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5 CFR § 2635.705

5 CFR Subpart C

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*To include Space Force

ETHICS FLASH

Fiscal, Ethics and Administrative Law Division SAF/GCA

The Duties of Senior Leader Assistants

Use of a Subordinate's Time

One of the most heavily scrutinized areas in ethics is use of personnel. Neither the Department of the Air Force (DAF)* nor Department of Defense (DoD) have a formal instruction regarding the ethical use of senior leader assistants. The Code of Federal Regulations (CFR) and the DoD Joint Ethics Regulation serve as the governing standard. To provide specificity, SAF/GCA brings you this Ethics Flash to serve as a guide on what constitutes permissible use of assistants.

The guidance provided here applies to all senior leader assistants such as Aides-de-Camp, Military Assistants, Executive Officers, Confidential Assistants, Schedule C employees, and other assistants, including enlisted personnel, who work in direct support of a senior leader. This Ethics Flash **does not** apply to enlisted aides (EAs) assigned to govern-

ment quarters. For guidance on EAs, please see DoDI 1315.09.

The rule: "An employee shall not encourage, direct, coerce, or request a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with law or regulation." Sounds simple, right? Well, it can get complicated and easily misapplied.

In 2018, the DoD Inspector General (IG) concluded that a senior military official violated the standards of conduct when he requested or permitted his Aide to use official time to (1) pick-up his laundry, (2) remove and return his bedsheets for cleaning, (3) pick-up his meals, (4) provide him with personal items such as snacks, (5) send him customized t-shirts, (6) draft unofficial correspondence, (7) reserve gym equipment for his use, (8) arrange deliv-

ery of a prescription, and (9) collect financial and personal information to complete required military paperwork. The DoD IG stated the senior official showed a "habitual pattern" of allowing his Aide to use official time to perform tasks and errands other than those required in the performance of the Aide's official duties.

The fine line between official and unofficial is where mistakes occur. Below are examples of permissible and impermissible duties to assist senior leader assistants. While not all inclusive, we do highlight the most common scenarios we encounter.



Permissible Duties – Go Forth and Assist

Assistants generally perform official duties on behalf of a senior leader that the senior leader would normally have to do themselves. By performing these duties, assistants free up valuable time for mission essential functions.

Yet, there are limits. Generally, assistants may not arrange or coordinate purely personal or unofficial events, even if it would save time for their principal. An assistant may schedule official appointments, including official medical appointments (e.g., appointments required for active

duty such as flight physicals). On an **infrequent** basis, assistants may schedule a personal medical appointment when the senior leader's calendar is subject to frequent changes.

Assistants may maintain and use funds from an account funded by the senior leader for expenses incurred by the senior leader while performing official duties – For example, paying a lunch bill while on official travel. Assistants must not deposit personal funds into the account even if they will be reimbursed. **While traveling**, assistants may perform additional

duties normally prohibited while at the permanent duty station. These duties should relate to the travel mission, health, or subsistence of the senior leader. For example, an assistant may drive the senior leader from TDY lodging to work, or to a gym.

When necessary, assistants may assist family members and friends to facilitate attendance at official events honoring the senior leader. Assistants may also supervise packing/unpacking of **office** furniture/supplies/decorations.

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Senior leaders at the Pentagon picking up their lunch at executive dining. Not an assistant in sight!

"To ensure each of us is ready to do what is right, without hesitation, when ethical dilemmas arise, we must train and prepare ourselves and our subordinates. Our prior reflection and our choice to live by an ethical code will reinforce what we stand for, so we remain morally strong especially in the face of adversity."

*James Mattis
Former Secretary of Defense*



Headlining for all the wrong reasons.

Impermissible Duties

Impermissible duties are where issues frequently occur. Senior leaders must be careful not to ask their assistants to provide support not related to their official duties. For example, assistants may not pick up or drop off their senior leader at home while their car is being repaired, or provide local transportation for the senior leader in an assistant's personal vehicle. Assistants may not draft personal correspondence for senior leaders, nor assist in the preparation of tax returns. Assistants may not supervise the packing/unpacking of personal belongings in Government quarters or personal residences. Assistants may

not perform personal shopping for the senior leader's family, plan a party on behalf of a senior leader's spouse, or other family members.

Assistants may not schedule or coordinate personal events for a senior leader's spouse or other family members. Assistants may not run personal errands for senior leaders while in the area of the permanent duty station. For example, assistants may not pick up dry cleaning, take a vehicle to a service station, escort personal or unofficial guests requiring an escort for installation of building access, or pick up lunch.

Yes, you read that correctly – assistants may not pick up their

senior leader's lunch at the permanent duty station. If lunch is delivered to the front office, an assistant may carry that lunch back to the senior leader's office. There are no other exceptions. More on lunch below!

As mentioned above, the proper use of personnel is heavily scrutinized. Well-meaning staff may unintentionally put their senior leader at risk by volunteering to perform normally impermissible duties – even if the senior leader does not ask. It is everyone's responsibility to ensure they understand the rules and ask an ethics official when in doubt.

Infrequent and Minor Voluntary Support

Assistants may perform some personal services on an **infrequent** and **voluntary** basis. Assistants must be careful that such support doesn't become recurring, or expected. Nor should assistants feel that such support must continue simply because of a one-time offer.

Infrequent means rare support, provided once, or occurring a few times. Minor means of short duration. Whether the support is truly voluntary depends on a number of factors. Whose idea was the support? Is the support incidental

to another activity that the assistant is performing anyway? Will the assistant have to re-plan their duty day around such support? Perhaps the most important factor: does the assistant believe they may decline to perform such a service?

Infrequent and minor voluntary support can sometimes include otherwise impermissible duties. The most popular of these is picking up lunch for a senior official. As stated above, picking up lunch for a senior leader is an impermissible duty. Rotating

"lunch duty" among different assistants does not make it infrequent and minor voluntary support. Also, daily, or even weekly, lunch delivery cannot be justified under the guise that the assistant was picking up their own lunch. This does not fall within infrequent and minor voluntary support. Again, this is where good intentions may inadvertently put a senior leader at risk for a DoD IG investigation.

Best Practice? Senior leaders should reject offers of voluntary support.

Analyzing an Assistant's Use of Official Time

The examples provided in this Ethics Flash are not all inclusive. All DAF employees must use their official time in an honest effort to perform their official duties. The Office of Government Ethics (OGE) opined that the wording of the general rule on use of official and subordinates' time was intended to ensure the provisions would not limit an agency's authority to permit its employees to use official time for appropriate purposes.

OGE went on to establish a

threshold question: Is there an authority for the particular use? The CFR serves as authority for permissible and impermissible duties as do advisory opinions and findings by the DoD or Air Force IG. This Ethics Flash also serves as guidance for what is permissible and impermissible.

If you are unsure whether a particular task is permissible, ask yourself whether the task falls within the examples provided in this Ethics Flash. A good rule of thumb is if you are concerned

about the perception, then the task is not appropriate. More importantly, it is never wrong to ask yourself, "Even if I can, *should* I?" Of course, when in doubt, reach out to SAF/GCA – we are here to support.

Another resource to ensure the proper use of an assistant is training. For personalized training on the permissible duties for assistants, please reach out to Ms. Meredith McHugh, Director of Ethics, or the SAF/GCA Ethics Workflow [e-mail](#).