



Oct 2016 FEB Board
Hatch Act Briefing
Darin Mathis, USCG & SFFEB Rotation Associate

As the election cycle progresses, San Francisco Bay Area Federal Executive Board would like to remind you of the political activity restrictions that apply to Federal employees. This includes restrictions imposed by the Hatch Act and its implementing regulations. (5 U.S.C. §§ 7321-7326; 5 C.F.R. Part 733 and 734). It is especially important to be mindful of the Hatch Act while using your government e-mail account and personal social media account. An employee who violates the Hatch Act is subject to a range of disciplinary actions. This includes removal, suspension, debarment from Federal employment, reprimand, or a civil penalty up to \$1,000.

The Hatch Act applies to Federal employees. As discussed below, additional restrictions apply to career-Senior Executive Service (SES) employees. If you have any questions about how these rules may apply to you, please contact your ethics officer.

Prohibited Political Activity

The Hatch Act is the law that generally governs Government employees' partisan political activity, which is any activity directed at the success or failure of a candidate, political party, or partisan political group. The following four restrictions on partisan political activity apply to all employees, with additional restrictions imposed on career-SES employees:

(1) Employees may not engage in partisan political activity while on duty, in a federal room or building, wearing a uniform or official insignia, or using government resources.

This means that while you are working, in a government office building, wearing your identification badge, or using any government resource, you may not engage in political activity such as wearing a political button or t-shirt, sending political emails, making political donations, posting political comments online, and inviting others to a political event.

(2) Employees may not solicit, accept, or receive a political contribution from any person. In addition to the more obvious prohibition on directly asking for or receiving a political donation, this also means that you may not host a political fundraiser, invite others to a political fundraiser, collect contributions, sell tickets to a political fundraiser, or send an email that includes information on how to make a donation, such as including a link to the donation page of a political Web site. This prohibition applies to activity performed in your personal capacity, in any location, using any resources.

(3) Except in limited circumstances, employees may not be candidates for public office in partisan elections.

There is a limited exception for employees in the Washington metropolitan area. If you are thinking about a political career, you should consult with OGC before taking any steps in furtherance of your candidacy.

(4) Employees may not use their official authority or influence to interfere with or affect the result of an election.

This means that you may not use your official title or position while engaged in partisan political activity. It also means that you may not invite subordinate employees to political events or otherwise suggest to subordinates that they attend political events or undertake any partisan political activity. Nor may you encourage or discourage the political activity of anyone doing business with the Federal government. (*e.g.*, a contractor).

Specific examples of the types of permitted and prohibited activities for most Federal employees can be found [here](#).

Additional Restrictions for Career-SES

In addition to the restrictions listed above, employees holding certain positions in any agency are further restricted from political activity. Most career-SES employees may not engage in any political activity in concert with or on behalf of a candidate, political party, or partisan political group. This means you may not volunteer for a political campaign, be an officer in a political party, or distribute material made by a political campaign or party. You may, however, independently campaign for your favored candidate and distribute homemade political material.

Additional Information and Resources about the Hatch Act

The U.S. Office of Special Counsel (OSC), which is charged with investigating and administratively prosecuting Hatch Act violations, has issued a number of [advisory opinions](#) and [answers to frequently asked questions](#), as found on their website at www.osc.gov. Of particular interest may be OSC's [guidance on the Hatch Act as applied to social media and e-mail](#) (note: although the guidance does not mention using government resources, such as agency-issued mobile phones, while engaged in political activity, such action is prohibited by the Hatch Act).