



DEPARTMENT OF THE ARMY  
DEFENSE LANGUAGE INSTITUTE FOREIGN LANGUAGE CENTER  
PRESIDIO OF MONTEREY  
OFFICE OF THE STAFF JUDGE ADVOCATE  
1336 PLUMMER STREET, BLDG. 275  
MONTEREY, CALIFORNIA 93944

ATZP-JA

30 November 2018

MEMORANDUM FOR ALL

SUBJECT: Employee Guidance to the Hatch Act

1. PURPOSE: To inform employees regarding permitted and prohibited workplace conduct and social media usage in accordance with the Hatch Act.

2. REFERENCE:

a. 5 U.S.C. § 7321-26, The Hatch Act.

b. The Hatch Act: Permitted and Prohibited Activities for Most Federal Employees, February 2016.

c. Hatch Act Guidance on Social Media, February 2018

3. DISCUSSION:

a. Federal employment *does not* constitute an absolute bar on an employee's ability to engage in political activity. On the contrary, employees are encouraged to fully exercise their right to participate in political activities to the extent not expressly prohibited by law. 5 U.S.C. § 7321.

b. Political Activity: Political activity is an activity directed at the success or failure of a political party, candidate in a partisan race, or partisan political group. For example, this can include voting, attending campaign rallies, or distributing campaign literature. In addition, the Office of the Special Counsel has issued guidance stating that both criticism *and* praise, as well as express advocacy, if directed towards the success or failure of a political party, candidate in a partisan race, or partisan political group, may constitute political activity. However, there are no "magic" words that make a statement political activity; whether a statement constitutes political activity depends on the facts and circumstances of

c. On Duty or in the Workplace: The above notwithstanding, employees *may not* engage in political activity while on duty or in the workplace. Employees are also prohibited from engaging in political activity in the following circumstances:

(1) In any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States.

(2) While wearing a uniform or official insignia identifying the office or position of the employee.

(3) while using any vehicle owned or leased by the Government of the United States or any agency or instrumentality thereof.

d. Social Media and the Workplace: Using social media or other forms of electronic communication can, and in many cases, does constitute engaging in political activity. Further, the same prohibitions on political activity while on duty or in the workplace apply with equal force to content posted on social media. While on duty or in the workplace:

(1) Employees *may not*:

(a) Post, like, share, or retweet a message or comment in support of or opposition to a political party, candidate in a partisan race, or partisan political group, even if their social media account is private.

(b) "Like," "follow," or "friend" the social media account of a political party, candidate in a partisan race, or partisan political group.

(c) Use an alias on social media to engage in any activity that is directed at the success or failure of a political party, candidate in a partisan race, or partisan political group.

(d) Accept an invitation to attend a fundraising event using social media

(2) Employees *may*:

(a) Continue to "follow," be friends with, or "like" the official social media accounts of government officials after those officials become candidates for reelection.

(b) Display a political party or current campaign logo or the photograph of a candidate in a partisan race as a profile picture on personal Facebook or Twitter accounts. However, they may not post, share, tweet, or retweet on those accounts.

(c) Display a political party or campaign logo or photograph of a candidate in a partisan race as a cover or header photograph on their personal Twitter or Facebook accounts.

(d) Include their official titles or positions and where they work in their social media profiles, even if they also include their political affiliation or otherwise use their account to engage in political activity

e. 24/7 Prohibitions: Certain activities, regardless of whether the employee is on duty or not, are prohibited under the Hatch Act. Employees may not engage in the following activity at any time:

(1) Knowingly solicit, accept, or receive a political contribution for a political party, candidate in a partisan race, or partisan political group.

(2) Like, post, tweet or retweet, or otherwise share a message that solicits political contributions or invites people to a fundraising event. This includes using an alias on social media to solicit a political contribution for a political party, candidate in a partisan race, or a partisan political group.

(3) Use their official authority or influence to affect the outcome of an election.

(4) Use their official titles or positions when posting messages directed at the success or failure of a political party, candidate in a partisan race, or partisan political group.

(5) Use a social media account designated for official purposes to post or share messages directed at the success or failure of a political party, candidate in a partisan race, or partisan political group. All such official social media accounts should remain politically neutral.

(6) Engage in political activity on a personal social media account if they are using such accounts for official purposes or posting in their official capacities. Factors indicating that a personal social media account is being used in ways that suggest it is an official social media account include, for example:

(a) The account contains little to no personal content

(b) The account identifies the individual as a federal employee

(c) The account extensively uses photographs of the employee's official activities

(d) The account often references, “retweets,” “likes,” comments, or otherwise shares material related to official activities.

(e) The account is linked to an agency website or other official page. No one factor is dispositive.

f. Social Media and Supervisors: Supervisors and subordinates may be “friends” or “follow” one another on social media platforms. However, supervisors may not send any message to subordinates, or to a subject of friends that includes subordinates, that is directed at the success or failure of a political party, candidate in a partisan race, or partisan political group.

g. Foreign Politics and the Workplace: Discussion of partisan political issues in countries other than the USA is not covered by the Hatch Act. *However*, employees should still be cognizant of the divisive impact of non-mission related political discussion in the workplace. Non-mission related political discussion, even if not covered by the Hatch Act, may nevertheless lead to disruptions in the workplace and decrease mission efficiency. Engaging in conduct disruptive behavior, detrimental to mission efficiency, may lead to adverse administrative action

4. Point of contact is the undersigned at (831) 242-6414.

Karen L. Judkins  
Chief, Administrative Law