



The 2016 Election Season: What Every Employee Needs to Know about the Hatch Act

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**

What May All Employees Do?

- Register and vote as they choose
- Contribute money to political parties, campaigns, or groups
- Attend political rallies, meetings, or fundraisers
- Be members of political clubs or parties
- Sign nominating petitions
- Be candidates for public office in nonpartisan elections
- Campaign for or against referendum questions, constitutional amendments, or municipal ordinances
- Follow, like, or comment on the social media pages of a candidate for partisan office, political party, or partisan group

What May Less Restricted Employees Do?

Engage in partisan political campaigning:

- Circulate nominating petitions
- Volunteer to work on a campaign
- Distribute campaign literature
- Organize campaign events
- Speak on behalf of a candidate

Engage in partisan political management:

- Hold party office
- Serve as delegate to a party convention
- Organize party events
- Serve on a party committee

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

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?

DEMOCRATS' COIN FLIP

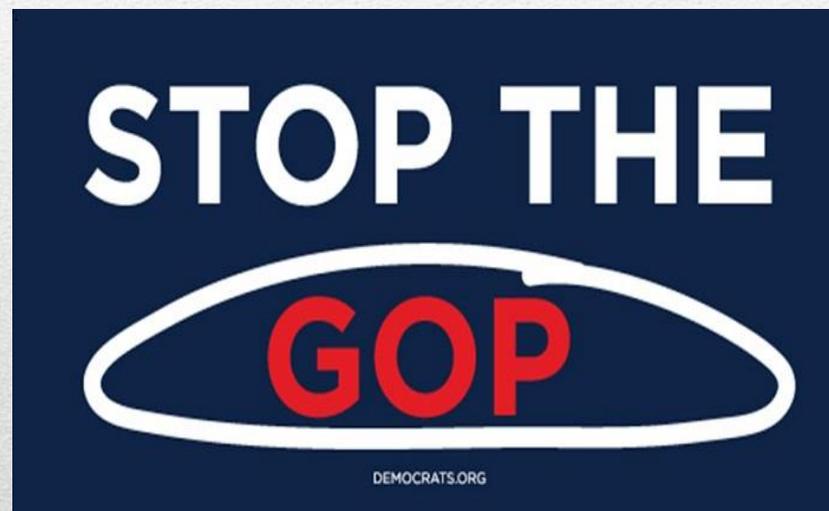


SELF PROCLAIMED
"SOCIALIST"



UNDER INVESTIGATION
BY THE FBI

GOP.COM



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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On Duty/In the Workplace Prohibition

Employees may not 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

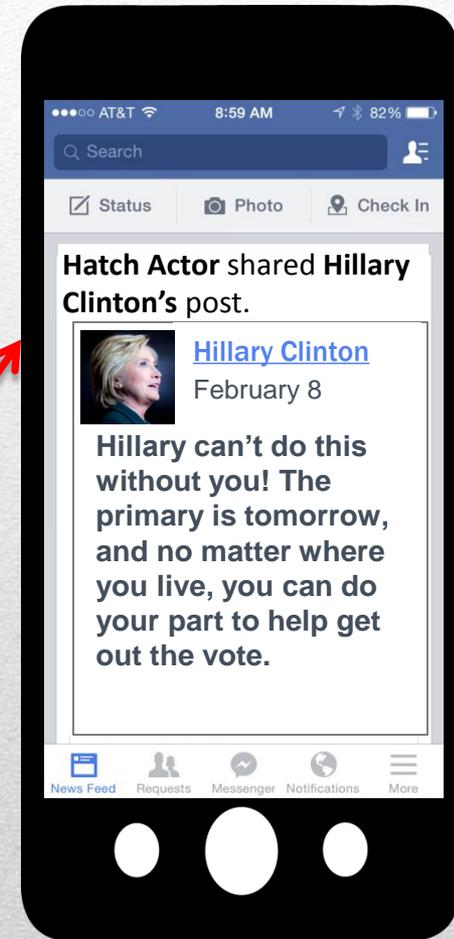
- Emailing, blogging, tweeting, posting to social media, etc.
 - Even if using a personal device or email account
 - Even if sharing or forwarding content authored by others
 - Even if sharing or forwarding to friends or like-minded coworkers
 - Even union email if it meets the definition of political activity



May 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.

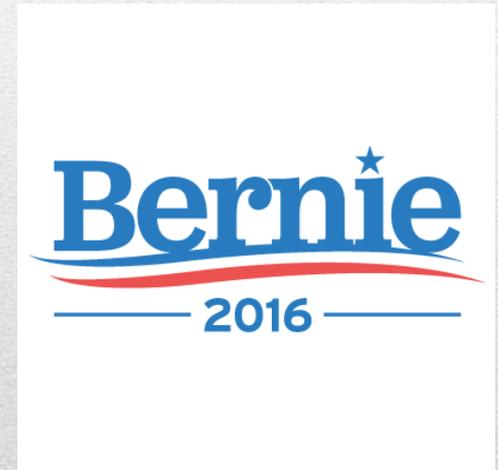
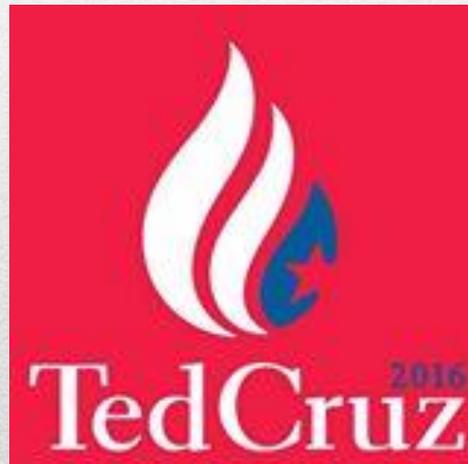
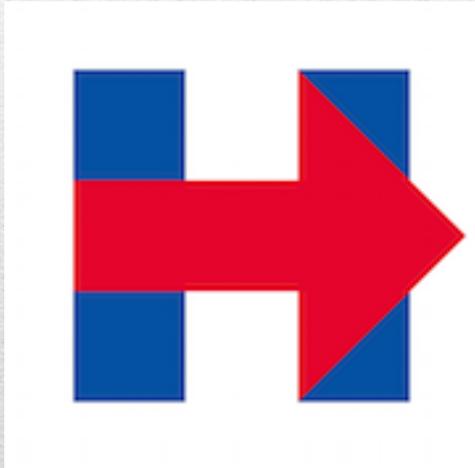


This is NOT OKAY. You may not engage in political activity via social media at any time when you are on duty or in the federal workplace, regardless of the method used to access your social media sites.

On Duty/In the Workplace

Permitted or Prohibited?

May you display these logos in your office?



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On Duty/In the Workplace

Permitted or Prohibited?

May you use these mugs while at work?

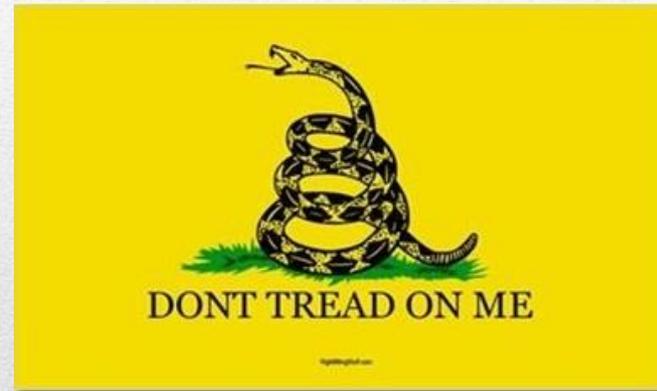


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On Duty/In the Workplace

Permitted or Prohibited?

May you display these signs at work?



On Duty/In the Workplace

Permitted or Prohibited?

May you share these posts while on duty?



5 U.S.C. § 7324; 5 C.F.R. § 734.306

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

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

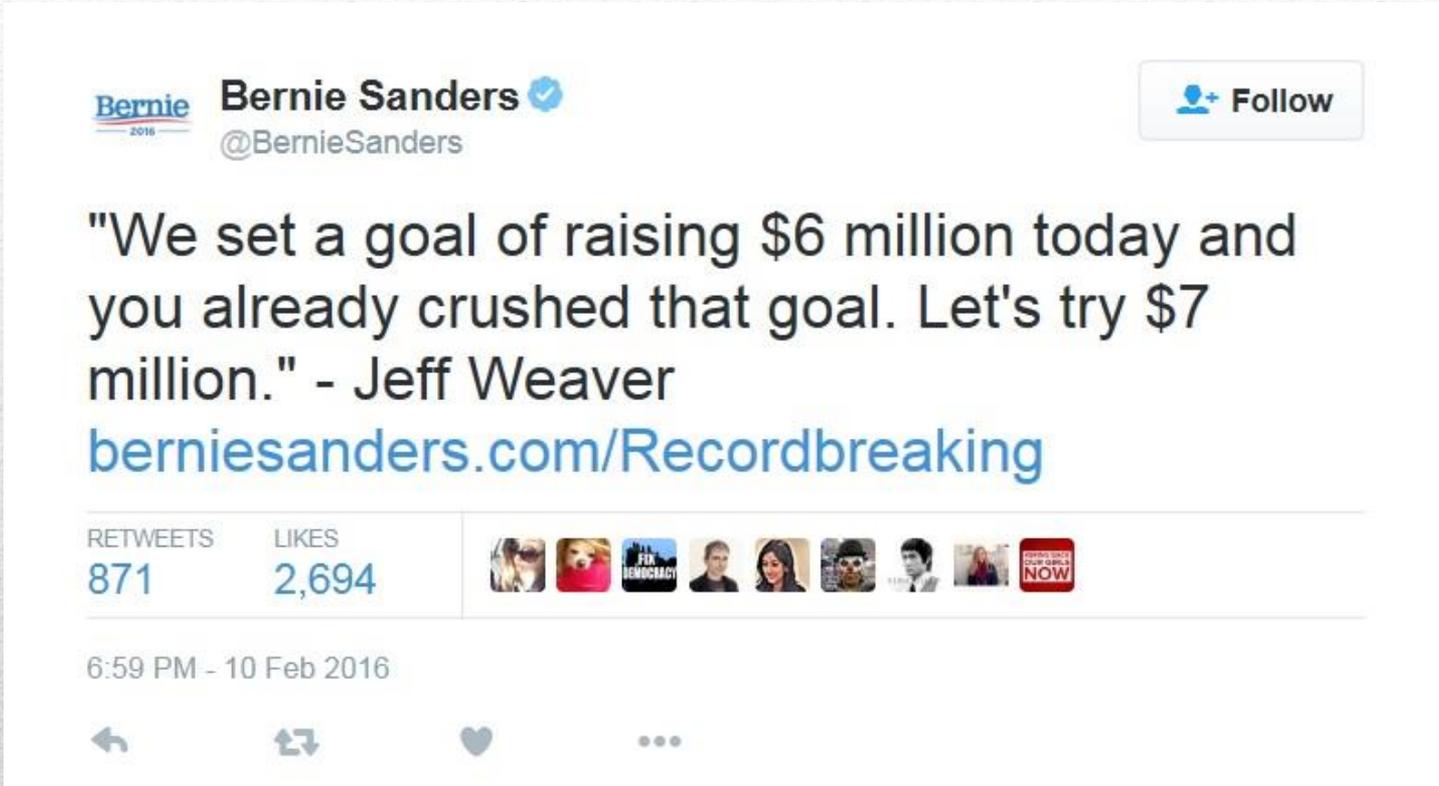


NO. Because you have distributed and shared the fundraising post with your Facebook friends through News Feed.

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



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



NO. Because you have distributed and shared the fundraising post with your followers.

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

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

Facebook profile header for "Hatch Actor". Includes the Facebook logo, a profile picture placeholder, a cover photo of a classical building, and navigation tabs for Timeline, About, Photos, Friends (127), and More.

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.

Social Media Guidance for All Employees

May Not:

- Tweet, Retweet, Share, or Like a post or content that solicits political contributions
- Engage in political activity via social media while on duty or in the workplace (e.g., share, like, or retweet a post from a candidate or partisan group; or post/tweet a comment directed at the success or failure of a candidate or partisan group)
- Like, or Follow the social media page of a candidate or partisan group while on duty or in the workplace
- Use a social media account in your official capacity to engage in political activity
 - But including your official title or position on the profile of your personal social media page is okay

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

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^o

^oYou 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

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
- Forward campaign or political party emails

No activity in concert with a political party or partisan candidate

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Additional Social Media Guidance for Further Restricted Employees

May Not:

- Link to or post the partisan material of a candidate, political party or partisan group
- Share or retweet the social media pages or posts of a candidate, political party, or partisan group

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

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OSC Speakers/Outreach

Phone 202-254-3600

OSC Website

www.osc.gov