

POLITICAL ACTIVITIES AND THE HATCH ACT

GUIDANCE WHEN TELEWORKING

(updated 4/28/2020)

The Hatch Act (5 United States Code §§ 7321-7326), regulations at 5 C.F.R. Part 734, and DoD policy govern the political activities of DoD civilian employees. Among other restrictions, the statute and regulation prohibit most employees from engaging in political activities in a federal workplace, while on duty, while wearing a Government uniform, badge, or insignia, and while using a government vehicle. Political activity is defined as an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group. With the increase in home-based telework due to recent events and the Presidential election this year, there may be questions about political activity while teleworking. This fact sheet provides answers to some potential scenarios that could easily arise in a telework setting. *It does not address the additional prohibitions governing “Further Restricted” employees, but please remember that “Further Restricted” employees are prohibited from engaging in political activity as defined above.*

Does teleworking away from the traditional office setting constitute “while on duty”?

Yes. From whatever location you are teleworking, that site constitutes your place of duty for that particular workday. If you are teleworking from home, you are on duty and may not engage in political activities in your home while you are on duty. Employees participating in virtual work-related conferences are subject to the same on-duty Hatch Act restrictions as when they attend meetings or communicate in-person with others at work. For example, employees should not wear a campaign t-shirt or hat while participating in a work-related video conference call, and they should ensure that any partisan materials, like campaign signs or candidate pictures, are not visible to others during the call.

Additionally, some teleconferencing programs and email applications allow individuals to add a profile picture, which is visible to others. Employees using email or other conferencing programs for work purposes may not use the profile pictures associated with these platforms to show support for or opposition to a political party, partisan political group, or candidate for partisan political office. For example, employees may not use candidate images, campaign slogans, or political party symbols for profile pictures associated with official accounts or when communicating on official matters.

After I am finished teleworking for the day, can I use my government computer or government mobile phone to engage in partisan political activity?

No. Employees are prohibited from using Government-issued office equipment, email, and the internet *at any time* for the purpose of engaging in political activities. For example, employees may not send or forward political material or messages using their government laptop or government mobile phone after completing a day of telework.

After I am finished teleworking for the day, when I am on my personal time and using my personal devices, can I fundraise for a partisan political party, candidate for partisan political office, or partisan political group?

No. The Hatch Act prohibits federal employees from soliciting or receiving political contributions. Fundraising is a 24/7 prohibition. For example, Federal employees may not ask for contributions, collect contributions, host or forward an online political fundraiser, or promote political fundraisers.

After I am finished teleworking for the day, can I use my personal computer or personal mobile phone to engage in partisan political activity? Yes, you may engage in permitted political activities while using your personal devices.

While teleworking, can I use my personal computer or personal mobile phone to check social media and engage in partisan political activity?

No. While teleworking, you are on duty and therefore you cannot use your personal devices to participate in political activity.

*Example 1: You are looking at Facebook on your personal cell phone. You see that a friend posted a message encouraging others to vote for members of a certain political party. You **may not** like or share that message while you are on duty.*

*Example 2: You are teleworking from home and looking at Twitter on your personal computer. You see that the President tweeted an endorsement of a congressional candidate. You **may not** like or retweet that message while on duty.*

While on my lunch break during a telework day, can I use my personal computer or mobile phone to engage in political activity?

Yes. If you are teleworking from home, you are not in a federal building. If you are on your lunch break, you are on personal time. Therefore, you may use your personal computer or personal mobile phone to engage in political activity while on a lunch break during a home telework day. ***Remember that if you are in a federal building during a lunch break, you cannot use your personal computer or personal mobile phone to engage in political activity.

While teleworking, can I use my government computer or government mobile phone to post a comment on a professional association's online discussion forum or an online news article about a current policy or a proposed policy change?

Yes. Commenting about a current policy or proposed policy change is not considered political activity and therefore the Hatch Act does not restrict this activity. Federal employees may express their opinions about current events and matters of public interest, such 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. Employees must still be mindful of using official time for official purposes and of DoD computer-use policies and must ensure they do not use or make any reference to their official position or title when expressing personal opinions.

This fact sheet is not comprehensive guidance, nor should it be substituted for legal advice. It is intended to provide an overview of the interplay between the Hatch Act and a telework setting. The Hatch Act is a very complex law and involves nuanced analysis. There are

different prohibitions that apply depending on whether you are a Further or Lesser Restricted Employee, or a Political Appointee.

Political Activity by Members of the Armed Forces is covered under DoDD 1344.10.

For more information, please contact your local ethics counsel. You can also visit the SOCO website at:

https://ogc.osd.mil/defense_ethics/topics/political_activities.html