



SUMMARY OF ETHICS RULES ON ENGAGING IN POLITICAL ACTIVITIES

ETHICS LAW AND PROGRAMS
DIVISION

OFFICE OF THE
ASSISTANT GENERAL COUNSEL
FOR ADMINISTRATION

UNITED STATES
DEPARTMENT OF COMMERCE

202-482-5384

ethicsdivision@doc.gov

www.commerce.gov/ethics



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POLITICAL ACTIVITIES

Basic Principle: Keep Government and Political Activities Separate

The principle behind the rules on political activities is generally the same as with other outside activities: you should not mix your Government and personal activities. This is particularly important with regard to political activities. The rules on political activities are intended to allow you to actively participate in the political process without being subject to coercion. Most employees may engage in a wide range of partisan political activities during off-duty hours, but not while on duty or on Government premises. “Political activity” includes any activity directed toward the success or failure of a political party or group or a candidate for a partisan political office.

Special rules apply to certain Federal employees. Employees who are appointed by the President with the advice and consent of the Senate may generally engage in on-duty political activities as long as the costs of such activities are not borne by the Government. On the other hand, career members of the Senior Executive Service (SES), administrative law judges, and National Oceanic and Atmospheric Administration (NOAA) Corps officers have significant limitations placed on their off-duty political activities, as well as their on-duty conduct.

Ethics Law and Programs Division – Office of the Assistant General Counsel for Administration – U.S. Department of Commerce – To obtain legal advice regarding limitations on political activities and other ethics rules, contact the **Ethics Law and Programs Division** at **202-482-5384** or ethicsdivision@doc.gov.

Office of the Special Counsel – The Ethics Law and Programs Division provides advice on, but does not investigate, allegations of violations of the Hatch Act—the statute that bars Federal employees from engaging in certain political activities. You may report possible violations of the Hatch Act to the Office of the Special Counsel at 202-653-7143. The Office of the Special Counsel is an independent agency responsible for investigating reports of Hatch Act violations and prosecuting violators.

Prepared by the Ethics Law and Programs Division, Office of the Assistant General Counsel for Administration, United States Department of Commerce – March 6, 2012

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– DO’S AND DON’T’S –
GENERAL RULES ON POLITICAL ACTIVITIES
FOR MOST EMPLOYEES

You* can:

- + vote;
- + contribute money to, and attend fund-raisers for, political parties and candidates;
- + attend and be active at political rallies, meetings, conventions, and caucuses;
- + campaign for or against candidates and political parties (including by giving speeches, stuffing envelopes, distributing non-fund-raising materials, and making non-fund-raising phone calls);
- + campaign for or against referenda, constitutional amendments, or ordinances;
- + display a political sticker on a personal vehicle (when not on official business); and
- + sign and circulate nominating petitions and assist in voter registration drives;
- + hold office in a political club or political party;
- + be a candidate for public office in a nonpartisan election.

** these activities are permitted if you are not a career SES member, administrative law judge, or NOAA Corps officer (see p. 4)*

However, you* cannot:

- use Government resources for political activities, including to send e-mail;
- use official authority to interfere with an election, including your title;
- fund-raise or accept funds for a candidate or party (but see the sidebar) (see p. 7);
- coerce other Federal employees regarding political activities;
- solicit or discourage political activity of anyone with matters before your agency;
- be a candidate in a partisan election (except as an independent in certain areas) (see p. 8);
- engage in political activity while on duty;
- engage in political activity while on Government premises;
- engage in political activity while displaying Government identification (or in uniform);
- engage in political activity while using a Government owned or leased vehicle;
- wear a political button while on duty;
- display a political sign in a Federal office; or
- consider political affiliation for a personnel action (unless for a political appointee position) (see p. 8).

**some of these activities are permitted for Presidential appointees in Senate-confirmed positions (see p. 6), employees serving 130 days or less (see p. 5), and intermittent employees (see p. 5)*

Exception to the Bar on Fund-Raising. There is one exception to the rule that you cannot engage in political fund-raising. If you are a member of a union, you may ask other members of the same union (if they are not a subordinate of yours) to contribute to a multi-candidate political committee of the union.

– DO’S AND DON’T’S –
SPECIAL RULES ON POLITICAL ACTIVITIES
FOR CAREER MEMBERS OF THE SENIOR EXECUTIVE
SERVICE,
ADMINISTRATIVE LAW JUDGES, AND
NOAA CORPS OFFICERS

If you are a career member of the Senior Executive Service or as an administrative law judge, you can:

- + register and vote and sign nominating petitions;
- + assist in nonpartisan voter registration drives (but not partisan drives);
- + participate in campaigns in nonpartisan elections;
- + contribute money to political organizations and candidates;
- + attend political rallies, meetings, and fund-raising events;
- + campaign for or against referenda and constitutional amendments; and
- + display a political sticker on a personal vehicle (when not on official business).

However, you cannot engage in the management of a political campaign, which means that you cannot:

- use Government resources for political purposes, including to send e-mail;
- use official authority or influence to interfere with an election;
- personally solicit or accept a political contribution;
- coerce other employees regarding political activities;
- solicit or discourage political activity of anyone with matters before your agency;
- be a candidate in a partisan election (except as an independent in certain areas);
- campaign for or against a candidate in a partisan election;
- circulate a nominating petition;
- serve as an officer in a political party;
- distribute materials, stuff envelopes, or make calls for a party or candidate;
- wear a political button on duty;
- engage in a political activity while on duty or on Government premises;
- display a partisan sign in a Government office; or
- consider political affiliation or political activity with regard to a personnel action.

NOAA Corps Officers. If you are a NOAA Corps Officers, you are subject to restrictions similar to those for career SES members, so for example you cannot use the authority of your position for a political purpose, help manage a campaign, or serve as an officer in a political organization. You are also subject to additional restrictions, such as attending a nonpartisan political event in uniform. Contact an ethics official for more information on such rules.

– DO’S AND DON’T’S –
SPECIAL RULES ON POLITICAL ACTIVITIES
FOR EMPLOYEES WHO WORK FEWER THAN 130 DAYS
PER YEAR
AND FOR INTERMITTENT EMPLOYEES

If you serve as a special Government employee (SGE), which means you serve for 130 days or fewer in a 365-day period, or as an employee who works on irregular or occasional basis, you are not restricted from engaging in political activities, except as noted below.

However, you cannot:

- use Government resources for political activities, including to send email;
- use official authority or influence to interfere with an election;
- engage in a political activity while on duty;
- engage in a political activity while on Government premises;
- engage in a political activity while wearing a Government identification badge or uniform;
- engage in a political activity while using a Government-owned or leased vehicle;
- wear a political button while on duty;
- display a partisan banner, sign, sticker, or poster in a Federal office; or
- consider political affiliation for a personnel action (except for a political appointee position).

Expected Service Beyond 130 Days. Note that you are not a special Government employee if you expect your service to last for more than 130 days during the year. Thus, if you are a new employee appointed to a permanent position, you are subject to the restrictions set forth on page 3 or 4 (depending on your position) from your first day of service, not only after you have served for 129 days

**GUIDANCE REGARDING THE
POLITICAL ACTIVITIES OF
PRESIDENTIAL APPOINTEES
IN SENATE-CONFIRMED POSITIONS**

Special Rules for Presidential Appointees. If you are a Presidential Appointee in a position requiring Senate confirmation (PAS), you must generally abide by the rules described above (on page 3) covering most Federal employees. However, (unless you are the Inspector General), you can:

- + engage in political activities while on duty,
 - + engage in political activities while on Government premises,
 - + engage in a political activity while wearing Government identification, and
 - + engage in a political activity while using a Government-owned or leased vehicle;
- but you cannot use Government funds or other resources for political activities. Furthermore, Department policy is that only the Secretary may use Government resources (after payment), including a Government car, for political purposes, or hold political meetings in Department offices.

Special Situations for Employees Working with a Presidential Appointee. Although a PAS (other than the Inspector General) may engage in political activities during regular working hours, no similar rule covers other employees, including other political appointees, such as non-career SES members and Schedule C employees. Even if you are a political appointee, you cannot engage in political activities as part of your Government duties.

Therefore, when on duty or in a Government office, if you are not a PAS,* you cannot:

- attend a political meeting,
- write a campaign speech,
- perform advance work for a political event, or
- provide advice regarding a political campaign.

** the exception for most PASs does not apply to the Inspector General*

However, if you work for a PAS, you can perform regular clerical and administrative tasks in connection with the political activities of the PAS (such as keeping track of the PAS's schedule), provided that such duties are part of your normal Government duties.

Traveling with a PAS to a Political Event. If you work for a PAS, you cannot accompany the PAS on travel to a political event, *except* to perform incidental agency business that may arise, such as to perform security services or to serve as a Department liaison. On such a trip, you cannot participate in, or assist the PAS with, political activities, even during non-duty hours.

POLITICAL FUND-RAISING

As noted above, you cannot solicit, accept, or receive political contributions, even during non-duty hours (except on behalf of an employee organization, as explained below, or if you are a special Government employee or you work on an irregular or occasional basis and the solicitation is while not on duty or on Government premises).

You cannot (even if you are a Presidential Appointee):

- make telephone calls to solicit campaign contributions;
- host a political fund-raiser;
- use, or permit the use of, your Government title for a fund-raising event;
- personally hand out fliers containing fund-raising requests; or
- ask for donations at a campaign event.

However, you can:

- + attend a political fund-raiser; and
- + make a political contribution.

In addition, if not during duty hours and if not on Government premises and if you are not a career SES member, an ALJ, or a NOAA Corps Officer, you can:

- + stuff envelopes with requests for donations;
- + solicit and accept political contributions from a union member for the multi-candidate political committee of the union, *provided that* you are a member of that union and the donor *is not* a subordinate;
- + solicit and accept contributions and voluntary services for a nonpartisan election;
- + solicit and accept contributions and voluntary services for an independent candidate in a local election in the suburbs of Washington, D.C. (or other designated area) if you reside in such an area;
- + advise or serve on a fund-raising committee (but not host committee); and
- + donate your residence for a fund-raiser, *provided that* you *do not* serve as the host.

Note that there are no restrictions on making contributions to a campaign or candidate; regardless of your position, you can give money to a political party or candidate's campaign and can attend a political fund-raiser.

If you are a career SES member or administrative law judge you can:

- + solicit contributions and voluntary services for a non-partisan election; and
- + solicit voluntary services for an independent candidate in a local election in a Washington, D.C. suburb (or other designated area).

USE OF GOVERNMENT RESOURCES FOR POLITICAL ACTIVITIES

You cannot use Government resources for political activities; this includes use of:

- Government equipment, services, and supplies, including e-mail;
- Government time;
- nonpublic information, including potential donor lists;
- the services of subordinates;
- your Government title; and
- the authority of your position.

A narrow exception allows for minimal use of some Government resources by Presidential Appointees in Senate-confirmed positions if paid for in advance, but Department policy currently limits use of this authority to the Secretary.

A Government title or reference to a Government position may not be used in connection with participation in a political event. The term “The Honorable” may be used for a Presidential Appointee in a position requiring Senate confirmation.

RUNNING FOR OFFICE

You cannot run for office as a candidate in a partisan election (an election in which candidates are designated by political affiliation), *unless*:

- + you are a special Government employee or an employee who works on irregular or occasional basis, or
- + you live in a suburb of Washington, D.C. (but not in D.C. itself) or in another designated area in which the majority of voters are Federal employees and run for office as an independent candidate in a local election.

Contact the Ethics Law and Programs Division at 202-482-5384 for a list of designated areas outside the Washington, D.C. area in which you may run as an independent candidate.

You can run for office in a nonpartisan election (an election in which none of the candidates are designated by party affiliation).

Note that holding or running for office can be an ethics problem, even if not a problem under political activity rules. For example, although you can be appointed to a position with a local government, or run for office in a *nonpartisan* election, without violating political activities rules, after appointment or while running you are disqualified from working on any matter in which the local government has an interest. You cannot accept the appointment or run for the office if your agency duties require you to work on such matters.

POLITICAL TRAVEL

Government funds cannot be used for political purposes, including for travel expenses. If a Presidential appointee in a Senate-confirmed position is traveling in order to participate in a political event, the political campaign or organization hosting the event (or the Presidential appointee personally) must make all the arrangements and pay all costs. For travel that includes both political and Government events, the campaign or political organization must pay, in advance, either: (1) if the trip includes a Presidential campaign event: the costs that would have been incurred by the campaign if the trip was solely for campaign purposes or (2) for other campaign events: a *pro rata* share of the costs based on the time spent on political activities and on official activities. Current White House policy provides that Presidential appointees cannot travel to a campaign event on a corporate aircraft except in very limited circumstances.

For both exclusively political travel and mixed political/official travel, Department employees may accompany a Presidential Appointee on a trip to perform Department business; the Department pays for all travel expenses for such employees.

Contact the Ethics Law and Programs Division for advice on applying these rules.

A Department employee accompanying a Presidential appointee to a political event (a "plus-one") must be careful to limit his or her duties to Government matters. Commerce staff cannot do advance work or otherwise provide administrative support in connection with political events.

POLITICAL RECOMMENDATIONS

Government officials with examining or appointing authority cannot solicit, receive, or consider an oral or written recommendation from a Member of Congress regarding an applicant for a competitive service position, unless the recommendation is limited to the character or residence of the applicant or unless it is based on the sender's personal knowledge or records of the applicant's work performance, ability, aptitude, or general qualifications or character, loyalty, or suitability. This same rule applies to recommendations from a Member of Congress regarding personnel actions for current Government employees, including promotions or disciplinary actions. If you receive a recommendation letter regarding a personnel action concerning a competitive service position from a Member of Congress, contact your human resources office or the Ethics Law and Programs Division, at 202-482-5384, for advice.

OTHER ETHICS LAWS

In addition to the specific laws and regulations governing the political activities of Government employees, you also need to consider and follow the general ethics statutes and the Standards of Conduct. There are general ethics rules on appearances of impropriety, conflicts of interest, gifts, lobbying the Government, outside activities, and seeking employment, and, as explained in part above, misuse of Government resources.*

* see page 8

The interplay between the political activities rules and the basic ethics rules may not be readily evident. For example, under political activities rules you can serve as an officer of a political campaign (unless you are a career SES member, administrative law officer, or NOAA Corps officer), but you cannot represent the campaign in a dispute before the Federal Election Commission because such action would be a violation of the conflict of interest statute that bars a Government employee from acting as an agent for an organization or person before a Federal agency. Therefore, before engaging in any political activity, you should consider not only the rules set forth in this summary, but other ethics rules and whether they would present a problem. You can obtain a summary of ethics rules at the Ethics Law and Programs Division website at: <http://www.commerce.gov/os/ogc/ethics-law-and-programs-division>.

**For further guidance on political activity rules and ethics rules,
contact the
Ethics Law and Programs Division
of the Office of the Assistant General Counsel for Administration,
U.S. Department of Commerce,
at 202-482-5384 or
ethicsdivision@doc.gov.**

