



UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY

MEMORANDUM

DATE: April 22, 2020

TO: All FLRA Employees

FROM: Aloysius Hogan, *A. Hogan*
Director of Legislative Affairs and Program Policy

RE: Notice –Whistleblower Disclosures and Prohibited Personnel Practices

The purpose of this required notice is to ensure that all Agency employees are aware of and understand the prohibited personnel practices and whistleblower protections available to Federal employees.

The U.S. Office of Special Counsel (OSC) is an independent agency that protects Federal employees from prohibited personnel practices, including whistleblower retaliation, certain political activity, and unlawful hiring practices. In accordance with three OSC memoranda ([Agency Monitoring Policies and Whistleblower Disclosures](#); [Updated Legal Requirements Regarding Agency Training and Discipline](#); and [Non-Disclosure Policies, Forms, or Agreements](#)) dated February 1, 2018, all Federal agencies are required—among other things—to provide annual notification to current employees of the rights and remedies available to them under controlling law and Executive Orders, including:

- The Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017;
- The Office of Special Counsel Reauthorization Act of 2017 (passed as part of the National Defense Authorization Act for Fiscal Year 2018);
- The Civil Service Reform Act;
- The Whistleblower Protection Enhancement Act of 2012 (WPEA);
- The Whistleblower Protection Act of 1989;
- Executive Order No. 13526;
- Section 7211 of Title 5, United States Code (governing disclosures to Congress);
- Section 1034 of Title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military);
- Section 2302(b)(8) of Title 5, United States Code, as amended by the Whistleblower Protection Act of 1989 (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats);
- Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents);
- The statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952, of title 18, United States Code;
- Section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. 783(b)), and
- Related laws.

The WPEA strengthened the protections for federal employees who disclose evidence of waste, fraud, or abuse. The WPEA also requires that any non-disclosure policy, form, or agreement include the statement in bold below, and provides that any such policy, form or agreement executed without the language may be enforced as long as agencies give employees notice of the statement. This communication serves as that notice to employees.

As a Federal Labor Relations Authority employee, you may have been required to sign a non-disclosure policy, form, or agreement to access classified or other information. You should read this statement as if it were incorporated into any non-disclosure policy, form, or agreement you have signed.

These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.

Employees are reminded that reporting evidence of waste, fraud, or abuse involving classified information or classified programs must continue to be made consistent with established rules and procedures designed to protect classified information.

You will find attached and hyperlinked below two documents prepared by OSC. The first, "[Your Rights as a Federal Employee](#)," explains the thirteen prohibited personnel practices and the process for reporting potential wrongdoing to the Office of Special Counsel. The second, "[Know Your Rights When Reporting Wrongs](#)," focuses on whistleblower protections for Federal employees and avenues available to employees to disclose wrongdoing. Except where required by law, whistleblowers need not make disclosures through any particular channel. There are many permissible ways for a whistleblower to make disclosures, *e.g.*, to OSC, to an Inspector General, to agency leadership, to officials outside the employee's chain of command, to Congress, or to the media.

Also, because the vast majority of Federal Labor Relations Authority employees are teleworking, attached and hyperlinked are five posters provided by OSC. The first, "[Whistleblower](#)," defines whistleblowing. The second, "[Whistleblower Retaliation](#)," defines whistleblower retaliation and explains what can you do if you believe whistleblower retaliation has occurred. The third, "[Prohibited Personnel Practices](#)," describes what Federal employees may not do, including with regard to whistleblowing. The fourth and fifth, "[The Hatch Act for Most Federal Employees](#)" and "[The Hatch Act for Further Restricted Federal Employees](#)," describe permitted and prohibited political activities for most Federal employees and for further restricted Federal employees. The attached and hyperlinked posters will also be posted in common areas in both the headquarters and regional offices. You can find additional information on the OSC [website](#).

The Federal Labor Relations Authority (FLRA) takes these rights seriously. If you have any questions regarding this notice, please contact me at 202-218-7927 or ahogan@flra.gov or the FLRA's Human Resources Division at 202-218-7979 or HRD@flra.gov.

Attachments

YOUR RIGHTS AS A FEDERAL EMPLOYEE

ENFORCED BY
THE U.S. OFFICE OF SPECIAL COUNSEL

I. THE U.S. OFFICE OF SPECIAL COUNSEL (OSC) is an independent agency that investigates and prosecutes allegations of prohibited personnel practices (PPP).

WHAT IS A PROHIBITED PERSONNEL PRACTICE (PPP)?:

Under 5 U.S.C. §2302(b)(1)-(b)(13) a federal employee authorized to take, direct others to take, recommend or approve any personnel action may not:

- **Discriminate (including discrimination based on marital status and political affiliation).** *EXAMPLE: Supervisor Joe refuses to promote Employee Jane because Jane is a registered Republican; or his refusal is because she is a single mother. (OSC will generally defer Title VII discrimination allegations to the EEO process, rather than duplicating already existing procedures.)*
- **Solicit or consider employment recommendations based on factors other than personal knowledge or records of job-related abilities or characteristics.** *EXAMPLE: Selecting Official Joe hires Applicant Jack based on Senator Smith's recommendation that Jack be hired because Jack is a constituent; or fails to hire Applicant Jane because of Congressman Smith's recommendation based on the Congressman's friendship with Jane's parents.*
- **Coerce the political activity of any person, or take action against any employee as reprisal for refusing to engage in political activity.** *EXAMPLE: Supervisor Jane takes away significant job duties of Employee Jack because Jack will not make a contribution to Jane's favorite candidate.*
- **Deceive or willfully obstruct any person from competing for employment.** *EXAMPLE: Supervisor Joe, located in Headquarters, orders that no vacancy announcements be posted in the field office where Employee Jack works because he does not want Jack to get a new job; or falsely states that there will be extensive travel in the position when he knows that there is no travel.*
- **Engage in nepotism.** *EXAMPLE: Second-level Supervisor Jane asks First-level Supervisor Joe to hire her son; or to promote her daughter.*
- **Take a personnel action against an employee because of whistleblowing.** *EXAMPLE: Supervisor Joe directs the geographic reassignment of Employee Jack because Jack reported safety violations to the agency's Inspector General; or because employee Jill reported a gross waste of funds to the Office of Internal Affairs.*
- **Take a personnel action against any employee because of the exercise of an appeal, complaint, or grievance right.** *EXAMPLE: Supervisor Jane places Employee Jack on an undesirable detail because Employee Jack filed an administrative grievance about his performance rating.*
- **Discriminate against an employee on the basis of conduct, which does not adversely affect the performance of the employee, including discrimination based on sexual orientation.** *EXAMPLE: Jack's employment is terminated because he attended a "Gay Pride" march; or he attended a "Pro-Life" event; or he attended an animal rights rally; or he attended a gun-owners' rights meeting.*
- **Take or fail to take a personnel action, if such action would violate a veterans' preference requirement.** *Example: Supervisor Jane hired Employee Jack, without considering Veteran Jennifer, who was included on the list of eligible employees. (OSC's jurisdiction is for disciplinary actions only; the Dept. of Labor has jurisdiction to investigate for corrective actions.)*
- **Access the medical record of another employee or an applicant for employment as a part of, or otherwise in furtherance of, any conduct described in paragraphs (1) through (13) of 5 U.S.C. § 2302(b).**

- **Influence any person to withdraw from competition for a position to improve or injure the employment prospects of any other person.**
EXAMPLE: Supervisor Jane, in an effort to hire Employee Joe, tells Employee Jack that he should not apply for a position because he is not qualified and will never be selected. Employee Jack is qualified.
- **Give an unauthorized preference to a person to improve or injure the employment prospects of any particular employee or applicant.**
EXAMPLE: Supervisor Jane specifies that Spanish-speaking skills are necessary for a vacant position, for the purpose of selecting Employee Jack, who speaks fluent Spanish. The position, however, does not require Spanish-speaking skills.
- **Take a personnel action against an employee which violates a law, rule, or regulation which implements a merit systems principle.**
EXAMPLE: Supervisor Joe terminates the probationary appointment of Employee Jack because of Jack's letter to the editor criticizing affirmative action - a valid exercise of First amendment rights, a law implementing a merit system principle.
- **Implement or enforce a nondisclosure agreement or policy lacking notification of whistleblower rights.**
EXAMPLE: A manager requires all employees in his program to sign a non-disclosure agreement that prohibits the employees from discussing the program in any way and fails to notify employees of protected channels for making disclosures.

What can you do if you believe a PPP has been committed?

An employee who believes a PPP has been committed can file a written complaint with the U.S. Office of Special Counsel. Complaint forms are available on the Web at www.osc.gov. Employees do not need attorneys to file a complaint. OSC is an independent and prosecutorial agency. It will investigate allegations of prohibited personnel practices, and seek any corrective and disciplinary action.

II. The U.S. Office of Special Counsel also receives confidential disclosures and enforces the Hatch Act

RECEIVING CONFIDENTIAL DISCLOSURES (5 U.S.C. §1213):

Current and former federal employees and applicants can confidentially report information evidencing a violation of any law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. The OSC has the authority to require the head of the agency concerned to investigate the matter if OSC determines that a disclosure has been made.

ENFORCING THE HATCH ACT (5 U.S.C. §7321-26):

The Office of Special Counsel is authorized to issue advisory opinions that respond to federal employee questions about whether or not they may engage in specific political activities under the Act. The OSC also prosecutes violations of the Hatch Act before the Merit Systems Protection Board. These violations include: using official authority to interfere with an election result; soliciting, accepting or receiving political contributions; soliciting or discouraging political activity of persons before the employing agency; and running for public office in a partisan political election.

Need additional information?

- Information on filing a complaint: 202-804-7000 or 800-872-9855.
- Information on making a disclosure: 202-804-7004 or 800-572-2249.
- Updated and detailed information on OSC and its procedures-visit our web page: www.osc.gov.



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KNOW YOUR RIGHTS WHEN REPORTING WRONGS

Whistleblower disclosures can save lives as well as billions of taxpayer dollars. They play a critical role in keeping our government honest, efficient and accountable. Recognizing that whistleblowers root out waste, fraud and abuse, and protect public health and safety, federal laws strongly encourage employees to disclose wrongdoing. Federal laws also protect federal employees from retaliation.

The U.S. Office of Special Counsel (OSC) plays an important role in helping whistleblowers. OSC is an independent agency that protects federal employees from prohibited personnel practices (PPPs), including whistleblower retaliation and unlawful hiring practices, such as nepotism. OSC also provides an independent, secure channel for disclosing and resolving wrongdoing in federal agencies. This guide provides a summary of whistleblower protections and avenues available to employees to disclose wrongdoing. For more information, please visit OSC's website at www.osc.gov.

Disclosures of Wrongdoing

Where can I report wrongdoing?

Current and former federal employees and applicants (henceforth "federal employees") can report on any of the following types of wrongdoing:

- a violation of any law, rule, or regulation,
- gross mismanagement,
- a gross waste of funds,
- an abuse of authority,
- a substantial and specific danger to public health or safety, or
- censorship related to scientific research if censorship meets one of the above-listed categories.

Federal employees have many options on where to disclose wrongdoing, including but not limited to, making disclosures to supervisors or someone higher up in management; the agency's Inspector General (IG); OSC; or, Congress. For whistleblower disclosures involving classified national security information or other information protected from public release by law (e.g. patient privacy information), whistleblowers must use confidential channels such as an IG, OSC, or Congress in order to be protected from adverse personnel actions related to their disclosures.

Can probationary employees file disclosures or PPP complaints with OSC?

Yes. Probationary employees have the same right to file disclosures or PPP complaints with OSC as do most current federal employees, former federal employees, or applicants for federal employment. Note – except for appeals alleging retaliation for whistleblowing or engaging in protected activity, probationary employees generally do not have the right to appeal personnel actions to the Merit Systems Protection Board (MSPB).

Can I keep my identity confidential?

Yes. Most Inspectors General have hotlines that allow employees to make confidential disclosures. Inspectors General are prohibited from disclosing an employee's identity unless the IG determines that disclosure is unavoidable or is compelled by a court order. If you file a disclosure with OSC, your identity will not be shared outside of OSC without your consent. However, OSC may disclose your identity only if OSC determines that it is necessary because of an imminent danger to public health or safety or an imminent violation of any criminal law.

What will OSC do once I make a disclosure?

When a federal employee discloses wrongdoing to OSC, OSC evaluates the information and interviews the federal employee. OSC determines whether it is substantially likely that the employee's allegation – or any portion of it – can be proven and whether it discloses a violation of a law, rule, or regulation; gross mismanagement; a gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety. If it meets that standard, OSC will require the agency to investigate and submit a report of the agency's findings to OSC. The whistleblower then has an opportunity to comment on the agency report. Those comments, together with any comments or recommendations by the Special Counsel, are sent with the agency report to the President and congressional oversight committees. The agency report is usually made available to the public.

Prohibited Personnel Practices

Are whistleblowers protected from retaliation?

Yes. The Civil Service Reform Act and whistleblower protection laws prohibits retaliation. Retaliation for whistleblowing is one of fourteen [PPPs](#). Protection from whistleblower retaliation means it is unlawful for agencies to take, threaten to take, or fail to take a personnel action because the employee disclosed one or more of the six categories of government wrongdoing (listed on page 1). Personnel actions can include actions such as poor performance reviews, demotions, suspensions, or terminations. As noted above, probationary employees have the right to file PPP complaints with OSC.

However, disclosures of information specifically prohibited by law or required by Executive Order to be kept secret are protected only when made to an OIG, OSC, or certain individuals within Congress. Additionally, federal law establishes that a federal employee has the right to communicate with and provide information to Congress.

OSC also has jurisdiction to protect federal employees at most agencies from retaliation for filing an appeal, complaint, or grievance; helping someone else file or testifying on their behalf; cooperating with or disclosing information to the Special Counsel, an Inspector General, or a component responsible for internal investigations/reviews; or, refusing to obey an order that violates a law, rule or regulation.

What can you do if you believe retaliation occurred?

If you believe that an agency has retaliated against you because of your whistleblowing or because you engaged in protected activity such as disclosing information to an Inspector General, you can:

- file a complaint with OSC, which may seek corrective or disciplinary action when warranted;
- file a union grievance; or
- if you have been subject to a significant personnel action, you can file an appeal with the MSPB (www.mspb.gov) and assert retaliation (or any other PPP) as a defense.

Note that a federal employee may choose only one of these three options when appealing a significant personnel action.

What relief is available to an employee who has suffered retaliation?

Many forms of relief are available. They include job restoration, reversal of suspensions and other adverse actions, back pay, reasonable and foreseeable consequential damages, such as medical costs, attorney fees, and compensatory damages. In addition, damages may be awarded for attorney fees and expenses incurred due to retaliation.

Can OSC delay a personnel action while the matter is investigated?

Yes. An individual may ask OSC to delay, or “stay,” an adverse personnel action pending an investigation. OSC will consider requesting a delay of a personnel action if OSC has reasonable grounds to believe that a prohibited personnel action was taken and, absent a stay, the employee will be subjected to immediate and substantial harm, such as removal, suspension for more than 14 days, or geographic reassignment.

How can OSC remedy a prohibited personnel practice?

Federal employees may report suspected PPPs to OSC. Their complaint will be investigated. If there is sufficient evidence to prove a violation, OSC can seek corrective action, disciplinary action, or both. Alternatively, parties in selected cases may agree to mediate their dispute in order to reach a mutually agreeable resolution of the complaint. OSC may attempt to resolve a case with an agency at any stage. If an agency refuses to provide corrective action, then OSC can take the case to the MSPB. The MSPB can order the agency to take corrective action. Such litigation begins with the filing of a petition by OSC that alleges there are reasonable grounds to believe a PPP occurred, is occurring, or is imminent.

Can a manager be held accountable for retaliating against a federal employee?

Yes. OSC may seek disciplinary action against any employee who commits a PPP. If an agency fails to take disciplinary action, then OSC can bring a disciplinary action case to the MSPB against the employee who committed the PPP. If the MSPB finds that an individual has committed a PPP, it can order disciplinary action, including removal, reduction in grade, debarment from federal employment for up to five years, suspension, reprimand, or a fine of up to \$1,000. Additionally, new statutory provisions impose a mandatory proposed penalty for supervisors that commit violations of 5 U.S.C. § 2302(b)(8), (b)(9), or (b)(14).

Can appeals of PPP complaints be filed with the MSPB?

Retaliation Claims – Individual Right of Action (IRA) Appeals

Under some circumstances, employees may file appeals of PPP complaints with the MSPB. Employees may file what is called an IRA appeal with the MSPB for any personnel action taken, not taken, or threatened because of retaliation for whistleblowing or for engaging in protected

activity, such as filing an Office of Inspector General complaint. More information on the right to file an IRA may be found at [5 U.S.C. § 1221\(a\)](#). However, before filing an IRA appeal with the MSPB, employees must file a retaliation PPP complaint with OSC, requesting an investigation.

Can other types of appeals involving PPPs be filed with the MSPB?

Appeals of Significant Adverse Actions – Affirmative Defense

Yes. Employees may raise one or more of the 14 PPPs as a defense to a significant adverse action with the MSPB. However, the employee must elect whether to file a PPP complaint with OSC, file an appeal of the significant adverse action with the MSPB, or file a grievance with the union. The list of significant adverse actions may be found at [5 C.F.R. § 1201.3](#). If the employee elects to raise a PPP as a defense to a significant adverse action with the MSPB, such an appeal is called an “affirmative defense” to the agency’s personnel action and the MSPB will determine if the action that was taken was based on any of the 14 PPPs described in section 2302(b) of Title 5 of the U.S. Code.

For more information on MSPB appeal rights, go to www.mspb.gov.

*For more information on PPPs, including retaliation, go to www.osc.gov/ppp.
To learn more about filing a whistleblower disclosure with OSC, go to www.osc.gov/disclose.
To file a PPP complaint or whistleblower disclosure with OSC, go to www.osc.gov/efile.*

U.S. Office of Special Counsel

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Rev. 03/19



Whistleblowing

A "whistleblower" discloses information he or she reasonably believes evidences:

- A violation of any law, rule or regulation
 - Gross mismanagement
 - A gross waste of funds
 - An abuse of authority
 - A substantial and specific danger to public health or safety
 - Censorship related to scientific research if censorship meets one of the above-listed categories
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The Office of Special Counsel (OSC) provides a secure channel through which current and former federal employees and applicants for federal employment may make confidential disclosures. OSC evaluates the disclosures to determine whether there is a substantial likelihood that one of the categories listed above has been disclosed. If such a determination is made, OSC has the authority to require the head of the agency to investigate the matter.

To make a disclosure contact:

**U.S. OFFICE OF SPECIAL COUNSEL
1730 M STREET, N.W., SUITE 218
WASHINGTON, DC 20036-4505**

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WWW.OSC.GOV



WHISTLEBLOWER RETALIATION

—5 U.S.C. § 2302(b)(8)—

THE U.S. OFFICE OF SPECIAL COUNSEL

What is whistleblower retaliation?

A federal employee authorized to take, direct others to take, recommend, or approve any personnel action may not take, fail to take, or threaten to take any personnel action against an employee because of protected whistleblowing.

EXAMPLE: A supervisor directs the geographic reassignment of an employee because the employee reported safety violations to senior agency officials.

Protected whistleblowing is defined as disclosing information that the discloser reasonably believes evidences:

1. a violation of law, rule, or regulation;
2. gross mismanagement;
3. gross waste of funds;
4. an abuse of authority;
5. a substantial and specific danger to public health or safety; or
6. censorship related to scientific research if censorship meets one of the above-listed categories.

This section also prohibits retaliation against government scientists who challenge censorship or make disclosures concerning the integrity of the scientific process if the censorship will cause one of the five types of misconduct described above.

What can you do if you believe whistleblower retaliation has occurred?

If you believe that you have been subject to retaliation for protected whistleblowing you can file a complaint with the U.S. Office of Special Counsel (OSC). OSC is an independent agency that investigates and prosecutes allegations of prohibited personnel practices (PPP) by federal employees. OSC has the authority to investigate PPPs, including allegations of whistleblower retaliation, and may seek corrective or disciplinary action when warranted.

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Prohibited Personnel Practices

By law, Federal employees may not:

- Discriminate
 - Solicit or consider employment recommendations based on factors other than personal knowledge or records of job related abilities or characteristics
 - Coerce the political activity of any person
 - Deceive or willfully obstruct any person from competing for employment
 - Influence any person to withdraw from job competition
 - Give an unauthorized preference or advantage to improve or injure the prospects of any particular person for employment
 - Engage in nepotism
 - Take or threaten to take a personnel action because of whistleblowing
 - Take or threaten to take a personnel action because of the exercise of a lawful appeal, complaint, or grievance right
 - Discriminate based on personal conduct which does not adversely affect the performance of the employee or other employees
 - Knowingly take or fail to take personnel action in the violation of veteran's preference laws
 - Violate any law, rule or regulation implementing or directly concerning merit system principles
 - Implement or enforce a nondisclosure agreement or policy lacking notification of whistleblower rights
 - Access the medical record of an employee or applicant, as part of, or in furtherance of any of the above-listed prohibitions
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More information may be obtained from:

**U.S. OFFICE OF SPECIAL COUNSEL
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***Hearing and Speech Disabled: Federal Relay Service 1-800-877-8339**



THE HATCH ACT

Permitted and Prohibited Activities for Federal Employees Subject to Further Restrictions*

Generally, federal employees who are considered “further restricted” are prohibited from taking an active part in partisan political management or partisan political campaigns. Specifically, these employees may not engage in “political activity” on behalf of a political party or partisan political group (collectively referred to as “partisan groups”) or candidate in a partisan election. Political activity refers to any activity directed at the success or failure of a partisan group or candidate in a partisan election.

For more information, contact the U.S. Office of Special Counsel at (202) 804-7002 or hatchact@osc.gov.

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| <ul style="list-style-type: none">• May be candidates in non-partisan elections.• May register and vote as they choose.• May assist in non-partisan voter registration drives.• May contribute money to partisan groups and candidates in partisan elections.• May attend political rallies, meetings, and fundraisers.• May join partisan groups.• May sign nominating petitions.• May participate in campaigns where none of the candidates represent a political party.• May campaign for or against referendum questions, constitutional amendments, or municipal ordinances.• May express opinions about political issues.• May express opinions about partisan groups and candidates in partisan elections while not at work or using official authority. | <ul style="list-style-type: none">• May not be candidates in partisan elections.• May not use official authority to interfere with an election or while engaged in political activity.• May not invite subordinate employees to political events or otherwise suggest that they engage in political activity.• May not knowingly solicit or discourage the political activity of any person with business before the agency.• May not solicit, accept, or receive political contributions (including hosting or inviting others to political fundraisers) <u>unless</u> both persons are members of the same federal labor or employee organization, the person solicited is not a subordinate employee, the solicitation is for a contribution to the organization’s political action committee, and the solicitation does not occur while on duty or in the workplace.• May not engage in political activity while on duty, in the workplace, wearing a uniform or official insignia, or in a government vehicle. For example:<ul style="list-style-type: none">○ May not wear or display partisan materials or items.○ May not make political contributions.○ May not use email or social media to engage in political activity.• May not be active in partisan political management. For example:<ul style="list-style-type: none">○ May not hold office in partisan groups.○ May not organize or manage political rallies or meetings.○ May not assist in partisan voter registration drives.• May not be active in partisan political campaigns. For example:<ul style="list-style-type: none">○ May not make campaign speeches or otherwise campaign for or against candidates.○ May not distribute campaign materials, including via email or social media.○ May not circulate nominating petitions. |
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- *Further-restricted agencies and employees include:
- Election Assistance Commission
 - Federal Election Commission
 - Office of the Director of National Intelligence
 - Central Intelligence Agency
 - Defense Intelligence Agency
 - National Geospatial Intelligence Agency
 - National Security Agency
 - National Security Council
 - National Security Division (Department of Justice)
 - Criminal Division (Department of Justice)
 - Federal Bureau of Investigation
 - Secret Service
 - Office of Criminal Investigation (IRS)
 - Office of Investigative Programs (Customs Service)
 - Office of Law Enforcement (ATF)
 - Merit Systems Protection Board
 - U.S. Office of Special Counsel
 - Career members of the Senior Executive Service
 - Administrative law judges, administrative appeals judges, and contract appeals board members



THE HATCH ACT

Permitted and Prohibited Activities for Most Federal Employees

Generally, federal employees, unless further restricted*, may actively participate in political management and political campaigns. Accordingly, these employees may engage in “political activity” on behalf of a political party or partisan political group (collectively referred to as “partisan groups”) or candidate in a partisan election as long as it is not on duty or in the workplace. Political activity refers to any activity directed at the success or failure of a partisan group or candidate in a partisan election.

For more information, contact the U.S. Office of Special Counsel at (202) 804-7002 or hatchact@osc.gov.

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| <ul style="list-style-type: none">• May be candidates in non-partisan elections.• May register and vote as they choose.• May assist in voter registration drives.• May contribute money to partisan groups and candidates in partisan elections.• May attend political fundraisers.• May attend and be active at political rallies and meetings.• May join, be active, and hold office in partisan groups.• May sign and circulate nominating petitions.• May campaign for or against candidates in partisan elections.• May make campaign speeches for candidates in partisan elections.• May distribute campaign literature in partisan elections.• May campaign for or against referendum questions, constitutional amendments, or municipal ordinances.• May express opinions about political issues.• May express opinions about partisan groups and candidates in partisan elections while not at work or using official authority. | <ul style="list-style-type: none">• May not be candidates in partisan elections.• May not use official authority to interfere with an election or while engaged in political activity.• May not invite subordinate employees to political events or otherwise suggest that they engage in political activity.• May not knowingly solicit or discourage the political activity of any person with business before the agency.• May not solicit, accept, or receive political contributions (including hosting or inviting others to political fundraisers) <u>unless</u> both persons are members of the same federal labor or employee organization, the person solicited is not a subordinate employee, the solicitation is for a contribution to the organization’s political action committee, and the solicitation does not occur while on duty or in the workplace.• May not engage in political activity while on duty, in the workplace, wearing a uniform or official insignia, or in a government vehicle. For example:<ul style="list-style-type: none">○ May not wear, display, or distribute partisan materials or items.○ May not perform campaign-related chores.○ May not make political contributions.○ May not use email or social media to engage in political activity. |
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*All career SES employees, ALJs, and employees identified at 5 U.S.C. § 7323(b)(2)(B)-(3) are further restricted.