



U.S. ARMY



Department of the Army Inspector General 2023 Training Booklet— Brigade and Battalion Command Team and Staff





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Purpose

This booklet provides senior leaders (brigade/battalion commanders/ command sergeants major) and their staff with a collective training tool and resource that prepares them to correctly make informed decisions and act based on regulations and policies.

Recommended Audience

Brigade/battalion commanders/ command sergeants major and their staff (executive officers (XOs), S-1, S-3, S-4, staff judge advocate/ command ethics advisor), and your local inspector general representative.



“Teaching and training is at the forefront of all we do as inspectors general. Leaders should use this booklet as an aid to better understand how their actions affect their Soldiers, their mission, and the Army. Treating others with dignity and respect is never the wrong answer.”

– LTG Donna W. Martin
The Inspector General

*You can also find this booklet in a briefing format for teaching and training at <https://ig.army.mil/IG-SCHOOL-RESOURCES/CAC-access-only/>.
(CAC access required)*





Scope

The situations in this booklet discuss potential issues that may appear unclear to Army leaders, senior non-commissioned officers (sergeants major/command sergeants major), and staff—in essence it focuses on the “grey areas” of Army policy. Each scenario is accompanied by situation-based discussion and thought-provoking questions.



“Leaders must always assess and understand the state of their organization (People) to properly serve, communicate, and provide the leadership/climate needed for their organization to learn and succeed.”

-COL Isaac Manigault
Acting, Deputy The Inspector General



“As the situations in this booklet demonstrate, it is not enough for leaders to avoid impropriety, instead they must avoid the appearance of impropriety and act whenever these perceptions negatively affect their ability to effectively lead.”

-SGM Larry Orvis
The Inspector General Sergeant Major

***Important Disclaimer:** This booklet does not establish policy, nor is it directive in nature. It should not be used as a substitute for Army-mandated ethics training, staff research or a legal opinion.*



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Situation 1. Loyalty to Leadership?

Colonel (COL) James, a brigade commander, meets with his executive officer (XO) and his S-1 officer to discuss updating the order of merit (OML) list for captains awaiting company command in the brigade.

As they "rack and stack" the captains, the S-1 brings up Captain (CPT) Moses and notes that she was the only brigade staff captain to receive a top block on her last evaluation and is senior in both time-in-grade and time in the brigade as compared to the other battalion and brigade pre-command staff captains. The XO, Major Winslow, interjects:

"Sir, I'd think again before placing Captain Moses at the top of the OML for company command. I have it in good faith that she recently made a formal complaint with the brigade MEO [Military Equal Opportunity] NCO alleging that Major Montgomery (brigade S-3) had discriminated against her during morning PT. Something to do with him asking her to put her ponytail in a bun during PT. I don't think we want this kind of drama hanging over a brand-new commander...too much of a distraction."

"Thanks for bringing this up, XO. I wish she had brought this to my attention so we could have fixed it in-house. I'll re-think her spot on the OML—at least until this issue is resolved."





Definition:

Whistleblower Reprisal (WBR)

In accordance with Section 1034, Title 10, United States Code (10 USC 1034), Whistleblower Reprisal is the act of taking (or threatening to take) an unfavorable personnel action or withholding (or threatening to withhold) a favorable personnel action because the Service member made or was thought to have made a protected communication (PC) (i.e., lawful communication reasonably believed to be true by the complainant) to Members of Congress; inspectors general (IG); DOD audit, inspection, investigation, or law enforcement organizations; Any person or organization in the chain of command; Any other person designated pursuant to regulations or established administrative procedures to receive such communications (e.g., Equal Opportunity, Safety Office, etc.); or as part of a court-martial proceeding, specifically, complaints of sexual assault or sexual harassment.

Note: Any communication to a Member of Congress, or an IG, no matter the topic, is a PC. Communication to the other listed individuals or agencies are only protected when presenting a violation of statute, regulation, rule, etc.





Understanding Whistleblower Reprisal

The Four Elements of Proof. Key to understanding Whistleblower Reprisal is an understanding of the four elements of proof a Whistleblower Reprisal investigator must consider during their investigation.

1. Protected Communication

Did the complainant make, or was perceived to make a "protected communication"? A PC can be verbal, written, or electronic and even includes statements that a complainant is simply preparing to make a PC (e.g., "I am going to write my congressman."). For a Whistleblower Reprisal investigation to be substantiated the answer for Element #1 must be "YES."

2. Personnel Action

Was there an unfavorable personnel action, the threat of an unfavorable personnel action, the withholding of a favorable personnel action or the threat of withholding a favorable personnel made against the complainant? Did the subject take or threaten to take any personnel action against a member of the Armed Forces that affects, or has the potential to affect, that member's current pay, benefits, or career? For a Whistleblower Reprisal investigation to be substantiated the answer for Element #2 must be "YES."

3. Knowledge

Did the subject of the WBR allegation know about the protected communication made by the complainant before they took the unfavorable action? For a WBR investigation to be substantiated, the answer for Element #3 must be "YES."

4. Causation

Would the subject have taken, threatened to take, withheld or threatened to withhold the same personnel action absent the Protected Communication made by the complainant? This is often the question that determines the outcome of the investigation. It is often the most difficult question to determine, as it requires the investigator to make a conclusion about the subject's state of mind regarding the personnel action in question. To do this the investigator must consider all the following: the reason the subject undertook the personnel action; the subject's motive for the personnel action; the timing between the PC and the personnel action; and was there disparate treatment in how the subject dealt with other Soldiers in similar situations?

For a Whistleblower Reprisal investigation to be substantiated the answer for Element #4 must be "NO."





Situation 1.

Loyalty To Leadership?

Discussion

If the brigade commander in this scenario ultimately decided to hold off on moving CPT Moses, and you were the XO testifying under oath months later as part of a Whistleblower Reprisal investigation how would you answer the following questions?

1. Protected Communication	Did CPT Moses make, or was perceived to make a “protected communication”? “I have it in good faith that she recently made a formal complaint with the brigade Military Equal Opportunity NCO alleging that Major Montgomery (brigade S-3) had discriminated against her during morning PT.” Answer: YES. (PC between the brigade MEO NCO)
2. Personnel Action	Did CPT Moses have a favorable personnel action withheld? “I’ll re-think her spot on the OML—at least until this issue is resolved.” Answer: YES. (A favorable personnel action was withheld)
3. Knowledge	Did the brigade commander know about the complainant’s PC prior to taking the unfavorable action? “I have it in good faith that she recently made a formal complaint with the brigade MEO NCO alleging that Major Montgomery (brigade S-3) had discriminated against her during morning PT. Something to do with him asking her to put her ponytail in a bun during PT. I don’t think we want this kind of drama hanging over a brand-new commander...too much of a distraction.” Answer: YES. (COL James had prior knowledge of PC with the brigade MEO NCO.)
4. Causation	Does the preponderance of credible evidence establish that COL James would have withheld the same personnel action absent the PC? As they “rack and stack” the captains, the S-1 brings up Captain (CPT) Moses and notes that she was the only brigade staff captain to receive a top block on her last evaluation and is senior in both time-in-grade and time in the brigade as compared to the other brigade and battalion pre-command staff captains. Answer: NO. (Absent the PC is no credible reason for COL James to withhold the favorable personnel action.)

Bottom Line: In this scenario, the preponderance of credible evidence would likely establish that COL James committed Whistleblower Reprisal by withholding CPT Moses’s favorable personnel action because of a PC she had with the brigade MEO NCO.





Situation 2. Do Perceptions Matter?

Lieutenant Colonel (LTC) Brooks, the battalion commander, is huddling with Command Sergeant Major (CSM) Richards at the end of the day. After covering official business, the two engage in small talk. LTC Brooks senses that CSM Richards has something else to say and asks him what's on his mind.

"Well, sir...I've heard things from the companies and even from the battalion staff. The scuttlebutt is you seem to be spending a lot of time with First Lieutenant Sandel (female Headquarters and Headquarters Company (HHC) XO)), much more than any another lieutenant in the battalion. You even took her to the last three brigade training meetings and the division quarterly training brief, which many see as a bit odd, given her job. I also overheard a few referring to the first lieutenant as your, "work wife," and others think there may be more to it. One Soldier claims he saw her at your quarters after duty hours last week. To be honest, from the outside looking in, it doesn't look good, and the appearance of favoritism, or worse, is starting to impact morale."

LTC Brooks, startled by the information, says:

"Sergeant Major, that is ridiculous. You know I think highly of First Lieutenant Sandel, in fact I see her as the most promising lieutenant in the battalion right now—that's why I hand-picked her to be the HHC XO during this modernization cycle. I've taken her with me to the training meetings to brief a special project I have her working on to build a sustainable command post training program. Also, I don't remember anyone having a problem with her stopping by a few times after hours to drop off unit status report S-Level data BEFORE Sharon (LTC Brooks's estranged wife) and I separated. I don't give a crap what "they" think. If "they" have a problem, they can bring it directly to me instead of starting rumors in the barracks. I am also a bit surprised you even mentioned this, Sergeant Major. You of all people have been around long enough to know better."





Situation 2. Do Perceptions matter? Discussion

After reading the preceding situation, discuss the following questions to better understand how perceptions are often reality among observants.

Do LTC Brooks's actions create a perception of an inappropriate relationship? Why or why not?

YES. Perceptions are often reality for Soldiers and leaders. In this instance, LTC Brooks' actions and perceived favoritism (i.e., "One Soldier claims he saw her at your quarters after duty hours last week," and "You even took her to the last three brigade training meetings and the division quarterly training brief, which many see as a bit odd, given her job.") have led his staff to view the relationship as inappropriate. As a commander, LTC Brooks must show in himself a good example of virtue, honor, and patriotism; however, his actions have made his staff and subordinates question his morality, thus affecting the battalion's command climate and readiness.

If you were the CSM in this situation, would you feel comfortable in the future bringing up your concerns to LTC Brooks?

PROBABLY NOT. A positive command climate is one where staff and Soldiers can openly communicate their concerns to the commander. It is the commander's role to create this positive command climate and respect this reciprocal relationship.

Per Army Regulation (AR) 600-20 (Army Command Policy), par. 2-2, "[c]ommanders will publish an open door policy within their commands. Soldiers are responsible to ensure that the commander is made aware of problems that affect discipline, morale, and mission effectiveness; and an open door policy allows members of the command to present facts, concerns, and problems of a personal or professional nature or other issues that the Soldier has been unable to resolve."





Situation 2. Do Perceptions matter? Discussion

Do LTC Brooks' actions meet the criteria for an inappropriate relationship as defined in AR 600-20?

Maybe. While LTC Brooks states his relationship with 1LT Sandel is one of mentor/mentee, his actions are likely prohibited.

Per AR 600-20, par. 4-14b, all relationships between Soldiers of different grades are prohibited if they—

- “(1) Compromise, or appear to compromise, the integrity of supervisory authority or the chain of command.
- (2) Cause actual or perceived partiality or unfairness.
- (3) Involve, or appear to involve, the improper use of grade or rank or position for personal gain.
- (4) Are, or are perceived to be, exploitative or coercive in nature.
- (5) Create an actual or clearly predictable adverse impact on discipline, authority, morale, or the ability of the command to accomplish its mission.”

This relationship appears to be causing a perception of partiality or favoritism—so much so that CSM Richards feels compelled to mention it to the commander. This relationship also appears to be adversely affecting morale...again, so much that the CSM, the NCO most focused on Soldiers' morale, feels it must be addressed. Thus, if an investigation were initiated, the battalion commander's actions could be noncompliant with AR 600-20.

Commanders at all levels must be particularly careful in their relationships with subordinates, both male and female. This is especially true in relationships with members in the same chain of command or supervision.





Situation 2. Do Perceptions matter? Discussion

If LTC Brooks refuses to address the issue caused by this relationship, will his actions likely affect his unit's command climate?

MAYBE. As previously noted, a positive command climate is one where staff and Soldiers can openly communicate their concerns to the commander. It is the commander's role to create this positive command climate and respect this reciprocal relationship. LTC Brooks' response to CSM Richards could hinder this open communication and may create future command climate issues.

Additionally, LTC Brooks' response to CSM Richards and perceived inappropriate relationship with a subordinate does not comply with Joint Ethics Regulation (JER)/DOD Directive 5500.07-R par. 12-401d, which states, "DoD employees are required to accept responsibility for their decisions and the resulting consequences. This includes avoiding even the appearance of impropriety because appearances affect public confidence. Accountability promotes careful, well-thought-out decision making and limits thoughtless action."





Situation 2.
Do Perceptions matter?
Open-Ended Discussion

- ★ **If you were CSM Richards, what next steps would you take after speaking with LTC Brooks?**
- ★ **If LTC Brooks understood and accepted that his CSM was trying to improve the situation, what actions could LTC Brooks take to address the perceived favoritism?**





Situation 3. **Mandatory Fun?**

Following an S-3 shop huddle, the battalion S-3, MAJ Lee, announces he has planned a team building event for the S-3 at an off-post paint ball field after duty hours. When several Soldiers comment they can't go because of transportation, MAJ Lee tells them they are going to use the battalion NTV (Government-owned) to transport the Soldiers from the installation to the paintball field and back.

Since the event is after-duty hours, two members of the S-3 shop say they cannot attend due to family obligations. As Lieutenant Colonel (LTC) Harvey, the battalion commander, walks by the office he overhears MAJ Lee speaking in an elevated voice.

"This is a team-building event...T-E-A-M! Are you not a part of the team, Captain Rivera, SSG Bradley? My buddy who owns the field is only charging us \$20 each—that's less than half-price. I even arranged transportation and tasked Private Talbot to drive so there's really no excuse. If we can't count on you to show up now, then I doubt we can count on you to show up when it really matters."





Situation 3. Mandatory Fun? Discussion

Can MAJ Lee require his subordinates to participate in and spend their own money at an off-post, after-hours event?

NO. Per 5 CFR 2635.705(b), "[a]n 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."

Additionally, according to AR 600-100, par. 1-5f, this event could compromise or have an adverse impact on discipline, authority, morale, or the ability to accomplish the mission, since MAJ Lee is essentially directing Service members to spend their own money for official/mandatory activities. Para. 1-5f states "Army leaders understand the strategic implications of their decisions and actions and contribute their best efforts to accomplish the mission while taking care of the welfare of their subordinates. They understand that leader misconduct or unethical practice must be prevented or stopped and immediately redressed."

Is it a problem that MAJ Lee's friend owns the paintball field and could profit from the event?

YES. Per 5 CFR 2635.702, "[a]n employee shall not use his public office for his own private gain, for the endorsement of any product, service or enterprise, or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the employee is an officer or member, and persons with whom the employee has or seeks employment or business relations."





Situation 3. Mandatory Fun? Discussion

Would MAJ Lee's procurement/use of a Government-owned vehicle [NTV] be appropriate and within regulation for an off-post, after-hours, team building event?

NO. Per AR 58-1, par. 2-3, "The use of Army-owned or Army-controlled NTVs is restricted to official purposes only. Per AR 58-1, par. 2-4b, "[o]fficial motor vehicle transportation requirements do not include: transportation to private social functions; personal errands or side trips for unofficial purposes..." Additionally, 5 CFR 2635.101b(9), indicates that an employee has a duty to protect and conserve Government property and shall not use property, or its use, for other than authorized purposes. Since this "friend-owned venue" event is not necessarily team building in nature, and likely not appropriately categorized as "official duty," 5 CFR 2635.101 also applies to this situation.

Would it be appropriate for MAJ Lee to detail Private Talbot to drive the team to and from the off-site location?

NO. Per JER/DODD 5500.07-R, par. 3-303, "Because of the potential for significant cost to the Federal Government, and the potential for abuse, DOD employees, such as secretaries, clerks, and military aides, may not be used to support the unofficial activity of another DoD employee in support of non-Federal entities, nor for any other non-Federal purposes." [except in a few limited circumstances not involving this scenario].





Situation 3. Mandatory Fun? Discussion

What if the event was an official training exercise placed on the unit's training schedule? Could MAJ Lee procure the NTV for transportation with PVT Talbot driving?

MAYBE. Per AR 58-1, pars. 2-3 and 2-4, the use of Army-owned or Army-controlled NTVs is restricted to official purposes only [...] Official motor vehicle transportation requirements do not include: transportation to private social functions; personal errands or side trips for unofficial purposes.

However, per 5 CFR 2635.705(b), "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."

If it was an official training event, could MAJ Lee use unit funds to pay the \$20 per-person paintball fee?

MAYBE. Per AR 215-1, par. 5-13k "[u]nit funds will be used for the collective benefit of all unit members for off-duty recreational purposes as outlined in this regulation [AR 215-1]..."

Per AR 215-1, par. 8-29, "[u]nit-level programs are authorized APF [appropriated funds] support as category A mission essential programs. They include unit activities that maintain mission readiness, improve unit teamwork, and create esprit de corps..."

As a key leader in the battalion, MAJ Lee must check regulatory guidance and seek the help of the unit SJA if there are unclear questions regarding the unit activity.





Situation 3. Mandatory Fun? Discussion

Could MAJ Lee accept his friend's offer to let the Soldiers use the paintball field and guns at a discounted rate? What if his friend offered both for free?

NO. Per AR 360-1, "[n]o Army personnel or unit will receive monetary profit or accept a gratuity or remuneration in any form not permitted by public law or by Army regulations," as such, MAJ Lee is restricted from accepting his friend's offer to let the Soldiers use the paintball field and guns for free. Additionally, use of the paintball field may result in potential monetary benefit for MAJ Lee's friend if his Soldiers and their Families decide to use the field following the team-building event.

Additionally, while MAJ Lee's status as a Soldier might not be the reason behind receiving the field and guns for free, it might lead outsiders to believe that receipt was due to MAJ Lee's position.

Per 5 CFR 2635.702, "[a]n employee shall not use or permit the use of his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity."

For MAJ Lee to accept this "gift," the same offer must also be broadly available to large segments of the public through organizations of similar size (e.g., "All Active Military and Veterans," or "All State and Federal Government employees"). If the gift was offered due to one's official position, or on a basis that favors those of higher rank or rate of pay (i.e., because of their rank or position), then MAJ Lee can not accept the "gift."





Situation 3. Mandatory Fun? Discussion

Would MAJ Lee's communication, and specific singling-out of CPT Riveria and SSG Bradley be appropriate or conducive to a positive command climate?

NO. Per AR 600-20, par. 1-6c, "[c]ommanders and other leaders will treat their subordinates with dignity and respect at all times and establish a command and organizational climate that emphasizes the duty of others to act in a similar manner toward their subordinates in accomplishing the unit mission."

Additionally, per JER/DOD 5500.07-R, "[i]ndividuals must be treated equally and with tolerance. Caring Compassion is an essential element of good government [...] To treat people with dignity, to honor privacy and to allow self-determination are critical in a government of diverse people. Lack of respect leads to a breakdown of loyalty and honesty within a government and brings chaos to the international community."

As a key leader in the battalion, MAJ Lee must create a positive command climate where his Soldiers feel respected and heard. His verbal berating of CPT Riveria and SSG Bradley does not generate a positive command climate and may affect the morale and readiness of his unit.





Situation 3. Mandatory Fun? Discussion

What if LTC Harvey, the battalion commander, decides to keep walking and not correct/counsel MAJ Lee for addressing his Soldiers this way?

As the battalion commander, LTC Harvey is responsible for the good order and discipline of his subordinates. Per AR 600-20, par. 1-6c, “[c]ommanders remain responsible for the professional development of their Soldiers at all ranks. Commanders and other leaders will treat their subordinates with dignity and respect at all times and establish a command and organizational climate that emphasizes the duty of others to act in a similar manner toward their subordinates in accomplishing the unit mission.”

In accordance with (IAW) 10 USC 7233 and AR 600-20, par. 1-6d, “All commanding officers and others in authority in the Army are required— To show in themselves a good example of virtue, honor, patriotism, and subordination. To be vigilant in inspecting the conduct of all persons who are placed under their command. To guard against and suppress all dissolute and immoral practices, and to correct, according to the laws and regulations of the Army, all persons who are guilty of them. To take all necessary and proper measures, under the laws, regulations, and customs of the Army, to promote and safeguard the morale, the physical well-being, and the general welfare of the officers and enlisted persons under their command or charge.”

Additionally, LTC Harvey must act, “where a Soldier’s conduct violates good order and discipline.” If LTC Harvey fails to act, he directly violates AR 600-20 and neglects his responsibilities as a leader. His non-action might also indicate a negative command climate within his own battalion.





Situation 4. Do You Know What You Don't Know?

8:01 am: (123) 456-7890

COL Kelly, this is MAJ Lin. Thank you very much for the card and the flowers. Sorry to bother you on your personal number, but I wanted to give you an update. We are still at the hospital. As you know, Cindy was rushed to the hospital yesterday and we lost the baby at 13 weeks. She is discharging tomorrow.

8:20 am

Thank you for the update. The brigade sends its deepest sympathies. Unfortunately, deployment planning is suffering without your steady hand at the wheel. Take tomorrow and get Cindy settled, then I will see you in the office the day after.

8:27 am: (123) 456-7890

Sir, I spoke to the S-1 and he told me I could put in for 7 days of convalescent leave.

8:40 am

Ben, I don't need to ask the S-1 for permission to decide about your leave. I really do empathize with your recent loss, but we are in the middle of a deployment planning. I simply cannot have you out for 7 more days of leave, as the S-3...we need you. As long as YOU are healthy, please be back in the office the day after Cindy is discharged from the hospital. I will have my wife swing by to check on Cindy for a couple of days once you are back at work.





Situation 4. Do You Know What You Don't Know? Discussion

After reviewing the preceding situation, discuss the importance of remaining abreast of recent revisions to policies, and understanding/reviewing new regulations and directives.

Does COL Kelly's response comply with relevant statutes, DODIs, and ARs?

NO. Commanders must be cognizant of updates and revisions to relevant policies and guidance, as well as release of any new Army/DOD regulations and directives.

Per Army Directive (AD) 2022-06 (Parenthood, Pregnancy, and Postpartum), "[s]oldiers will be provided with convalescent leave for physical and emotional recovery after a birth event or in cases of miscarriage or stillbirth. Soldiers (including when the spouse is a Soldier, civilian, or a member of another military service) whose spouse experiences miscarriage or stillbirth will also be provided convalescent leave for emotional recovery. Convalescent leave is in addition to any authorized parental leave and will be granted as follows: (a) After a birth event, or in cases of miscarriage or stillbirth, convalescent leave will be authorized by the Soldier's unit commander. At a minimum, unit commanders must grant convalescent leave as prescribed in enclosure 3."

Additionally, this directive states, "[w]hile on convalescent leave, Soldiers will not be required to physically report to their units."

Enclosure 3 further indicates that for pregnancy duration of 12 weeks, 0 days, to 15 weeks, 6 days, a spouse is granted 7 days of convalescent leave.





Situation 4. Do You Know What You Don't Know? Discussion

Would the commander's decision to request MAJ Lin back in the office be affected by where/when the brigade is deploying.

NO. AD 2022-06 does not indicate that parental leave is at the discretion of the commander. Currently, the directive does not include exceptions to policy, to include deployment; therefore, COL Kelly must comply with the directive and its guidance. However, convalescent leave under this paragraph may be denied by the Soldier's general court-martial convening authority or higher commander.

★ Open-Ended Discussion

If you were COL Kelly, what could have been a better approach to handling MAJ Lin's leave request?





Situation 5. Different Audiences, Different Standards?

After a rough training mission where the battalion performed poorly and “lost” the fight to the opposing force, LTC Hyder, the battalion commander, conducts an after-action review with his commanders and staff.

“OK, that was a beating. We are definitely going to feel it in the morning. Tom [A CO CDR], you had a good plan, but the execution was too slow. It should not have taken so long to flex to the reserve battle positions. Bill [B CO CDR], your company was overrun because (1) your battle positions were too far forward and (2) I never heard a call for indirect fire after the enemy entered the EA [engagement area]. Julie [C CO CDR], your platoon leaders need to improve on their fire discipline, destroying the lead platoon didn't matter because you did it before the enemy main body had entered the EA...and that allowed them to maneuver to bypass you to the east. That's all I have for the commanders for now. I know you will all do better the next time.”

After he dismisses the company commanders, LTC Hyder turns to his staff and in a calm, clear voice says,

“Now that the commanders are gone, it's time to discuss your performance as a staff. We lost because you idiots could not plan a route from a kindergarten classroom to the swing sets. Speaking of kindergarteners, Major Conway (S-3) is that who helped you make the maneuver overlay? Did you ask them to use crayons so you wouldn't get confused? Am I asking too much of your small intellect to accurately track the locations of our companies, so we don't almost end up calling fire on ourselves? Captain Olive (S-2), is it too much to ask that you pull your head out of your fourth point of contact long enough to glance around and tell me where the enemy main effort is heading? You might as well have been throwing darts at the map during this battle...in fact I am just done with all of you. You make me sick... get out of my sight. Dismissed.”





Situation 5. Different Audiences, Different Standards? Discussion

Was LTC Hyder's treatment of the commanders appropriate?

Yes. LTC Hyder's assessment of the commanders' actions during the mission was professional, focused on performance, and appropriate. The commanders likely left the meeting with a clear understanding of how the units underperformed and what their respective units must focus on in the future to improve.

Was LTC Hyder's treatment of the battalion staff appropriate?

NO. LTC Hyder's assessment of the staff's actions during the mission was focused on personal "defects." His comments were mean-spirited and lacked constructive criticism that the staff could use to improve their future performance.

Per AR 600-20, par. 1-6c(4)(c), "[...] [l]eaders at all levels promote the individual readiness of their Soldiers by developing competence and confidence in their subordinates. In addition to being mentally, physically, tactically, and technically competent, Soldiers must have confidence in themselves, their equipment, their peers, and their leaders. A leadership climate in which all Soldiers and DA Civilians are treated with fairness, justice, and equity will be crucial to development of this confidence within Soldiers. Commanders are responsible for developing disciplined and cohesive units sustained at the highest readiness level possible."





Situation 5. **Different Audiences, Different Standards?** **Discussion**

Was it appropriate for LTC Hyder to differentiate his assessment based on each Soldier's role?

Yes. If LTC Hyder felt the staff performed significantly less effectively than the commanders, he is free to state that in his after-action review. However, the staff are still Soldiers, and every Soldier is entitled to be treated with dignity and respect. If LTC Hyder had addressed the staff in the same manner as he addressed the commanders (professionally, with a focus on performance and ways to improve in the future) his actions would have been entirely appropriate.

Does it matter that LTC Hyder didn't use profanities or yell when he addressed the staff?

No. The use of obscenities is not the sole determining factor for whether someone was treated with, or without dignity and respect. Personal attacks, criticism without constructive components, and attempting to tear an individual down instead of building them up are all reasons for subordinates to feel they have not been treated with dignity and respect.

★ Open-Ended Discussion

What if LTC Hyder's meeting with the commanders was word-for-word the same...but, as he spoke, he paced the length of the room in an agitated manner, slapped the map board behind him loudly as he made each point, and finished the briefing by yelling, "I KNOW you will all DO BETTER NEXT TIME!"

Would that change your assessment?





Situation 6. Just Some Physical Training?

After redeploying from a field exercise where the battalion staff in the Tactical Operations Center struggled to effectively command and control the battalion's fight (see Situation 5 "Different Audiences...Different Standards?"), CSM Withers assembles all the staff NCOs and Soldiers assigned to the battalion staff for a special "staff PT" session conducted on the lawn in front of battalion headquarters. During a grueling physical training session that CSM Withers leads (and participates in), he loudly criticizes the groups collective motivation and performance during the field exercise as other battalion units run past the battalion headquarters building. After an hour, CSM Withers dismisses most of the group but instructs four staff NCOs to stay behind. To this small group he announces,

"While the rest of the staff did not cover themselves in glory, you four had particularly poor performances. But that's OK...since it looks like you didn't bother to work up a sweat in the field, you will do it here instead!"

For the next 30 minutes CSM Withers walks in and around the small formation pointing out individual mission failures of each NCO and individual exercises they can each do to, "fix their deficiencies."





Situation 6. Just Some Physical Training? Discussion

Was CSM Withers acting appropriately when addressing the group about motivation and collective mission performance at PT formation?

YES. CSM Withers is acting appropriately when addressing the PT formation. This is a scheduled PT event and CSM Withers is participating in the training along with the rest of the staff NCOs and Soldiers. He is free to address the formation if his conduct does not violate the Army's policies prohibiting hazing, bullying, and unlawful punishment.

Was CSM Withers acting appropriately when he required the four staff NCOs to remain for additional PT after releasing the rest of the PT formation?

No. Holding four staff NCOs back for an additional 30 minutes of extra PT, in a highly public setting, for the purpose of fixing performance issues associated with a field problem is at a minimum improper corrective training and could be construed as hazing, bullying, or unlawful punishment.

Per AR 600-20, par. 4-6b(1), "[t]he training or instruction given to a Soldier to correct deficiencies must be appropriately tailored to curing the deficiency. It must be oriented to improving the Soldier's performance in their problem area. Brief physical exercises are an acceptable form of corrective training for minor acts of indiscipline (for example, requiring the Soldier to do push-ups for arriving late to formation), so long as it does not violate the Army's policies prohibiting hazing, bullying, and unlawful punishment."





Situation 6.
Just Some Physical Training?
Open-Ended Discussion

- ★ **Was CSM Withers's verbal criticism during PT formation an effective way to motivate his staff NCOs to improve their field performance?**
- ★ **How could CSM Withers have more effectively addressed the staff NCOs' poor field performance?**
- ★ **What would be an appropriate type of corrective training to address the four staff NCOs' performance in the field?**





Situation 7. Rank Has its Privileges?

CSM Adams and several lower-ranking NCOs and Soldiers are traveling on official orders. Because they have an official event less than 90 minutes after deplaning the commercial aircraft, they have elected to fly in their Army Combat Uniform. The day before the flight CSM Adams tasks MSG Williams with securing the battalion NTV for transport to the airport.

“Master Sergeant Williams, I need you to secure the keys for the battalion NTV tonight and task a member of your platoon to drive it to the airport to drop us off. In the morning, load everyone up here at the battalion headquarters then swing by my quarters to pick me up on the way to the airport.”

The next morning, while waiting to board the aircraft, CSM Adams walks up to the passenger assistant and inquires about a potential cabin upgrade. CSM Adams then returns from the desk and addresses the group.

“That’s why I love these guys. Why else would I insist we always fly Freedom Airline even though its more expensive? Well, we got two upgrades for first class, and rank has privileges...so, Master Sergeant Williams and I will be sitting with the rich people in first class, while the rest of you will have to suck it up in coach. Don’t worry, we’ll drink a glass of free champagne in your honor.”





Situation 7. Rank Has its Privileges? Discussion

Would CSM Adams's request to secure an NTV for travel to the airport comply with Army policy?

MAYBE. Per AR 58-1, par. 2-3i, (1), "NTVs owned or otherwise controlled by the DOD may be used for trips between domiciles or places of employment and commercial or military terminals when at least one of the following conditions is met:

- a) Used to transport official non-DOD visitors invited to participate in DOD activities, provided that this use does not impede other primary mission activities.
- b) Used by individuals authorized DTD transportation.
- c) Necessary because of emergency situations or to meet security requirements.
- d) Terminals are located in areas where commercial methods of transportation cannot meet mission requirements in a responsive manner.
- e) Authorized in the NCR by DODAI 109 [applies to Pentagon area only].
- f) Necessary because other methods of transportation cannot reliably or adequately meet mission requirements, based on a case-by-case factual assessment.

(2) When one of the above conditions is met, the following methods will be considered in the order shown and to the extent they are available and capable of meeting transportation requirements:

- a) DOD scheduled bus service.
- b) DOD unscheduled leased or owned bus service.
- c) Van pools.
- d) DOD motor vehicle centrally dispatched "taxicab" operation.
- e) DOD motor vehicles individually dispatched to a licensed uniformed Service member or Federal employee."





Situation 7. Rank Has its Privileges? Discussion

Would it be appropriate for CSM Adams to task a member of the platoon to drive an NTV to pick up the team from battalion headquarters and drop them off at the airport?

MAYBE. Per AR 58-1, par. 2-3i(1)(a)-(f), "NTVs owned or otherwise controlled by the DOD may be used for trips between domiciles or places of employment and commercial or military terminals when at least one of the following conditions is met: [...] [n]ecessary because emergency situations or to meet security requirements. Terminals are located in areas where commercial methods of transportation cannot meet mission requirements in a response manner. [...] [n]ecessary because other methods of transportation cannot reliably or adequately meet mission requirements, based on a case-by-case factual assessment. " Additionally, 5 CFR 2635.101b(9) states, "[a]n employee has a duty to protect and conserve Government property and shall not use property, or its use, for other than authorized purposes." However, per 5 CFR 2635.705(b), "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."

Can the tasked platoon member swing by CSM Adams's quarters to pick him up before they travel?

MAYBE. As previously noted, AR 58-1, pars. 2-3i(a)-(f), lays out specific conditions under which use of an NTV from domicile to commercial carrier would be appropriate. In this case, if CSM Adam's quarters are between the battalion headquarters and the commercial airport, then there should be no legal objection to the platoon member using the NTV to pick him up at his domicile. If, however, the platoon member would have to divert from his travel to pick up CSM Adams at his quarters, and such diversion is due to CSM Adams' personal convenience, then the platoon member should not use the NTV to make the extra deviation.





Situation 7. Rank Has its Privileges? Discussion

What if CSM Adams had said, “Master Sergeant Williams...In the morning, have the driver swing by my quarters to pick me up on the way to the headquarters. Once we are at the headquarters, we will dispatch the NTV, load everyone up and head to the airport”?

MAYBE. Per 5 CFR 2635.705(b), “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.”

In this instance, it is not the tasked platoon member's official duty to pick up CSM Adams' from his home before travel. CSM Adams misuse of resources (tasked platoon member time) can be construed as fraud, waste, and abuse. Additionally, per Comptroller Opinions, a Federal employee is responsible for his/her commute to work.

Can CSM Adams select a specific commercial airline over another for official travel?

MAYBE. Per JTR, “the travel management company will book a traveler only for economy travel and economy accommodations [...] a traveler's personal choice must not be the sole determining factor for authorization. Instead, the authorizing or approving official will use the following factors to determine which type of transportation is most advantageous to the Government for TDY travel. Mission requirements, including trip length and transportation of baggage, tools, or equipment. Availability of other transportation modes and the effect on productive time. TDY location in relation to traffic conditions, routing, and weather. TDY location in relation to the lodging, meal facilities, and transportation availability, other than a POV, between these points. Overall cost advantage when accompanying passengers in the same POV are also under official travel orders. Productive time lost due to additional travel time. Efficiency, economy, or other reasons favorable to POV use to accomplish the mission expeditiously. Unavailability of practicable commercial transportation. Delay to mission caused by the use of an airplane, train, bus, or ship.”

***Bottom Line:** In this instance, CSM Adams blatantly states that he selected Freedom Airlines due to personal choice (“Why else would I insist we always fly Freedom Airline even though its more expensive?”); therefore, he is not complying with JTR.





Situation 7. Rank Has its Privileges? Discussion

Can CSM Adams solicit (ask for) a cabin upgrade per JTR?

No. Airline upgrades and award miles are exempt from the fiscal law rules, and Soldiers are free to accept them. However, actively soliciting an upgrade just because you are a Soldier reflects unfavorably on the Army and does not reflect Army values. Will civilians think the Gov't is paying for first class? For a PFC, probably not, but for a command sergeant major, maybe.

Additionally, per 5 CFR 2635.202 (a) & (b), "[p]rohibition on soliciting gifts. Except as provided in this subpart, an employee may not, directly or indirectly: (1) Solicit a gift from a prohibited source; or (2) Solicit a gift to be given because of the employee's official position. (b) Prohibition on accepting gifts. Except as provided in this subpart, an employee may not, directly or indirectly: (1) Accept a gift from a prohibited source; or (2) Accept a gift given because of the employee's official position."

Per DOD 5500-07, 4-200a(1) and b, "[t]ravel coupons, tickets, promotional items of more than nominal value (with the exception of frequent flier mileage credits), and most other benefits received by DoD employees from non-Federal sources (e.g., airlines, rental car companies, hotels) incident to their official travel belong to the Federal Government. They may not be used for personal purposes. [...] Benefits offered to a DoD employee from a non-Federal source incident to official travel that cannot be used for official purposes must be treated as gifts to the DoD employee. DoD employees may not accept such gifts if acceptance would violate 5 CFR 2635 Subpart B (Reference (h)) in subsection 2-100 of this Regulation."

In addition to being non-compliant with Federal policy, CSM Adam's acceptance of the cabin upgrade reflects poorly on his leadership and could create a negative command climate within his unit.

Finally, CSM Adams' taunting, while most likely good-natured, reflects poorly on his character, and his subordinates may deem it disrespectful, thus negatively affecting the command climate of his unit.





Situation 8. Is Hope a Command Decision?

COL Lewis, the brigade commander, is holding a closed-door meeting with CSM Handley and the Brigade XO, LTC Mendez. LTC Mendez starts the meeting:

"Ma'am, it has come to my attention that someone is sharing an altered picture of Captain Daniels (brigade S-4) to social media and tagged* most of the brigade staff and a few folks down at the battalion level. The picture has Captain Daniels' face photo-shopped onto a supermodel wearing a very skimpy bikini. I spoke to Captain Daniels this afternoon and she is pretty upset by the whole thing. She even found a print of the picture taped to the back of her office chair this morning. She doesn't want to make a big deal out of it but feels like it's all anyone is talking about. I had one of the other staff officers forward me the social media post...but it looks like it was created using an anonymous, made-up account."

"Thanks for letting me know about this, XO, but aren't we blowing this a bit out of proportion? It sounds like some of the other staff officers are just messing with her...I am sure they didn't mean any real harm here. Besides, as you mentioned, Captain Daniels said herself that she didn't want to pursue it any further. The more attention we give it the more likely it will happen again. Let's hope this one just fades away."

** Used the features of the social media platform to distribute the picture to the accounts of specific individuals.*





Situation 8. Is Hope a Command Decision? Discussion

As a commander, what action must COL Lewis take once she learns of a sexual harassment complaint or hostile work environment within her command?

As the brigade commander, COL Lewis must enforce the Army's policy on harassment at all levels.

Additionally, per AD 2022-13, par. 5a and b, she must also act once she learns of sexual harassment complaint within her unit.

"Effective immediately, if sufficient information exists to permit the initiation of an investigation, commanders will appoint investigating officers (IOs) from outside the subject's assigned brigade-sized element to conduct sexual harassment complaint investigations under Army Regulation (AR) 600-20, chapter 7."





Situation 8. Is Hope a Command Decision? Discussion

Does COL Lewis have a responsibility to maintain a positive command climate?

YES. It is the commander's responsibility to create a positive command where his/her Soldiers treat each other with dignity and respect. AR 600-20, par. 4-19, provides further guidance, stating, "[f]urthermore, Army personnel, especially those entrusted with the mantle of leadership, will lead by example and do what is right to prevent abusive treatment of others. Failure to do so brings discredit on the Army and may have strategic implications. Hazing, bullying, and discriminatory harassment of people or their property is prohibited; allegations of harassment will be addressed swiftly, individually, and in light of their circumstances. Hazing, bullying, online misconduct, and other acts of mis-conduct, undermine trust, violate our ethic, and negatively impact command climate and readiness."

Additionally, per AR 600-20, par. 4-19a(5)(a)-(b), "[c]ommanders and leaders are to reinforce a climate where current and future Army personnel, including Soldiers and DA Civilian employees understand that online misconduct is inconsistent with Army values and where online-related incidents are prevented, reported, and where necessary addressed at the lowest possible level. Personnel experiencing or witnessing online misconduct should promptly report matters to the chain of command/supervision. Alternative avenues for reporting and information include: Family Support Services, Military Equal Opportunity, Equal Employment Opportunity, Sexual Harassment/Assault Response and Prevention, and Army Law Enforcement."





Situation 8. Is Hope a Command Decision? Discussion

Would Captain Daniel's hesitancy to report the potential allegation affect COL Lewis's actions once she hears of the potential harassment?

NO. As previously noted, per AD 2022-13 and AR 600-20, she must act once she learns of sexual harassment within her unit.

AD 2022-13 states, "[E]ffective immediately, if sufficient information exists to permit the initiation of an investigation, commanders will appoint investigating officers (IOs) from outside the subject's assigned brigade-sized element to conduct sexual harassment complaint investigations under Army Regulation (AR) 600-20, chapter 7."

Hoping the harassment goes away does not indicate action and may show a larger command climate issue.

Bottom Line: COL Lewis's non-action is an action and can be detrimental to her unit and role as a leader.





Situation 9. Think? Type? Post?

While scrolling through her social media feed, SGM Sandberg, the 7th Recruiting Brigade SGM, sees 7th Recruiting Brigade's re-tweet of her battle buddy, COL Dorsey, 7th Recruiting Brigade Commander.

 7th Recruiting Brigade Retweeted 



Doug Dorsey @COLdorsey- 1d

Excited to spend this Saturday afternoon raising funds for a great cause! [@Vets&Pets](#) is an amazing non-profit that provides cost-free service animals to vets in need. State Senator Richardson, a former commander of the 7th Recruiting Brigade, will also be there showing her support! Recruiters, come by, meet Senator Richardson, and pick up a few bake sale items for your station. #vets #vetsandpetserviceanimals #7thRecruitingBrigade #bakesale #Army #ArmyStrong #Hooah #USArmy #commanding #reelectrichardson





➤ Situation 9. Think? Type? Post?

Interested in seeing what else might be happening in her area of concern, SGM Sandberg heads over to COL Dorsey's twitter homepage where she learns some fun facts about COL Dorsey, and a follow-up tweet to his Soldiers.

Doug Dorsey
1,000 Tweets



Doug Dorsey @COLdorsey

Brigade Commander, Husband, Dad to 3, Soldier, Car Enthusiast

📍 Fort Swampy, USA

🔗 www.army.mil

📅 Joined July 2015

1,500 following 2,000 Followers

Tweets

Tweets & replies

Media

Likes

Doug Dorsey @COLdorsey

🇧🇪 Speaking of bake sales, recruiters of the 7th brigade recruiting command, don't forget that Monday is the deadline to complete your ACFT and height and weight. A fit Army is a Strong Army! [#ArmyStrong](#) [#recruiting](#) [#USArmy](#) [#Soldier](#) [#ACFT](#) [#Hooah](#)





Situation 9. Think? Type? Post?

Following the event, COL Dorsey tweets the following message:



Doug Dorsey @COLdorsey- 1d

Thanks to everyone who came out and made Saturday's Vets&Pets event a success. We raised more than \$10K! Special thanks to State Senator Richardson for her continuous support to Soldiers and veterans, and BuyNLarge for donating supplies for the bake sale! [#vets](#) [#vetsandpetserviceanimals](#) [#7thRecruitingBrigade](#) [#bakesale](#) [#Army](#) [#ArmyStrong](#) [#Hooah](#) [#USArmy](#) [#commanding](#) [#reelectrichardson](#) [#BuyNLarge](#)





Situation 9. Think? Type? Post? Discussion

Following your review of the preceding situation, discuss how brigade commander's tweets are incongruous to Army regulations, DOD directives, and other Federal policies.

Does COL Dorsey's twitter handle comply with relevant DOD policies on personal social media use by DOD personnel?

No. COL Dorsey's use of an official Army symbol (7th Recruiting Brigade) and his official Army rank (@COLDorsey) in his twitter handle do not comply with relevant social media policies. Per DODI 5400.17 8a:

"DOD personnel must ensure that their personal social media accounts avoid use of DoD titles, insignia, uniforms, or symbols in a way that could imply DoD sanction or endorsement of the content." Additionally, per 5 CFR 2635, section 702, "an employee shall not use his public office for private gain, for the endorsement of any product, service or enterprise, or for the private gain of friends, relatives, or persons whom the employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the employee is an officer or member, and persons with whom the employee has or seeks employment or business relations."

DOD personnel are free to have personal social media accounts; however, they are encouraged to include a disclaimer clarifying that that their social media communications reflect only their personal views and do not necessarily represent the views of their agency (i.e., 7th Recruiting Brigade/Army) or the United States.

DODI 5400.17 provides the following example for users:

"The views and opinions expressed herein are those of the author and do not necessarily represent the views of DOD or its Components. Appearance of, or reference to, any commercial products or services does not constitute DOD endorsement of those products or services. The appearance of external hyperlinks does not constitute DOD endorsement of the linked websites, or the information, products or services therein."





Situation 9. Think? Type? Post? Discussion

Does COL Dorsey's initial tweet comply with relevant statutes and policies on endorsement of an NFE on a personal social media accounts?

No. While COL Dorsey's account is personal, his lack of the proper disclaimer and usage of an official symbol and Army rank may lead the public to perceive his tweets as the Army's official endorsement of Vets&Pets.

Per DODI 5400.17, "DOD personnel are prohibited from using their official position to either affirmatively endorse a non-federal entity, product, service, or enterprise, or by taking action that implies through the unauthorized use of one's official position or public office."

As the brigade commander of the 7th Recruiting Brigade, can COL Dorsey invite his subordinates to support an NFE during after-duty hours?

No. COL Dorsey is free to encourage NFE membership/fundraising in his/her personal capacity to his/her friends but not his subordinates. Additionally, he cannot use his public office for the endorsement of any product, service or enterprise, or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the employee is an officer or member, and persons with whom the employee has or seeks employment business relations. (see 5 CFR 2635.702(a)-(b)).





Situation 9. Think? Type? Post? Discussion

Does 7th Recruiting Brigade's (an Army official social media account) re-tweet of COL Dorsey's tweet comply with DOD/Army policy on official use of social media for public affairs purposes?

No. 7th Recruiting Brigade's re-tweet implies Government endorsement of an NFE (Vets&Pets) and a political party or candidate for partisan political office (e.g., [#reelectrichardson](#)).

DODI 5400.17, 3.2b, states, "[o]fficial social media accounts must not be used to promote or endorse non-Federal entities or personal financial interests."





Situation 9. Think? Type? Post? Discussion

Can COL Dorsey use his personal social media account to endorse or engage in political activity? (e.g., State Senator Richardson, former brigade commander of the 7th Recruiting Brigade, will also be there showing her support! Recruiters, come by, meet Senator Richardson, and pick-up a few bake sale items for your station. [...] #reelectRichardson")

No. While COL Dorsey's account is personal, his twitter handle and lack of clear distinction between his personal views and those of the Army make his tweets inappropriate. According to the Army's online social media guide, "Soldiers are encouraged to express their opinions of the political process online and offline, as long as they are consistent with the Army values and are not expressed as part of an organized communication campaign and as a representative of the U.S. Army or as a Soldier."

Per DODD 1344.10, Soldiers and leaders cannot participate in partisan political activity.

Can COL Dorsey discuss official business (e.g., ACFT) on his personal social media account?

No. COL Dorsey is free to encourage NFE membership/fundraising in his/her personal capacity to his/her friends but not his subordinates. Additionally, he cannot use his public office for the endorsement of any product, service or enterprise, or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the employee is an officer or member, and persons with whom the employee has or seeks employment business relations. (see 5 CFR 2635.702(a)-(b)).





Situation 9.

Think? Type? Post?

Social Media Homepage Guidance

Profile Picture
Inclusion of unit symbol, ICW other information on profile, further misconstrues this as an official account.

Doug Dorsey
1,000 Tweets

Doug Dorsey
@1211.Dorsey

Brigade Commander, Husband, Dad to 3, Soldier, Vintage Car Enthusiast

Summerville, USA www.army.mil joined July 2015

1,500 following 2,000 followers

Tweets Tweets & replies Media Likes

Doug Dorsey @1211.Dorsey
Speaking of bake sales, recruiters of the 7th brigade recruiting command, don't forget that Monday is the deadline to complete your ACFT and height and weight. A fit Army is a Strong Army!
#ArmyStrong#recruiting#USArmy#Soldier#ACFT#Hooah

BIO
Mixes both official duty title and personal information, which may also imply endorsement of a commercial product. To correct, remove titles and do not include references to official positions.

Name and Username
Rank and name are being used in conjunction with an unofficial, personal account. To correct, remove rank from username.

Website
Inclusion of an official website on a personal account can easily imply that this is an official account. To fix, remove or replace with personal website.

Content
Posting information in an official capacity is prohibited. Soldiers may forward, like, or link to official information if it doesn't imply status as an official account.





Situation 10. Who Pays For What and When?

CSM Flowers, a U.S. Army Reserve brigade CSM, lives 400 miles from her unit training assembly (UTA) home station. She is required to attend an official planning conference at Camp Eagle that is considered active-duty training (ADT). While the CSM attends the conference, which ends on Friday, she is authorized active duty pay and full travel expenses (airfare, lodging, and rental car). Coincidentally, her home station monthly inactive duty training UTA occurs the same weekend at Camp Eagle.

CSM Flowers asks the Brigade S-1 for assistance in figuring out how she can attend both without "running afoul with the bean-counters."

The Brigade S-1 develops three courses of action (COAs):

COA 1: CSM Flowers travels to the conference using the Government-furnished airline ticket. She then leaves the conference a day early on Thursday evening and flies home using the Government-furnished airline ticket. CSM Flowers pays her own round-trip airfare to return to Camp Eagle Friday evening to attend the UTA. She also pays out-of-pocket for her lodging and rental car during UTA. The S-1 feels this solution "looks best" from the outside (perception.)

COA 2: CSM Flowers travels to the conference using a Government-furnished airline ticket. She attends the ADT conference through Friday afternoon, then checks out of lodging (paying with Government Travel Card (GTC)) and returns the Government-furnished rental car (paying with GTC). She re-checks into lodging and rents a rental car using her personal funds and attends UTA. CSM Flowers flies home using an airline ticket purchased with her personal funds and turns in the "return leg" of the Government-furnished airline ticket for the ADT conference. The S-1 feels this solution, "looks bad from the outside" (perception), but doesn't violate JER because, "the Government is only paying for travel to the ADT conference, while SGM Flowers is paying out-of-pocket for the costs associated with UTA".

COA 3: CSM Flowers only attends the conference, and requests to postpone her UTA to another weekend.





Situation 10. Who Pays For What and When? Discussion

Background

IAW JTR par. 7365, "A reserve member commits to a personal obligation to participate in IDT. Inherent in this personal obligation is travel between the member's home and the location at which the member normally performs IDT, and the member receives no reimbursement for this time/travel."

IAW AR 140-1, par. 3-16, "Pay for travel to and from the Soldier's home to home station site for IDT is not authorized [...] active-duty training (ADT) will not be used to provide travel time to home station to attend and IDT assembly."

For "pay purposes," a Soldier in active-duty status (e.g., a USAR Soldier during ADT) is in active duty pay status for the entire day (24 hours).





Situation 10. Who Pays For What and When? Discussion

COA 1	Complies with all statutes, regulations, and policies. Critical to this COA is the CSM's early return to home on Thursday night. This means CSM Flowers will not be in active-duty pay status on Friday when she travels back to Camp Flowers for her IDT UTA.
COA 2	May not comply with all statutes, regulations, and policies. Because the CSM is in active-duty pay status on Friday and traveled to the IDT using Government funds (Government-furnished ADT conference airline ticket) the provisions of AR 140-1 par 3-16 would be violated. It doesn't matter that this COA ultimately cost less to the Government; the fact that any Government funds were expended (e.g., active-duty pay and airfare) makes it a violation. If CSM Flowers declined to claim any Government travel costs, then COA 2 might comply with AR 140-1.
COA 3	By postponing her UTA, CSM Flowers avoids all the issues and potential problems outlined in COA 1 & 2.





Situation 10. Who Pays For What and When? Discussion

Could the “reasonable commuting distance” exception outlined in AR 140-1, par. 3-16c be used to approve the CSM’s combined ADT/IDT training?

No. Some USAR commanders can approve IDT in conjunction with ADT if the Soldier lives within, “reasonable commuting distance” (actual distance varies, but is usually considered as within 50 miles of home station). However, CSM Flowers’ home in this scenario is clearly not within “reasonable commuting distance,” and it doesn’t matter the distance of CSM Flower’s home if she is still on active-duty pay status and or using Government funds to travel to the combined training. This still violates AR 140-1, par 3-16.





Situation 11. Silent Partner? (ARNG)

An Army National Guard brigade commander and his CSM are holding a meeting, when the CSM notices a picture of the commander and several other individuals in civilian clothes all holding shovels beside a sign that says, “Ground-Breaking Ceremony—Dog Tag Donuts.” As the CSM scans the pictures, he thinks he recognizes LTC Potter, a battalion commander in the Active Guard Reserve. He decides to bring it up with the commander.

“Sir, that’s a great picture,” he says pointing to the photo in question. “I feel like I know that one guy; is that LTC Potter?”

“Yep, you are correct, LTC Potter, SGM Sprinkles, MSgt Works, and I decided to go into business together. We all got together, pooled our money, and had the grand opening last week. The donuts are amazing. But don’t worry, I don’t rate or senior rate any of them and LTC Potter and I are just silent partners, not directly involved with running the shop.”

Concerned, the CSM sits down with the Brigade SJA to discuss the conversation with the commander and asks him to “look into this from a personal, legal, and ethical point of view and make sure everything is OK.”





Situation 11.

Who Pays For What and When?

Discussion

Was the business relationship between the Army National Guard brigade commander, LTC Potter, SGM Sprinkles, and MSgt Works appropriate, and does it comply with all relevant statutes, DODIs, and ARs?

No. All Soldiers in this situation violated regulatory prohibitions against ongoing business relationships between officers and enlisted personnel. AR 600-20, par. 4-14c, states that certain types of personal relationships between officers and enlisted personnel are prohibited. Prohibited relationships include ongoing business relationships between officers and enlisted personnel. This prohibition applies to borrowing or lending money, commercial solicitation, and any other type of ongoing financial or business relationship.

Does it matter that LTC Potter and the Army National Guard brigade commander are “silent partners,” who have no day-to-day involvement in running the shop?

No. The primary issue is not “supervision” of business partners or “participation” in running the business. The issue relates to the ongoing business relationship between officer and enlisted personnel.

Does it matter that MSgt Works is a member of the Air National Guard and not the Army?

No. Air Force Instruction 36-2909 is very similar to AR 600-20 in that both standards prohibit business ventures between officers and enlisted Service members.





References

Situation 1. Loyalty To Leadership?

- 5 USC 2302
- 10 USC 1034
- 10 USC 1587
- 10 USC 2409
- PPD-9, Change 3
- DODD 1401.03, "DoD Nonappropriated Fund Instrumentality (NAFI) Employee Whistleblower Protection," 13 June 2014
- DODD 7050.06, "Military Whistleblower Protection," 17 April 2015
- DFAR, Subpart 203.9
- AR 20-1 (The Inspector General System), 23 March 2020
- AR 600-20 (Army Command Policy), 24 July 2020
- Assistance and Investigations Guide, Part Two, Chapter 9

Situation 2. Do Perceptions Matter?

- AR 600-20
- 10 USC 7233
- DA PAM 600-35 (Scenarios for Relationships between Soldiers of Different Ranks), 14 June 2022.
- DOD 5500.07





References

Situation 3. Mandatory Fun?

- 5 CFR 2635
- Joint Travel Regulation (JTR)
- AR 58-1 (Management, Acquisition, and Use of Motor Vehicles)
- AR 600-20
- JER/DOD 5500.07
- AR 215-1
- AR 360-1
- 10 USC 7233

Situation 4. Do You Know What You Don't Know?

- AR 600-20
- Army Directive 2022-06 (Parenthood, Pregnancy, Postpartum)

Situation 5. Different Audiences, Different Standards?

- AR 600-20

Situation 6. Just Some Physical Training?

- AR 600-20

Situation 7. Rank Has its Privileges?

- JTR
- AR 58-1
- 5 CFR 2635
- DOD 5500-07





References

Situation 8. Is Hope a Command Decision?

- AR 600-20
- AD 2022-13

Situation 9. Think? Type? Post?

- DODI 5535.12
- DODI 5400.17
- 5 CFR 2635
- ALARACT 073/2022 (Army Social Media Policy)
- AR 360-1 (The Army Public Affairs Program)

Situation 10. Who Pays For What and When? (USAR)

- JTR
- AR 140-1

Situation 11. Silent Partner? (ARNG)

- AR 600-20
- AFI 36-2909





Droit et Avant
Be Right, Then Go Forward

