

“(B) the employee alleged to have committed the violation has entered into a signed settlement agreement with the Special Counsel with respect to the alleged violation.”

SUBCHAPTER IV—FOREIGN GIFTS AND DECORATIONS

AMENDMENTS

1967—Pub. L. 90-83, §1(45)(A), Sept. 11, 1967, 81 Stat. 208, substituted “FOREIGN GIFTS AND DECORATIONS” for “FOREIGN DECORATIONS” in subchapter heading.

[§ 7341. Repealed. Pub. L. 90-83, §1(45)(B), Sept. 11, 1967, 81 Stat. 208]

Section, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 526, related to receipt and display of foreign decorations. See section 7342 of this title.

§ 7342. Receipt and disposition of foreign gifts and decorations

(a) For the purpose of this section—

(1) “employee” means—

(A) an employee as defined by section 2105 of this title and an officer or employee of the United States Postal Service or of the Postal Regulatory Commission;

(B) an expert or consultant who is under contract under section 3109 of this title with the United States or any agency, department, or establishment thereof, including, in the case of an organization performing services under such section, any individual involved in the performance of such services;

(C) an individual employed by, or occupying an office or position in, the government of a territory or possession of the United States or the government of the District of Columbia;

(D) a member of a uniformed service;

(E) the President and the Vice President;

(F) a Member of Congress as defined by section 2106 of this title (except the Vice President) and any Delegate to the Congress; and

(G) the spouse of an individual described in subparagraphs (A) through (F) (unless such individual and his or her spouse are separated) or a dependent (within the meaning of section 152 of the Internal Revenue Code of 1986) of such an individual, other than a spouse or dependent who is an employee under subparagraphs (A) through (F);

(2) “foreign government” means—

(A) any unit of foreign governmental authority, including any foreign national, State, local, and municipal government;

(B) any international or multinational organization whose membership is composed of any unit of foreign government described in subparagraph (A); and

(C) any agent or representative of any such unit or such organization, while acting as such;

(3) “gift” means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government;

(4) “decoration” means an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government;

(5) “minimal value” means a retail value in the United States at the time of acceptance of \$100 or less, except that—

(A) on January 1, 1981, and at 3 year intervals thereafter, “minimal value” shall be redefined in regulations prescribed by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period; and

(B) regulations of an employing agency may define “minimal value” for its employees to be less than the value established under this paragraph; and

(6) “employing agency” means—

(A) the Committee on Standards of Official Conduct of the House of Representatives, for Members and employees of the House of Representatives, except that those responsibilities specified in subsections (c)(2)(A), (e)(1), and (g)(2)(B) shall be carried out by the Clerk of the House;

(B) the Select Committee on Ethics of the Senate, for Senators and employees of the Senate, except that those responsibilities (other than responsibilities involving approval of the employing agency) specified in subsections (c)(2), (d), and (g)(2)(B) shall be carried out by the Secretary of the Senate;

(C) the Administrative Office of the United States Courts, for judges and judicial branch employees; and

(D) the department, agency, office, or other entity in which an employee is employed, for other legislative branch employees and for all executive branch employees.

(b) An employee may not—

(1) request or otherwise encourage the tender of a gift or decoration; or

(2) accept a gift or decoration, other than in accordance with the provisions of subsections (c) and (d).

(c)(1) The Congress consents to—

(A) the accepting and retaining by an employee of a gift of minimal value tendered and received as a souvenir or mark of courtesy; and

(B) the accepting by an employee of a gift of more than minimal value when such gift is in the nature of an educational scholarship or medical treatment or when it appears that to refuse the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States, except that—

(i) a tangible gift of more than minimal value is deemed to have been accepted on behalf of the United States and, upon acceptance, shall become the property of the United States; and

(ii) an employee may accept gifts of travel or expenses for travel taking place entirely outside the United States (such as transportation, food, and lodging) of more than minimal value if such acceptance is appropriate, consistent with the interests of the United States, and permitted by the employing agency and any regulations which may be prescribed by the employing agency.

(2) Within 60 days after accepting a tangible gift of more than minimal value (other than a

gift described in paragraph (1)(B)(ii)), an employee shall—

(A) deposit the gift for disposal with his or her employing agency; or

(B) subject to the approval of the employing agency, deposit the gift with that agency for official use.

Within 30 days after terminating the official use of a gift under subparagraph (B), the employing agency shall forward the gift to the Administrator of General Services in accordance with subsection (e)(1) or provide for its disposal in accordance with subsection (e)(2).

(3) When an employee deposits a gift of more than minimal value for disposal or for official use pursuant to paragraph (2), or within 30 days after accepting travel or travel expenses as provided in paragraph (1)(B)(ii) unless such travel or travel expenses are accepted in accordance with specific instructions of his or her employing agency, the employee shall file a statement with his or her employing agency or its delegate containing the information prescribed in subsection (f) for that gift.

(d) The Congress consents to the accepting, retaining, and wearing by an employee of a decoration tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the employing agency of such employee. Without this approval, the decoration is deemed to have been accepted on behalf of the United States, shall become the property of the United States, and shall be deposited by the employee, within sixty days of acceptance, with the employing agency for official use, for forwarding to the Administrator of General Services for disposal in accordance with subsection (e)(1), or for disposal in accordance with subsection (e)(2).

(e)(1) Except as provided in paragraph (2), gifts and decorations that have been deposited with an employing agency for disposal shall be (A) returned to the donor, or (B) forwarded to the Administrator of General Services for transfer, donation, or other disposal in accordance with the provisions of subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41. However, no gift or decoration that has been deposited for disposal may be sold without the approval of the Secretary of State, upon a determination that the sale will not adversely affect the foreign relations of the United States. Gifts and decorations may be sold by negotiated sale.

(2) Gifts and decorations received by a Senator or an employee of the Senate that are deposited with the Secretary of the Senate for disposal, or are deposited for an official use which has terminated, shall be disposed of by the Commission on Arts and Antiquities of the United States Senate. Any such gift or decoration may be returned by the Commission to the donor or may be transferred or donated by the Commission, subject to such terms and conditions as it may prescribe, (A) to an agency or instrumentality of (i) the United States, (ii) a State, territory, or possession of the United States, or a political subdivision of the foregoing, or (iii) the District of Columbia, or (B) to an organization described in section 501(c)(3) of the Internal Revenue Code

of 1986 which is exempt from taxation under section 501(a) of such Code. Any such gift or decoration not disposed of as provided in the preceding sentence shall be forwarded to the Administrator of General Services for disposal in accordance with paragraph (1). If the Administrator does not dispose of such gift or decoration within one year, he shall, at the request of the Commission, return it to the Commission and the Commission may dispose of such gift or decoration in such manner as it considers proper, except that such gift or decoration may be sold only with the approval of the Secretary of State upon a determination that the sale will not adversely affect the foreign relations of the United States.

(f)(1) Not later than January 31 of each year, each employing agency or its delegate shall compile a listing of all statements filed during the preceding year by the employees of that agency pursuant to subsection (c)(3) and shall transmit such listing to the Secretary of State who shall publish a comprehensive listing of all such statements in the Federal Register.

(2) Such listings shall include for each tangible gift reported—

(A) the name and position of the employee;

(B) a brief description of the gift and the circumstances justifying acceptance;

(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift;

(D) the date of acceptance of the gift;

(E) the estimated value in the United States of the gift at the time of acceptance; and

(F) disposition or current location of the gift.

(3) Such listings shall include for each gift of travel or travel expenses—

(A) the name and position of the employee;

(B) a brief description of the gift and the circumstances justifying acceptance; and

(C) the identity, if known, of the foreign government and the name and position of the individual who presented the gift.

(4)(A) In transmitting such listings for an element of the intelligence community, the head of such element may delete the information described in subparagraph (A) or (C) of paragraph (2) or in subparagraph (A) or (C) of paragraph (3) if the head of such element certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources or methods.

(B) Any information not provided to the Secretary of State pursuant to the authority in subparagraph (A) shall be transmitted to the Director of National Intelligence who shall keep a record of such information.

(C) In this paragraph, the term “intelligence community” has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(g)(1) Each employing agency shall prescribe such regulations as may be necessary to carry out the purpose of this section. For all employing agencies in the executive branch, such regulations shall be prescribed pursuant to guidance provided by the Secretary of State. These regulations shall be implemented by each employing agency for its employees.

(2) Each employing agency shall—

(A) report to the Attorney General cases in which there is reason to believe that an employee has violated this section;

(B) establish a procedure for obtaining an appraisal, when necessary, of the value of gifts; and

(C) take any other actions necessary to carry out the purpose of this section.

(h) The Attorney General may bring a civil action in any district court of the United States against any employee who knowingly solicits or accepts a gift from a foreign government not consented to by this section or who fails to deposit or report such gift as required by this section. The court in which such action is brought may assess a penalty against such employee in any amount not to exceed the retail value of the gift improperly solicited or received plus \$5,000.

(i) The President shall direct all Chiefs of a United States Diplomatic Mission to inform their host governments that it is a general policy of the United States Government to prohibit United States Government employees from receiving gifts or decorations of more than minimal value.

(j) Nothing in this section shall be construed to derogate any regulation prescribed by any employing agency which provides for more stringent limitations on the receipt of gifts and decorations by its employees.

(k) The provisions of this section do not apply to grants and other forms of assistance to which section 108A of the Mutual Educational and Cultural Exchange Act of 1961 applies.

(Added Pub. L. 90-83, §1(45)(C), Sept. 11, 1967, 81 Stat. 208; amended Pub. L. 95-105, title V, §515(a)(1), Aug. 17, 1977, 91 Stat. 862; Pub. L. 95-426, title VII, §712(a)-(c), Oct. 7, 1978, 92 Stat. 994; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 107-217, §3(a)(1), Aug. 21, 2002, 116 Stat. 1295; Pub. L. 108-458, title I, §1079(b), Dec. 17, 2004, 118 Stat. 3696; Pub. L. 109-435, title VI, §604(b), Dec. 20, 2006, 120 Stat. 3241; Pub. L. 111-259, title III, §361, Oct. 7, 2010, 124 Stat. 2701; Pub. L. 111-350, §5(a)(10), Jan. 4, 2011, 124 Stat. 3841.)

HISTORICAL AND REVISION NOTES

Section of title 5	Source (U.S.Code)	Source (Statutes at Large)
7342(a)	22:2621.	Oct. 15, 1966, Pub. L. 89-673, §2, 80 Stat. 952.
7342(b)	22:2622.	Oct. 15, 1966, Pub. L. 89-673, §3, 80 Stat. 952.
7342(c)	22:2623.	Oct. 15, 1966, Pub. L. 89-673, §4, 80 Stat. 952.
7342(d)	22:2624.	Oct. 15, 1966, Pub. L. 89-673, §5, 80 Stat. 952.
7342(e)	22:2626.	Oct. 15, 1966, Pub. L. 89-673, §7, 80 Stat. 952.

The definitions of “employee” and “uniformed services” in 5 U.S.C. 2105 and 2101 are broad enough to cover the persons included in 22 U.S.C. 2621(1) with the exception of (1) individuals employed by, or occupying an office or position in, the government of a territory or possession of the United States or of the District of Columbia, (2) the President, and (3) Members of Congress, who, accordingly, are covered in paragraphs (B), (D), and (E). As the Canal Zone Government is an independent agency of the United States, see section 31 of title 2, Canal Zone Code, an employee thereof is an “employee” as defined in 5 U.S.C. 2105.

In subsection (b), the words “An employee may not” are substituted for “No person shall” to conform to the definition applicable and style of title 5, United States Code.

In subsection (c), the words “under regulations prescribed under this section” are substituted for “in accordance with the rules and regulations issued pursuant to this Act”.

In subsection (e), the words “The President may prescribe regulations to carry out the purpose of this section” are substituted for “Rules and regulations to carry out the purposes of this Act may be prescribed by or under the authority of the President”. Under 3 U.S.C. 301, the President may delegate the authority vested in him by this subsection.

REFERENCES IN TEXT

Section 152 of the Internal Revenue Code of 1986, referred to in subsec. (a)(1)(G), is classified to section 152 of Title 26, Internal Revenue Code.

Section 501 of the Internal Revenue Code of 1986, referred to in subsec. (e)(2), is classified to section 501 of Title 26, Internal Revenue Code.

Section 108A of the Mutual Educational and Cultural Exchange Act of 1961, referred to in subsec. (k), is classified to section 2458a of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

2011—Subsec. (e)(1). Pub. L. 111-350 substituted “division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41” for “title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)”.

2010—Subsec. (f)(4). Pub. L. 111-259 amended par. (4) generally. Prior to amendment, par. (4) read as follows:

“(A) In transmitting such listings for the Central Intelligence Agency, the Director of the Central Intelligence Agency may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the Director certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.

“(B) In transmitting such listings for the Office of the Director of National Intelligence, the Director of National Intelligence may delete the information described in subparagraphs (A) and (C) of paragraphs (2) and (3) if the Director certifies in writing to the Secretary of State that the publication of such information could adversely affect United States intelligence sources.”

2006—Subsec. (a)(1)(A). Pub. L. 109-435 substituted “Postal Regulatory Commission” for “Postal Rate Commission”.

2004—Subsec. (f)(4). Pub. L. 108-458 designated existing provisions as subpar. (A), substituted “the Director of the Central Intelligence Agency” for “the Director of Central Intelligence”, and added subpar. (B).

2002—Subsec. (e)(1). Pub. L. 107-217 substituted “provisions of subtitle I of title 40 and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)” for “provisions of the Federal Property and Administrative Services Act of 1949”.

1986—Subsecs. (a)(1)(G), (e)(2). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

1978—Subsec. (a)(6)(A). Pub. L. 95-426, §712(a)(1), substituted “(e)(1)” for “(e)”.

Subsec. (a)(6)(B). Pub. L. 95-426, §712(a)(2), inserted “, except that those responsibilities (other than responsibilities involving approval of the employing agency) specified in subsection (c)(2), (d), and (g)(2)(B) shall be carried out by the Secretary of the Senate”.

Subsec. (c)(2). Pub. L. 95-426, §712(b)(1), substituted “subsection (e)(1) or provide for its disposal in accordance with subsection (e)(2)” for “subsection (e)”.

Subsec. (d). Pub. L. 95-426, §712(b)(2), substituted “official use, for forwarding”, for “official use, or forwarding”, and “subsection (e)(1), or for disposal in accordance with subsection (e)(2)” for “subsection (e)”.

Subsec. (e). Pub. L. 95-426, §712(c), designated existing provisions as par. (1), substituted “Except as provided in paragraph (2), gifts” for “Gifts”, “(A)” and “(B)” for “(1)” and “(2)”, respectively, and added par. (2).

1977—Subsec. (a). Pub. L. 95-105 in par. (1) inserted provisions expanding definition of “employee” to include an officer or employee of the United States Postal Service or Postal Rate Commission, certain experts and consultants, the Vice President, and any Delegate to Congress, in par. (2) incorporated existing provisions into subpars. (A) and (C) and added subpar. (B), in par. (3) substituted reference to tangible or intangible present for reference to present, in par. (4) inserted reference to award, and added pars. (5) and (6).

Subsec. (b). Pub. L. 95-105 designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 95-105 incorporated existing provisions of pars. (1) and (2) into par. (1), inserted provisions giving congressional consent to acceptance of a gift in the nature of an educational scholarship, medical treatment, or travel or travel expenses, and added pars. (2) and (3).

Subsec. (d). Pub. L. 95-105 struck out provisions requiring the Secretary of State to concur with the approval of the employing agency and substituted provisions requiring the employee to deposit property within 60 days of acceptance with the employing agency for official use or forwarding to the Administrator of General Services for disposal for provisions requiring the employee to deposit the decoration for use and disposal as the property of the United States under regulations prescribed under this section.

Subsec. (e). Pub. L. 95-105 substituted provisions relating to the disposal of decorations for provisions authorizing the President to prescribe regulations to carry out the purposes of this section.

Subsecs. (f) to (k). Pub. L. 95-105 added subsecs. (f) to (k).

CHANGE OF NAME

Committee on Standards of Official Conduct of House of Representatives changed to Committee on Ethics of House of Representatives by House Resolution No. 5, One Hundred Twelfth Congress, Jan. 5, 2011.

EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108-458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 401 of Title 50, War and National Defense.

Amendment by Pub. L. 108-458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108-458, set out as an Effective Date of 2004 Amendment; Transition Provisions note under section 401 of Title 50, War and National Defense.

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95-105, title V, §515(a)(2), Aug. 17, 1977, 91 Stat. 866, provided that: “The amendment made by paragraph (1) of this subsection [amending this section] shall take effect on January 1, 1978.”

TRANSFER OF FUNCTIONS

Certain functions of Clerk of House of Representatives transferred to Director of Non-legislative and Financial Services by section 7 of House Resolution No. 423, One Hundred Second Congress, Apr. 9, 1992. Director of Non-legislative and Financial Services replaced by Chief Administrative Officer of House of Representatives by House Resolution No. 6, One Hundred Fourth Congress, Jan. 4, 1995.

LEASING OF SPACE AND FACILITIES FOR STORING AND SAFEGUARDING PROPERTY

Pub. L. 95-426, title VII, §712(d), Oct. 7, 1978, 92 Stat. 995, provided that: “In the event that the space and facilities available to the Secretary of the Senate for car-

rying out his responsibilities in storing and safeguarding property in his custody under section 7342 of title 5, United States Code, are insufficient for such purpose, he may, with the approval of the Committee on Rules and Administration of the Senate, lease such space and facilities as may be necessary for such purpose. Rental payments under any such lease and expenses incurred in connection therewith shall be paid from the contingent fund of the Senate upon vouchers approved by the Secretary of the Senate.”

WEARING OF CERTAIN DECORATIONS

Act Aug. 10, 1956, ch. 1041, §33A, 70 Stat. 1126, as added by Pub. L. 85-861, Sept. 2, 1958, §33(e), 72 Stat. 1567, provided: “A member or former member of an armed force of the United States holding any office of profit or trust under the United States may wear any decoration, order, medal, or emblem accepted (1) under the Act of July 20, 1942, chapter 508 (56 Stat. 662), or (2) before August 1, 1947, from the government of a cobelligerent or neutral nation or an American Republic.”

EXECUTIVE ORDER NO. 11320

Ex. Ord. No. 11320, Dec. 12, 1966, 31 F.R. 15789, which delegated to the Secretary of State the authority of the President under 22 U.S.C. 2626 to prescribe rules and regulations to carry out the Foreign Gifts and Decorations Act of 1966, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

EX ORD. NO. 11446. ACCEPTANCE OF SERVICE MEDALS AND RIBBONS FROM MULTILATERAL ORGANIZATIONS OTHER THAN UNITED NATIONS

Ex. Ord. No. 11446, Jan. 16, 1969, 34 F.R. 803, as amended by Ex. Ord. No. 13286, §62, Feb. 28, 2003, 68 F.R. 10629, provided:

By virtue of the authority vested in me as President of the United States and as Commander in Chief of the Armed Forces of the United States, I hereby authorize the Secretary of Defense, with respect to members of the Army, Navy, Air Force, and Marine Corps, and the Secretary of Homeland Security, with respect to members of the Coast Guard when it is not operating as a service in the Navy, to prescribe regulations for the acceptance of medals and ribbons which are offered by multilateral organizations, other than the United Nations, to members of the Armed Forces of the United States in recognition of service conducted under the auspices of those organizations. A determination that service for a multilateral organization in a particular geographical area or for a particular purpose constitutes a justifiable basis for authorizing acceptance of the medal or ribbon offered to eligible members of the Armed Forces of the United States shall be made with the concurrence of the Secretary of State.

SUBCHAPTER V—MISCONDUCT

§ 7351. Gifts to superiors

(a) An employee may not—

(1) solicit a contribution from another employee for a gift to an official superior;

(2) make a donation as a gift or give a gift to an official superior; or

(3) accept a gift from an employee receiving less pay than himself.

(b) An employee who violates this section shall be subject to appropriate disciplinary action by the employing agency or entity.

(c) Each supervising ethics office (as defined in section 7353(d)(1)) is authorized to issue regulations implementing this section, including regulations exempting voluntary gifts or contributions that are given or received for special occasions such as marriage or retirement or under other circumstances in which gifts are traditionally given or exchanged.