

# ***The Hatch Act***

**Lisa Terry**  
**SVP and Chief Ethics Officer**

**October 3, 2017**

*Reducing Risk. Unleashing Opportunity.*





# What Is the Hatch Act?



- › A law that governs the political activity of federal civilian executive branch employees

## Why?

- › Ensures that programs are administered in a nonpartisan fashion
- › Protects employees from political coercion
- › Ensures that employee advancement is based on merit and not political affiliation

# What is political activity?

- **Political Activity** is any activity directed toward the success or failure of a partisan candidate, political party, or partisan political group.

**5 C.F.R. § 734.101**

# What May All Employees Do?



- › Register and vote as they choose
- › Contribute money to political parties, campaigns, or groups
- › Attend political rallies, meetings, or fundraisers
- › Be members of political clubs or parties
- › Sign nominating petitions
- › Be candidates for public office in nonpartisan elections
- › Campaign for or against referendum questions, constitutional amendments, or municipal ordinances
- › Follow, like, or comment on the social media pages of a candidate for partisan office, political party, or partisan group
- › Display yard sign or bumper sticker on personal vehicle

# Less Restricted Employees May

## Also:

- › Circulate nominating petitions
- › Work as campaign volunteers
- › Distribute campaign literature
- › Organize campaign events
- › Speak on behalf of a candidate
- › Hold party office
- › Serve as delegate to a party convention
- › Organize party events
- › Serve on a party committee

# What Does the Hatch Act Prohibit?



## 24/7 Prohibitions

### › Employees may NOT:

1. Use their official authority or influence to affect the outcome of an election
2. Solicit, accept, or receive a political contribution
3. Be candidates in partisan elections
4. Solicit or discourage the political activity of a person with business before their employing office

5 U.S.C. § 7323(a)

# What Does the Hatch Act Prohibit?



## Workplace Prohibition

5. Employees may NOT engage in political activity while:
- on duty
  - in the federal workplace
  - wearing a government uniform or badge
  - operating a government vehicle

**5 U.S.C. § 7324**

# What is not political activity?



- **Discussing legislation, ballot initiatives, and issues**  
(e.g., Affordable Care Act, gun control, abortion, immigration, hiring freeze, etc.)
- **Attending an issue march or rally**  
(e.g., March for Life, Women's March, March for Science, etc.)
- **KEY: Activity must not tie back to a political party, candidate for partisan office or partisan political group**

**5 C.F.R. § 734.101**



# On Duty/In the Workplace



- Permitted or Prohibited?
- May you use these mugs while at work?



**5 U.S.C. § 7324; 5 C.F.R. § 734.306**



# On Duty/In the Workplace Prohibition



Employees may not engage in political activity while

- › **On duty**

*including when teleworking or on official union time*

- › **In a government room or building**

*including break rooms, conference rooms, gyms, cafeterias, and union offices*

- › **Wearing an official uniform or insignia**

- › **Using a government vehicle**

**Political Activity is any activity directed toward the success or failure of a partisan candidate, political party, or partisan political group.**

**5 U.S.C. § 7324; 5 C.F.R. § 734.306**

# On Duty/In the Workplace Prohibition



## Examples

- Wearing buttons, t-shirts, hats, etc.
- Displaying screen savers, posters, candidate photographs, etc.
- Making online donations

**5 U.S.C. § 7324; 5 C.F.R. § 734.306**

# On Duty/In the Workplace



- › Permitted or Prohibited?
- › May you display these logos in your office?



**5 U.S.C. § 7324; 5 C.F.R. § 734.306**

Material developed by the U.S. Office of Special Counsel 2017

# On Duty/In the Workplace



- › Permitted or Prohibited?
- › May you display these signs at work?



5 U.S.C. § 7324; 5 C.F.R. § 734.306

# On Duty/In the Workplace



- › Permitted or Prohibited?
- › May you display these signs at work?



**5 U.S.C. § 7324; 5 C.F.R. § 734.306**

# On Duty/In the Workplace

- › Permitted or Prohibited?
- › May you display these signs at work?



**5 U.S.C. § 7324; 5 C.F.R. § 734.306**



# On Duty/In the Workplace



## › Examples

- › **Emailing, blogging, tweeting, posting to social media, etc.**
  - Even if using a personal device or email account
  - Even if sharing or forwarding content authored by others
  - Even if sharing or forwarding to friends or like-minded coworkers
  - Even union email if it meets the definition of political activity



# On Duty/In the Workplace



- Permitted or Prohibited?
- May you share these posts while on duty?



Executive Order for Strengthening the Cybersecurity of Federal Networks and Critical Infrastructure.



5 U.S.C. § 7324; 5 C.F.R. § 734.306

# On Duty/In the Workplace

## › Permitted or Prohibited?

## › May you retweet these posts while on duty?



**5 U.S.C. § 7324; 5 C.F.R. § 734.306**

# 24/7 Prohibitions



## › Use of Official Authority

Employees may not use their official authority or influence to affect the outcome of an election

### › Examples :

- Involving subordinates
- Using one's official title or position
- Using agency resources, e.g., an official social media account
- Using non-public agency information for political purposes

**5 U.S.C. § 7323(a)(1); 5 C.F.R. § 734.302**

Facebook profile page for "Hatch Actor". The profile picture is a placeholder silhouette. The cover photo shows the Supreme Court building.

**About**

Overview

**Work and Education**

Places He's Lived

**Contact and Basic Info**

Family and Relationships

Details about Hatch Actor

**CONTACT INFORMATION**

Mobile Phones 555-555-5555

Address 123 Main Street

Email HatchActor@faceb

Email ilovethehatchact@

**BASIC INFORMATION**

Birthday August 2, 1939

**Political Views** Republican, Democrat, etc.

It is OKAY to fill in your political views on your Facebook profile, even if you also identify your place of work elsewhere on your profile.

# 24/7 Prohibitions



## Fundraising

Employees may not solicit, accept, or receive political contributions at any time

### Examples:

- Asking for donations, e.g., by mail, email, or social media
- Working a phone bank (if asking for contributions)
- Hosting a fundraiser
- Inviting others to a fundraiser
- Sharing or liking fundraising posts on social media

**5 U.S.C. § 7323(a)(2); 5 C.F.R. § 734.303**

Material developed by the U.S. Office of Special Counsel 2017



## May I “Like” or “Share” a political fundraising post (one that solicits a political contribution) on Facebook



**NO.** Because you have distributed and shared the fundraising post with your Facebook friends through News Feed.

5 U.S.C. § 7323(a)(2); 5 C.F.R. § 734.303

## May I “Re-Tweet” a political fundraising post (one that solicits a political contribution) on Twitter?



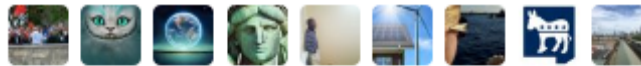
**Dick Durbin** ✓  
@DickDurbin

Follow

Contribute now to help elect Democrats to take back the House majority →  
[secure.actblue.com/contribute/pag...](https://secure.actblue.com/contribute/pag...)

RETWEETS  
16

LIKES  
20



3:02 PM - 5 May 2017



4



16



20

**NO.** Because you have distributed and shared the fundraising post with your followers.

**5 U.S.C. § 7323(a)(2); 5 C.F.R. § 734.303**

# 24/7 Prohibitions



## Fundraising Exception

Employees may solicit, accept, or receive a political contribution ONLY if:

- Person solicited belongs to the same federal labor organization or federal employee organization
- Person solicited is NOT a subordinate
- Request is for a contribution to the federal labor organization or federal employee organizations' multicandidate political committee
- Off duty and outside the workplace

5 U.S.C. § 7323(a)(2); 5 C.F.R. § 734.208(b)(4)



# Social Media Guidance for All Employees



## May Not:

- Tweet, Retweet, Share, or Like a post or content that solicits political contributions
- Engage in political activity via social media while on duty or in the workplace (e.g., share, like, or retweet a post from a candidate or partisan group; or post/tweet a comment directed at the success or failure of a candidate or partisan group)
- Like, or Follow the social media page of a candidate or partisan group while on duty or in the workplace
- Use a social media account in your official capacity to engage in political activity
  - But including your official title or position on the profile of your personal social media page is okay

**5 U.S.C. § 7323(a)(2); 5 C.F.R. § 734.208(b)(4)**

## Candidacy

Employees may not be candidates for public office in partisan elections

### **When Does Candidacy Start?**

- Collecting signatures for nominating petitions
- Fundraising
- Announcing candidacy to the press or public
- Assembling a campaign committee
- Filing nominating petitions

**5 U.S.C. § 7323(a)(3); 5 C.F.R. § 734.304**



# Candidacy

Employees are  
permitted to be

5 U.S.C. § 7323(a)(3); 5 C.F.R. § 734.304

candidates for

## Business Before Employing Office

Employees may not knowingly solicit or discourage the political activity of anyone with business pending before their employing office.

### **Business defined**

- ongoing audit, investigation, or enforcement action
- application for a grant, contract, license, permit, ruling, compensation or certificate

5 U.S.C. § 7323(a)(4); 5 C.F.R. § 734.305

## The Merit Systems Protection Board may order:

- › Removal
- › Reduction in grade
- › Debarment from federal employment for a period up to five years
- › Suspension
- › Reprimand
- › Civil penalty up to \$1,000

5 U.S.C. § 7326

# Office of Ethics

**Lisa Terry**  
SVP and Chief Ethics Officer  
Phone: 202-565-3195  
Email: [lisa.terry@exim.gov](mailto:lisa.terry@exim.gov)

**Felice Smith**  
Alternate Designated Agency Ethics Official  
Phone: 202-565-3234  
Email: [felice.smith@exim.gov](mailto:felice.smith@exim.gov)

**Need Help?**

Felice Smith  
Alternate Designated Agency Ethics Official (Acting)  
Felice C. Smith  
Senior Counsel  
(202) 565-3234

*Reducing Risk. Unleashing Opportunity.*

**800-565-3946** | [exim.gov](https://exim.gov)

