



DEPARTMENT OF THE ARMY
OFFICE OF THE GENERAL COUNSEL
104 ARMY PENTAGON
WASHINGTON DC 20310-0104

SAGC-EF

16 September 2013

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Application of Federal Ethics Rules to Same-Sex Spouses

1. On June 26, 2013, the Supreme Court ruled that Section 3 of the Defense of Marriage Act is unconstitutional. As a result of this decision, effective August 19, 2013, Federal ethics rules, including the conflict of interest laws and regulations, apply to civilian employees and military members in same-sex marriages in the same way that they apply to other married individuals, regardless of the employee's or military member's state of residency. With respect to this guidance, a "same-sex marriage" means one performed in a place that recognized same-sex marriage at the time of the individual's marriage.

2. For purposes of complying with the Federal ethics rules, if you are in a same-sex marriage, the Supreme Court ruling may affect you in several ways:

a. First, your same-sex spouse's financial interests are now treated as if they are your own under the criminal conflict of interest laws. In other words, your same-sex spouse's financial interests are imputed to you. As a result, for example, you may not work on any assignments that have a direct and predictable effect on your same-sex spouse's financial interests because you would have an actual criminal conflict of interest.

b. Second, if you are required to file a public or confidential financial disclosure report, you must include your same-sex spouse's reportable financial interests on all future financial disclosure reports. This includes filing periodic transaction reports (OGE Form 278Ts) for all reportable transactions of your same-sex spouse occurring on or after **August 19, 2013**. You do not, however, need to amend any of your previously filed reports to include your same-sex spouse's financial information.

3. Please be advised that the criminal conflict of interest statutes and the financial disclosure reporting requirements do not apply in the same manner to personnel in "domestic partnerships" or "civil unions." Nevertheless, civilian employees and military members, including those in a domestic partnership or civil union, are still covered by the Federal impartiality regulation, which may require a civilian employee or military member to be recused from working on assignments affecting his or her partner or members of their households because of the appearance that he or she cannot be impartial.

4. **Please ensure dissemination to all civilian employees and military members.** If there are any questions about the above or other ethics rules, please contact your local

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ethics counsel. Within the Secretariat, please call Army Office of General Counsel (Ethics and Fiscal) at (703) 695-4296.



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