

Guidance on Political Activity and DoD Support

2016

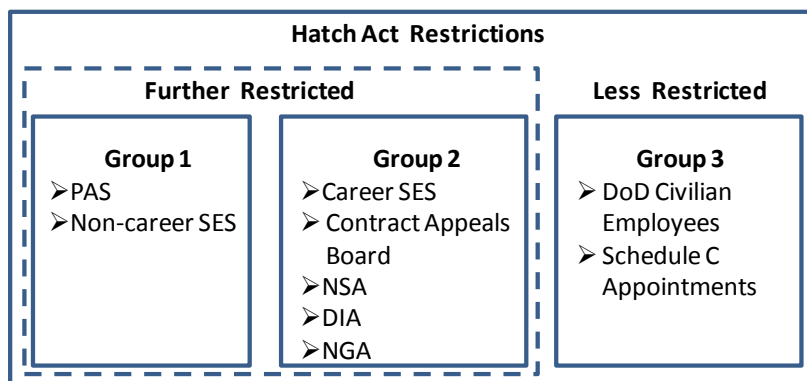
During the election cycle all DoD personnel – military and civilian – should be aware of the various limitations that exist when it comes to participation in political activity as well as DoD support to political campaigns. A quick summary of the rules and links to substantive guidance are included below.

Civilian Employees

For DoD civilians, participation in political activity is regulated by a number of sources: the Hatch Act ([5 U.S.C. §§ 7321 – 7326](#)), implementing regulations ([5 C.F.R. § 733](#) and [5 C.F.R. § 734](#)), as well as DoD policy. For purposes of the Hatch Act, 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.” Because application of the rules may vary depending on an employee’s position or office, it is extremely important that employees who are considering engaging in political activity know which rules apply.

With regard to civilian employees, there are two sets of restrictions for three groups of employees. The first and more restrictive set of restrictions applies to: (1) individuals appointed by the President and confirmed by the Senate and individuals serving in non-career SES positions; and (2) career members of the SES, contract appeals board members, and all employees of the National Security Agency (NSA), the Defense Intelligence Agency (DIA), and the National Geo-Spatial-Intelligence Agency (NGA). The second and more lenient set of restrictions applies to all other employees (including Schedule C political appointees).

Employees in Groups 1 and 2 are prohibited from taking an active part in partisan political management or political campaigns and are referred to as “further restricted” employees.



Further restricted employees are expressly prohibited from participating in political activity. Specifically, further restricted employees are prohibited from engaging in any political activity which is “in concert” with a political party, partisan political group, or candidate for partisan political office. “In concert” activity is any activity that is sponsored or supported by a political party, partisan political group, or candidate for partisan political office. Prohibited activities also include soliciting or receiving political contributions. Further restricted employees may, however, express their personal opinions, make monetary contributions to a campaign, and attend, but not actively participate in, campaign events or fundraising functions sponsored by candidates for partisan political office or political parties. [Partisan Political Activity Rules for “Further Restricted” DoD Civilians](#).

Less restricted employees (employees in Group 3), while in their personal capacities, may volunteer with a political campaign or political organization. Examples of permitted volunteer activities include: organizing political rallies and meetings, making phone calls on behalf of a candidate, serving as a delegate to a party convention, and working for a political party to get out the vote on Election Day. These employees are, however, prohibited from soliciting or receiving political contributions. [Partisan Political Activity Rules for “Less Restricted” DoD Civilians](#).

Regardless of whether a civilian employee is further restricted or less restricted, she may never engage in political activity while on-duty or in a Federal building. Specifically, an employee may not send or forward political emails, post political messages to a Facebook account or engage in political tweeting while in a Federal building (including when off-duty), even if the employee is using her personal smartphone, tablet, or computer. Employees should never use government equipment when engaging in political activities. The attached Office of [Special Counsel Press Release](#) illustrates these issues.

Military Members

The primary guidance concerning political activity for military members is found in DoD Directive 1344.10 [[Guidance for Military Personnel](#)]. Per longstanding DoD policy, active duty personnel may not engage in partisan political activities and all military personnel should avoid the inference that their political activities imply or appear to imply DoD sponsorship, approval, or endorsement of a political candidate, campaign, or cause. Members on active duty may not campaign for a partisan candidate, engage in partisan fundraising activities, serve as an officer of a partisan club, or speak before a partisan gathering. Active duty members may, however, express their personal opinions on political candidates and issues, make monetary contributions to a political campaign or organization, and attend political events as a spectator when not in uniform.

Social Media

Civilian and military personnel may generally express their personal views on public issues or political candidates via social media platforms, such as Facebook, Twitter, or personal blogs, much the same as they would be permitted to write a letter to the editor of a newspaper. If, when expressing a personal opinion, personnel are identified by a social media site as DoD employees, the posting must clearly and prominently state that the views expressed are those of the individual only and not of the Department of Defense.

As previously noted, active duty military members and further restricted civilian employees are prohibited from participating in partisan political activity. Therefore, while these employees may “follow” “friend” or “like” a political party or candidate running for partisan office, they may not post links to, “share” or “re-tweet” comments or tweets from the Facebook page or Twitter account of a political party or candidate running for partisan office. Such activity is deemed to constitute participation in political activities. Social media guidance for military members [[FAQs Political Activities and Members of the Armed Forces](#)] and civilian employees [[Social Media and the Hatch Act](#)] offers advice on how to avoid violating the rules.

Service members must also be careful not to comment, post, or link to material that violates the Uniform Code of Military Justice (UCMJ) or Service regulations. Examples include showing contempt for public officials, releasing sensitive information, or posting unprofessional material that is prejudicial to good order and discipline under the UCMJ.

Additional general guidance on the Hatch Act may be found at the U.S. Office of Special Counsel website at www.osc.gov.

DoD Support to Campaigns

Any activity that may be reasonably viewed as directly or indirectly associating DoD, or any component or personnel of DoD, with a partisan political activity or is otherwise contrary to the spirit and intention of this guidance must be avoided. Consistent with this, installation commanders must decline requests for military personnel or federal civilian employees to appear in or support political campaign or election events in their official capacities, with the exception of providing joint Armed Forces color guards at the opening ceremonies of the national conventions of the Republican, Democratic, and other political parties formally recognized by the Federal Election Commission. In addition, installation commanders shall not permit the use of military facilities by any candidate for political campaign or election events, including public assemblies or town hall meetings, speeches, fundraisers, press conferences, post-election celebrations and concession addresses.

Use of Official DoD Seals and Emblems

Official seals of DoD and the Military Services may only be used for official purposes. Military Service marks, including those appearing on flags, “may not be licensed for use in a manner that creates a perception of DoD endorsement of any non-federal entity or its products or services.” DoDI 5535.12, Encl. 2, ¶ 2.d. DoD personnel authorized to participate in political activities in their personal capacities must not sanction use of a Military Service mark or flag or otherwise create an actual or apparent endorsement of a candidate or campaign by DoD or a Military Service.

For more information, personnel should contact their local legal or Staff Judge Advocate (SJA) office.