



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:

**EMPLOYEES OF
INTELLIGENCE- AND
ENFORCEMENT-TYPE
AGENCIES
(Further Restricted)**

- Except PAS

**ALL OTHERS
(Less Restricted)**

- GS
- WG
- PAS
- Schedule C
- Noncareer SES

FEDERAL HATCH ACT DOs
5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART B



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)**

FEDERAL HATCH ACT DOs

5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART B



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

FEDERAL HATCH ACT DON'Ts

5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART C



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

CANDIDACY

5 U.S.C. § 7323



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.

FEDERAL HATCH ACT DON'Ts

5 U.S.C. § 7324; 5 C.F.R. PART 734, SUBPART C



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

5 U.S.C. § 7324; 5 C.F.R. PART 734.101



POLITICAL ACTIVITY MEANS:

AN ACTIVITY DIRECTED TOWARD THE SUCCESS OR FAILURE OF A —

- ❑ POLITICAL PARTY
- ❑ CANDIDATE FOR PARTISAN POLITICAL OFFICE, OR
- ❑ PARTISAN POLITICAL GROUP

FEDERAL HATCH ACT: EOP / PAS COVERAGE

5 U.S.C. § 7324(b); 5 C.F.R. PART 734, SUBPART E



□ 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

**FEDERAL HATCH ACT:
EOP / PAS COVERAGE (CONT'D)**
5 U.S.C. § 7324(b); 5 C.F.R. PART 734, SUBPART E



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

**FEDERAL HATCH ACT DON'Ts:
FURTHER RESTRICTED EMPLOYEES**
5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART D



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**

**FEDERAL HATCH ACT DON'Ts:
FURTHER RESTRICTED EMPLOYEES**
5 U.S.C. § 7324; 5 C.F.R. PART 734, SUBPART D



**FURTHER 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:
FURTHER RESTRICTED EMPLOYEES**
5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART D



**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**

**FEDERAL HATCH ACT DOs:
FURTHER RESTRICTED EMPLOYEES**
5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART D



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**

DESIGNATED LOCALITIES

5 U.S.C. § 7325; 5 C.F.R. Part 733



- **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)

DESIGNATED LOCALITIES

5 U.S.C. § 7325; 5 C.F.R. Part 733



- 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)

STATE AND LOCAL EMPLOYEES

5 U.S.C. §1501-1508



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

OSC WEB SITE (<http://www.osc.gov>)



[About This Site](#)

[Privacy Policy](#)

[Site Index](#)

[Search This Site](#)

[Accessibility](#)

U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street N.W., Suite 201 ~ Washington D.C. 20036-4505



[Introduction to the OSC](#)

[Prohibited Personnel Practices](#)

[Whistleblower Disclosures](#)

[Political Activity \(Hatch Act\)](#)

[Uniformed Services Employment Rights Act](#)

[Alternative Dispute Resolution](#)

[Press Releases](#)

[Freedom of Information Act](#)

[Reading Room](#)

[Forms and Publications](#)

[OSC Contacts and Other Links](#)

[OSC Employment Opportunities](#)

Headlines:

LATEST PRESS RELEASE: OSC Announces Favorable Settlement of Hostile Work Environment Complaint Against U.S. Forest Service

Welcome to the U.S. Office of Special Counsel (OSC) home page. OSC is an independent federal investigative and prosecutorial agency. Our primary mission is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices, especially reprisal for whistleblowing. OSC also serves as a safe and secure channel for federal workers who wish to disclose violations of laws, gross mismanagement or waste of funds, abuse of authority, and a specific danger to the public health and safety. In addition, OSC enforces and provides advisory opinions regarding the Hatch Act, and protects the rights of federal employee military veterans and reservists under the Uniformed Services Employment and Reemployment Rights Act of 1994.

Information about all of OSC's functions, including how to file a complaint, make a protected disclosure, or receive a Hatch Act advisory opinion, can be located within this site. We hope that you will find our site useful and informative, and we invite your comments and suggestions.