

HOW TO AVOID REMOVAL –

Understanding the Hatch Act and Its Restrictions on Your Political Activity.

More than 18 months after the Presidential Election of 2008, the U.S. Office of Special Counsel (OSC) is still investigating and filing charges against Federal sector employees who allegedly violated the Hatch Act during the last presidential election cycle. As recently as March 2010, the OSC filed a complaint with the U.S. Merits Systems Protection Board (MSPB) requesting that an employee with the General Services Administration (GSA) receive disciplinary action up to removal for allegedly sending emails to other federal employees about volunteer activities for then Presidential candidate Barack Obama's campaign, while that employee was on duty and/or in government building. http://www.osc.gov/documents/press/2010/pr10_04HA.pdf. With the midterm Congressional Elections a little less than 6 months away, now is the perfect opportunity to review the restrictions the Hatch Act places on your political activity – and with that knowledge, you can avoid reading your name in a OSC press release and removal from the Federal service.

Under the Hatch Act, executive branch employees of the federal government are restricted in their ability to actively take part in partisan political management and partisan political campaigns as compared to “private citizens.” (See [5 U.S.C. §§ 7321-7326](#)). Further, some federal employees are subject to even greater restrictions which prohibit them from engaging in any partisan political activity. Be warned, the default penalty for a federal employee who violates the Hatch Act is REMOVAL. In general, federal employees who may participate in partisan political activity, referred to as “unrestricted employees,” **may**:

- register and vote as they choose;
- assist in voter registration drives;
- express opinions about candidates and issues;
- contribute money to political organizations;
- attend political fundraising functions;
- attend and be active at political rallies and meetings;
- join and be an active member of a political party or club;
- sign nominating petitions;
- campaign for or against candidates in partisan elections;
- make campaign speeches for candidates in partisan elections; and
- distribute campaign literature in partisan elections.

However, “unrestricted 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;
- engage in political activity while:
 - on duty
 - in a government office
 - wearing an official uniform
 - using a government vehicle; or
- wear partisan political buttons on duty.

For example, while accessing your personal email account (e.g., Gmail, hotmail, yahoo) from a government computer you **MAY NOT** forward an email from a partisan political campaign to your friends, family or co-workers, because to do so would be to engage in political activity while in a government office. Likewise, while you are teleworking/commuting from home, you **MAY NOT** forward a YouTube video of a political speech to your friends, family or co-workers, because to do so would be to engage in political activity while on duty. Furthermore, whether on or off duty, even forwarding a partisan candidate's official campaign website to family and friends could constitute a violation of the Hatch Act if the main page of that website immediately opens with a solicitation for a political contribution.

REMEMBER THE DEFAULT PENALTY FOR A FEDERAL EMPLOYEE WHO VIOLATES THE HATCH ACT IS **REMOVAL!** If you have any questions or concerns regarding the Hatch Act, contact Mahoney & Jeffrey, PLLC at 202-312-7100 or www.MahoneyJeffrey.com.

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