example of Fundraising Disclaimer Form

3-5. SOLICITATION OF DONATIONS TO PRIVATE ORGANIZATIONS. To help eliminate the confusion between the MWR Commercial Sponsorship Program and private organizations seeking donations, Garrison Commanders are strongly encouraged to establish rules for the solicitation of donations of funds, goods, or services from local businesses by private organizations with approval to operate on the installation.

a. These rules should include:

(1) Private organizations will not be allowed to use donor's names or logos on advertisements or other printed material used to promote on-post events for which the donation is sought. Only the MWR, AFAP, and AFTB may provide vendor recognition in their event advertisements and printed materials.

(2) The use of some type of prominent disclaimer that states the private organization is a non-federal entity and is not affiliated, sponsored or endorsed by the installation or the Army.

b. An example of a prominent disclaimer that could be used by private organizations soliciting donations from the local community is at Figure 3-5. This disclaimer would be completed by the private organization and local merchant. A copy should be kept on file by the private organization.

c. Government employees (military and civilian) face significant limitations on seeking donations on behalf of a private organization. They may raise funds for a private organization in their personal capacity, but they may not use their official title, position, or authority to fundraise, nor may they solicit subordinates or prohibited sources. Prohibited sources are defined in 5 CFR 2635.203(d).

3-6. USE OF DOD COMPONENT AND INSTALLATION NAMES. The provisions of AR 210-22 have been superseded by Assistant Secretary of Defense memorandum, 29 May 02, subject: Use of DOD Component and Installation Names in Titles of Private Organizations (see Appendix G), which provides interim policy guidance for the use of names of DOD components and installations as part of the title of private organizations chartered to operate on DOD installations. Private organizations may include the name or abbreviation of a DOD component, organizational unit or installation in their name provided they take effective steps to

ensure their status as a private organization is apparent and unambiguous. Such steps include, as a minimum:

a. Any use of the name or abbreviation of a DOD component or installation may not mislead members of the public to assume a private organization is an organizational unit of the DOD.

b. Private organizations that incorporate names or abbreviations of DOD components, organizational units, or installations must receive prior approval from the Garrison Commander.

c. Private organizations shall use a prominent disclaimer on all printed and electronic media confirming the private organization is not a part of the DOD. An example of a prominent disclaimer in a private organization's letterhead is at Figure 3-6.



3-7. PROHIBITION ON THE USE OF DOD COMPONENT SEALS, LOGOS, AND INSIGNIAS. To prevent the appearance of an official sanction or support by DOD, a private organization is prohibited from using the seal, logo, insignia or the like used by any DOD component, organizational unit, or installation to identify any of its programs, units, locations, or activities. This includes on any signs, letterhead, correspondence, advertising or in its title.

3-8. COMPLIANCE WITH REGULATIONS AND LAWS.

a. Generally, private organizations are not exempt from State or local laws because they operate on Federal property.

b. Private organizations are responsible for complying with fire and safety regulations, environmental laws, tax codes, and other applicable statutes and regulations.

c. When a private organization has paid staff, the private organization will comply with the laws that apply to private sector employment.

d. Private organizations will obtain any required licensing, certification, or registration if required by State, local, or foreign authorities where the installation is located.

3-9. TAXES.

a. Private organizations will comply with all Federal, State, and local tax laws and codes. The private organization will contact the proper tax officials to ensure compliance with all tax laws and should obtain private counsel when such assistance is needed.

b. The SJA is not allowed to provide legal counsel to a private organization.

c. Federal income tax. Certain types of private organizations, such as religious, educational, and scientific, may qualify for exemption from Federal income tax under section 501 of the Internal Revenue Code. When a parent organization controls taxes for local chapters, the local private organization will furnish a statement to this effect that is signed by an official of the parent organization's headquarters. Other private organizations will obtain a statement of their tax status from their Internal Revenue Service (IRS) district office.

d. Federal income tax withholding for employees. For Federal employee taxes and reports on amounts paid, private organizations will obtain guidance from private counsel or the IRS.

e. State and local sales, income, occupation, and employer taxes. Local law determines whether private organizations are exempt from State and local taxes.

f. Foreign taxes in overseas locations. Laws of the country where located will be followed.

3-10. INSURANCE.

a. Liability Insurance.

(1) Private organizations will obtain insurance as protection against public liability, claims, property damage claims, or other legal actions arising from the private organization activities, one or more of the private organization's members acting on its behalf, or the operation of any equipment, apparatus, or device under the control and responsibility of the private organization.

(2) Since AR 210-22 was issued, the US Army Community and Family Support Center (CFSC) has clarified the liability insurance requirement.

(a) Because the activities of some private organizations have a low liability risk factor, the requirement to have liability insurance may be waived

by the Garrison Commander with the concurrence of the SJA after completing a risk assessment.

(b) If the liability insurance requirement is waived by the Garrison Commander, the private organization is still responsible for any liability claims or judgments against it. If the private organization does not have funds to cover a liability claim or judgment it is possible that a court might hold the members of the private organization personally responsible for the claims or judgments.

b. Fidelity Bonding. Fidelity bonding will be purchased by an organization for members or employees handling monthly cash flow exceeding \$500. Bonding will be equal to the normal maximum amount of cash handled.

3-11. ABANDONED PRIVATE PROPERTY.

a. Neither APF activities nor NAFIs may assert any claim to the assets or assume any obligation of any private organization, except as might arise out of a contractual relationship.

b. Property abandoned by a private organization upon its disestablishment or departure from an installation, or donated by the private organization to the installation, may be acquired by the installation under terms of applicable agreements, status of forces agreements, and policies.

3-12. ALCOHOLIC BEVERAGES. Private organizations will not engage in the distribution or sale of alcoholic beverages at any time. A private organization may contract with an MWR activity, e.g., Community Club, to conduct an event at which an MWR activity serves alcoholic beverages.

3-13. AUDITS. Private organizations with gross annual revenue of \$1,000 or more will arrange for an audit at least once every 2 years, at their own expense. On change of private organization treasurer, an audit will be conducted regardless of the time elapsed since the last audit.

a. Private organizations with financial statements audited annually by their national headquarters may submit a copy of that audit rather than complying with paragraph 3-13b and c.

b. Private organizations using a double-entry accounting system will have audits done by a qualified auditor. A qualified auditor is considered a public accountant or certified public accountant licensed by the State or other recognized licensing jurisdiction.

c. Private organizations using a single entry accounting system are audited as follows:

(1) With income only from contributions, dues, and assessments, audits may be conducted by either a private organization member who holds no office and is at least 18 years of age or a qualified auditor.

(2) When a private organization engages in resale or other fundraising activities, the audit is performed by either an appointed committee of three private organization members who hold no office and are at least 18 years of age, or by a qualified auditor.

d. Audits of private organizations should be more than just a financial audit; i.e., fund balance equals income less expenditures. Audits should also determine if expenditures were authorized in accordance with the established rules and procedures of the private organization. A sample format for an audit report is at Appendix F.

3-14. CONSTITUTION AND BYLAWS.

a. For a private organization to be approved to operate on an installation the private organization must submit a constitution, bylaws or other authorization document. This document must include:

(1) The official name of the private organization.

(2) A statement of the private organization's purpose, nature, functions, and objectives.

(3) A statement that neither the installation nor the government will have any liability for the private organization's actions or debts.

(4) An explanation of membership eligibility and responsibilities for all management functions (including accountability of assets, coverage and limitation of insurance and disposition of remaining assets on breakup of the private organization).

(5) A statement that the private organization will neither propagate extremist activities nor advocate violence against others or the violent overthrow of the Government.

(6) A statement that the private organization will not seek to deprive individuals of their civil rights.

b. If affiliated with a national, regional, or State organization the private organization will include documentation on the parent organization.

3-15. MEETING MINUTES.

a. Private organizations will provide minutes or summaries of all meetings on a routine basis (but not less than annually) to the Garrison Private Organization Program Manager. The Garrison Commander may require the submission of minutes or summaries of meetings more often than at least once a year.

b. A sample format for a private organization's meeting minutes is at Appendix D.

3-16. FINANCIAL REPORTS.

a. Private organizations will provide a report of their financial status on a routine basis (but not less than annually) to the Garrison Private Organization Program Manager. The Garrison Commander may require the submission of a private organization's financial statement more often than at least once a year.

b. A sample format for a private organization's financial statement is at Appendix E.

3-17. EMPLOYMENT PRACTICES.

a. Private organizations will comply with laws that apply to private sector employment.

b. Private organizations are not permitted to operate on Army installations if their employment practices discriminate based on:

(1) Sex, age, religion, race, color, national origin, or marital status.

(2) Lawful political affiliation.

(3) Labor organization membership.

(4) Physical handicaps.

3-18. MEMBERSHIP PRACTICES.

a. Private organizations will not unlawfully deny membership, unlawfully exclude from participation, or otherwise subject to unlawful discrimination, any person because of race, color, creed, sex, disability, or national origin. When unlawful discrimination by a private organization is suspected, information about procedures for individuals to follow will be publicly disseminated by private organization to its members.

b. The above paragraph does not preclude:

(1) The existence of religious, cultural, or ethnic private organizations when:

(a) Membership is not restricted or discriminatory.

(b) Similar religious, cultural, or ethnic private organizations are approved without preference.

(2) Approval by the Garrison Commander for the operation of certain private organizations that restrict membership to one sex, when one or more of the subparagraphs (a) thru (c) below apply. Examples include women's and men's sports clubs, women's and men's civic associations, and boy scouts and girl scouts.

(a) The private organization's purpose is philanthropic and, by tradition, its membership has been of one sex.

(b) The private organization's purpose is to benefit one sex and its membership is composed of that sex.

(c) The private organization has a specific purpose and function that restricts membership of one sex, but also has a counterpart organization with the same purpose and function.

b. Private organization membership campaigns and recruitment practices should not involve nor give the appearance of involving compulsion, coercion, reprisal, or influence.

c. JER governs all membership drives.

3-19. SCOUTING ACTIVITIES (BOY & GIRL).

See information paper at Appendix H and paragraph 7-4 in this Reference Guide for guidance on acceptable support to Boy and Girl Scouting activities. Remember, Boy and Girl Scouting activities in the United States do not have the special support privileges authorized them overseas.

3-20. PROHIBITED ACTIVITIES.

a. Any private organization conduct that may discredit the Army, DOD, or the Federal government; impose a financial obligation on the Army or NAFI activities.

b. A private organization will neither propagate extremist activities nor advocate violence against others or the violent overthrow of the Government.

c. A private organization will not seek to deprive individuals of their civil rights.

d. A private organization is not created, operated or administered for a commercial or monetary purpose, except for authorized investment clubs.

e. Private organizations may not duplicate or compete with authorized Army NAFIs (MWR or AAFES) activities.

3-21. PERCEPTION OF PREFERENTIAL

TREATMENT. All levels of the chain of command must make overt efforts to dispel the perception of endorsement or preferential treatment of specific private organizations. This is especially relevant in dealing with such organizations as the Association of the United States Army (AUSA), Noncommissioned Officers Association (NCOA), National Military Family Association (NMFA) or any unit association such as the Blackhorse Association or 101st Airborne Division Association. While most of the organizations provide benefits to the military community and improve the quality of life for our soldiers, the JER prohibits the chain of command from endorsing any private organization, regardless of the good it does for the community.

3-22. LEGAL ADVICE.

a. Because the laws and regulations concerning endorsement of non-Federal entities are somewhat complex and the above information is not all-inclusive; commanders, supervisors, and staff are encouraged to contact their legal advisors or ethics counselors in the supporting Staff Judge Advocates Office when issues concerning private organizations arise.

b. Private organizations are not authorized legal support from the SJA. However, the SJA may answer questions which relate to the relationship of the private organization with the installation.

CHAPTER 4

SPECIAL TYPES OF PRIVATE ORGANIZATIONS

4-1. INVESTMENT CLUBS.

a. Normally, no individual member of a private organization may accrue an income from a private

organization, except through wages and salaries earned as employees of a private organization or as an award in recognition for service rendered to the private organization or the military community.

b. However, the Garrison Commander may authorize investment club private organizations. An investment club is a membership organization that pools funds to invest in stock or other securities. Usually, the members pledge a regular amount to be paid into the club on a scheduled basis, such as monthly or annually. Some clubs have a committee that gathers information on securities, selects the most promising, and recommends that the club invest in them. Other clubs rotate the investigator responsibilities among all their members. Most require all members to vote for or against all investments, sales, exchanges, and other transactions.

4-2. FAMILY READINESS GROUPS.

a. Family Readiness Groups are organizations belonging to military units and their Commanders which provide avenues of mutual support for their soldiers and families members. They are run in accordance with DA Pam 608-47, A Guide to Establishing Family Support Groups. If a bona fide need exists for funds to support a Family Readiness Group's programs, the Garrison Commander or Garrison Private Organization Program Manager, with the responsible unit commander's concurrence, may authorize them to conduct fundraising events in accordance to local procedures (see paragraph 3-3) to earn funds for the required purpose. When conducting fundraising events, Family Readiness Groups are considered informal funds/private organizations. They are required to follow the fundraising rules established for informal funds/private organizations. Since Family Readiness Groups are special command-sponsored programs, Family Readiness Groups are not required to complete the private organization registration process outlined in AR 210-22, paragraph 2-1. It is important to remember that Family Readiness Groups are not in the business of collecting and maintaining funds, but are established to provide their unit's family members with activities and support that will enhance the flow of information, morale, and esprit de corps within the unit. Therefore, funds maintained by a Family Readiness Group normally should not exceed \$1,000 without a bona fide plan for the use of the funds.

b. Family Readiness Groups are not authorized to participate in the MWR Commercial Sponsorship Program.

4-3. RECREATIONAL AND EDUCATIONAL PRIVATE ORGANIZATIONS.

a. Private organizations operating as bona fide extensions of APF or NAF recreational activities need not complete the private organization registration process requirements of AR 210-22, paragraph 2-1, although they are subject to all other provisions of this regulation. These private organizations include:

(1) Bowling leagues, little league organizations, and other recreational private organizations that operate in coordination with the MWR staff (see AR 215-1 for MWR recreational clubs that are not private organizations, but are MWR activities).

(2) Organizations formed and operated in conjunction with schools on an installation that operate under the administrative supervision of the school facility/staff member (examples include, but are not limited to, school drama clubs, language clubs, sports team booster clubs, National Honor Societies, and Key Clubs).

b. The Garrison Commander will approve and prescribe local guidance for such operations.

c. Recreational and educational private organizations must comply with paragraph 3-3 (Fundraising) of this guide.

4-4. INFORMAL FUNDS

a. Informal funds are funds such as office coffee funds, cup and flower funds, picnic funds, etc. These funds may operate on a military installation without formal authorization because of their limited scope. However, the Garrison Commander may establish rules for their approval and operation. These funds are governed by AR 600-20, Army Command Policy, and the JER. They are subject to the following guidelines:

(1) Use is limited to expenses consistent with the purpose and function of the informal fund.

(2) Only one individual is to be responsible for fund custody, accounting, and documentation. Annually, this individual's supervisor is advised of the fund's financial status.

(3) Operation of the fund will be consistent with Army values and the JER.

(4) There is no regulatory limit to the amount of funds which may be maintained by an informal fund; however, the Garrison Commander can establish limits to the amount of funds an informal fund may maintain.

b. Normally, funds to run an informal fund come from donations from its participants; e.g., each participant in a coffee fund donates \$5 per month to pay for the fund's supplies. At the Garrison Commander's discretion, informal funds may be allowed to do other types of fundraising.

c. Informal funds must comply with paragraph 3-3 (Fundraising) of this guide.

CHAPTER 5 **RELATIONSHIPS WITH PRIVATE ORGANIZATIONS**

5-1. GENERAL. The ethical rules which govern relationships with private organizations are in the Office of Government Ethics (OGE) *Standards of Ethical Conduct for Employees of the Executive Branch* and the JER. The first step in dealing with and resolving any private organization question is to determine whether the relationship is personal or official. The nature of the relationship will guide the analysis and generate the answer.

5-2. PERSONAL RELATIONSHIPS. Army employees, military and civilian, are encouraged to join, participate or hold office in private organizations. Especially when such activities promote their professional or personnel development, and make the employees an active part of the local military or civilian communities. However, there are rules that govern this personal participation.

a. Conflicts of Interest.

(1) Becoming an officer, director, or employee of a private organization restricts what one can do as an Army official. Specifically, Subpart D of the *Standards of Ethical Conduct*, prohibits employees from participating in official matters (even though someone else might make the final decision) affecting the financial interests of that organization. Even if the Army employee is not paid by the organization, the law imputes the financial interests of the organization to the officers, director, or employee of the organization.

(2) An Army official who is not an officer, director, or employee of a private organization, but is an "active participant," still has a "covered

relationship" with the private organization. The *Standards of Ethical Conduct* require the official to consider the appearance created by this relationship and normally the Army employee should not participate in those matters where the private organization is a party or represents a party to the official matter. Examples of "active participants" include members of the private organization's rules committee or the private organization's point of contact for a membership drive. "Active participants" would not include members of a private organization who merely pay their dues, read the monthly newsletter and attend an occasional function.

(3) An Army official who is an officer, director, or employee of a private organization may not participate as an Army official in such matters as whether to send an employee to a training program sponsored by the private organization, or to provide a speaker or other support to a symposium hosted by the private organization. If the Army official is not an officer, director, or employee of a private organization, but is an "active participant" in the organization, the prohibition is not quite so absolute; but, nevertheless, to avoid the appearance of impropriety, the Army employee should refrain from participation in such official Army matters.

b. Acting as an Agent of a Private Organization.

(1) Another criminal statute prohibits any officer or employee from acting as an agent for anyone before the Army or any other part of the Federal Government in any particular matter in which the United States is a party or has an interest.

(2) This law applies to any officer or employee acting on behalf of any private organization, even non-profit, benevolent and military related organizations. Exempt from the law is representation of a private organization by an officer or employee of a non-profit cooperative, voluntary, professional, recreational, or similar organization, where the representation is uncompensated and a majority of the membership of the private organization consists of Federal employees and their family members.

(3) In all other situations, private organization dealings with the Army must be accomplished by someone who is not a military member or government employee. The only other contacts with the Federal government that a military member or government employee may have on behalf of a private organization are those that are purely "ministerial" in nature, such as: (1) conveying purely factual information; (2) merely delivering or receiving materials or documents;

(3) answering (without advocating for a particular position) direct requests for information; or (4) signing a document that attests to the existence or non-existence of a given fact (such as a private organization's secretary's attestation that a given signature is valid).

c. Other Ethical Issues. Military personnel and civilian employees may not:

(1) Accept positions as officers, directors or similar positions in a private organization offered because of their official duty position (e.g., a chief of staff may not accept a position in a local private organization that traditionally offers this position to the incumbent of this duty position).

(2) Use their office, title, or position in connection with their personal participation with private organizations (e.g., may not show title or duty position on the private organization's letterhead listing its officers and may not task their subordinates to assist them in their personal participation such as drafting correspondence and running errands).

(3) Personally solicit subordinates or prohibited sources (generally, DOD contractors), or permit the use of their names in a solicitation that targets subordinates or prohibited sources in private organization membership drives or fundraising campaigns.

(4) Finally, as a matter of personnel policy, the Deputy Secretary of Defense directed that General Officers may not accept compensation for being an officer or a member of the board of a private organization. The Secretary of the Army can authorize an exception for closely-held family entities and management of professional associations. This policy does not prevent General Officers who sit on boards in their personal capacity from being compensated for their travel and travel related expenses.

d. Can Do's. In addition to the basic rule that Army personnel are free to join private organizations, and, if it will not interfere with their official duties because of a conflict of interest, actively participate or even accept an office, here are some other permissible activities:

(1) Under some circumstances, employees may be given time off and may use government resources in their personal participation with private organizations when they meet the criteria and have the approvals set out in JER, paragraph 3-300b (writing papers for professional associations and learned

societies), or JER, paragraph 3-300c (certain community support activities).

(2) If approved by the "agency designee" (a supervisor or, for a General Officer in command, his or her Ethics Counselor) occasional use of the telephone (no toll calls), computer, library and similar resources during off-duty time (JER, paragraph 3-305 and 2-301).

(3) If the "agency designee" determines that it is in the Army's interest, Army personnel may accept free attendance at a "widely attended gathering" (meaning a large and diverse group) sponsored by a private organization, on their own time or during an excused absence. For example, after consulting with his or her Ethics Counselor, a supervisor might conclude that it is in the Army's interest for a subordinate to attend a free technical symposium, including a cocktail party and dinner, attended by industry and government representatives and sponsored by a professional or technical association. It is important to note that "permission" to use government time and resources or to accept gifts of attendance is not a right or entitlement. It is an exception to the general rule and should be granted judiciously and only when it is in the Army's direct interest (not simply because a supportive private organization needs assistance) and where the investment of time and resources is proportionate to the benefit enjoyed by the Army.

5-3. OFFICIAL RELATIONSHIPS. If the applicable criteria are met, there are many situations in which military personnel and civilian employees can officially attend, accept free attendance at, participate in, support and co-sponsor events with private organizations.

a. Liaisons. It is permissible to appoint Army officials to act as official liaisons with private organizations where there is a significant and continuing Army interest to be served. But, they are liaisons; when they participate they do so as Army employees and their loyalty is to the Army. Liaisons cannot be directors or board members of the private organization. Officers, directors, or "active participants" in the private organization they may not be Army liaisons because of the obvious conflict of interest in loyalties. Further, while as liaisons they may not participate in the management of the organization *per se*. They may participate in matters of mutual interest to the private organization and the Army and vote on those issues; however, extreme care should be taken to ensure the liaison is not participating

in matters concerning the management of the private organization.

(1) For example, it is permissible for a commander to appoint an officer as a liaison to the local AUSA Chapter. Among this officer's legitimate duties would be to inform the Chapter of the command's concerns with respect to its prospective activities, and to inform the commander of options, plans, and needs being explored by the AUSA Chapter. However, it would not be appropriate for the liaison to use government resources to assist the local Chapter maintain its mailing list, visit local merchants to encourage them to join, or to help with the annual membership drive at the installation. These activities should be done by "active participants" in their unofficial, personal capacities as members of the local chapter.

(2) It is permissible to send an Army official TDY to perform liaison duties. It is also appropriate to send personnel on Army time and orders to participate in or attend a private organization event, if there is a legitimate government interest and purpose in the Army's participation.

b. Participation in Events. Army organizations may provide speakers or logistical support (e.g., space, security, public address system, etc.) for a private organization event if the criteria in the JER are met. For example, it is generally inappropriate to support a private organization event if the charge for admission exceeds the event's reasonable costs. The Army may even co-sponsor an event, such as a technical symposium, with a private organization if certain criteria and conditions are met, to include a written agreement.

(1) The manner and degree of Army participation in any event determines what kind of event it is, i.e., Army sponsored, co-sponsored, or Army supported. Additionally, if the Army co-sponsors an event with a private organization or supports a private organization event, it must be clear that the Army is not endorsing the organization.

(2) The JER authority to participate in, support, or co-sponsor events by and with private organizations is not a license for the Army to expend time and resources in support of a private organization above and beyond that permitted, or to help the private organization conduct its business. We must ensure that the expenditure of time and resources is of direct benefit and interest to the Army, and commensurate with that benefit and interest. The conclusion that a private organization is "friendly" to the Army and

supports its goals and objectives is not sufficient justification to direct employees, using official Army time, to do such things as: assist the private organization with a membership or fundraising campaign; assist the private organization with a private organization seminar beyond providing speakers and other limited support; help the private organization fix its computer system; assist the private organization with auditing its books.

c. Endorsement. The *Standards of Ethical Conduct* prohibits government employees from using their title, office, or position to officially endorse a private organization or its activities beyond that permitted in JER, paragraph 3-210 (e.g., fundraising for the Combined Federal Campaign, Army Emergency Relief, family readiness groups, etc.). However, there is some permissible activity to encourage professional, community and other involvement that does not violate the rules because it does not amount to official bias, endorsement, favoritism or unlawful support.

(1) Specifically, commanders and supervisors may encourage Army personnel to take an active part in their military and civilian communities, to include joining, supporting and participating in service and benevolent organizations. They may publicize and describe organizations that seem to share and support national defense, Army and community goals and ideals, and/or that help promote excellence in military or other skills.

(2) However, when drafting informational memoranda or providing presentations, you are cautioned against using words which imply endorsement. No matter how worthy an entity or event, DOD must maintain neutrality with regards to private organizations and their events. Any words of praise for an organization may appear to favor that organization to the exclusion or detriment of others. Because DOD cannot possibly endorse all worthy organizations equally, DOD must praise none of them. Therefore, all words of praise, such as "endorse," "support," "encourage", "recommend," and "urge" should be avoided in informational memoranda or presentations.

d. Some Specific Don'ts.

(1) Don't appoint a point of contact in a unit for a private organization membership drive or offer a pass or other benefit to the unit with the highest membership or participation rate in the private organization.

(2) Don't address subordinates in formation or on Army letterhead to extol the virtues of a particular private organization.

(3) Don't require subordinates to attend a private organization meeting so that they can learn about and join a private organization.

(4) Don't engage in coercive tactics such as requiring a soldier to explain a decision not to participate in or join a private organization.

(5) Don't have private organizations or commercial solicitors (private businesses) conduct soldier professional development classes, such as classes on personal financial affairs (truth-in lending, insurance, government benefits, savings, budgeting, wills, and estate planning). Instead these types of classes should be conducted by Army Community Service (ACS), Resource Management Office, Military Personnel Office, Staff Judge Advocate (SJA), or by other installation staff.

(6) Don't distribute unit personnel or social rosters to private organizations that request them. Do not release any information without consulting the installation Freedom of Information Act (FOIA) coordinator and the local ethics counselor or SJA.

(7) Don't personally solicit subordinates or prohibited sources (e.g., DOD contractors) for membership or contributions during fundraising campaigns. Government employees should not allow their names to be used in a solicitation that targets subordinates or prohibited sources.

(8) Don't schedule meetings for the purpose of making subordinates learn about private organizations. Commanders and supervisors may not require subordinates to attend meetings to learn about and/or join a private organization (e.g., AUSA Officer Professional Development sessions or NCOA NCO Professional Development sessions held during duty hours and/or with mandatory attendance required). Allowing certain private organizations to conduct briefings, routinely, at official Army functions and mandatory training implies Army endorsement and creates the appearance that membership in certain organizations is officially sanctioned by the government.

e. Some Specific Do's.

(1) As a general matter, it is permissible to use government resources to provide information on a general basis concerning a private organization's

activities that Army personnel might be interested in either in an official capacity (e.g., training courses, symposia, seminars) or unofficial and personal capacity (e.g., picnics, car washes, luncheons, entertainment, membership drives, widely attended gatherings). For the "unofficial" activities, however, use of resources is more limited; for example, government postage cannot be used; but it would be permissible to let a private organization representative post membership information explaining the benefits of membership on a non-official bulletin board or leave brochures in common areas. **CAVEAT:** What you permit one private organization to do, you must be prepared to allow other private organizations to do. We cannot play favorites.

(2) Commanders may encourage soldiers to become active in and join professional, technical, community, or other types of organizations. Within this context, it would be permissible to identify and describe various organizations that support professional development or the military community, or that are part of the civilian community, and worthy of consideration. It would even be permissible to briefly inform Army personnel concerning the goals, objectives, and activities of some of the organizations. It would also be acceptable to inform, in a neutral manner, of an ongoing membership drive. Extreme caution must be taken to ensure the speaker does not give the impression that there is an official endorsement of the private organization.

(3) After an officers' call at the Officers Club, the commander may announce that a private organization is sponsoring a "social hour" which anyone is free to attend or not. At this event, a private organization representative(s) may solicit memberships (but, this may not be done from a senior to a subordinate). Same applies to NCOs and enlisted personnel.

CHAPTER 6

CO-SPONSORING EVENTS

6-1. WHAT IS A CO-SPONSORED EVENT?

a. A co-sponsored event is a cooperative effort between the Army (represented by a command or other organization) and a private organization (usually a non-profit organization) to sponsor and present a scientific, technical or professional event where there is a bona fide "mutuality of interest" between the two parties. The event might be a conference, seminar, symposium, educational program, or a similar type of informational

event where attendance is not limited to Federal employees.

b. There are other types of co-sponsored events such as those involving civic and community activities, such as a bicycle rodeo co-sponsored by the installation Provost Marshal Office and the local police department. However, this Reference Guide will limit itself to the professional type of event. In addition, the MWR Commercial Sponsorship Program for MWR activities is not considered co-sponsorship and is administered under specific rules and regulations not associated with private organizations.

c. "Mutuality of interest" means that there is a demonstrated substantive interest in the subject matter of the event by both parties. It is an essential ingredient to any co-sponsorship. If there is no mutuality of interest, the Army should contract for the support that this organization would provide.

6-2. ARE CO-SPONSORED EVENTS PERMISSIBLE?

a. The JER permits co-sponsorship, but subject to a number of requirements and restrictions.

b. First, there must be a finding that the subject matter of the event involves scientific, technical or professional issues relevant to the Army's mission. Who makes this finding? The commander or head of the command or organization which proposes to participate in the co-sponsorship. Second, the purpose of the co-sponsorship must be to transfer federally developed technology or to stimulate wider interest and inquiry into scientific, technical or professional issues relevant to the Army's mission. The event should be open to interested parties. This cannot be a "closed" event only for Government personnel and members of the private organization.

c. These first two criteria mean that it must be fiscally and legally proper for the Army to put on this event on its own. However, we want to do it in conjunction with a private organization because the "mutuality of interest" between the Army and the private organization enhances our ability to transfer the technology or to stimulate this wider interest and inquiry into the issues.

d. The third requirement is that the private organization must be a recognized scientific, technical or professional organization approved by the Army Designated Agency Ethics Official (DAEO) (the Army General Counsel) for this purpose. The DAEO has approved the following organizations with which the

Army may enter into co-sponsorship arrangements with":

(1) Scientific, technical or professional organizations exempt from Federal income taxation under 26 USC 501(c)(3).

(2) Foreign, State, and local government for co-sponsorship of scientific, technical or professional events.

(3) Armed Forces Communications and Electronics Association, International (AFCEA).

(4) National Security Industrial Association (NSIA).

e. Finally, there must be a "cooperative agreement". The JER sets out some specific statutory authorities for these agreements. However, most events will not fall within the purview of the listed laws. Nevertheless, there must still be a written "cooperative agreement" that covers the following:

(1) Nature and Purpose of the Event. A clear and comprehensive statement establishes the mutuality of interest referenced above, and also serves as a written record that the mandatory criteria have been satisfied.

(2) Army and Private Organization Undertakings. This sets out the mutually agreed responsibilities of the parties for obtaining the conference room, making hotel arrangements, printing the brochures, providing security, notifying and providing speakers and panelists, obtaining and setting up audio-visual aids, communications, and computers, and so on. Experience has shown that this results in a more disciplined approach to the event with less chance of crucial issues not being resolved.

(3) Funding Responsibilities and Admission Fees. It is important to agree ahead of time who is going to incur what costs, and what fees are going to be charged by whom. It is not necessary for the actual fees to be written into the agreement, but the agreement should reflect the following principles. The agreement should take into account that whatever the Army collects must be deposited to the US Treasury. If an admission fee is charged, the fee structure should be designed to recover the reasonable costs of putting on the event. Finally, it is appropriate to seek and accept a reduced fee for Army and DOD participants to reflect the extent of the Army participation.

(4) Disclaimers. The agreement should include a provision that the Army is not liable if it decides to reduce the level of its participation or even if it must withdraw entirely, and that the private organization will not file a claim against the Army. Certainly, you would not enter into such an agreement without every intention of carrying it out to the spirit and letter. However, things happen; priorities might change; there might be a freeze on official travel or conferences; a major deployment might become necessary, etc. Because of these possibilities, the disclaimer must be included.

(5) No Endorsement. Finally, the private organization must agree that it will not use the fact of the Army's co-sponsorship of the event to imply that the Army endorses the private organization or its other events. The co-sponsorship cannot be used by the private organization in its promotions to attract financing, membership, or attendance at other events. Related to this, the brochure and other publicity that the private organization develops to promote the co-sponsored event should be carefully scrutinized to ensure that it is factual and there are no improper appearances of Army endorsement of the organization. A statement of "no endorsement" should be included.

f. The commander or head of the government organization or their designee will sign the agreement. With two exceptions, the "cooperative agreement" is not immutable: the disclaimer and the no endorsement provisions must remain. The parties can agree to change any other aspect of the agreement when it serves their needs. Even as to the disclaimers, we can agree to give the private organization notice as early as possible concerning any changes and work with the private organization to help minimize their impact.

g. A co-sponsored event is an Army event. You can endorse it, promote it, direct personnel to support it, and participate in it fully as you would any other Army program. However, it is also an event for the private organization; accordingly, don't forget the rules about conflicts of interest: Army personnel who are officers, directors, trustees, employees, or "active participants" of the private organization may not participate in these official matters because either the private organization is a party to the matters or they will have a financial impact on the private organization; similarly, Army officers or employees may not represent the private organization in dealing with any part of the Federal government.

h. If you want to co-sponsor an event with a private organization, you should seek the early advice and counsel of your Ethics Counselor or SJA to assist

you in determining that co-sponsorship is appropriate, ensuring that Army personnel working on the program and drafting the agreement do not have a conflict of interest.

6-3. MWR CO-SPONSORED EVENTS.

a. AR 215-1, paragraph 7-48a(4) authorizes the MWR fund to establish an memorandum of agreement (MOA)/memorandum of understanding (MOU) with private organizations to operate resale booths at MWR activities with the Garrison Commander's approval.

b. AR 215-1, paragraph 7-48b allows the MWR fund to co-sponsor events with a private organization, subject to the provisions of the JER. In a co-sponsored event, the agreement should describe the event; stipulate the responsibilities of each party; contain a disclaimer statement that explains how each party may withdraw from the agreement and what the penalties, if any, will be; a no endorsement clause which states that the private organization cannot claim endorsement by the Army or MWR to promote any other private organization event or to attract financing, membership, or attendance at other events or programs); explain the pro-rating of any profits and losses (all agreed to expenditures/costs should be recouped by each organization...MWR and the private organization... before any prorating of profits are made and if the event does lose money, the agreed to expenditures/costs incurred by each organization should be totaled and then the revenues earned subtracted out. The resultant loss should then be prorated in the agreed to proportions...normally the same proportions as the profits would be pro-rated). Any profits going to MWR are considered NAF and should be deposited in the appropriate MWR bank account.

c. In both cases, any payments to private organizations for their operating an MWR resale booth at an MWR activity or shared profits/loss from an MWR/private organization co-sponsored event must be proportional and reasonable to the work and/or risk assumed by the MWR fund and the private organization. The event should truly be a benefit to the MWR program and not just a means to get around the rules and regulations prohibiting support to private organizations. All such events should also be labeled as MWR events.

CHAPTER 7 SPECIAL STATUS PRIVATE ORGANIZATIONS

7-1. GENERAL. In accordance with statutory authority and Department of Defense (DOD) policy,

there are three types of organizations that have “special status” concerning the type of support they receive:

National Military Associations
Federally Sanctioned Private
Organizations
Boy/Girl Scouts of America

“Special status” means that there is a specific federal statute or DOD policy or directive that authorized certain types of support to the organization under appropriate circumstances. It does not mean that unlimited support may be provided, nor does it mean that support must be provided at the expense of mission accomplishment or degraded readiness. Finally it does not mean the JER does not apply; the JER applies fully unless it is inconsistent with the specific statute or DOD policy or directive.

7-2. National Military Associations (NMA).

10 USC 2548 allows national military associations to receive support for annual conferences and conventions beyond that provided to other types of private organizations. Under this statutory authority, the Assistant Secretary of Defense for Public Affairs designates which associations are authorized support for their annual conference/convention. Support is authorized for only one conference/convention per year per association. Similar support cannot be provided to the regional or local chapters of any NMA or to veterans associations. An explanation of the type of support that is permissible by law to DOD designated associations for their annual conference/convention and the procedure to obtain DOD designation is outlined below.

a. Designated Associations.

- (1) Adjutant General Association of the United States.
- (2) Air Force Association.
- (3) Association of the United States Army.
- (4) Enlisted Association of the National Guard.
- (5) Marine Corps League.
- (6) National Guard Association of the United States.
- (7) Navy League.

(8) Noncommissioned Officers Association of the United States of America.

(9) Reserve Officers Association of the United States.

b. Authorized Support.

(1) Limited air and ground transportation. Government travel and transportation resources are to be used for official purposes only. “Official Purposes” are those that are essential to the successful completion of the DOD mission. Accordingly, government air and ground transportation will not be used to support private individuals or organizations unless there is a direct benefit to the Army. All situations involving transportation support for private individuals or organizations should be coordinated with legal counsel. Further, DOD employees may not use official transportation (air or ground) unless they are representing the DOD in an official capacity.

(2) Communications. Limited communications support may be provided such functions as, but not limited to, message distribution, communication system support management, automation services, and use of portable radios and cellular phones.

(3) Medical Assistance. Medical support may be provided only for support of emergency and lifesaving functions.

(4) Administrative Support. Support may be provided for such functions as, but not limited to, typing, filing, photo copying, distribution processing, telephone answering, and accounting duties. All support must be related directly to official conference events and should be of a reasonable duration, generally no more than two weeks prior to and one week after the officially announced dates of the conference or convention.

(5) Security Support. Support may be provided if local civilian resources are not sufficient. A requirement for such support must be documented with official requests from local law enforcement agencies.

c. Requests for Designee Status. To be eligible for support, associations must be non-commercial in nature, national in scope, and focused on Active Duty, Reserve, and National Guard activities. A private organization may submit a request for this special designation to the Army or directly to the Directorate of Community Relations, Office of the Assistant

Secretary of Defense for Public Affairs (OASD-PA), The Pentagon, Washington, DC 20301-1400, at least 30 days prior to the scheduled event. If a private organization requests designation as a NMA from any level within the Army, the request must be submitted in writing and forwarded through appropriate channels, including the Community Relations Team Office of the Chief of Public Affairs, 1500 Army Pentagon, Washington, DC 20310-1500. Such requests may be disapproved at any level.

7-3. Federally and/or DOD Sanctioned Private Organizations. In accordance with DODI 1000.15, the amount and type of support authorized for private organizations varies according to the authority under which they are organized. Certain organizations are sanctioned by specific DOD authority or are federally chartered. These organizations provide important services to the Army family and there by receive both reimbursable and non-reimbursable support from the Army. Support for sanctioned organizations is usually addressed in stand-alone Army regulations. Examples are:

- a. Army Emergency Relief – AR 930-4.
- b. Banking Institutions – AR 210-135.
- c. American Red Cross – AR 930-5.
- d. United Services Organization, Inc. – AR 930-1.
- e. Labor organizations subject to 5 USC 71.

7-4. Boy/Girl Scouts of America.

a. There are three circumstances in which scouting organizations may receive special support from the Army:

- (1) Scouting organizations located overseas.
- (2) World and National Boy Scout Jamborees.
- (3) International Transportation Support for Girl Scout Events.

b. Overseas Support for Boy/Girl Scouts. In accordance with 10 U.S.C. 2606 and DOD Instruction (DODI) 1015.9 (Professional United States Scouting Organization Operations at United States Military Installations Located Overseas), there are special rules for Boy/Girl Scout operations at US military installations overseas. These organizations are chartered by the Federal Government and are

recognized for the support they provide to DOD personnel and their families assigned to overseas areas.

(1) Appropriated Funds. APF may be used to provide the following services on a non-reimbursable basis:

(a) Transportation. Transportation is authorized for personnel (and their household goods/baggage) of qualified scouting organizations to and from overseas assignments and while providing scouting support to DOD personnel and their families. Transportation of supplies of qualified scouting organizations necessary to provide such support is also authorized.

(b) Facilities and Utilities. Office space is authorized for regular meetings and space for recreational activities, warehousing, utilities, and means of communication.

(2) Nonappropriated Funds. NAF support for the scouting program shall not exceed 70% of the total cost of the scouting program. NAF may be used for:

(a) Support to Scouts. To provide the same authorized support for youth activities programs in accordance with DOD Directive (DODD) 1015.6 (Funding of Morale, Welfare, and Recreation Programs).

(b) Reimbursement of Salaries and Benefits. Reimbursement qualified scouting organizations for salaries and benefits of scouting employees for periods during which these employees perform services in overseas areas in direct support of DOD personnel and their families.

(c) Reimbursement of Travel. Reimburse travel to and from official meetings of the overseas scouting committee upon approval from the US Unified Commander in the geographical area.

(3) Additional guidance on limitations of support is discussed in DODI 1015.9.

c. World and National Boy Scout Jamboree Support.

(1) 10 U.S.C. 2544 permits the Secretary of Defense to lend the Boy Scouts of America (BSA) cots, blankets, commissary equipment, flags, refrigerators, and other equipment, and to furnish, without reimbursement, services and expandable medical supplies for the use and accommodation of scouts, scouters, and officials who attend any national

or world boy scout jamboree. The United States shall incur no expense for the delivery, return, rehabilitation, or replacement of such equipment. The statute requires BSA to provide separate bonds for the safe return of loaned property and for the reimbursement of the actual cost of transportation furnished under the statute. To the extent such transportation will not interfere with the requirements of military operations, transportation may be provide without expense to the US Government and for those boy scouts, scouters, and officials of BSA certified by BSA as representing BSA at any world or national boy scout jamboree, for property and equipment of scouts, scouters, and officials, and for property loaned to BSA by the Secretary of Defense.

(2) The Secretary of Defense had delegated this authority and responsibility for support of jamborees to the Secretary of the Army. Detailed guidance concerning authorized support is contained in AR 725-1 (Special Authorization and Procedures for Issues, Sales, and Loans).

d. International Transportation Support for Girl Scout Events.

(1) Under 10 U.S.C. 2545, to the extent such transportation will not interfere with the requirements of military operations, the Secretary of Defense may provide, without expense to the US Government, transportation from the United States or military commands overseas on vessels or aircraft for:

(a) Girl Scouts and officials certified by the Girl Scouts of the United States of America (GSA) as representing that organization at any International World Friendship Events or Troops on Foreign Soil meeting that is endorsed by the National Board of Directors of that organization and is conducted outside the United States.

(b) United States citizen delegates coming from outside the United States to Triennial meetings of the National Council of GSA, and

(c) The equipment and property of such Girl Scouts and officials.

(2) Before providing any transportation, the Secretary of Defense will obtain a bond from the GSA sufficient to cover reimbursement of the actual costs of transportation furnished.

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REFERENCES

Section I**Required Publications**

AR 1-100	Gifts and Donations
AR 1-221	Attendance of Military and Civilian Personnel at Private Organization Meetings
AR 210-22	Private Organizations on Department of the Army Installations
AR 215-1	Army Morale, Welfare, and Recreation Activities and Nonappropriated Fund Instrumentalities
AR 360-61	Community Relations
AR 405-80	Management of Title and Granting Use of Real Property
AR 600-29	Fundraising Within the Department of the Army
DODI 1000.15	Private Organizations on DOD Installations
DODI 1015.9	Professional United States Scouting Organization Operations at United States Military Installations Located Overseas
DOD 5500.7-R	Joint Ethics Regulation

Section II**Related Publications**

A related publication is merely a source of additional information. The user does not have to read it to understand this guide.

AR 1-101	Gifts for Distribution to Individuals
AR 11-2	Management Control
AR 25-1	The Army Information Resource Management Program
AR 58-1	Management, Acquisition and Use of Administrative Motor Vehicles
AR 210-7	Commercial Solicitation on Army Installations
AR 210-135	Banks and Credit Unions on Army Installations
AR 600-20	Army Command Policy
AR 700-83	Army Support to United Seamen's Service
AR 870-20	Museums and Historical Artifacts
AR 930-1	Army Use of USO Services
AR 930-4	Army Emergency Relief
AR 930-5	American National Red Cross Service Program and Army Utilization
DA Pam 608-47	Guide to Establishing Family Support Groups
10 USC 2544	World and National Boy Scout Jamboree Support
10 USC 2545	International Transportation for Girl Scout Events
10 USC 2548	Support for Annual Conferences and Conventions of National Military Associations

Section III**Referenced Forms**

DA Form 11-2-R Management Control Evaluation Certificate Statement

APPENDIX A*References*

APPENDIX B

MANAGEMENT CONTROL EVALUATION CHECKLIST (extract from AR 210-22)

B-1. Function. The functions covered by this checklist include the operation of private organizations on Army installations. They include key controls for obtaining permission to operate, maintaining proper documents for oversight and good standing. Also, restrictions on Army personnel, checking for inappropriate or questionable operation compliance with applicable laws and regulations regarding fundraising, use of Federal property, participation and membership by Federal employees and taking prudent actions to avoid situations injurious to Army interests.

B-2. Purpose. The purpose of this checklist is to assist HQDA, and its field operating agencies, MACOMs, and installations in evaluating the key management controls outlined below. It is not intended to cover all controls.

B-3. Instructions. Answers must be based on the actual testing of management controls (such as documented analysis, direct observation, sampling, simulation). Answers that indicate deficiencies must be explained and corrective action indicated in supporting documentation. These key management controls must be formally evaluated at least once every 5 years. Certification that this evaluation has been conducted must be accomplished on DA Form 11-2-R (Management Control Evaluation Certification Statement).

B-4 Test Questions.

- a. Do private organizations on the installation have permission to do so from the Installation Commander?
- b. Does the command maintain documents needed for oversight and necessary to attest that private organizations are in good standing?
- c. Does the installation adhere to restriction on use of Army personnel, military and civilian?
- d. Are there instances that could be construed as soldiers or civilian personnel working for private organizations, as part of their official duty?
- e. Are instances of inappropriate or questionable private organization activities or government employee behavior corrected when detected?
- f. Does private organization use of government real estate conform to AR 405-80 requirements?
 - (1) Is there a license or lease agreement for property rights granted to private organizations?
 - (2) Does the Army receive income due from private use of Federal property?
- g. When private organizations conduct fundraisers and are give logistical support for activities, is there a process for approving fundraising and private organization support requests, including SJA reviews, to ensure compliance with DOD 5500.7-R (Joint Ethics Regulation)?
- h. Do private organizations comply with audit and other oversight requirements?
- i. Is there command and personnel compliance with rules governing Government employee participation in private organization activities?
- j. Do local ethics classes for Army personnel include discussions about proper relationships with private organizations?
- k. Are there periodic inspections of private organization documentation maintained by the command to determine accuracy and compliance?
- l. Are there periodic inspections to determine military and civilian personnel compliance with rules of ethics?
- m. Is there comprehensive enforcement of recommendations resulting from management control evaluations, Inspector General inspections, and the like?

Management Control Evaluation Checklist

APPENDIX B

SAMPLE FORMAT FOR A CONSTITUTION

(Name of Private Organization)
P.O. Box 1234
Fort Excellence, GA 12345-6789

ARTICLE I -- Organization Name and Purpose

ARTICLE II -- General Provisions

(Include all statements required by AR 210-22 such as non-discrimination clauses and non-extremists clauses, adhere to all government (Federal, State, and local) laws and regulations, government hold harmless clauses, etc.)

ARTICLE III -- Functions/Activities and Operating Procedures

ARTICLE IV -- Membership

ARTICLE V -- Officers and Government Body

(Attach names, with addresses and phone numbers)

ARTICLE VI -- Duties of Officers

ARTICLE VII -- Elections and Voting

ARTICLE VIII -- Standing Committees

ARTICLE IX -- Funding Sources

ARTICLE X -- Taxes

ARTICLE XI -- Insurance Coverage

ARTICLE XII -- Meetings and Quorums

ARTICLE XIII -- Amendments.

(Include procedures for amending the constitution to include number of voting members required to approval)

ARTICLE XIII -- Dissolution

(Include the following or similar statement: "If the organization is dissolved, all funds in the treasury at the time will be used to meet outstanding debts, liabilities, or obligations. The balance of these assets will be disposed of as determined by the membership as approved by a majority vote. If assets are not sufficient to cover all liabilities, the members of the organization will be personally responsible for these liabilities.)

Signature of President
Name of President
Position Title (President)
Date Signed

Signature of Secretary
Name of Secretary
Position Title (Secretary)
Date Signed.

Sample Format for a Constitution

APPENDIX C

APPENDIX D

SAMPLE FORMAT FOR MEETING MINUTES

(Name of Private Organization)
P.O. Box 1234
Fort Excellence, GA 12345-6789

1. The meeting of the (Name of Private Organization) was called to order on (date and time).
2. The following personnel and members were present:
 - a. Members Present:
 - b. Guest Present:
3. OLD BUSINESS:
 - a. The minutes of the last meeting were read and approve (or approve with the following changes).
 - b. The financial report was presented and approved (or approved with the following changes).
4. NEW BUSINESS:
 - a.
 - b.
 - c.
5. DISCUSSIONS:
 - a.
 - b.
 - c.
6. The meeting was adjourned at (date and time). The next meeting will be held (date and time) at (location).

Signature of Secretary
Name of Secretary
Position Title (Secretary)
Date Signed

Signature of President
Name of President
Title of Position (President)
Date Signed

Attachment
Financial Report

Sample Format for Meeting Minutes

APPENDIX D

SAMPLE FORMAT FOR A FINANCIAL REPORT

(Name of Private Organization)
 P.O. Box 1234
 Fort Excellence, GA 12345-6789

FINANCIAL REPORT
 For the Month of August 2003

Operating Funds Available as of 1 August 2003 \$ 2,514.33

OPERATING FUNDS:

Change Fund	\$ 146.00	
Decorations	\$ 72.00	
1 st VP (Luncheons)	\$ 380.38	
1 st VP (Programs)	\$ 2.51	
Membership	\$ 72.50	
Ways & Means (Consignment)	\$ 183.20	
<u>Ways & Means</u>	<u>\$ 558.85</u>	
Total Operating Income		\$ 1,415.44

OPERATING EXPENSES:

Child Care	\$ 28.00	
Entertainment	\$ 146.00	
Decorations	\$ 57.23	
1 st VP (Luncheons)	\$ 409.47	
Historian	\$ 55.94	
Membership	\$ 288.32	
Newsletter	\$ 61.42	
Recording Secretary	\$ 25.26	
<u>Ways & Means (Consignment)</u>	<u>\$ 309.88</u>	
Total Operating Expense		<u>\$ 1,381.59</u>

Operating Funds Available as of 31 August 2003 \$ 2,548.18

Submitted by: Verified by:

Signature of Treasurer	Signature of Person Verifying Report (Normally the Vice President or President)
Name of Treasurer	Name of Person Verifying Report
Position Title (Treasurer)	Position Title (Title of Person Verifying Report)
Date Signed	Date Signed

Sample Format for a Financial Report

APPENDIX F

SAMPLE FORMAT FOR AN AUDIT REPORT

(Name of Private Organization)
P.O. Box 1234
Fort Excellence, GA 12345-6789

AUDIT REPORT

For the Period (*Beginning Month & Year*) thru (*Ending Month & Year*)

FUND BALANCES

	<u>Beginning Balance</u>	<u>Ending Balance</u>
Balance in Checking Account	\$ 525.31	\$ 498.76
Balance in Saving Account	\$ 125.00	\$ 125.00
Cash on Hand (change & petty cash funds, etc.)	<u>\$ 100.00</u>	<u>\$ 100.00</u>
Total	<u>\$ 750.31</u>	<u>\$ 723.76</u>

(NOTE: Beginning balances should equal ending balances on last audit)

FUND REVIEW

BEGINNING BALANCE \$ 750.32

INCOME (*List income by major categories*)

Dues	\$ 250.00	
Contributions	\$ 50.00	
<u>Meal Fees</u>	<u>\$ 350.00</u>	
Total Income		\$ 650.00

EXPENDITURES (*List expenditures by major categories*)

Supplies	\$ 126.56	
Donations	\$ 200.00	
<u>Meals</u>	<u>\$ 350.00</u>	
Total Expenditures		\$ 676.56

ENDING BALANCE \$ 723.76

AUDITOR COMMENTS:

(Make any comments or exceptions in regards to the audit of these funds and their internal controls.)

This audit was made in accordance with current regulations and includes tests of the accounting records and internal controls. In my (our) opinion, subject to the above comments and exceptions cited in this report, the fund examined reflects the results of operations in accordance with applicable directives.

<u>Signature of Audit Committee Member</u>	<u>Name of Audit Committee Member</u>	<u>Dated Signed</u>
<u>Signature of Audit Committee Member</u>	<u>Name of Audit Committee Member</u>	<u>Dated Signed</u>
<u>Signature of Audit Committee Member</u>	<u>Name of Audit Committee Member</u>	<u>Dated Signed</u>

Format for an Audit Report

APPENDIX F



FORCE MANAGEMENT
POLICY

ASSISTANT SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, DC 20301-4000
MAY 29 2002



MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (M&RA)
ASSISTANT SECRETARY OF THE NAVY (M&RA)
ASSISTANT SECRETARY OF THE AIR FORCE (MR)

SUBJECT: Use of DoD Component and Installation Names in Titles of Private
Organizations

This memo provides interim policy guidance for the use of names of DoD component and installations as part of the titles of private organizations chartered to operate on DoD installations. Private organizations may include the name or abbreviation of the DoD component, organizational unit or installation in their name, provided that they take effective steps to ensure their status as a private organization is apparent and unambiguous. Such steps include, at a minimum:

- Private organizations may not use the seals, logos, or insignia of any DoD component, organizational unit, or installation on the private organization's letterhead, correspondence, or in its title.
- Any use of the name or abbreviation of a DoD component or installation may not mislead members of the public to assume a private organization is an organizational unit of the Department of Defense. Private organizations that incorporate names or abbreviations of DoD components, organizational units, or installations must receive prior approval for such use by the head of the appropriate DoD organization.
- Private organizations shall use a prominent disclaimer on all print and electronic media confirming that the private organization is not a part of the Department of Defense.

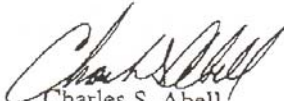


*Assistant Secretary of Defense Memorandum, 29 May 02, Subject: Use of DOD Component
and Installation Names in Titles of Private Organizations*

APPENDIX G

APPENDIX G

This information will be included in the next update to DoDI 1000.15. If you have additional questions, please call Colonel Marcus Beauregard or Ms. Barbara Dieker, MWR Policy Office. They may be reached by commercial telephone at (703) 602-5001 or by DSN at 332-5001.



Charles S. Abell

Assistant Secretary of Defense Memorandum, 29 May 02, Subject: Use of DOD Component and Installation Names in Titles of Private Organizations (continued)

APPENDIX G

INFORMATION PAPER

SUBJECT: Army Relations with Boy Scout Organizations

1. PURPOSE: To provide information on official Army relations with, and support to the Boy Scouts.

2. FACTS:

a. Prohibited Activities:

(1) Fundraising and Membership Drives. No official endorsement or participation in Boy Scout fundraising or membership drives is allowed (JER, para 3-210).

(2) Endorsement or Sanction. Official endorsement or sanction may be neither stated nor implied, and Army officials may not give preferential treatment to the Boy Scouts (JER, para 3-209). However, as noted below, there are statutes authorizing specific support to overseas scouting and jamborees. Commanders may support Boy Scout events (as opposed to fundraising) where there are legitimate community relations, morale and welfare, or other DOD interests.

(3) Official Participation in Management. Army personnel may not participate in management of Boy Scouts in their official capacities. However, they may be appointed as official liaisons where there is a continuing Army interest in discussion of matters of mutual interest (JER, para 3-201 and 3-202).

(4) Conflicts of Interest. Army personnel may not take official actions that affect the financial interests of the Boy Scouts if they are an officer, director, or employee of the organization (18 USC 208). Even if Army personnel are not officers in the Boy Scouts, if they are “active participants” in scouting, they should refrain from taking official actions which affect the Boy Scouts interests in order to avoid the appearance of favoritism (5 CFR 2635.502). An “active participant” is someone, such as a Scoutmaster, who does not necessarily have input to organization policy, but has a visible and significant role with the Scouts.

(5) Gratuitous Membership. Army personnel may not accept an office, directorship or similar leadership position in the Boy Scouts offered because of their official duty position (JER, para 3-201).

b. National and International Jamborees. The Army may provide the following services to national and world Jamborees. Prior to these types of support being provided, the Boy Scouts must provide a bond to cover the items and the risk of loss or damage costs associated with transportation (10 USC 2544).

(1) Loan of cots, blankets, commissary equipment, flags, refrigerators, and other equipment.

(2) Services and expendable medical supplies, as available without reimbursement.

(3) Transportation, as available, without expense to the US Government, and which does not interfere with military operations.

(4) In the case of a Jamboree held on a military installation, DOD may provide personnel and logistic support at the military installation, in addition to the areas of support listed in the three paragraphs above (10 USC 2544(g)).

c. Overseas Scouting. Subject to various levels of delegation and authorization, the Army may provide overseas scouting organizations transportation, office space, recreational space, warehousing, utilities, and communications without seeking reimbursement (10 USC 2606). DOD Instruction 1015.9 should be consulted before deciding what support to provide for overseas scouting activities.

Information Paper – Army Relations with Boy Scout Organizations

APPENDIX H

APPENDIX H

s. **Marksmanship.** As part of the civilian marksmanship program, the Army may issue ammunition and loan weapons, targets, and related equipment to qualified Boy Scout troops (AR 920-20, Promotion of Practice With Rifled Arms, para 3-5 and 3-6i).

e. **Use of DOD Property.**

(1) On a limited basis, commanders may authorize the use of DOD equipment (and manpower to operate the equipment) in support of Boy Scout activities which are legitimate community relations events or provide genuine benefit to the morale and welfare of the military community (JER, para 3-211 and 10 USC 2012). Commanders must determine that:

(a) There is no interference with unit readiness and mission accomplishment.

(b) Support serves a legitimate Army interest, such as community relations (AR 360-61, Chap 3).

(c) The event is of interest and benefit to the local civilian and military community as a whole.

(d) The command is willing and able to provide support to other similar events and organizations (such as the Girl Scouts).

(e) No admission fee beyond reasonable cost is charged either for the whole event or for that part supported by DOD, or that the DOD support is incidental to the event.

(2) Installation commanders may authorize use of space for Boy Scout meetings and storage of equipment (AR 210-22, Private Organization on a Military Installation)

(3) Government equipment may be loaned or rented if there is no interference with mission accomplishment. However, the Boy Scouts may not use installation auditing, data processing, financial management, legal, or purchasing services (AR 725-1, Special Authorization and Procedures for Issues, Sales, and Loans, Chap 6).

(4) Army personnel who volunteer to participate may be given uncharged leave (a “permissive TDY”) to support Boy Scout events that otherwise meet the requirements of a community relations event (AR 600-10, Leaves and Passes, para 5-32).

Mr. Novotne/DSN425-6713
novotah@hqda.army.mil
DAJA-SC
7 October 1998

Information Paper – Army Relations with Boy Scout Organizations (continued)

APPENDIX H

CASE STUDIES OF PROPER AND IMPROPER CONDUCT

The following case studies on proper and improper conduct in regards to private organizations are provided to assist both members of private organizations and installation staff members in properly deal with private organizations.

I-1 CASE. The Fort Green Chief of Staff, a member of the local chess club, calls the DCA and asks that the chess club's application to hold a fundraising event on the installation be moved to the top of the pile.

VIOLATION. Use of public office for personal/private gain, conflict of interest; acting as an agent for a private organization before the Federal government. 18 USC 205 and JER para 3-204.

I-2. CASE. During a membership campaign for the National Enlisted Association of America (NEAA), the 802d Military Intelligence Brigade Command Sergeant Major gives a cocktail party to recognize the new president of the NEAA. She has invited all senior enlisted personnel living within 50 miles. After a toast to the guest of honor, she has an official photograph take and hands each guest a printed pocket calendar listing NEAA membership benefits and the local chapter's telephone number and address.

VIOLATION. Appearance of official participation in a membership drive; misuse of government resources. JER para 3-210 and 3-305.

I-3. CASE. In the Division Commander's outer office, a display contains information about professional organizations. Included are a "please take one" sign and brochures for 5 military-related associations and 10 technology-oriented national organizations.

OKAY. Such displays are permissible when displays are open to contributions from other similar organizations.

I-4. CASE. After arriving at a new duty assignment, LTC Jones is asked by his new commander, an officer in the Assembly of Uniformed Service Members (AUSM), to explain why he is not a member of AUSM.

VIOLATION. Coercion for the benefit of a private organization. CFR 1635.702(a).

I-5. CASE. The Director of Resource Management at Fort Blue accepts an honorary membership in the Omertown Rotary Club (ORC). The club's membership includes local businessmen and businesswomen who are contractors with Fort Blue.

VIOLATION. Cannot accept honorary memberships in an organization because of your official position; appearance or actual conflict of interest because of contractors doing business with the installation and the individual's duty position. JER para 3-302.

I-6. CASE. The Fort Smith Chief of Staff accepts an appointment to the Board of Directors for the local Chamber of Commerce that was offered because of his duty position.

VIOLATION. You cannot serve as a director of an organization that was offered because of your official position. JER para 3-301. And you cannot serve as a director of an organization in your official capacity without approval of the Secretary of the Army. JER para 3-202.

I-7. CASE. The Civilian Personnel Officer at Fort Oshkosh solicits subordinates to join the Toastmasters Club via e-mail and at staff meetings.

VIOLATION. Misuse of public office, appearance of official endorsement. 5 CFR 2635.702; JER para 3-205 and 3-230.

APPENDIX I

CASE STUDIES ON PROPER AND IMPROPER CONDUCT

I-8. CASE. The Commander of XXX Corps allows his duty position to be used on the letterhead of the Humane Society of the United States.

VIOLATION. Improper endorsement. 5 CFR 2635.702; JER 3-205.

I-9. CASE. The Garrison Commander at Fort Blue, a member of the Aviators Association of America (AAA), actively participates in the association's activities. He also decides who in the command will attend the AAA's national convention in an official capacity.

VIOLATION. Appearance of conflict of interest. 5CFR 2635.502; JER para 3-204.

I-10. CASE. An Assistant Secretary of the Army, who previously soldiered in an Armored Division, provides to the Society of Army Tankers (SAT) an official photograph and letter on official letterhead pointing out the benefits of membership in the Society. The letter and photo will be used in membership drives.

VIOLATION. Improper use of office. 5 CFR 2635.702; JER para 3-205 and 3-210.

I-11. CASE. Major Smith is a member of the Association of American Cavalryman that sponsors a car wash to raise funds. Major Smith helps wash cars during his off-duty time.

OKAY. Fundraising in a personal capacity during non-duty hours is permissible. 5 CFR 2635.808(c); JER para 3-300.

I-12. CASE. Captain Day, a finance officer, has her supervisor's approval and is writing a paper that she will present at the national conference of the Organization of Army Comptrollers (OAC). The topic is related to her official position and preparation of the paper has not interfered with her official duties. She has used government equipment to prepare the paper.

OKAY. Use of government equipment under these circumstances is permissible. JER para 3-300.

I-13. CASE. Colonel Johnson is the treasurer of the local chapter of the Military Intelligence Association of America (MIAA) and is responsible for MIAA's monthly billing statements for dues. He tasks his secretary to prepare the billing statements during duty hours on government equipment.

VIOLATION. Misuse of government resources and time. 5 CFR 2635.704 and 705; JER para 3-305b.

I-14. CASE. The Deputy Commanding General at Fort Green attends a fundraising banquet held on behalf of the local American Society for the Prevention of Cruelty to Animals (ASPCA). He is in uniform and sits at the head table, and makes a speech encouraging contributions.

VIOLATION. No official support of fundraising for private organizations. 5 CFR 2635.808; JER para 3-210.

Case Studies on Proper and Improper Conduct (continued)

CASE STUDIES ON PROPER AND IMPROPER CONDUCT

I-15. CASE. Colonel Yoke, Commander of the 3399th Armor Brigade, declared a Friday as a training holiday so the military community could participate in a private organization sponsored picnic on the installation's lake front.

VIOLATION. Endorsement of a private organization, misuse of government resources. 5 CFR 2635.705; JER par 3-205.

I-16. CASE. Colonel Ping, assigned to HQ, TROOPCOM, is an active member of the Oshkosh State College Graduate School Alumni Association (OSCGSAA). He visits the Commander of MDW in an effort to convince him to reverse a recent denial of the association's request for certain support. After discussing his concerns with the MDW Commander, Colonel Ping flies back to Atlanta and completes a travel voucher for per diem and transportation expense reimbursement.

VIOLATION. Using appropriated funds and official time for personal business, government employee acting as an agent for a non-Federal agency, using government position to further personal interests. 18 USC 205; 5 CFR 2635.702 and .705; JER para 3-204.

I-17. CASE. Sergeant Lee conducts door-to-door solicitation for the American Cancer Society (ACS) during its annual fundraising drives. Several junior enlisted personnel with whom the sergeant works live in the area he canvasses. In the process of the solicitation, he knocks on doors and pitches ACS and its need for money. The sergeant does not knock on doors of enlisted personnel with whom he has an official relationship. Another volunteer in the community does that. Assume the Garrison Commander has given the ACS permission to solicit door-to-door.

OKAY. Only if door-to-door solicitation is approved by the Garrison Commander. Avoided coercion, fundraising in personal capacity and during non-duty time is authorized. 5 CFR 2635.808(c); JER para 3-300a.

I-18. CASE. A unit commander appoints a unit point of contact for the local Military Spouses Organization (MSO) membership drive.

VIOLATION. Misuse of position, misuse of government resources, endorsement of a private organization, official participation in membership drive. 5 CFR 2635.702 and .705; JER para 3-205 and 3-210.

I-19. CASE. The Assistant Secretary of the Army for International Affairs, ASA(IA), is the treasurer of the Federal Officers/SES Organization of Federalists (FOSOF). In her capacity, she approves TDY for several members of her staff to attend the FOSOF annual symposium.

VIOLATION. Conflict of interest; 18 USC 208, 5 CFR 2635.402; JER 3-203.

I-20. CASE. The Garrison Commander at Fort Purple has allowed sole or exclusive use of Army facilities by the Association of Community Members (ACM) without initiating a license or lease agreement.

VIOLATION. No license or lease. AR 405-80.

Case Studies on Proper and Improper Conduct (continued)

APPENDIX I

CASE STUDIES ON PROPER AND IMPROPER CONDUCT

I-21. CASE. Captain Blue, Commander, A Company, is a member of the National Association of Officers (NAO). He directs his soldiers to accept donations (i.e., sell) raffle tickets for the NAO's major fundraising event during duty hours while in a duty status.

VIOLATION. Misuse of position and government resources. 5 CFR 2635.702 and .705; JER para 3-305. May also be in violation of State law concerning gambling and lotteries.

I-22. CASE. Colonel Crawford, Director of Public Works, is the president of the local chapter of the National Association of the Army (NAA). NAA is having computer problems, so Colonel Crawford asks one of his subordinates with computer experience to assist NAA in fixing its problems. The subordinate uses his lunch hour or leave to go to the NAA headquarters and works on their computers.

VIOLATION. Misuse of position. 5 CFR 2635.702; JER para 3-305b.

I-23. CASE. At his weekly staff meeting, the Commander, XXX Corps, a member of the National Officers Association (NOA) announces that his command will provide speakers and other limited support (including the loan of a sound system and soldiers necessary to operate it) for the NOA's upcoming regional conference. He has decided that the conference will be useful for the local military community and will not detract from mission accomplishment.

OKAY. Assuming all other criteria in JER, para 3-211 are met; also mere membership in an organization does not create a conflict or an appearance of conflict of interest issue unless an "active participant." Should consult with the SJA prior to approving use of government resources.

I-24. CASE. The G2 at XXX Corps is the treasurer of the local chapter of the Electronic Surveillance Association (ESA). He decides who in his office attends ESA's national conference by selecting those individuals who have done the most work in the ESA during the year.

VIOLATION. Conflict of interest; misuse of personnel, resources, and position. 18 USC 208; 5 CFR 2635.702, .704, and .705; JER para 3-305

I-25. CASE. LTC Speer, Acting Director of Resource Management at Fort Oshkosh, used Army letterhead and his official signature block to strongly encourage membership amongst his subordinates in the Comptrollers Of America Association (CAA). The Chief of Staff is made aware of LTC Speer's actions, and advises LTC Speer and all members of his staff that this type of endorsement is improper. LTC Speer apologizes to his subordinates for the error.

OKAY. Good leadership; the Chief of Staff recognized the misuse of official position and that an Army official may not endorse a private organization. Took positive action to correct the error. LTC Speer then took positive action with his subordinates to correct his error.

Case Studies of Proper and Improper Conduct (continued)

APPENDIX I

Abbreviations and Terms

Abbreviations:

AAFES - Army and Air Force Exchange Service	MOA - Memorandum of Agreement
ACS - Army Community Service	MOU - Memorandum of Understanding
AER - Army Emergency Relief	MWR - Morale, Welfare, and Recreation
AF - Appropriated funds	NAF - Nonappropriated Funds
AFAP - Army Family Action Plan	NAFI - Nonappropriated Fund Instrumentality
AFCEA - Armed Forces Communications and Electronics Association	NCOA - Noncommissioned Officers Association
AFTB - Army Family Team Building	NMA - National Military Association
APF - Appropriated Funds	NMFA - National Military Family Association
AR - Army Regulation	NSIA - National Security Industry Association
AUSA - Association of the United States Army	OCONUS - Outside the Continental United States
BSA - Boy Scouts of America	OGE - Office of Government Ethics
CFC - Combined Federal Campaign	PAM - Pamphlet
CFSC - US Army Community and Family Support Center	PAO - Public Affairs Office
CONUS - Continental United States	SER - Southeast Region
DA - Department of the Army	SERO - Southeast Regional Office
DAEO - Designated Agency Ethics Official	SJA - Staff Judge Advocate
DCA - Director of Community Activities	US - United States
DMWR - Director of Morale, Welfare, and Recreation	USC - United States Code
DOD - Department of Defense	USO - United Services Organization
DODI - Department of Defense Instruction	
FOIA - Freedom of Information Act	
GSA - Girl Scouts of the United States of America	
HQDA - Headquarters, Department of the Army	
IMA - Installation Management Agency	
IRS - Internal Revenue Service	
JER - Joint Ethics Regulation	
MACOM - Major Command	

Abbreviations and Terms

GLOSSARY

Abbreviations and Terms

Terms:

Agent – an individual who represents a private organization in dealing with the Federal government.

Active Participant – an Army employee who regularly participates in the management, operations, and programs of a private organization in their off-duty time. An individual is not an active participant of a private organization if they only pay their dues, read the monthly newsletter and attend an occasional function.

Appropriated Funds – funds available from Congressional appropriates.

Army Employee – any soldier (officer or enlisted) or civilian employee (APF or NAF) working for the US Army.

Audit – an official examination, verification, and correction of account books that show the financial status of a private organization.

Army Installation – a location, facility, or activity assigned to, owned, leased, controlled, or occupied by the Department of the Army.

Commercial Sponsorship – the acceptance of funds, goods or services by the Army in exchange for advertising opportunities for the company or corporation. Commercial Sponsorship may only be solicited/accepted by the MWR Commercial Sponsorship program and only accepted in support of MWR, AFAP, and AFTB programs and events. Private organizations are not allowed to solicit or accept commercial sponsorship.

Constitution and Bylaws – a document that outlines the basic purpose of a private organization and the means on how the private organization operates.

Co-Sponsored Event – an event or program jointly put on by the Army and a private organization. Considered an Army event. The Army may endorse participation in the event and provide support within the guidelines established by the JER.

Disclaimer – an unambiguous statement that a private organization is not endorsed or affiliated with DA or DOD.

Donation – an individual or vendor giving funds, goods, or services without the expectation of receiving advertising opportunities in return. Private organizations may solicit donations from off-post vendors and companies if allowed by the Garrison Commander.

Double Entry Accounting System – a system in which both elements of each transaction (debits and credits) are:

- (1) Recorded separately; and
- (2) Recorded during the period of occurrence.

Endorsement – an Army official encouraging membership or participation in a specific private organization.

Fidelity Bonding Insurance – insurance to protect a private organization from loss of funds through the embezzlement by private organization members or employees. Bonding normally will equal the maximum amount of cash handled in a month.

Financial Report – a summary of the status of a private organization finances. Covers a set period, which is normally a month.

Fundraising – the raising of funds for a private organization by soliciting cash contributions, in-kind donations of services or goods, or grants from members or non-members of the private organization.

Informal Funds – funds such as office coffee funds, cup and flower funds, picnic funds, etc. These funds operate on an installation without formal authority because of their limited scope unless the Garrison Commander decides otherwise.

Abbreviations and Terms (continued)

GLOSSARY

Abbreviations and Terms

Terms (continued):

Investment Club – a membership organization that pools stated amounts of funds to invest in stock or other securities. Usually, group members pledge a regular amount to be paid into the club on a scheduled basis, such as monthly or annually. Some clubs have a committee that gathers information on securities, selects the most promising, and recommends that the club invest in them. Other clubs rotate the investigator responsibilities among all their members. Most require all members to vote for or against all investments, sales, exchanges, and other transactions.

Joint Ethics Regulation – a DOD document which outlines appropriate and inappropriate standards of conduct by DOD personnel.

Legal Advice – because the laws and regulations concerning non-Federal entities are somewhat complex, commanders, supervisors, and staff are encouraged to contact the installation's legal advisors and/or ethic counselors in the supporting Staff Judge Advocate's Office when issues concerning private organizations arise to ensure they are acting properly. Private organizations are not authorized direct legal support from the SJA.

Liability Insurance – insurance to protect the private organization and its members from public liability, claims, property damage claims, or other legal actions arising from private organization activities, one or more of its members acting on behalf, or the operation of any equipment, apparatus, of device under the control and responsibility of the private organization.

Liaison – an individual appointed by the Commander to inform a private organization on the concerns of the Command and report back to the Commander on the actions and concerns of the private organization. The Liaison does not take an active part in the management or operations of the private organization. The liaison is mainly an observer.

Membership – individuals that belong to a private organization. Membership, by itself, does not make one an "active participant" as described above.

Minutes – a written summary of a meeting of a private organization's membership or officers.

Managerial Fiduciary Responsibility – persons charged with a legal duty to direct or manage an organization. This means service as an officer of a private organization (president, vice-president, secretary, treasurer) or in the role of a member of the board of directors/trustees that includes voting authority for organizational matters, or as a general partner in a partnership. It generally does not include persons who perform advisory roles, or serve in topical committee chair positions. One who exercises fiduciary responsibility for a private organization also would be considered an "active participant". An individual may exercise fiduciary responsibilities under State law, but not be an officer, director, or trustee (e.g. an accountant, auditor or attorney retained by a private organization). In such cases, the individual still would be an "active participant".

Management of a Private Organization – legal responsibility for making decisions, including financial decisions, for the private organization. Used synonymously with managerial fiduciary responsibility.

Mutuality of Interest – a demonstrated substantive interest in a subject matter by both the government and a private organization. This is an essential ingredient to any co-sponsorship.

Nonappropriated Fund Instrumentality – it acts in its own name to provide, or assist other DOD organizations in providing MWR and other programs for military personnel, their families, and authorized civilians. As a fiscal entity, it maintains custody of and controls over its NAFs. It is also responsible for the exercise of reasonable care to administer, safeguard, preserve, and maintain prudently those APF resources made available to carry out its function. It is not incorporated under the laws of any State or the District of Columbia and enjoys the legal status of an instrumentality of the United States.

Nonappropriated Funds – cash and other assets received by NAFIs from sources other than Congressional appropriates. NAFs are Government funds used for the collective benefit of those who generate them. These funds are separate and apart from funds that are recorded in books of the Treasurer of the United States.

Abbreviations and Terms (continued)

GLOSSARY

Abbreviations and Terms

Terms (continued):

Official Capacity or Participation – official capacity refers to direct participation with a private organization for the purpose of representing the interests of the Department of Defense or the Federal government. Official participation means that one or more of the following may be said of your participation with the organization: (1) it is derived from your Federal position, title, or authority; (2) it entails official positions or policies of the Department of Defense; (3) it occurs on official time; and (4) it involves expenditure of appropriated funds or nonappropriated funds. Official participation normally does not include taking an administrative role in a private organization, unless specifically required by Federal statute.

Perception of Preferential Treatment – granting special treatment toward one private organization. DOD policy is that all private organizations should be treated the same. If one private organization is allowed to do something, the Commander must be prepared to allow all private organizations to do the same thing.

Personal Capacity or Participation – personal capacity refers to participation in a private organization in one's private capacity. Personal participation means that your participation in the organization is not derived from your federal position, title, or authority; does not entail official positions or policies of the government; does not occur on official time; and does not involve the expenditure of appropriated funds or nonappropriated funds.

Private Organization – a self-sustaining, non-Federal entity, incorporated or unincorporated, which is operated on Army/DOD installations with the written consent of the Garrison Commander or higher authority, by individuals acting exclusively outside the scope of any official capacity as officers, employees, or agents of the Federal Government or its instrumentalities.

Prohibited Activities – any private organization conduct that may discredit the Army, DOD, or the Federal government; impose a financial obligation on the Army or NAFI activities; duplicating or competing with authorized Army, NAFI (MWR or AAFES) activities. Distribution or sale of alcoholic beverages by a private organization.

Prohibited Source – as defined by 5 CFR 2630.203d, a prohibited source may be any person who (1) seeks official action by the Department of Defense, (2) does business or seeks to do business with the Department of Defense, (3) conducts activities regulated by the Department of Defense, (4) has interests that may be substantially affected by performance or nonperformance of an employee's official duties, or (5) is an organization with a majority of whose members are described above.

Qualified Auditor – a public accountant or certified accountant licensed by a State or other recognized licensing jurisdiction.

Represent on Behalf of a Private Organization – refers to knowingly attempting to influence an official action on a matter in which the Federal government has an interest by making a communication to, or appearance before, a Federal official or employee. The term does not include the communication of technical information.

Single Entry Accounting System – often called a combined journal system. A simple system of recording transactions on a cash basis. No inventories or accounts receivable or payable are kept.

Special Status Private Organization – a private organization which is authorized limited support as specified in federal statute or DOD policy or directive.

Status of Forces Agreement – international agreement that defines the status of forces on the territory of the host country.

Abbreviations and Terms (continued)