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NOTE: *Nothing in this chapter relieves the requirement for submitting foreign travel requests for review and decision. (See ch. 3.)*

5.01 PURPOSE

a. This chapter contains policies and procedures regarding acceptance of gifts or donations in cash or in kind by VHS&RA employees in connection with official travel for education and training activities, meetings, and to Nationally Recognized Principal Research Investigators.

b. VA conduct and conflict of interest regulations are generally applicable to these official purpose gifts, as well as personal gifts and extra VA compensation. Accordingly, employees accepting gifts and donations for purposes described in this chapter must be familiar with those regulations (38 CFR, part 0). However, section 811 of those regulations (38 CFR 0.735-11) concerning the acceptance of gifts by employees solely in their personal capacities unrelated to official travel is inapplicable to gifts described in this chapter.

c. The provisions of MP-5, part II, Chapter 13, "Outside Professional Activities," do not apply to gifts covered by this chapter. That chapter deals solely with remunerated professional activities conducted outside of an employee's VA employment and it does not concern the acceptance of official purpose gifts. Further, nothing in this chapter in any way alters or changes the procedures as described in chapter 13.

5.02 POLICY

a. VHS&RA employees may accept gifts, donations, payments or contributions in connection with official travel for education or training, as described below, and contributions may be made to Nationally Recognized Principal Research Investigators for purposes specified in paragraph 5.02(3).

b. Employee Acceptance of Cash or Support in Kind From an Organization

(1) Direct cash contributions from 26 U.S.C. 501(c)(3) organizations for travel in connection with training in nongovernment facilities or attendance at meetings. Only those organizations described in Section 501(c)(3) can make direct cash contributions to VHS&RA employees in connection with official travel and subsistence expenses. The Superintendent of Documents prints an annual listing of such organizations entitled "Cumulative List of Organizations Described in Section 170(c) of the Internal Revenue Code of 1965", (publication 78). In order to obtain current information as to whether a particular organization is tax exempt pursuant to section 501(c)(3), contact the Taxpayer Services Division at any district office of the IRS (Internal Revenue Service) or at the IRS Reading Room, FTS 563-3770. (Authority for accepting such donations is contained in 5 U.S.C. 4111.)

(2) Direct cash contributions from State or local governments for official travel for any type of training and education. Contributions emanating from the treasury of any State, county, or municipality in the United States for attendance at meetings are

acceptable. In this regard, special practice funds derived from medical or dental practices would not qualify because they are not in the nature of a contribution from a State, county, or municipal treasury. Some special practice funds are exempt under 26 U.S.C. 501(c)(3); however, if they do not have such exemption from IRS, the funds may not be accepted. (Authority contained in 5 CFR 410.702).

(3) Direct cash or in kind contributions to nationally recognized principal research investigators. A "principal investigator" is defined as an individual who is accountable for the proposal, performance, and culmination of a research or development project. Further, a principal investigator who is "nationally recognized" is one who meets two or more of the following criteria:

(a) Listed in American Men and Women of Science or other comparable publication;

(b) Recognition among the employee's professional peers based on the employee's medical research accomplishment;

(c) Receipt of significant awards or honors for medical research accomplishments;

(d) Invitation to participate in national conventions or meetings of medical or scientific organizations in order to deliver paper or address concerning the participant's medical research;

(e) Publication of research results in nationally circulated medical or scientific publications of good repute or in widely used texts. VHS&RA employees who are nationally recognized principal research investigators may accept, in cash or in kind, travel and reasonable subsistence expenses in connection with their participation in the following activities: attendance at meetings; performing advisory services concerned with the functions or activities of VA; or acceptance of a significant award or with activity related thereto concerned with functions or activities of VA. (Authority contained in Pub. L. 93-22; 38 U.S.C. 4108(d).)

(4) Acceptance by any VHS&RA employee of in kind donations from any non-Federal source for official meeting travel for any type of training or education. A VHS&RA employee traveling on official business related to the operations of the VHS&RA medical care system, including attendance at meetings, may accept a donation in the form of accommodations, meals, travel, transportation, and related expenses on behalf of the agency. The donation must be prepaid by the donor organizations, i.e., a plane ticket, or billed by the provider directly to the donor organization. Direct payment or reimbursement to the employee is not permitted. (Authority contained in 38 U.S.C. 5004(f), 5101; and Op. G.C. 21-75).

(5) VHS&RA Supplement to VA Manual MP-4, part VII, paragraph 4.04n.(2) authorizes Program officials in Central Office who are concerned with administration of patient care, quality control, professional peer review, or medical education to permit donations to the General Post Fund when

(a) VHS&RA is a member of or utilizes the services of the medical professional organization,

(b) the organization provides services which assist VA in improving patient care, providing quality control, performing professional peer group evaluation, or medical education that benefits the department, and

(c) travel of VA staff members is required to meet any commitment to the medical professional organization. Facilities desiring to use this option must submit the name and address of the professional organization with appropriate justification to the ACMD for Academic Affairs (144C).

5.03 LIMITATION ON ACCEPTING FOREIGN GOVERNMENT GIFTS

NOTE: *"Foreign government" is defined as any unit of foreign governmental authority, including any foreign national, State, local or municipal Government; any international or multinational organization whose membership is composed of any unit of a foreign government described in subparagraph a; or any agent or representative of any such unit or such organization, while acting as such.*

a. Generally, employees and their spouses and dependents may not accept gifts from a foreign government. (See 5 U.S.C.7342(b).)

b. This limitation does not apply to "in kind" donations to the agency that are being accepted by employees on official business on behalf of the agency as permitted by paragraph 5.02a(4).

c. In certain other circumstances, employees may personally accept foreign government gifts. Prior review and approval by the Office of General Counsel (02), VA Central Office is required.

5.04 ADMINISTRATIVE PROCEDURES

In authorizing acceptance of non-Federal contributions, the approving official must be certain the following conditions are met:

a. Authorization by the delegated official must be in writing and in advance of the acceptance. A copy of the authorization is to be sent to the facility fiscal office so a determination can be made if any reductions in agency paid expenses are required to avoid duplicate payments. In Central Office, this is the Chief, Voucher Audit Section (047B25).

b. The contribution, award, or payment is not a reward for services to the organization prior to the training or meeting.

c. Acceptance of the contribution, award or payment would:

(1) Not reflect unfavorably on the ability of the employee to carry out official duties in a fair and objective manner;

(2) Not compromise the honesty and integrity of Government programs or of Government employees and their official actions or decisions;

(3) Not result in or appear to result in any preferential treatment of private gain to the donor;

(4) Be compatible with the Code of Ethics for Government Service expressed in Pub. L. 93--303;

(5) Otherwise be proper and ethical for the employee concerned under the circumstances in their particular case and as may be applicable to appendix 9B.

(6) Not result in or give the appearance that employees are:

(a) Using public office for private gain;

(b) Giving preferential treatment to a company with commercial interests in VA;

(c) Losing impartiality;

(d) Adversely affecting the public's confidence in the integrity of the Government; and,

(e) Giving the appearance of marketing a commercial product.

(7) In summary, the primary concerns in conflict of interest situations are:

(a) Is there personal gain?

(b) Does the source of support have or seek a contract or other commercial relationship with VA?

(c) Can a company's interests be advanced in the performance of the employee's official duties?

5.05 FACILITY REVIEW

Facility Directors are authorized to approve or disapprove requests for VHS&RA employees under their jurisdiction using the policies and procedures contained in this chapter. This authority may not be redelegated to any other facility official. Employees should submit their requests to the facility Director using VA Form 10-0101B (see app. 5C). Blank forms are available from the Forms and Publications Depot, Alexandria, VA. Requests from individual facility Directors to accept such gifts or donations must be submitted to Central Office (see par. 5.07).

5.06 APPEALS

Appeals to facility Director's decisions may be directed in writing through the employee's division or service chief to the facility Director with any administrative or technical explanation/justification not included in the original request.

5.07 CENTRAL OFFICE REVIEW

The ACMD for Academic Affairs is authorized to approve or disapprove requests for facility Directors and for VHS&RA Central Office employees using the policies contained in this chapter. Facility Directors should submit their individual requests to the ACMD for Academic Affairs through the appropriate Regional Director (10BA__/144C), using VA Form 10-0101 (see app. 5D). VA Central Office employees will submit their individual requests after obtaining necessary endorsements, to the ACMD for Academic Affairs (144C) using VA Form 10-0101A (see app. 5E). Blank forms are available from Administrative Operations Staff (144C), Office of Academic Affairs, VA Central Office.

5.08 REPORTING REQUIREMENTS

a. The following records are to be maintained for all acceptance of donations, in cash or in kind, and for appropriate reporting of foreign travel (including Canada and Mexico) as required by VA Manual MP-1, part II, chapter 2.

- (1) Name of employee, including VHS&RA title and assignment.
 - (2) Dates and location of detail.
 - (3) Name and address of donor.
 - (4) Amount and nature of donations, contribution, award, or payment.
 - (5) Purpose for which donation, contribution, award, or payment was made.
 - (6) If donation is in relation to a "nationally recognized principal investigator," note the specific criteria supporting such acceptance. (See par. 5.02a(3).)
 - (7) If an award, state title.
 - (8) Evidence of facility Director's written authorization/approval, including any special exceptions under paragraph 5.04.
- b. An annual report will be provided by facility Directors to reach the ACMD for Academic Affairs (144C) no later than the 10th workday following the close of each fiscal year. This report will be submitted in duplicate in the format shown as appendix 5F (RCS 10-0146). Negative reports are required.

COPY COULD NOT BE CONVERTED TO WANG
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PUBLIC LAW 96-303-- July 3, 1980

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MEMORANDUM - CONFLICT OF INTEREST

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VA FORM 10-0101B, REQUEST FOR APPROVAL OF ACCEPTANCE OF GIFTS
OR DONATIONS FOR TRAVEL/SUBSISTENCE EXPENSES IN CONNECTION
WITH OFFICIAL TRAVEL BY VHS&RA EMPLOYEES

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VA FORM 10-0101, REQUEST FOR APPROVAL OF ACCEPTANCE OF GIFTS
OR DONATIONS FOR TRAVEL/SUBSISTENCE EXPENSES IN CONNECTION
WITH OFFICIAL TRAVEL BY VHS&RA FACILITY DIRECTORS

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VA FORM 10-0101, REQUEST FOR APPROVAL OF ACCEPTANCE OF GIFTS
OR DONATIONS FOR TRAVEL/SUBSISTENCE EXPENSES IN CONNECTION
WITH OFFICIAL TRAVEL BY VHS&RA CENTRAL OFFICE EMPLOYEES

FORMAT FOR REPORTING

FISCAL Year _____ VHS&RA Report on Employee Acceptance of Gifts
 RCS 10-0146

or Donations in Cash or in Kind in Connection
 with Official Travel

Facility Name and Number: _____

Person to contact about information in the report:

	Number of Employees	Number of Episodes	Funds Accepted	Estimated in Kind Value Accepted
1. Employee acceptance of cash from a 26 U.S.C. 501(c)(3) organization.				XXX
2. Employee acceptance of support in kind from a 26 U.S.C. 501(c)(3) organization.			XXX	
3. Employee acceptance of donations from State, county, or municipal government.				
4. Acceptance of cash by a "Nationally Recognized Principal Investigator."				XXX
5. Acceptance of support in kind by a "Nationally Recognized Principal Investigator."			XXX	
6. Employee acceptance of support in kind from organization other than 26 U.S.C. 501(c)(3)			XXX	
TOTAL	<u>1</u> /			

1/Provide an unduplicated overall count of employees reported as accepting cash or support in kind. Some employees participated in more than one episode. This figure represents the number of individuals counted only once.

Information due to reach the ACMD for Academic Affairs (144C) no later than the 10th workday following the close of each fiscal year.