



UNITED STATES SPECIAL OPERATIONS COMMAND

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MACDILL AIR FORCE BASE, FLORIDA 33621-5323

SOJA

3 April 2025

MEMORANDUM FOR RECORD

SUBJECT: Legal Review of The 38 Challenge Workout Event – 6 May 2025

1. REFERENCES:

- a. 5 C.F.R. 2635
- b. Joint Ethics Regulation
- c. U.S. Office of Government Ethics Legal Advisory, LA-24-15, 8 November 2024
- d. DoD Standards of Conduct Advisory, 19-02, 29 March 2019

2. **BLUF:** Based on the information provided, there is no legal objection to designating The 38 Challenge Workout Event on 6 May 2025 as a Widely Attended Gathering (WAG) pursuant to 5 C.F.R. 2635.

3. RELEVANT FACTS:

a. The 38 Challenge was founded in memory of former USNA linebacker (#38) and USMC Captain Matthew Brewer, who took his life in 2021. The 38 Challenge's mission is to challenge the stigma associated with being vulnerable and to provide brain health treatment to warfighters. They are hosting an event at Cotanchobee Fort Brooke Park in Tampa, FL, on May 6, 2025. The event includes a workout event, keynote speeches from pro athletes and Special Operators, and fellowship and recovery.

b. Approximately 300 guests from across the community will receive unsolicited invitations. This includes the Department of Defense, private industry (approximately 5 companies will be represented), state and local government, academia, and non-DoD. The estimated cost per person to host the event is \$38. Invitees are not permitted to bring a guest. No gifts other than free attendance will be offered at the event. Fundraising will take place at the event.

4. LAW & REGULATIONS:

a. A gift of free attendance to a widely attended gathering must be unsolicited, and attendance must be in one's unofficial or personal capacity. Pursuant to 5 C.F.R. 2635.204(g), "[a] gathering is widely attended if it is expected that a large number of persons will attend, that persons with a diversity of views or interests will be present, . . . and that there will be an opportunity to exchange ideas and views among invited persons."

b. A gift of free attendance to all or appropriate parts of a widely attended gathering may be accepted upon a finding that the following are true:

(1) the event is a widely attended gathering;

(2) the employee's attendance at the event is in SOCOM's interest because it will further SOCOM's programs or operations;

(3) SOCOM's interest in the employee's attendance outweighs the concern that the employee may be, or may appear to be, improperly influenced in the performance of official duties (i.e., must weigh the importance to SOCOM, importance of employee's role in any matter affecting the donor, purpose of the event, other expected participants, appearance that the donor is receiving preferential treatment, whether government views differ from those of the donor, and market value of the gift); and,

(4) if the gift of free attendance is greater than \$480 and the gift is from someone other than the event sponsor, the event must be attended by more than 100 persons.

c. An unsolicited invitation of free attendance to an accompanying spouse is permitted if others in attendance will generally be accompanied by a spouse and an invitation to the employee's spouse is from the same person who invited the employee.

d. Although there is no set number of attendees that defines a WAG, U.S. Office of Government Ethics Legal Advisory LA-24-15, dated 8 November 2024, states that, unless certain exceptional circumstances exist, such as an extremely diverse group of views or interests, a gathering of less than 20 people should not be considered "widely attended."

5. ANALYSIS & CONCLUSIONS

a. The invitation to the event will be unsolicited and attendance will be in an unofficial or personal capacity. A large number of people will be in attendance because there are 300 people expected to attend from a wide variety of backgrounds and professions, including approximately 5 different companies. There will be an opportunity to exchange ideas and converse because the event is designed for interaction, and to raise awareness of and support for warfighter's mental health.

b. This event is a widely attended gathering. SOCOM has an interest in appropriate personnel attending because it will further SOCOM's relationship with other members of DoD and the executive branch and private industry, while providing an opportunity for them to speak to a diverse group of people about warfighter's mental health and SOCOM's mission, goals, successes, and value, gaining additional public support. There is little risk that USSOCOM will have the appearance of being improperly influenced by their attendance because the hosts do not have influence over SOCOM

operations, and diverse group of professionals from a variety of backgrounds and industries will be in attendance. It is important that USSOCOM personnel do not give any preferential treatment to the NFEs at this event.

c. Appropriate USSOCOM personnel may accept the free invitation to the event.

5. **FUNDRAISING:** Government employees should not actively and visibly participate in such activities. Approved employees should not solicit any donations, serve as an honorary chairperson, stand in a reception line, and/or sit at either the head table or any of the sponsorship tables set aside based on level of donation. **USSOCOM personnel must not directly or indirectly endorse The 38 Challenge, other NFEs, sponsors, or donations generally. USSOCOM personnel must not give the appearance of DoD endorsement in any regard. USSOCOM personnel must avoid the appearance of DoD endorsement, and the appearance that they are acting in any fundraising capacity.**

6. **GOVERNMENT ENDORSEMENT CONCERNS:** Approved employees' attendance must not be used by event organizers to promote the event and they should not endorse any of the NFEs associated with the event, to include the hosts.

7. **POC:** The point of contact for this action is the undersigned at michael.s.coblin.mil@socom.mil

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