
Office of Inspector General

Interim Report on Travel Policies and Practices of Political Appointees

Department of Transportation

Report Number: FE-2000-089

Date Issued: May 1, 2000



May 1, 2000

The Honorable Fred Thompson
Chairman, Committee on Governmental Affairs
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

In response to your request of February 29, 2000, the Office of Inspector General initiated a Departmentwide review of policies and practices regarding political activities and travel by Department of Transportation (DOT) employees. Your request posed seven questions pertaining to DOT. You asked for this information by the end of April 2000, and updates every 60 days through the end of this year. In discussions with the Committee staff, we were advised to exclude trips from our report that involved only a mix of official and personal travel.

This letter addresses the first phase of our review. We obtained the DOT policies, guidelines, and practices concerning political activity and reimbursement for travel expenses. For the 2 years ended March 31, 2000, DOT employed 20 political appointees who were appointed by the President and confirmed by the Senate (PAS appointees), 43 non-career Senior Executive Service (SES) appointees, and 51 Schedule C appointees. Of the 114 appointees, 29 were no longer in DOT's employ as of March 31, 2000.

The interim results of our review as of April 28, 2000, keyed to each of the seven questions in your request, are provided below.

Committee Question: What are DOT's policies and guidelines regarding political activity by employees?

On February 1, 1996, DOT issued guidelines entitled "Prohibitions Relating to Political Activities." In summary, these guidelines advise that the Secretary, as well as other PAS appointees, may take part in partisan political activities. However, these activities must comply with the basic rules as prescribed by the Hatch Act Reform Amendments of 1993.

For PAS appointees, the guidelines state that expenses relating to participation in political activity may not be paid for by Federal funds. For mixed political and official activity, travel expenses must be reasonably allocated between the government and the sponsoring political entity. Schedule C appointees, non-career SES appointees, and most other appointees who are not in the SES also are subject to the Hatch Act restrictions that apply to the Secretary and other PAS appointees, but these appointees may engage in political activity only on their own time.

Career SES employees remain subject to the Hatch Act prohibitions in effect before the enactment of the Hatch Act Reform Amendments of 1993. These employees may not actively participate in partisan politics at any time. Most other career employees are subject to the amendments. These guidelines are in Enclosure 1.

Committee Question: What process exists within DOT to review claims for official travel?

DOT Order 1500.11 entitled "Department of Transportation Travel Guiding Principles" states that the Federal Travel Regulation (FTR), as implemented and supplemented by the Departmental Travel Guiding Principles, contains the process governing travel and transportation management within DOT. The Department's process for reviewing travel claims for official travel is the same as that required by the FTR.

In general, when a travel voucher is submitted for processing, the authorizing/approving official reviews the completed claim to ensure it is properly prepared in accordance with regulations and agency procedures and that appropriate supporting documentation, such as receipts, are attached to the voucher. If political travel is involved for PAS employees, the authorizing/approving official must ensure that travel expenses were allocated between the government and the sponsoring political entity. Our review showed 10 of the 20 PAS appointees routinely approve their own vouchers.

Once satisfied, the authorizing/approving official signs the travel voucher and submits it to the accounting office for final processing and payment. Accounting office personnel ensure that the claim is proper and authorized. The travel claim is certified for payment and is signed by the certifying official. The payment is then made to the traveler. DOT Order 1500.11 is Enclosure 2.

Committee Question: What is DOT policy regarding combining official travel with political travel?

The DOT guidelines entitled "Prohibitions Relating to Political Activities" address the combining of official travel with political travel for PAS appointees. The guidelines provide that no government funds may be used for political activity expenses. When a mix of political and governmental activity occur, the guidelines provide that travel expenses must be reasonably allocated between the government and the sponsoring political entity. The guidelines are Enclosure 1.

Committee Question: How many trips taken by DOT employees included a mix of official and political travel?

The first phase of our review focused on the travel of the 20 PAS appointees. These 20 appointees took a total of 936 trips from April 1, 1998, to March 31, 2000, and filed 1,042 travel vouchers. As of April 28, 2000, we have completed our review of 670 vouchers. None of the trips supported by these 670 vouchers included a mix of official and political travel. We are continuing our review of the remaining 372 travel vouchers, which includes at least 23 trips that involved a mix of official and political travel.

Committee Question: Have any staff, including but not limited to protective details or advance personnel, accompanied political appointees on travel involving a political component?

Our review to date has focused only on the PAS appointees. We will determine during the next phase of our review if any staff accompanied political appointees on travel involving a political component.

Committee Question: What systems are in place within DOT to ensure that employees are abiding by the Hatch Act?

The Office of General Counsel within DOT has the overall responsibility to ensure employees are abiding by the Hatch Act. This office published "Prohibitions Relating to Political Activities" which includes Hatch Act requirements, and focuses on training and counseling to ensure that DOT employees are abiding by the Hatch Act. DOT employees are encouraged to consult with the Office of General Counsel if they have any questions or concerns about compliance with the Hatch Act. There is no formal system in place to conduct reviews of political appointees' activities to ensure compliance with the Hatch Act. The Department's efforts are aimed at identifying and resolving potential violations before they occur.

Committee Question: How much time have those employees who are appointed by the President and confirmed by the Senate spent campaigning over the last 2 years?

We are currently in the process of conducting personal interviews with the 20 PAS appointees to determine whether they spent any time campaigning over the last 2 years.

We are continuing our review. As you requested, we will provide interim reports every 60 days. Our next report will be no later than June 30, 2000.

If we can answer questions or be of any further assistance, please feel free to call me at (202) 366-1959, or John Meche at (202) 366-1496. This letter is our report number FE-2000-089.

Sincerely,

Kenneth M. Mead
Inspector General

2 Enclosures

NOTE: Enclosure 2 is the DOT Travel Guiding Principles (Guidelines to Employees for Travel Practices). If you would like a copy of this 25-page item, please call Patty Stevens at (202) 366-6120.

cc: DOT General Counsel



**U.S. Department of
Transportation**


Office of the Secretary
of Transportation

General Counsel

Memorandum

Subject: Prohibitions Relating to Political Activities

Date: February 1, 1996

**From: 
Rosalind A. Knapp
Deputy General Counsel**

**Reply to WRegister
Attn. of: x.69154**

**To: The Secretary
The Deputy Secretary
Assistant Secretaries
Secretarial Officers
Heads of Operating Administrations**

For your' information, I have attached a pamphlet concerning political activities of DOT employees. While most DOT officials may participate in partisan political activities, the Hatch Act Reform Amendments of 1993 strictly limit the extent of this participation. I would appreciate your distributing the attached pamphlet to the employees in your organization.

Attachment

HATCH ACT REFORM AMENDMENTS OF 1993

TAB1 POLITICAL ACTIVITIES OF THE SECRETARY AND OTHER PRESIDENTIAL APPOINTEES AND THEIR STAFFS

- I. The Secretary and other Presidential Appointees
- II. Schedule C Employees, Non-Career SES Employees, and most other employees not in the SES
- III. Career SES Employees

TAB2 HATCH ACT'S KEY PRINCIPLES

TAB I: POLITICAL ACTIVITIES OF THE SECRETARY AND OTHER PRESIDENTIAL APPOINTEES AND THEIR STAFFS

1. THE SECRETARY AND OTHER PRESIDENTIAL APPOINTEES

Generally, the Secretary, as well as other Presidential appointees (PAS's), may take an active part in partisan political activities. In accordance with the Hatch Act Reform Amendments of 1993, the basic rules are:

1. They make remarks expressly advocating the election or defeat of a particular candidate; but, they may not use their official authority or influence for the purpose of affecting the result of an election. (e.g., "Your city may not get the FTA grant if the other party's candidate is elected.")

2. They may participate in fund-raising activities (e.g., as a speaker or honored guest) as long as they do not personally solicit or accept contributions or serve as a sponsor of the activity. Also, they may not allow their official titles to be used in connection with fund-raising activities.

3. Their participation must be at the expense of a sponsor of the activity, such as the candidate or a national, State, or local party organization.

Expenses relating to participation in political activity may not be paid for by federal funds or by anyone with whom the Secretary would have a conflict of interest. For mixed political and governmental activity, travel expenses must be reasonably allocated between the government and the sponsoring political entity. Reasonable allocation means calculating the amount of time spent on political activity and on official activity respectively and then allocating the cost according to the resulting percentage of the total time spent. (There are White House guidelines available for those involved in planning and coordinating trips; also allocation guidelines have been published in 5 CFR § 7734.503.) Expenses attributable to the political activity should be paid for by the sponsor in advance or by the appointee with reimbursement from the sponsor. No government funds may be used for political activity expense. (N.B.: there are special rules for Presidential campaign events.)

It is almost axiomatic that there will be requests for release of the Secretary's travel records in efforts to check for any abuse in spending federal travel funds or in connection with politically related travel. Also, pursuant to White House guidelines, PAS use of corporate aircraft is generally prohibited unless approved in advance. Likewise, use of government vehicles for political activity is prohibited, absent a compelling security consideration. The one exception relates, in DOT, to the Secretary who is permitted to use a government vehicle during the regular work week to attend a political event as long as the political organization has paid, in advance, the anticipated cost of the vehicle's use.

II. SCHEDULE C EMPLOYEES, NON-CAREER SES EMPLOYEES. AND MOST OTHER EMPLOYEES NOT IN THE SES

Schedule C employees, non-career SES employees, and most other employees who are not in the SES are also subject to the Hatch Act restrictions that apply to the Secretary and other PAS's, but with one important difference. Unlike PAS's, these other employees may actively participate in partisan political activities only on their own personal time. During normal duty hours, these employees may not participate in any of the political activities of the Secretary or other Presidential appointees. In this regard, noting political events on the Secretary's schedule is permissible as being a part of making sure his Secretarial duties are properly scheduled; however, beyond the pure logistics of where the Secretary will be and when and how he will get from a government activity to a political one and back, actually planning a political activity, and making arrangements with local sponsors, etc.. would fall under the Hatch Act prohibitions.

Notwithstanding the above, a Schedule C or non-career SES employee, such as a Special Assistant to the Secretary, may accompany the Secretary on a political trip on the grounds that his or her presence is necessary for matters relating solely to the Secretary's official duties such as keeping liaison with the Department and making sure that transportation logistics are in order for the purposes of the Secretary's governmental duties. However, the employee should not do anything to make the political event better, such as taking tickets. All of the employee's expenses must be paid by the government.

Speech writers may prepare the substantive portions of the remarks of the Secretary for a political event, that is, those relating to facts and the official position of the Department or the Administration, but not the political references in the speech.

III. SES EMPLOYEES

Career SES Employees and certain other employees remain subject to the "old" Hatch Act prohibitions in effect before the enactment of the Hatch Act Reform Amendments of 1993, These employees may not actively participate in partisan political activities at any time.

TAB 2: HATCH ACT'S KEY PRINCIPLES

The Hatch Act Reform Amendments of 1993 contain various restrictions with respect to Federal employee participation in partisan political campaigning or management. The Amendments apply to all civilian employees, except career SES employees and certain other employees who continue to be covered by the “old” Hatch Act restrictions in effect before the enactment of the Hatch Act Reform Amendments of 1993. A copy of the various restrictions and their application is attached. The Office of Special Counsel is responsible for enforcing the restrictions listed in the attachments. The guidance in these attachments is also supplemented by regulations of the Office of Personnel Management published in 5 CFR Part 734. If you have questions about how these provisions affect you, please contact Bill Register in the General Counsel’s Office at X69154, or contact your chief counsel’s office.

Attachments



February 1996

Guidelines For Federal Employees Covered Under the New Hatch Act Amendments

The following list contains examples of both permissible and prohibited activities for covered employees.¹ The Office of Special Counsel is responsible for investigating reports or complaints concerning Hatch Act violations. The new amendments take effect February 3, 1994.

1-800-85-HATCH (854-2824)

- o May be candidates for public office in nonpartisan elections
- o **May** register and vote as they choose
- o **May** assist in voter registration drives
- o **May** express opinions about candidates and issues
- o **May** contribute money to political organizations
- o **May attend** political fundraising functions
- o **May** attend and be active at political rallies and meetings
- o **May join and be** an active member of a political party or club
- o **May** sign nominating petitions
- o **May** campaign for or against referendum questions, constitutional amendments, municipal ordinances
- o **May** campaign for or against candidates in partisan elections
- o **May** make campaign speeches for candidates in partisan elections
- o **May** distribute campaign literature in partisan elections
- o **May** hold office in political clubs or parties
- o **May not** use their official authority or influence to interfere with an election
- o **May not** collect political contributions unless both individuals are members of the same federal labor organization or employee organization and the one solicited is not a subordinate employee
- o **May not** knowingly solicit or discourage the political activity of any person who has business before the agency
- o **May not** engage in political activity while on duty *(except PAS's)*
- o **May not** engage in political activity in any government office@
- o **May not** engage in political activity while wearing an official uniform@
- o **May not** engage in political activity while using a government vehicle@
- o **May not** solicit political contributions from the general public
- o **May not** be candidates for public office in partisan elections
- o **May not** wear political buttons on duty

① Limited exceptions for PAS's
② Limited exception for the Secretary

¹ Employees of the following agencies or divisions within an agency continue to be covered under the old law: Federal Election Commission, Federal Bureau of Investigation, Secret Service, Central Intelligence Agency, National Security Council, National Security Agency, Defense Intelligence Agency, Merit Systems Protection Board, Office of Special Counsel, Office of Criminal Investigations of IRS, Office of Investigative Programs of BATF, Criminal Division of DOJ, career members of the senior executive service, Administrative Law Judges, and contract appeals board members. Contact OSC at the number above for further clarification.

GUIDELINES FOR CAREER SES EMPLOYEES, ALJ's and CONTRACT APPEALS BOARD MEMBERS COVERED UNDER THE "OLD" HATCH ACT

DON'TS:

1. Directly or indirectly solicit, receive, collect handle, disburse, or account for assessments, contributions, or other funds for the campaign.
2. Organize, sell tickets to, prompt, or otherwise actively participate in a fund-raising activity.
3. Take any active part in the management of campaign, including licking envelopes, manning phone banks, etc.
4. Campaign for a candidate.
5. Solicit vote in support of or in opposition to a candidate.
6. Act as recorder, watcher, challenger, or similar officer at the polls on behalf of a candidate.
7. Drive voters to polls on behalf of candidate.
8. Endorse or oppose a candidate in political advertisement, a broadcast, campaign literature, or similar material.
9. Address a convention, caucus, rally, or similar gathering in support of a candidate.
10. Actively participate or hold office in a national, State, or local partisan political party, club, committee, etc.
11. Otherwise actively participate in partisan management or campaigning.
12. May not wear political buttons on duty.

DO's

1. Attend campaign event, such as a rally, Convention, fundraiser, etc.
2. Contribute money to political candidates or organizations.
3. Express your personal opinion as an individual on candidates.
4. Be politically active on an issue not specifically or predominantly identified with a partisan political party.

DO's (continued)

5. Sign official petitions, including nominating petitions, e.g., those required by state or local law to place a candidate on a ballot, but not initiate or circulate them.