POLITICAL ACTIVITY
AND THE
FEDERAL EMPLOYEE
in 2012
FEDERAL HATCH ACT
5 U.S.C. §§ 7321-7326

- Originally passed in 1939.
- Amended in 1993 to expand rights of most employees to actively participate in partisan political management and political campaigns.
- Certain agencies and employees continue to be further restricted.
FEDERAL HATCH ACT
5 U.S.C. §§ 7321-7326

ACT APPLIES TO EMPLOYEES OF —

- Federal Executive Agencies
- United States Postal Service
- District of Columbia Government

INCLUDING

- Part-time employees
- Special government employees and others working on an occasional or intermittent basis, when engaged in government business

DOES NOT APPLY TO PRESIDENT. VICE PRESIDENT, D.C. MAYOR & D.C. CITY COUNCIL
# FEDERAL HATCH ACT

## TWO CATEGORIES OF EMPLOYEES:

<table>
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<tr>
<th>EMPLOYEES OF INTELLIGENCE- AND ENFORCEMENT-TYPE AGENCIES <em>(Further Restricted)</em></th>
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GENERALLY LESS RESTRICTED EMPLOYEES **MAY** –

- Assist in partisan voter registration drives
- Express opinions about candidates and issues
- Contribute money to political organizations
- Attend political fundraising functions
FEDERAL HATCH ACT DOs
5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART B

GENERALLY LESS RESTRICTED EMPLOYEES MAY –

- CAMPAIGN FOR OR AGAINST REFERENDUM QUESTIONS, CONSTITUTIONAL AMENDMENTS, AND MUNICIPAL ORDINANCES

- CAMPAIGN FOR OR AGAINST CANDIDATES IN PARTISAN ELECTIONS (including making campaign speeches and distributing campaign literature in partisan elections)
GENERALLY LESS RESTRICTED EMPLOYEES **MAY** –

- ATTEND AND BE ACTIVE AT POLITICAL RALLIES AND MEETINGS
- JOIN AND BE ACTIVE MEMBERS OF A POLITICAL PARTY OR CLUB
- CIRCULATE AND SIGN NOMINATING PETITIONS
- BE CANDIDATES FOR PUBLIC OFFICE IN NONPARTISAN ELECTIONS
LESS RESTRICTED EMPLOYEES MAY **NOT** —

- USE OFFICIAL AUTHORITY OR INFLUENCE TO INTERFERE WITH AN ELECTION

- SOLICIT OR DISCOURAGE POLITICAL ACTIVITY OF ANYONE WITH BUSINESS BEFORE THEIR AGENCY

- SOLICIT OR RECEIVE POLITICAL CONTRIBUTIONS (MAY BE DONE IN CERTAIN LIMITED SITUATIONS BY FEDERAL LABOR OR OTHER EMPLOYEE ORGANIZATIONS)

- BE CANDIDATES FOR PUBLIC OFFICE IN PARTISAN ELECTIONS
WHEN DOES IT BEGIN?

- WHEN AN INDIVIDUAL BEGINS TO COLLECT SIGNATURES FOR NOMINATING PETITIONS
- WHEN AN INDIVIDUAL BEGINS TO FUNDRAISE
- WHEN AN INDIVIDUAL MAKES AN ANNOUNCEMENT TO THE PRESS
- WHEN AN INDIVIDUAL FILES NOMINATING PETITIONS
- WHEN AN INDIVIDUAL PUTS A CAMPAIGN COMMITTEE TOGETHER
BEWARE OF NONPARTISAN ELECTIONS/CANDIDACIES
5 U.S.C. § 7323

Nonpartisan can transform to partisan when:

- **Standard**: There is evidence showing that partisan politics actually entered the campaign of a candidate.
  - Employee/candidate seeks and receives endorsement of political party.
  - Employee/candidate advertises endorsement of political party.
  - Employee/candidate uses political party resources.
  - Employee/candidate announces he is political party candidate.
LESS RESTRICTED EMPLOYEES MAY **NOT** ENGAGE IN POLITICAL ACTIVITY WHILE —

- ON DUTY
- IN A GOVERNMENT OFFICE
- WEARING AN OFFICIAL UNIFORM
- USING A GOVERNMENT VEHICLE

FEDERAL HATCH ACT DON’Ts
5 U.S.C. § 7324; 5 C.F.R. PART 734, SUBPART C
POLITICAL ACTIVITY MEANS:

AN ACTIVITY DIRECTED TOWARD THE SUCCESS OR FAILURE OF A —

- POLITICAL PARTY
- CANDIDATE FOR PARTISAN POLITICAL OFFICE, OR
- PARTISAN POLITICAL GROUP
EMPLOYEES —

- PAID FROM APPROPRIATION FOR EXECUTIVE OFFICE OF THE PRESIDENT (EOP), OR
- PRESIDENTIALLY APPOINTED, SENATE-CONFIRMED (PAS)

WHO —

- OCCUPY POSITIONS LOCATED IN THE U.S., AND
- DETERMINE POLICIES TO BE PURSUED IN
  - RELATIONS WITH FOREIGN POWERS, OR
  - NATIONWIDE ADMINISTRATION OF FEDERAL LAWS
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 DERIVED FROM THE U.S. TREASURY**
FEDERAL HATCH ACT: RESTRICTED AGENCIES
5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART D

- CRIMINAL DIVISION (DOJ)
- CENTRAL INTELLIGENCE AGENCY
- DEFENSE INTELLIGENCE AGENCY
- FEDERAL BUREAU OF INVESTIGATION
- FEDERAL ELECTIONS COMMISSION
- MERIT SYSTEMS PROTECTION BOARD
- NATIONAL IMAGERY AND MAPPING AGENCY
FEDERAL HATCH ACT:
RESTRICTED AGENCIES
5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART D

- NATIONAL SECURITY AGENCY
- NATIONAL SECURITY COUNCIL
- OFFICE OF CRIMINAL INVESTIGATION (IRS)
- OFFICE OF INVESTIGATIVE PROGRAMS (CUSTOMS)
- OFFICE OF LAW ENFORCEMENT (BATF)
- OFFICE OF SPECIAL COUNSEL
- SECRET SERVICE
FEDERAL HATCH ACT: RESTRICTED POSITIONS
5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART D

- CAREER SES
- ADMINISTRATIVE LAW JUDGES
- MEMBERS OF CONTRACTS APPEALS BOARDS
FURTHER RESTRICTED EMPLOYEES MAY **NOT** —

- USE OFFICIAL AUTHORITY OR INFLUENCE TO INTERFERE WITH AN ELECTION
- SOLICIT OR DISCOURAGE POLITICAL ACTIVITY OF ANYONE WITH BUSINESS BEFORE THEIR AGENCY
- SOLICIT OR RECEIVE POLITICAL CONTRIBUTIONS (MAY BE DONE IN CERTAIN LIMITED SITUATIONS BY FEDERAL LABOR OR OTHER EMPLOYEE ORGANIZATIONS)
- BE CANDIDATES FOR PUBLIC OFFICE IN PARTISAN ELECTIONS
FURTHER RESTRICTED EMPLOYEES MAY **NOT** ENGAGE IN POLITICAL ACTIVITY WHILE —

- **ON DUTY**
- **IN A GOVERNMENT OFFICE**
- **WEARING AN OFFICIAL UNIFORM**
- **USING A GOVERNMENT VEHICLE**
FURTHER RESTRICTED EMPLOYEES MAY **NOT** ENGAGE IN PARTISAN POLITICAL CAMPAIGNING AND POLITICAL MANAGEMENT:

- Make campaign speeches
- Distribute campaign literature
- Organize a political rally, meeting or fundraiser
- Hold political party office or be a party delegate
- Participate in partisan voter registration drives
- Circulate nominating petitions

**KEY:** NO ACTIVITY IN CONCERT WITH A POLITICAL PARTY OR CANDIDATE
FURTHER RESTRICTED EMPLOYEES MAY —

- Join political clubs or parties
- Express opinions about candidates and issues
- Sign nominating petitions
- Attend political rallies and conventions
- Participate in nonpartisan activities
Less restricted employees who reside in designated localities may –

- **Run** as independent candidates in partisan elections for local office in that designated locality

- **Solicit, accept or receive** a political contribution on behalf of an independent candidate in a partisan election for local office (except may not **solicit** a federal employee)

- **Accept or receive** a political contribution for a partisan candidate for local office (except from a subordinate)

- **Solicit, accept or receive** uncompensated volunteer services in the preceding three instances (except from a subordinate)
Further restricted employees who reside in designated localities may –

- **Run** as independent candidates in partisan elections for local office in that designated locality

- **Solicit, accept or receive** a political contribution on behalf of an independent candidate in a partisan election for local office (except may not **solicit** a federal employee or **accept or receive** a political contribution from a subordinate)

- **Solicit, accept or receive** uncompensated volunteer services in the preceding two instances (except from a subordinate)
PENALTIES FOR VIOLATION
(FEDERAL HATCH ACT)
5 U.S.C. § 7326

MERIT SYSTEMS PROTECTION BOARD MAY ORDER EMPLOYEE’S —

- REMOVAL

OR

- SUSPENSION (30-DAY MINIMUM)
Who is covered?

State/local employees
- executive branch
- principal employment
- in connection with an activity that is federally financed

Key: Does the employee perform duties in connection with a federally funded program? Salary is not controlling.
FEDERAL HATCH ACT:
OSC PHONE / E-MAIL CONTACTS

HATCH ACT UNIT: (800) 85-HATCH
(202) 653-7143
hatchact@osc.gov

PUBLIC INFORMATION: (202) 653-2253

OSC SPEAKERS / OUTREACH: (202) 653-6006
Headlines:

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