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## CIVILIAN HR FLIGHT FACT SHEET

### Excerpt – 5 CFR §2635, Subpart C – Gifts Between Employees

#### § 2635.301 Overview.

This subpart contains standards that prohibit an employee from giving, donating to, or soliciting contributions for, a gift to an official superior and from accepting a gift from an employee receiving less pay than himself, unless the item is excluded from the definition of a gift or falls within one of the exceptions set forth in this subpart.

#### § 2635.302 General standards.

- (a) *Gifts to superiors.* Except as provided in this subpart, an employee may not:
- (1) Directly or indirectly, give a gift to or make a donation toward a gift for an official superior; or
  - (2) Solicit a contribution from another employee for a gift to either his own or the other employee's official superior.
- (b) *Gifts from employees receiving less pay.* Except as provided in this subpart, an employee may not, directly or indirectly, accept a gift from an employee receiving less pay than himself unless:
- (1) The two employees are not in a subordinate-official superior relationship; and
  - (2) There is a personal relationship between the two employees that would justify the gift.
- (c) *Limitation on use of exceptions.* Notwithstanding any exception provided in this subpart, an official superior shall not coerce the offering of a gift from a subordinate.

#### § 2635.303 Definitions.

For purposes of this subpart, the following definitions shall apply:

- (a) *Gift* has the meaning set forth in § 2635.203(b). For purposes of that definition an employee will be deemed to have paid market value for any benefit received as a result of his participation in any carpool or other such mutual arrangement involving another employee or other employees if he bears his fair proportion of the expense or effort involved.
- (b) *Indirectly*, for purposes of § 2635.302(b), has the meaning set forth in §2635.203(f). For purposes of § 2635.302(a), it includes a gift:
- (1) Given with the employee's knowledge and acquiescence by his parent, sibling, spouse, child, or dependent relative; or
  - (2) Given by a person other than the employee under circumstances where the employee has promised or agreed to reimburse that person or to give that person something of value in exchange for giving the gift.
- (c) Subject to paragraph (a) of this section, market value has the meaning set forth in § 2635.203(c).
- (d) *Official superior* means any other employee, other than the President and the Vice President, including but not limited to an immediate supervisor, whose official responsibilities include directing or evaluating the performance of the employee's official duties or those of any other official superior of the employee. For purposes of this subpart, an employee is considered to be the subordinate of any of his official superiors.

- (e) *Solicit* means to request contributions by personal communication or by general announcement.
- (f) *Voluntary contribution* means a contribution given freely, without pressure or coercion. A contribution is not voluntary unless it is made in an amount determined by the contributing employee, except that where an amount for a gift is included in the cost for a luncheon, reception or similar event, an employee who freely chooses to pay a proportionate share of the total cost in order to attend will be deemed to have made a voluntary contribution. Except in the case of contributions for a gift included in the cost of a luncheon, reception or similar event, a statement that an employee may choose to contribute less or not at all shall accompany any recommendation of an amount to be contributed for a gift to an official superior.

#### **§ 2635.304 Exceptions.**

The prohibitions set forth in § 2635.302(a) and (b) do not apply to a gift given or accepted under the circumstances described in paragraph (a) or (b) of this section. A contribution or the solicitation of a contribution that would otherwise violate the prohibitions set forth in § 2635.302(a) and (b) may only be made in accordance with paragraph (c) of this section.

- (a) *General exceptions.* On an occasional basis, including any occasion on which gifts are traditionally given or exchanged, the following may be given to an official superior or accepted from a subordinate or other employee receiving less pay:
  - (1) Items, other than cash, with an aggregate market value of \$10 or less per occasion;
  - (2) Items such as food and refreshments to be shared in the office among several employees;
  - (3) Personal hospitality provided at a residence which is of a type and value customarily provided by the employee to personal friends;
  - (4) Items given in connection with the receipt of personal hospitality if of a type and value customarily given on such occasions; and
  - (5) Leave transferred under subpart I of part 630 of this title to an employee who is not an immediate supervisor, unless obtained in violation of § 630.912 of this title.
- (b) *Special, infrequent occasions.* A gift appropriate to the occasion may be given to an official superior or accepted from a subordinate or other employee receiving less pay:
  - (1) In recognition of infrequently occurring occasions of personal significance such as marriage, illness, or the birth or adoption of a child; or
  - (2) Upon occasions that terminate a subordinate-official superior relationship, such as retirement, resignation, or transfer.
- (c) *Voluntary contributions.* An employee may solicit voluntary contributions of nominal amounts from fellow employees for an appropriate gift to an official superior and an employee may make a voluntary contribution of a nominal amount to an appropriate gift to an official superior:
  - (1) On a special, infrequent occasion as described in paragraph (b) of this section; or
  - (2) On an occasional basis, for items such as food and refreshments to be shared in the office among several employees.

An employee may accept such gifts to which a subordinate or other employee receiving less pay than himself has contributed.