



# **Gearing Up for the 2014 Election: What Every Employee Needs to Know about the Hatch Act**

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# 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



# Who Is Covered by the Hatch Act?

The Hatch Act has two categories of employees

## **Less Restricted**

May actively participate in partisan political management and campaigns, subject to the prohibitions we are about to discuss

## **Further Restricted**

Subject to additional restrictions regarding active participation in partisan political management and campaigns

# Who Is Further Restricted?

Employees of certain intelligence or enforcement agencies and offices (except PAS)

- CIA
- NSA
- Defense Intelligence Agency
- National Geospatial-Intelligence Agency
- Office of the Director of National Intelligence
- National Security Council
- DOJ's Criminal and National Security Divisions
- FBI
- Secret Service
- IRS's Office of Criminal Investigation
- Federal Elections Commission
- Election Assistance Commission
- Merit Systems Protection Board
- Office of Special Counsel



# Who Is Further Restricted?

Employees holding certain positions (in any agency)

- Career Senior Executive Service (Career SES)
- Administrative Law Judges
- Contracts Appeals Board Members
- Administrative Appeals Judges

# Who Is Less Restricted?

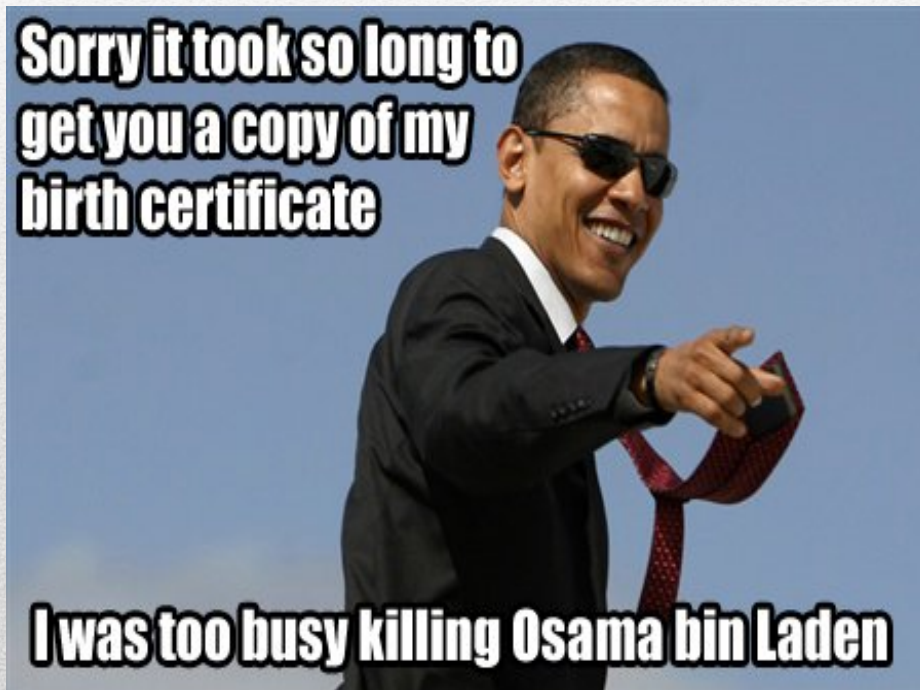
**All other civilian executive  
branch employees**



# 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.

# What is political activity?





# What is not political activity?

- Legislation

*E.g., Affordable Care Act, DOMA*

- Ballot Initiatives

- Budget

- Issues

*E.g., Gun control, Pro-choice/Pro-life*

- Petitioning Congress

**KEY:** Activity must not tie back to a political party, candidate for partisan office or partisan political group

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# What Does the Hatch Act Prohibit?

## 24/7 Prohibitions

Employees may NOT:

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



# What Does the Hatch Act Prohibit?

## No Political Activity at Work Prohibition

Employees may NOT engage in political activity while:

- on duty
- in the federal workplace
- wearing a government uniform or badge
- operating a government vehicle

# 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

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Hatch Actor

Timeline

About

Photos

Friends 127

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## 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

### 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





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



You click “Like” or “Share” on a post that seeks political contributions.

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

Facebook interface showing a News Feed post. The post is shared by **Hatch Actor** and features a photo of Barack Obama. The text of the post reads: "This campaign is in the palm of your hand. Give \$10 to Obama for America by texting GIVE to 62262." Below the text is a blue banner with the text: "A NEW WAY TO GIVE \$10 TO OBAMA FOR AMERICA text GIVE to 62262". A red circle highlights the sharing action, and a red arrow points to a text box explaining that the post will appear on the user's friends' News Feed and Timeline. Another red arrow points to the fundraising text.

**Hatch Actor** shared Barack Obama's post.

**Alexandria Animal Welfare League** added a new photo.

**Fairfax County Public Library** shared a link.

**Jane Smith** commented on Hatch Actor's status.

Your "Like" or "Share" of the fundraising post appears on your friends' News Feed Ticker and in full on your friends' News Feed. The post will also appear on your Timeline.

This is NOT OKAY under the Hatch Act because you have distributed and shared the fundraising post with your Facebook friends through News Feed.

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





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



You click “Retweet” on a tweet that seeks political contributions.

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The screenshot shows a Twitter profile for 'Hatch Act Lover' (@ILovetheHatchAct). The profile has 298 tweets, 1 photo/video, 136 following, 21 followers, and 341 favorites. A red circle highlights the 'Tweets' tab, and a red arrow points to a retweet of a tweet by Mitt Romney (@MittRomney) dated 22 Nov 2012. The retweeted tweet reads: 'We can't afford another four years like the last four. Donate \$15 now [mi.tt/OXeDAH](https://mi.tt/OXeDAH) #CantAfford4More'. A blue-bordered text box on the left explains that this retweet appears on the user's profile and is shared with their followers.

Twitter profile for Hatch Act Lover (@ILovetheHatchAct). The profile shows 298 tweets, 1 photo/video, 136 following, 21 followers, and 341 favorites. A red circle highlights the 'Tweets' tab, and a red arrow points to a retweet of a tweet by Mitt Romney (@MittRomney) dated 22 Nov 2012. The retweeted tweet reads: 'We can't afford another four years like the last four. Donate \$15 now [mi.tt/OXeDAH](https://mi.tt/OXeDAH) #CantAfford4More'. A blue-bordered text box on the left explains that this retweet appears on the user's profile and is shared with their followers.

This is NOT OKAY under the Hatch Act because you have distributed and shared the fundraising post with your followers.

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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

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# 24/7 Prohibitions

## 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

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# 24/7 Prohibitions

## Candidacy

Employees are permitted to be candidates for:

- Public office in a nonpartisan election\*

*\*A nonpartisan election can become partisan if the employee introduces partisan politics into the campaign*

- Party office, e.g., precinct committeeperson
- Local elections in specially designated localities, if running as an independent°

*°You should always check with your ethics office and/or OSC to determine if a local election qualifies*



# 24/7 Prohibitions

## 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



# On Duty/In the Workplace Prohibition

Employees cannot engage in political activity while

- On duty  
*including when telecommuting or on official time for union duties*
- In a government room or building  
*including break rooms, conference rooms, and union offices, if inside a federal building*
- 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.

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# On Duty/In the Workplace Prohibition

## Examples

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



# On Duty/In the Workplace Prohibition

## 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



Can I use a smartphone or other personal device to post or share political content on Facebook or Twitter while I am on duty or in the federal workplace?



You log on to your Twitter or Facebook app on your smartphone and post political comments, or share, like, or retweet political content posted by others.



**This is NOT OKAY.** You cannot engage in political activity via social media at any time when you are on duty or in the federal workplace, regardless of the method used to access your social media sites.



# On Duty/In the Workplace

## Permitted or Prohibited?

Can you display these bumper stickers in your office?



# On Duty/In the Workplace

## Permitted or Prohibited?

Can you use these mugs while at work?



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# On Duty/In the Workplace

## Permitted or Prohibited?

Can you send an email about this meeting while at work?

**Government Shutdowns**  
**Agency Funding Cutbacks**  
**Cuts In Social Security**  
**Hiring Freeze**

**Your Retirement** *Your Health Care*  
**Spending Rolled Back to 2008 Levels**

AFI Local Union I sponsor two (2) Town Hall Meetings to discuss these very important issues that affect you, thousands of Federal Employees, your families, and the American public we honorably serve. I urge ALL Board union members to receive this email to attend one of the two meetings.

Date: Thursday, March 3, 2011

Times: 11:30 am and 12:30 pm (during your lunch)

Place: Auditorium 9<sup>th</sup> Floor

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# On Duty/In the Workplace

## Permitted or Prohibited?

Can you share these posts while on duty?



National Republican  
Campaign Committee



Democratic Congressional  
Campaign Committee

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5 U.S.C. § 7324; 5 C.F.R. § 734.306



# On Duty/in the Workplace Prohibition Exception (for EOP and PAS)

Individual whose duties and responsibilities continue outside normal duty hours and while away from the normal duty post, and who is —

1. an employee paid from an appropriation for the EOP, or
2. PAS whose
  - position is located in the U.S., and
  - determines policies to be pursued in relations with foreign powers, or the nationwide administration of federal laws

# On Duty/in the Workplace Prohibition

## Exception (for EOP and PAS)

Such PAS and EOP employees may engage in political activity while

- On duty
- In a government room or building
- Wearing a uniform or official insignia
- Using a government vehicle

If costs associated with political activity are not paid for by money from the U.S. Treasury



# Further Restricted Employees

- may not engage in partisan political management or partisan political campaigning

## Examples

- Volunteer for a partisan campaign
- Distribute campaign literature
- Hold party office
- Circulate nominating petitions
- Make campaign speeches
- Participate in partisan voter registration drives

***No activity in concert with a political party or partisan candidate***

# Penalties

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



# Need Help?

## Hatch Act Unit

Phone (800) 85-HATCH  
(202) 254-3650

Email [hatchact@osc.gov](mailto:hatchact@osc.gov)

## OSC Speakers/Outreach

Phone 202-254-3600

## OSC Website

[www.osc.gov](http://www.osc.gov)