

MILITARY DEPARTMENT
OFFICE OF THE ADJUTANT GENERAL
9800 Goethe Road
Sacramento, California 95827-3561



NGCA-TAG

24 January 2023

MEMORANDUM FOR Servicemembers and Employees of the California Military Department

SUBJECT: California Military Department Donation and Gift Policy

1. References.

- a. DoD 5500.7-R, Joint Ethics Regulation, 17 November 2001
- b. Government Code Sections 8647, 11005, and 16302
- c. State Administrative Manual (SAM), Chapters 8600-8672, Property Accountability
- d. Military and Veterans Code (CMVC) Sections 179, 411, 412.5, 418, 551
- e. California Military Department Regulation (CMDR) 735-5, State Property Management and Accountability Policy, 01 July 2021

2. Purpose. This policy establishes requirements and procedures for the receipt and accessioning of donations and gifts conveyed to the California Military Department (CMD or Department).

3. Definitions.

a. Property refers to all assets used in the Department's operations, including both tangible and intangible assets. See SAM Chapters 8609 to 8615.4 for definitions of classes of property.

b. Unaccountable property, per Para 3-2 CMDR 735-5, is property not to be accounted for by the State of California in the State Asset Program or other State registers. Unaccountable property includes Federal property (MTOE & TDA property), personally owned property (i.e., radios, pictures and coats), and expendables (paper, pens, ink cartridges, etc.).

4. Scope.

a. This policy applies to all Servicemembers and Employees of the CMD. This policy supersedes the "California Military Department Donation and Gift Receipt Policy" dated 27 August 2021.

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b. This policy applies to all components of the CMD, including the CAARNG, CAANG, CSG, and Youth and Community Programs.

c. This policy applies to all donations to the CMD, including those given to the California Military Department Support Fund and the California Military Department Foundation.

d. This policy does not apply to donations and gifts to the CMD State Military Museums Program pursuant to CMVC Section 179.

5. Policy.

a. CMD will only accept donations and gifts that advance the mission of the Department. All donations and gifts will be vetted according to established procedures prior to acceptance to ensure the Department is legally authorized to accept the property, and that acceptance will not result in fiscal or administrative burdens that divert resources away from accomplishing the Department's mission. Office of the Staff Judge Advocate (OSJA) will be the point of contact for coordinating staff sections for the vetting of proposed donations.

b. All gifted or donated property, including cash, morale, welfare and recreation (MWR) gifts, and other donations will follow the Military Department Support Fund (MDSF) accession process administered through the CMD External Affairs Office. Depending on the type of gift or donation, the accession process may include obtaining approval from the Department of Finance (DOF) and/or notification to the Department of General Services (DGS).

c. DoD's Joint Ethics Regulation (JER) and CMD regulation significantly limit the conditions under which a Servicemember or Employee of the CMD may solicit for donations or gifts. Where solicitation is authorized by law and regulation, CMD Servicemembers and Employees shall not solicit for donations or gifts to the Department unless the Director, Joint Staff or designee has validated the Department's need for the specific property to be solicited.

d. The State Military Reserve Act specifically prohibits members of the CSG from accepting "gifts, donations, gratuities, or anything of value by those forces or any member of those forces from any individual, firm, association, or corporation by reason of that membership" (CMVC Sec. 551). Any donations for the CSG or its members, including those from the California State Guard Foundation, must be conveyed through the California Military Department Foundation in order to be lawfully accepted.¹

6. Procedures.

¹ CMVC Section 412.5 statutorily exempts the California Military Department Foundation from the CSG gift acceptance restrictions in CMVC Section 551.

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a. All property acquired by CMD through gift or donation becomes the sole property of the State and must be accounted for as prescribed by CMDR 735-5 and entered into the State Asset Program.

b. In accordance with SAM Chapter 8634 and Para 6-5 CMDR 735-5, CMD shall retain receipts, letters, stock received reports and other documents as evidence of a gift or donation. Property acquired by donation or gift from any organization other than a State agency must be recorded at the fair market value on the date the gift is received.

c. Government Code (GC) Section 11005 requires all State agencies to obtain approval from the Director of DOF before accepting gifts of real or personal property, unless an exception applies or the Legislature has provided separate statutory authority to accept gifts and donations. Acquisition of gifts and donations subject to GC Section 11005 must follow the procedures in SAM Chapter 8634.

d. The J4 Property Book Manager (PBM) is the proponent to assist with the administrative process for all property gifts and donations requiring property book management. The J9 is the proponent to assist with the administrative process for all real property gifts and donations.

e. CMD entities shall follow the Donations and Gifts Receipt Process in Para 6-5 CMDR 735-5 when accessioning donations or gifts into State ownership.

7. All components of the CMD are required by regulation to conduct ongoing cyclic property inventories and to maintain accountability for state property, including donated property. Additional property inventories are required following certain events, such as upon assumption of command. Refer to Chapter 8 CMDR 735-5 for property inventory requirements. Commanders, Directors, and Primary Hand Receipt Holders (PHRH) must ensure all state property within their section is regularly accounted for, secured, properly used, and maintained. All property must be accounted for in the State Asset Program. All cyclic property inventories must be updated in the State Asset Program.

8. Pursuant to Para 2-2 CMDR 735-5, Commanders, Directors, and Primary Hand Receipt Holders (PHRH) must account for all property acquired by the state regardless of source. Failure to properly account for state property, including donated property, may result in individual financial liability, state UCMJ punishment, or other administrative reprimands.

9. The point of contact for this memorandum is the J4 Directorate, COL Jacob H. Espinoza at jacob.h.espinoza.mil@army.mil or (916) 854-3878.



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