

VOLUME 7

“ETHICS”

SUMMARY OF VOLUME 7 CHANGES

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Submit recommended changes to this Volume, via the proper channels, to:

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VOLUME 7: ETHICS

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REFERENCES

- (a) SECNAVINST 5430.7R
- (b) SECNAVINST 5430.27D
- (c) SECNAVINST 5430.25E
- (d) 10 U.S.C. §§ 806, 1044, 1044e, 1059, 1072, 1565b, 1588, and 5046
- (e) MCO 5430.2
- (f) JAGINST 5803.1E
- (g) Manual for Courts-Martial, (2016 ed.)
- (h) U.S. Navy Regulations, (1990)
- (i) MCO 5800.14
- (j) MCO 1001.62A
- (k) MCO 1200.18
- (l) JAGINST 5803.2B
- (m) SECNAVINST 1920.6C
- (n) Uniform Code of Military Justice, (2016)
- (o) MCO 1610.7
- (p) MCO 1300.8
- (q) MCO 1000.6
- (r) JAGINST 5800.7F
- (s) SECNAVINST 5211.5E
- (t) 5 U.S.C. §§ 101, 552a, and 3111
- (u) JAGINST 5801.2
- (v) 37 U.S.C. §§ 601-604
- (w) 38 U.S.C. §§ 4301-4334
- (x) DoD Instruction 1205.12
- (y) 31 U.S.C. § 1342
- (z) DoD Instruction 1100.21
- (aa) 8 U.S.C. § 1400
- (bb) Executive Order 13269, (July 3, 2002)
- (cc) DOD Directive 2311.01E
- (dd) MCO 3300.4A
- (ee) DoD Directive 2310.01E
- (ff) DoD Directive 5146.13
- (gg) Executive Order 12333, (December 4, 1981)
- (hh) DoD Directive 5240.01
- (ii) DoD 5240.1-R
- (jj) DoD Instruction 3025.21
- (kk) DoD Instruction 5525.03
- (ll) SECNAVINST 5710.25B
- (mm) 1 U.S.C. § 112b
- (nn) 22 CFR Part 181
- (oo) DoD Directive 5530.3
- (pp) DoD 5500.07-R
- (qq) 18 U.S.C. § 202
- (rr) 5 C.F.R. § 2634

“REFERENCES”

As changes are made within this MCO Volume, the References list will also update.
Annotation of each update/change/addition to the References list is required.

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VOLUME 7

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SUMMARY OF SUBSTANTIVE CHANGES

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CHAPTER VERSION	PAGE PARAGRAPH	SUMMARY OF SUBSTANTIVE CHANGES	DATE OF CHANGE

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ETHICS

0101 SCOPE

This Volume addresses administrative instructions for the Marine Corps ethics program. Figure 1-1 is the annual calendar of filing and reporting dates under the program.

0102 JOINT ETHICS REGULATION

DoD 5500.07-R, the Joint Ethics Regulation (JER), is the single source for standards of ethical conduct and ethics guidance, including direction in the areas of public and confidential financial disclosure systems, activities with non-Federal entities, conflicts of interest, seeking other employment, post-government service employment rules, enforcement, and training for the Department of Defense.

0103 RESPONSIBILITIES

Supervision of the Marine Corps ethics program is shared between the Staff Judge Advocate to the Commandant (CMC (JA)) and Counsel for the Commandant (CMC (CL)), each of whom has been appointed as a Deputy Designated Agency Ethics Official (Deputy DAEO) by the Department of Navy General Counsel, who serves as the Designated Agency Ethics Official (DAEO) of the Department of the Navy (DON). CMC (JA) and CMC (CL) provide ethics advice and training and monitor financial disclosure reporting (including Office of Government Ethics (OGE) 278s and 450s) in their areas of responsibility, as set forth below. As Deputy DAEOs, CMC (JA) and CMC (CL) are delegated authority by the DAEO to grant extensions for OGE 278 filing deadlines in accordance with applicable regulations. Staff judge advocates and designated CL attorneys serve as Ethics Counselors and supervise the ethics programs within their commands or areas of responsibility. The most recent Ethics Counselor designation letter is located on the JCA SharePoint site.

0104 Civil and Administrative Law Branch

The Civil and Administrative Law Branch (JCA) administers the ethics program for CMC (JA). CMC (JCA) provides timely, individual, written notification, including delivery of the Public Financial Disclosure Report (OGE 278) and instructions, to Marine Corps general officers, advising them of their obligation and deadline for submission of a new entrant, annual, or termination report, and monitors submissions to ensure that all reports are timely filed. CMC (JCA) assists local SJAs in their ethics counselor review of OGE 278 to ensure all reports are administratively complete, accurate, and reviewed for conflicts of interest. JCA also maintains the original OGE 278s of all Marine Corps general officers on file for a period of six years (see JER 7-207.b). CMC (JA) completes the final review and certification of the OGE 278 reports of all Marine Corps general officers, except for those assigned to Joint Staff and Combatant Command billets and those general officers at HQMC who fall under the cognizance of CMC (CL).

010401. Headquarters Marine Corps Office of Government Ethics (OGE) 278 Areas of Responsibility

A. Staff Judge Advocate to the Commandant

CMC (JA) conducts the final review and certification of the OGE 278 reports of the following general officers at HQMC: Assistant Commandant of the Marine Corps, Director Marine Corps

Staff, Deputy Commandant, Combat Development and Integration/Commanding General Marine Corps Combat Development Command, Deputy Commanding General, Marine Corps Combat Development Command, Commanding General, Training and Education Command, Assistant Deputy Commandant, Combat Development and Integration (MOB), Deputy Commandant for Manpower and Reserve Affairs, Director, Manpower Management Division, Director, Reserve Affairs Division, Deputy Commandant for Plans, Policies, and Operations, Assistant Deputy Commandant for Plans, Policies, and Operations (Plans), Assistant Deputy Commandant for Plans, Policies, and Operations (Operations), Inspector General of the Marine Corps, Commanding General, Marine Corps Recruiting Command, Director, Public Affairs, Director, Legislative Affairs, Chaplain of the Marine Corps, and Medical Officer of the Marine Corps.

B. Counsel for the Commandant

CMC (CL) conducts the final review and certification of the OGE 278 reports of the following offices/entities: Commandant of the Marine Corps, Deputy Commandant for Aviation, Assistant Deputy Commandant for Aviation, Deputy Commandant for Installations and Logistics, Assistant Deputy Commandant for Installations and Logistics/Commander, Marine Corps Installations Command, Assistant Deputy Commandant for Installations and Logistics, Deputy Commandant for Programs and Resources, Assistant Deputy Commandant for Programs and Resources, Deputy Commandant for Information, Director for Command, Control, Communications, and Computers, Director of Intelligence, Commander, Marine Corps Logistics Command, Commander, Marine Corps Systems Command, and all Marine Corps Senior Executive Service members.

010402. Office of Government Ethics (OGE) 450 Review

CMC (JA) and CMC (CL) conduct the legal review and certification of the Confidential Financial Disclosure Report (OGE 450) for HQMC personnel who report to the individuals identified above, and maintain those reports on file for a period of six years.

010403. Ethics Program Reports

CMC (JCA) and CMC (CL) compile and submit for the Marine Corps reports required by the ethics program.

010404. Advice and Opinions

CMC (JCA) and CMC (CL) provide advice and written opinions on outside activities, acceptance of gifts, conflicts of interest, post-Government service employment matters, and training and education on ethics rules and regulations.

010405. Staff Judge Advocate (SJA) Advice and Guidance

CMC (JCA) provides advice and guidance to SJAs in fulfilling their roles as Ethics Counselors within their respective organizations.

010406. Military Personnel Law Branch

The Military Personnel Law Branch (JPL) provides legal advice and support on military personnel law matters for CMC (JA). As part of the process for approving nominees for appointment to

O-9 and O-10 general officer positions, JPL ensures, in consultation with CMC (CL), that the nominee has a current OGE 278 on file and that the report has been reviewed by the appropriate DoD Component DAEO or designee in relation to the position for which the nominee is being considered.

0105 ETHICS COUNSELORS

Ethics Counselors are responsible for supervising the ethics program for their respective organizations, activities, and/or geographic areas, including: the initial review of OGE 278 reports; the initial review and certification of periodic transaction reports (OGE 278-T reports); the initial review and certification of OGE 450 reports; the issuance of appropriate letters of caution to filers in conjunction with such reports; the provision of advice and assistance (in writing, when practicable) on matters relating to ethics and standards of conduct, including, but not limited to, outside activities, acceptance of gifts, conflicts of interest, post-Government service employment matters, and training and education on ethics rules and regulations; and the issuance of written opinions under the Procurement Integrity Act (41 U.S.C. §§ 2101-2107).

010501. Appointed Ethics Counselors

As DAEO for the DON, the General Counsel appointed Ethics Counselors within the Marine Corps by General Counsel Memorandum of 11 September 2012. The following individuals are appointed Ethics Counselors within the Marine Corps: Deputy Staff Judge Advocate, Judge Advocate Division, HQMC; Head, Civil and Administrative Law Branch, HQMC (JCA); Deputy Head, Civil and Administrative Law Branch, HQMC (JCA); Directors and Deputy Directors, Joint Law Centers, for all Marine Corps Air Stations; Staff Judge Advocates and Deputy Staff Judge Advocates at all Marine Corps Bases; Staff Judge Advocates and Deputy Staff Judge Advocates for all staffs and commands having general court-martial convening authority; and Navy OGC attorneys under the cognizance of CMC (CL).

010502. Delegation

Named Ethics Counselors may delegate the authority for review and certification of Confidential Financial Disclosure Reports (OGE 450) to attorneys in their offices.

010503. Designation

Pursuant to JER section 1-401, Ethics Counselors must be designated in writing by the DAEO (DON General Counsel Memorandum of 11 September 2012), who delegated authority to designate additional Ethics Counselors in writing to Deputy DAEOs. Submit requests for additional designations to CMC (JA) or CMC (CL), as appropriate. CMC (JA) and CMC (CL) will notify each other if they make additional designations.

0106 FINANCIAL DISCLOSURE REPORTS

The purpose of financial disclosure reports is to assist Federal agencies in identifying potential conflicts of interest between an employee's official duties and his or her private financial interests and affiliations. The Office of Government Ethics establishes rules and regulations for both the public and confidential financial disclosure systems.

010601. Public Financial Disclosure Report (OGE 278)

Regular and reserve military officers whose pay grade is O-7 or above, and civilian employees in an SES position are required to file and are considered to be in covered positions.

A. Time of Filing

1. New Entrant Reports. Within 30 days of assuming a covered position, a reporting individual must submit an OGE 278. Official promotion to pay grade O-7 (not frocking) triggers the filing requirement. Reserve general officers must file a new entrant report within 30 days after the 61st day of serving on active duty during any calendar year.

2. Annual Reports. Any time after 1 January, but not later than 15 May, an individual who served in a covered position for more than 60 days during the preceding calendar year shall file an annual OGE 278. For reserve general officers, only active duty service pursuant to orders issued under Title 10, United States Code, is counted.

3. Termination Reports. Not later than 30 days after termination from a covered position, an individual must submit an OGE 278. General officers should sign and date the termination report no earlier than their last day of active duty military service (not to be confused with their change of command or terminal leave date).

4. Combined Annual/Termination Report. Individuals who anticipate terminating their DoD employment on or within 90 days after the 15 May annual deadline may file a combined annual/termination report if they request and receive an agency extension of the annual filing deadline from a Deputy DAEO (CMC (JA) or CMC (CL)), as appropriate. Combined annual/termination reports must be filed within 30 days after termination of employment and not later than 13 August.

B. Extension of Filing Deadlines

Per 5 U.S.C. App. § 101(g)(2)(A), OGE 278 filers serving in an area designated by the President as a combat zone (i.e., an area subject to the combat zone tax exclusion) when an OGE 278 report is due are authorized an automatic extension of the filing deadline. The date for filing is extended 180 days after the later of: (1) the last day of service in the combat zone; or (2) the last day of hospitalization as a result of injury or disease from service in the combat zone. CMC (JA) and CMC (CL), as Deputy DAEOs, are delegated authority to grant, for good cause shown, a filing extension of up to 90 days. All requests for extensions shall be provided, in writing, by the individual filing the report. The request shall contain a clear statement of the reasons for the request and shall be submitted in advance of the original filing deadline.

C. Late Filing Fee

Any individual who is required to file an OGE 278 and does so more than 30 days after the required filing date, or 30 days after the last day of the filing extension period, shall be subject to a \$200.00 late filing fee. CMC (JA) and CMC (CL), as Deputy DAEOs, are the sole delegated authorities for waiving, in accordance with applicable regulations, the late filing fee for OGE 278 filers.

010602. Periodic Transaction Report (OGE 278-T)

Regular and reserve military officers whose pay grade is O-7 or above and civilian employees in an SES position are required to file periodic transaction reports (OGE 278-T). Filers must report the

purchase, sale, or exchange of stocks, bonds, commodities futures, or other forms of securities owned or acquired by the filer, his spouse, and/or dependent children if the individual transaction exceeds \$1,000. No report is required for transactions involving mutual funds, real estate, cash accounts, insurance, annuities, Thrift Savings Plan, Treasuries, and other investments. The Stop Trading on Congressional Knowledge Act Act requires that the filer disclose periodic transactions no more than 30 days after receiving notification of the transaction, and if no notice is received, then no more than 45 days after the actual transaction. This includes transactions made by a broker or financial manager on a filer's behalf. Filers will submit their OGE 278-T to the local ethics counselor, who will perform the conflict of interest review and sign the OGE 278-T as final reviewing official. Thereafter, the local ethics counselor will email a PDF copy to the filer's supervisor and the cognizant Deputy DAEO. Unlike the annual OGE 278, the local ethics counselor has the authority to approve (before the filing deadline) filing extensions of up to 90 days for "good cause" shown. After the filing deadline, OGE 278-T filing extensions may only be granted by CMC (JA) or CMC (CL). Failure to timely file a periodic transaction report will result in the assessment of a monetary penalty in the amount of \$200.00. The penalty is applicable only to the required report, not to individual transactions. OGE 278-T late filing fees may only be waived by CMC (JA) and CMC (CL).

010603. Confidential Financial Disclosure Report (OGE 450)

A. Individuals Required to File

1. Military personnel (below O-7) who are commanding officers, executive officers, and heads and deputy heads of installations, bases, air stations, or activities.

2. Special Government Employees (SGEs), i.e., an individual who is retained, designated, appointed, or employed to perform, with or without compensation, for a period not to exceed 130 days during any period of 365 consecutive days, temporary duties either on a full-time or intermittent basis. See 18 U.S.C. § 202 and JER 1-232. SGEs are individual experts or consultants recruited for temporary service to the Government because they provide outside expertise or perspectives that might be unavailable among an agency's regular employees. In the DoD, the term also includes Reserve military officers on active duty for training involuntarily or for training for any length of time, and one who is serving voluntarily for active duty for training for 130 days or less; and to Reserve enlisted members to the same extent that military officers are included in the meaning of the term. (But see exclusion of DON Reservists by determination of Navy General Counsel, dated 18 November 2011, on next page).

3. Military personnel (below O-7) and civilian personnel (below SES), including detailees, whose official responsibilities require them to participate personally and substantially through decision-making or the exercise of significant judgment in taking an official action for contracting or procurement; administering or monitoring grants, subsidies, licenses, or other Federally-conferred financial or operational benefits; regulating or auditing any non-Federal entity, or other activities in which their final decision or action may have a direct and substantial economic impact on the interests of any non-Federal entity.

B. Time of Filing

1. New Entrant Reports. A reporting individual must submit an OGE 450, with information current as of the filing date for the preceding 12 months, through their supervisor to their Ethics Counselor not later than 30 days after assuming duties in a covered position.

2. Annual Reports. A reporting individual who was employed at least 61 days during the preceding reporting period must submit an OGE 450 to the Ethics Counselor by 15 February of each year, covering the preceding calendar year. Individuals who have previously filed an OGE 450 may be eligible to file the OGE Optional Form 450-A (short form), except in a year (e.g., 2020) divisible by four. See 5 C.F.R. § 2634.905(b) and JER 7-300.b(3)(d). Refer to the JER for further guidance.

0107 TRAINING

010701. Initial Ethics Orientation (IEO) for New DoD Employees

Within 90 days of entering duty, all new DoD employees who have not previously received ethics training shall receive an IEO. Within 180 days of entering active duty, active duty enlisted members of the armed services will receive initial ethics training. An IEO shall be a minimum of one hour of official duty time. The amount of official duty time given to new employees to review written materials required by the IEO may be reduced by the amount of time they spend receiving verbal ethics training during official duty time.

010702. Annual Ethics Training

All DoD employees who file an OGE 278 or OGE 450 shall receive 1 hour of annual ethics training, to be completed by 31 December.

010703. Training Materials

The Department of the Navy Assistant General Counsel (Ethics) prepares an annual on-line ethics training module that can be used to fulfill the annual ethics training requirement. This training material may be accessed from the CAC ethics site at <https://donogc.navy.mil/Ethics> or the public ethics website at <http://ethics.navy.mil>.

0108 ETHICS REPORTS

Figure 1 lists required reporting dates and a schedule of important ethics dates.

Ethics Program Calendar

9 January: Ethics Counselors submit data report to CMC (JCA) concerning Navy General Gift Fund for 1st quarter of fiscal year.

10 January: CMC (JCA) submits consolidated Navy General Gift Fund first quarter report to AAUSN (FMD).

15 January: Ethics Counselors submit responses to Annual OGE Agency Ethics Program Questionnaire to CMC (JCA).

20 January: CMC (JCA) submits consolidated report to Navy OGC concerning Annual OGE Agency Ethics Program Questionnaire.

25 January: Ethics Counselors report on gifts of more than minimal value (tangible gifts or gifts of travel or travel expenses) from foreign government sources during previous calendar year to CMC (JCA).

31 January: CMC (JCA) submits consolidated calendar year Federal Register Foreign Gift Report to Office of the Chief of Protocol, U.S. Department of State.

15 February: All annual Confidential Financial Disclosure reports (OGE 450) are due to Ethics Counselors. Ethics Counselors should review and certify reports within 60 days of receipt.

9 April: Ethics Counselors submit data report to CMC (JCA) concerning Navy General Gift Fund for 2d quarter of fiscal year.

10 April: CMC (JCA) submits consolidated Navy General Gift Fund second quarter report to AAUSN (FMD).

15 April: Unless further information is required, Ethics Counselors should have completed the review and certification of OGE 450 reports.

30 April: Ethics Counselors report Semiannual Report of Acceptance of Travel Benefits from a Non-Federal Source, under 31 U.S.C. § 1353 (OGE Form 1353), concerning gifts of travel/travel related expenses in excess of \$250.00 for period of 1 October to 31 March to CMC (JCA).

1 May: CMC (JCA) submits consolidated Semiannual Report of Acceptance of Travel Benefits from a Non-Federal Source, under 31 U.S.C. § 1353 (OGE Form 1353), to Navy OGC.

15 May: All annual Public Financial Disclosure reports (OGE 278) are due to Ethics Counselors.

29 June: All annual OGE 278 reports from filers granted first 45-day extensions are due to Ethics Counselors.

29 June: Last day for OGE 278 filers to request a second 45-day extension to OGE 278 filing deadline.

9 July: Ethics Counselors submit data report to CMC (JCA) concerning Navy General Gift Fund for 3d quarter of fiscal year.

10 July: CMC (JCA) submits consolidated Navy General Gift Fund third quarter report to AAUSN (FMD).

14 August: All annual OGE 278 reports from filers granted second 45-day extensions are due to Ethics Counselors.

14 September: The late filing fee applies to OGE 278 filers who were granted second 45-day filing extensions but have not submitted their reports to Ethics Counselor.

1 October: Ethics Counselors report on Gifts of More than Minimal Value to Foreign Individuals (either purchased with appropriated funds or not obtained by appropriated funds, e.g., donations) during preceding fiscal year to CMC (JCA).

9 October: Ethics Counselors submit data report to CMC (JCA) concerning Navy General Gift Fund for 4th quarter of fiscal year.

10 October: CMC (JCA) submits consolidated Navy General Gift Fund fourth quarter report to AAUSN (FMD).

15 October: CMC (JCA) submits consolidated report on Gifts of More than Minimal Value to Foreign Individuals (either purchased with appropriated funds or not obtained by appropriated funds, e.g., donations) during preceding fiscal year to DON OGC.

31 October: Ethics Counselors submit Semiannual Report of Acceptance of Travel Benefits from a Non-Federal Source, under 31 U.S.C. § 1353 (OGE Form 1353), concerning gifts of travel/travel related expenses in excess of \$250.00 for period of 1 April to 30 September to CMC (JCA).

15 November: CMC (JCA) submits consolidated Semiannual Report of Acceptance of Travel Benefits from a Non-Federal Source, under 31 U.S.C. § 1353 (OGE Form 1353), to Navy OGC.

15 December: CMC (JCA) emails Annual OGE Agency Ethics Program Questionnaire to Ethics Counselors.

31 December: All OGE 278 and OGE 450 filers are required to complete their annual ethics training requirement.

Figure 1