

**BY ORDER OF THE
SECRETARY OF THE AIR FORCE**

AIR FORCE POLICY DIRECTIVE 51-5

31 AUGUST 2018



Law

**ADMINISTRATIVE LAW, GIFTS, AND
COMMAND RELATIONSHIPS**

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

ACCESSIBILITY: Publications and forms are available on the e-Publishing website at www.e-Publishing.af.mil for downloading or ordering.

RELEASABILITY: There are no releasability restrictions on this publication.

OPR: AF/JAA

Certified by: AF/JA
(Lt Gen Jeffrey A. Rockwell)

Supersedes: AFPD51-5, 27 September 1993,
AFPD51-6, Command and Administrative
Proceedings, 13 November 2015; AFPD51-9,
Civil Law for Individuals, 30 July 2015

Pages: 10

This Directive implements Title 5, United States Code, Section 7342 (*Receipt and Disposition of Foreign Gifts and Decorations*); Title 10, United States Code, Section 938 (*Complaints of Wrong*), Section 976 (*Membership in Military Unions, Organizing of Military Unions, and Recognition of Military Unions Prohibited*), and Section 2601 (*General Gift Funds*); DoDD 1005.13, *Gifts and Decorations from Foreign Governments*, 19 February 2002; DoDD 1344.10, *Political Activities by Members of the Armed Forces*, 19 February 2008; DoDI 1325.06, *Handling Dissident and Protest Activities Among Members of the Armed Forces*, 27 November 2009; and is consistent with DoDD 5100.01, *Functions of the Department of Defense and Its Major Components*, 21 December 2010; and Joint Publication 1, *Doctrine for the Armed Forces of the United States*, 25 March 2013. This Directive applies to all Air Force personnel (Regular Air Force (RegAF), Air Force Reserve (AFR) and Air National Guard (ANG) military and civilian employees, and those with a contractual obligation to abide by the terms of Air Force issuances). This Directive does not apply to grievances from non-bargaining civilian employees or from employees represented by an exclusively recognized union, both of which are addressed in Air Force Policy Directive 36-7, *Employee and Labor-Management Relations*.

Refer recommended changes and questions about this publication to the Office of Primary Responsibility using the AF Form 847, Recommendation for Change of Publication; route AF Forms 847 from the field through appropriate functional chain of command.

Ensure all records created as a result of processes prescribed in this publication are maintained in accordance with Air Force Manual 33-363, *Management of Records*, and disposed of in accordance with the Air Force Records Disposition Schedule located in the Air Force Records Information Management System.

SUMMARY OF CHANGES

This document has been substantially revised and must be completely reviewed. It partially merges and supersedes two Policy Directives (AFPD 51-6 and AFPD 51-9). The format has changed to improve clarity and organization within the Directive. Provisions related to trial in United States district court or United States magistrate court for civilians who commit offenses in violation of federal law on United States Air Force installations have been incorporated into Air Force Policy Directive 51-2, *Military Justice*.

1. Overview. As an organization comprised of personnel committed to defending the United States Constitution, the Department of the Air Force bears the responsibility of maintaining public trust and confidence through its adherence to the rule of law. Air Force compliance with civil legal authority as required ensures due process, fairness and justice, and promotes efficiency. This Directive ensures that commanders are informed of the legal bases for guiding activities of individuals in order to maintain good order and discipline and of their responsibilities under the Uniform Code of Military Justice (UCMJ). This Directive establishes policy and assigns responsibilities for ensuring due process during administrative proceedings before a board of officers (“boards”). It also establishes policy and assigns responsibilities for accepting gifts to the Air Force. Finally, this Directive also assigns responsibilities for command consistent with DODD 5100.01; Joint Publication 1; and Air Force Mission Directive 1, *Headquarters Air Force (HAF)*. This will ensure compliance with the principle that command is central to all military action and that unity of command is fundamental to the optimal employment of all forces under a single responsible commander. Unless otherwise stated, this Directive does not confer any rights, benefits, or form of due process on any individual, nor does it create any obligations for the United States, the Department of Defense, or the Air Force.

2. Policy. The Air Force shall:

2.1. Acknowledge the receipt of gifts in a thankful manner, take care to avoid providing a response that contains an endorsement of the donor, and make no arrangements granting special favors to the donor.

2. 2 Institute procedures to allow the Secretary of the Air Force (SecAF), or those to whom the Secretary delegates authority, to accept gifts of personal and real property.

2.3. Provide a full, fair, and impartial hearing to those entitled to boards and ensure that the rights of all victims, to include a victim of an alleged sex-related offense, as set forth in the allegation under consideration as a basis for a board, and who is identified in the allegation under consideration, are acknowledged and respected.

2.4. Prohibit Air Force members from engaging in political activities that undermine political neutrality of the Armed Forces.

2.5. Prohibit demonstrations or other activities within an Air Force installation that could interfere with or prevent the orderly accomplishment of the installation mission, or which present a clear danger to loyalty, discipline, or the morale of members of the Armed Forces.

2.6. Ensure commanders understand their obligation to act, and to act in a timely manner, on Article 138, UCMJ, complaints submitted by Air Force members, Exception: This paragraph does not apply to individuals who were not subject to the UCMJ at the time the alleged action complained of was taken.

2.7. Ensure that all communications to SecAF pertaining to command matters are coordinated through the Chief of Staff of the Air Force (CSAF).

2.8. Allow commanders to appoint commanders of subordinate units under their command while instituting procedures to ensure that only commissioned Air Force officers exercise command of an Air Force organization. Civilians and enlisted members may not exercise command and an officer may not command another officer of higher grade.

2.9. Provide authority, except as required by law or controlling superior authority, for a civilian director to perform all functions normally requiring action by a unit commander of like position and authority.

3. Roles and Responsibilities.

3.1. SecAF.

3.1.1. As the head of the Department of the Air Force, subject to the direction of the Secretary of Defense and to the authority of the commanders of the combatant commands, is responsible for and has the authority necessary to conduct all affairs of the Air Force.

3.1.2. Pursuant to Title 10, United States Code, Section 2601 and other applicable statutes, may accept gifts of personal property and real property, and must ensure the proper accounting, safeguarding, and use of such gifts. SecAF herein delegates this authority as follows:

3.1.2.1. The General Counsel and Deputy General Counsel of the Air Force are delegated authority to accept any gift of personal property.

3.1.2.2. The Assistant Secretary of the Air Force (Installations, Environment, and Energy), the Principal Deputy Assistant Secretary (Installations, Environment, and Energy), and the Deputy Assistant Secretary (Installations) are delegated the authority to accept any gift of real property. In addition, the Assistant Secretary of the Air Force (Installations, Environment, and Energy) is the only delegated authority to accept gifts of real property made conditional by the donor upon naming rights, pursuant to Title 10, United States Code, Section 2601(e).

3.1.2.3. A gift of real property of \$100,000 or less, that does not require expenditures for acceptance and annual maintenance in excess of five percent of the total gift value, may be promptly accepted or rejected by the following, who may redelegate their authority to subordinate commanders, but not lower than Air Force installation commanders:

3.1.2.3.1. Director, Air Force Civil Engineer Center Installations Directorate.

3.1.2.3.2. The Chief of the AFR.

3.1.2.3.3. The Director of the ANG.

3.1.2.3.4. The Superintendent of the United States Air Force Academy (USAFA) as further clarified in paragraph 3.8.

3.1.2.3.5. The Director of the National Museum of the United States Air Force as further clarified in paragraph 3.9.

3.1.2.3.6. The commanders of installations who have a qualified real property support element on their staff.

3.1.2.4. A gift of tangible or intangible personal property of \$100,000 or less, that does not require more than negligible expenditure for its acceptance and maintenance, may be promptly accepted or rejected by:

3.1.2.4.1. CSAF.

3.1.2.4.2. The commander of a major command, who may redelegate this authority to numbered Air Force commanders or their equivalents.

3.1.2.4.3. The commanders and directors of field operating agencies.

3.1.2.4.4. Director, National Museum of the United States Air Force as further clarified in paragraph 3.9.

3.1.2.4.5. Director, Air Force History and Museums Program.

3.1.2.4.6. Commanders of Air Force medical treatment facilities.

3.1.2.4.7. The Director of Department of Defense Dependent Schools--Pacific area.

3.1.2.4.8. The Commander, 11th Wing.

3.1.2.4.9. The Superintendent of USAFA as further clarified in paragraph 3.8.

3.1.2.4.10. Officials named in 3.1.2.4.1 – 3.1.2.4.9 above may redelegate their authority to subordinate commanders, but not lower than installation commanders. Whether or not any such redelegation has been made, installation commanders may accept or reject gifts of personal property valued at \$5000 or less, and may redelegate said authority to subordinates.

3.1.2.4.10.1. On Joint Bases, the Supporting Component will normally exercise the installation commander's authority to accept gifts that benefit the installation. In the case of gifts to the installation that only benefit the Air Force Supported Component, the Senior Air Force Officer assigned may exercise this delegated authority to accept or reject gifts of personal property with a value of \$5,000 or less.

3.1.3. SecAF delegates to the following personnel the authority to appoint an officer to command in the Air Force as described below, who may re-delegate such authority to subordinate commanders and staff officers:

3.1.3.1. CSAF and the Vice Chief of Staff of the Air Force may appoint officers to all command positions in the Air Force;

3.1.3.2. Deputy Chiefs of Staff of the Air Force and other Air Staff Office Chiefs for field operating agencies under their supervision;

3.1.3.3. The military deputies to the Under Secretary of the Air Force and the Assistant Secretaries of the Air Force may appoint commanders of field operating agencies under their supervision;

3.1.3.4. The Inspector General for organizations under the Inspector General's supervision;

3.1.3.5. The Surgeon General for medical organizations under the Surgeon General's supervision;

3.1.3.6. The Judge Advocate General for the Air Force Legal Operations Agency;

3.1.3.7. The Air Force District of Washington Commander for all organizations under that commander's command and all organizations authorized to have a commander that are not otherwise addressed in paragraphs 3.1.3.2. to 3.1.3.6.;

3.1.3.8. The Senior Air Force Officer (or Air Force officer appointed to command the Air Force component if not the Senior Air Force Officer), in a unified command, joint task force, combined task force, coalition force, or activity or agency outside the Air Force to appoint the Air Force commander of a subordinate Air Force component command or section commander for the section(s) falling within the Senior Air Force Officer's or commander's area of responsibility; and

3.1.3.9. The Commander of Air Force Forces, to appoint commanders for Air Force organizations operating under his or her command authority.

3.2. CSAF.

3.2.1. CSAF outranks all other Air Force officers but is not a commander. CSAF, Vice Chief of Staff, Deputy Chiefs of Staff, Assistant Chiefs of Staff, other heads (military or civilian) of Air Staff "two-letter" offices or other staff agencies, and as well as civilian leaders and military officers within the Office of the Secretary of the Air Force, the Office of the Joint Chiefs of Staff, and the Office of the Secretary of Defense are not commanders.

3.2.2. May exercise supervisory authority over all military members of the Air Force as prescribed by the SecAF. However, CSAF may not exercise supervisory authority over Air Force officers serving as the Chairman or Vice Chairman of the Joint Chiefs of Staff. If the Chairman and/or Vice Chairman of the Joint Chiefs of Staff is an Air Force officer, CSAF does not exercise any authority over them.

3.2.3. Military or civilian heads of "two-letter" and "three-letter" offices within the Office of the Secretary or the Air Staff are authorized to perform functions identified in Air Force policy as requiring action by the respective unit commander (e.g., squadron-level commander or civilian equivalent), as long as those actions are not reserved specifically to a "commander" by law (e.g., the Uniform Code of Military Justice UCMJ) or this Policy Directive (see paragraph 3.3). These authorities do not make the persons exercising them "commanders." Further, these duties and responsibilities may not be further re-delegated.

3.3. Air Force District of Washington (AFDW).

3.3.1. SecAF delegates authority to the AFDW Commander to exercise general, special, and summary court-martial convening authority; actions under Article 15, UCMJ; administrative actions where the approval/waiver authority is identified as a major command commander; and other actions requiring command authority over the Air Force members identified in the following subparagraphs.

3.3.1.1. Air Force members, as defined in 3.3.1.4, who are assigned, attached, or on temporary duty with:

3.3.1.1.1. Headquarters Air Force (the Secretariat and the Air Staff), per Title 10, United States Code, Chapters 803 and 805;

3.3.1.1.2. Headquarters Army (the Secretariat and the Army Staff), per Title 10, United States Code, Chapters 303 and 305;

3.3.1.1.3. Headquarters Navy (the Secretariat, Office of the Chief of Naval Operations, the Bureaus, and the Office of the Judge Advocate General), per Title 10, United States Code, Chapters 503, 505, and 513;

3.3.1.1.4. Headquarters Marine Corps, per Title 10, United States Code, Chapter 506;

3.3.1.1.5. The Office of the Joint Chiefs of Staff;

3.3.1.1.6. The Office of the Secretary of Defense; and

3.3.1.1.7. Air Force members whose organization is not subordinate to an Air Force major command and who are not assigned to an Air Force commander authorized to exercise general court-martial convening authority or special court-martial convening authority. *See* AFPD 51-2 for additional guidance.

3.3.1.2. Inmates, parolees, and members on appellate leave assigned to the Air Force Security Forces Center, Corrections Division, are attached to the AFDW and its appropriate subordinate commands for the exercise of general, special, and summary court-martial convening authority.

3.3.1.3. The authorities delegated to AFDW Commander may be further delegated.

3.3.1.4. As used in paragraph 3.3.1., the term “Air Force members” includes:

3.3.1.4.1. Members of the Regular Component of the Air Force; and

3.3.1.4.2. Members of the Air Reserve Component (AFR and ANG) when subject to the UCMJ in accordance with Title 10, United States Code, Section 802.

3.3.1.4.3. **Exception** : Command authority affecting officers who are senior in grade to the AFDW Commander, is reserved to the SecAF.

3.4. Air Force members assigned to the North Atlantic Treaty Organization and stationed in Europe are attached to United States Air Forces in Europe for general, special, and summary court-martial convening authority; actions under Article 15, UCMJ; administrative actions; and other actions requiring command authority.

3.5. Commanders.

3.5.1. Air Force commanders are responsible for maintaining good order and discipline and under certain circumstances may need to restrict the activities and access of individuals. Before implementing such restrictions, commanders should consult with their servicing Staff Judge Advocate who shall be responsible for providing advice and counsel to commanders regarding the legal basis for a particular restriction and to ensure an appropriate balance between individual civil liberties and good order and discipline on an installation.

3.5.2. Commanders may appoint commanders of subordinate units under their command.

3.6. The General Counsel of the Air Force.

3.6.1. The Office of the Air Force General Counsel is responsible for interpreting and providing legal advice related to the Hatch Act (Title 5, United States Code, Sections 7321-7326 and Title 18, United States Code, Sections 601-610 and DoDD 1344.10) to Air Force employees.

3.7. The Judge Advocate General of the Air Force.

3.7.1. The Judge Advocate General, in coordination with the Air Force General Counsel, as appropriate, is responsible for interpreting and issuing implementing instructions for this Directive. The Judge Advocate General is also responsible for developing, coordinating, and executing personnel policy and essential procedural guidance for the management of military standards pertaining to professional and unprofessional relationships consistent with responsibilities detailed in Air Force Policy Directive 36-29, *Military Standards*, and Headquarters Air Force Mission Directive 1-14, *General Counsel and The Judge Advocate General*, Attachment 5.

3.7.1.1. In boards, The Judge Advocate General codifies, with respect to board proceedings, the rights of all victims, to include a victim of an alleged sex-related offense, as set forth in the allegation(s) under consideration as a basis for the board, and who is identified in the allegation(s) under consideration.

3.8. The USAFA Superintendent.

3.8.1. In addition to delegated authority noted in paragraph 3.1.2.4.9., the USAFA Superintendent may accept gifts of personal property for the support and benefit of the USAFA Athletic Program, from any donor; of “funds, supplies, equipment and services” for the support and benefit of the USAFA Athletic Program, from the Air Force Academy Athletic Corporation (AFAAC), pursuant to Title 10, United States Code, Section 9362(e); and of personal property for the support and benefit of the USAFA Academic Program, including research facilities and efforts, from any donor, in all cases having a value of \$250,000 or less.

3.8.2. In addition to delegated authority noted in paragraph 3.1.2.3.4., the USAFA Superintendent is also authorized to reject or accept the following, provided the acceptance and annual maintenance expenses are not in excess of five percent of the total gift value:

3.8.2.1. A gift of real property of \$100,000 or less.

3.8.2.2. A gift of real property for the support and benefit of the Air Force Academy Athletic Program, from any donor, having a value of \$250,000 or less.

3.8.2.3. This authority does not apply to gifts of real property made conditional upon naming rights.

3.9. The Director, National Museum of the United States Air Force.

3.9.1. In addition to delegated authority noted in paragraph 3.1.2.4.4., the Director, National Museum of the United States Air Force may accept gifts of personal property with historical significance into the Air Force historical collection having a value of \$250,000 or less.

3.9.2. In addition to delegated authority noted in paragraph 3.1.2.4.4., the Director of the National Museum of the United States Air Force is authorized to reject or accept a gift of tangible or intangible personal property of \$100,000 or less, and to accept or reject gifts of \$25,000 or less intended to be affixed as real property in the National Museum of the United States Air Force's Memorial Park, Wright-Patterson AFB, Ohio.

HEATHER A. WILSON
Secretary of the Air Force

Attachment 1**GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

Title 5, United States Code, Sections 7321-7326, 7342

Title 10, United States Code, Chapters 303, 305, 503, 505, 506, 513, 803 and 805; and Sections 101, 164, 601-610, 802, 938, 976, 2601, 8013, 8074, 9362

DoDD 1005.13, *Gifts and Decorations from Foreign Governments*, 19 February 2002

DoDD 1344.10, *Political Activities by Members of the Armed Forces*, 19 February 2008

DoDD 5100.01, *Functions of the Department of Defense and Its Major Components*, 21 December 2010

DoDI 1325.06, *Handling Dissident and Protest Activities Among Members of the Armed Forces*, 27 November 2009

JP 1, *Doctrine for the Armed Forces of the United States*, 25 March 2013

AFMD 1, *Headquarters Air Force (HAF)*, 8 April 2011

HAFMD 1-14, *General Counsel and The Judge Advocate General*, 29 December 2016

AFPD 36-7, *Employee and Labor-Management Relations*, 29 April 2015

AFPD 36-29, *Military Standards*, 24 September 2014

AFPD 51-2, *Administration of Military Justice*, 31 August 2018

AFI 38-101, *Manpower and Organizations*, 31 January 2017

AFMAN 33-363, *Management of Records*, 1 March 2008

Prescribed Forms

There are no prescribed forms

Adopted Forms

AF Form 847, *Recommendation for Change of Publication*

Terms

Air Force Element:—The nomenclature used to account for manpower authorizations and to identify Air Force personnel on duty with organizations outside the Air Force, such as defense agencies, defense field activities, sister services, and Air National Guard units not in federal service. Although not a unit for organizational purposes, an Air Force Element may function as a unit if so designated by competent authority. For more detail regarding the structure and requirements of an Air Force Element, *see* Air Force Instruction 38-101.

Commander:—A commissioned officer who, by virtue of rank and assignment, exercises command authority over a military organization or prescribed territorial area, which under pertinent official directives is recognized as a “command.” This designation is used in all Air

Force organizations authorized to be led by a commander except the United States Air Force Academy, which is commanded by a superintendent, and school/academic organizations, which may be commanded by commandants.

Unit— The parameters of a “unit” as detailed in Air Force Instruction 38-101 control. Generally, a “unit” is a military organization constituted by directives issued by Headquarters United States Air Force. A unit is either named or numbered. Air Force units include major commands, numbered air forces, wings, groups, squadrons, centers, direct report units, field operating agencies, and provisional units. They also include deployable units formed from air expeditionary forces, such as air expeditionary wings, groups, or squadrons, attached to an Air and Space Expeditionary Task Force or an in-place numbered air force that has been directed by a major command to support a joint force commander. A duly constituted unit will have a civilian director or a commander who has assumed or been appointed to command. For purposes of this directive, the term “unit” will include those non-units identified in Air Force Instruction 38-101 as being authorized to have a commander, such as sections, detachments, and Air Force Elements.