

Civilian Federal Employees and Political Activities

DISCLAIMER: The information contained in this fact sheet is of a general nature and is provided for your assistance. It is not intended as legal advice and is not a substitute for legal counsel. If you have any questions as to how the law affects you or your legal rights, contact your civilian attorney or the Eglin AFB Legal Office at (850) 882-4611 for an appointment with a licensed attorney.

During this election season, all DoD personnel should be mindful of the various limitations that exist when it comes to participation in political activity. For DoD civilians, participation in political activity is regulated by a number of sources: the Hatch Act (5 USC 7321 – 7326), its implementing regulations (5 CFR 733 and 5 CFR 734), as well as DoD policy. Under the Hatch Act, “political activity” refers to any activity directed at the success or failure of a political party or partisan political group (collectively referred to as “partisan groups”), or candidate in a partisan race. General guidance on the Hatch Act may be viewed at the U.S. Office of Special Counsel website at www.osc.gov.

The rules below apply predominantly to “less restricted” federal employees. Almost all civilian federal employees at Eglin AFB fall into this category. Certain federal employees are considered “further restricted,” such as SES personnel, which means they are prohibited from taking an active part in partisan political management or partisan political campaigns. Thus, they may not engage in any political activity on behalf of a partisan group or candidate in a partisan race, with very limited exceptions.

Below are the general rules and specific examples of what “less restricted” civilian federal employees may and may not do regarding political activities, to include November 2015 updates on social media and e-mail use:

General Rules

Civilian federal employees generally may: be a candidate for a nonpartisan office; vote and assist in voter registration drives; express opinions about candidates or issues; display a political bumper sticker on a privately owned vehicle; contribute money to political organizations; attend political fundraising events; attend political meetings; sign nominating petitions; campaign for or against a candidate in a partisan election; make speeches for candidates in a partisan election; distribute literature in a partisan election; and hold office in political party.

Civilian federal employees may NOT: engage in political activity *while on duty*, in the workplace or in a federal building; engage in political activity in an official capacity; solicit or receive political contributions; use their position to influence an election; serve as a candidate for public office in a partisan election; and wear political buttons *during the duty day*.

Social Media and E-mail

In November 2015, the U.S. Office of Special Counsel released detailed guidance for civilian federal employees' use of e-mail and social media pertaining to political activities on and off duty. Social media and email, whether on computers, tablets, smart phones, or related devices, make it easy for federal employees to unwittingly violate ethics rules concerning political activities. Below are examples of how these rules, as applied to social media and e-mail, impact civilian federal employees.

Civilian federal employees may NOT:

- *while on duty* or in the workplace, engage in any political activity, including via social media or e-mail.
- *while on duty* or in the workplace, send or forward partisan political emails to others.
- *while on duty* or in the workplace, post, "share," "tweet," or "retweet" any items that display campaign logos or candidate photographs as profile or cover pictures on an employee's personal social media account, since each action would show support for a partisan group or candidate in a partisan race, even if the content of the action is not about those entities.
- send or forward a partisan political email from a government or personal email account (even using a personal device) to subordinates at any time.
- refer to one's official title or position while engaged in political activity at any time. (Note that inclusion of an employee's official title or position on one's social media profile, without more, is not an improper use of official authority).
- suggest or ask anyone to make political contributions at any time.
- provide links to a political contribution social media page of any partisan group or candidate in a partisan race, or "like," "share," or "retweet" a solicitation from one of those entities, including an invitation to a political fundraising event, at any time.
- send or forward an email invitation to a political fundraising event to others at any time.

Civilian federal employees generally may:

Some examples of activities in which civilian federal employees generally may engage include the following, subject to restrictions listed above. Note that, unless otherwise indicated, an employee may only engage in these activities off duty.

- display a political party or campaign logo or candidate photograph as their cover or header photo on their social media accounts. This display, usually featured at the top of one's social media profile, without more, is not improper political activity.
- express their opinions about a partisan group or candidate in a partisan race (e.g., post, "like," "share," "tweet," "retweet").
- accept an invitation to a political fundraising event via social media.
- "like" a social media post from a partisan group or candidate in a partisan race and comment on such an entity's social media pages.
- engage in political activity on social media if an employee is "friends" with or has "followers" who are subordinate employees. If a supervisor's statements about a partisan group or candidate in a partisan race are directed at all of his or her social media, e.g., posted on a Facebook page, then there is no Hatch Act violation. Such statements would

be improper if the supervisor specifically directed them toward subordinate employees, or to a subset of friends that includes subordinate employees. For example, a supervisor should not send to a subordinate employee a Facebook message or “tweet” that shows support for a partisan group or candidate in a partisan race.

- use an alias to “friend,” “like,” or “follow” the social media page of a partisan group or candidate in a partisan race. However, federal employees remain subject to the Hatch Act even when they act under an alias.
- continue to “friend,” “like,” or “follow” an official social media page of a government official after he has become a candidate for reelection.
- identify one’s political party affiliation on a social media profile, which also contains one’s official title or position; without more, this is not an improper use of official authority.
- *while on duty* or in the workplace, receive a partisan political email whether to a personal or government email account.
- *while on duty*, send a partisan political email to one’s own personal email account.
- *while on duty*, send or forward an email about current events or matters of public interest to others. Federal employees may express their opinions about current events and matters of public interest at work so long as their actions are not considered partisan political activity under the Hatch Act. For example, employees are free to express their views and take action as individual citizens on such questions as referendum matters, changes in municipal ordinances, constitutional amendments, pending legislation or other matters of public interest, like issues involving highways, schools, housing, and taxes. Of course, employees should be mindful of their agencies’ computer use policies prior to sending or forwarding any non-work related emails.

Violation of these rules could lead to disciplinary action. Please note that this article only provides general information. Each situation is fact specific. If you have a particular question about political activities, please contact the Eglin Law Center at 850-882-4611. 