Volume II, Issue 1, 1 October 2012

Fort Hood EEO Newsletter

"My fellow Americans, ask not what your country can do for you, ask what you can do for your country…

…the ignorance of one voter in a democracy impairs the security of all…"

~~John F. Kennedy

Civil Rights and Voting

The 15th Amendment, ratified on 3 February 1870, granted "the Right of U.S. citizens to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude…". Soon there after, Southern Democratic legislators found other means to deny the vote to Blacks, through violence, intimidation, and Jim Crow Laws. From 1890-1908, ten Southern states wrote new constitutions with provisions that included literacy test, and poll taxes with the aim and effect of re-imposing racially motivated restrictions on the voting process that disenfranchised Blacks. State provisions applied to all voters and were upheld by the Supreme Court in early litigation from 1875 through 1904. During the early 20th century, the Supreme Court began to find such provisions unconstitutional in litigation of cases brought by African Americans and poor Whites. States reacted rapidly in devising new legislation to continue disfranchisement of most Blacks and many poor Whites. Although there were numerous court cases brought to the Supreme Court through the 1960s, Southern states effectively disfranchised most Blacks.

American women won the right to vote on 26 August 1920 with the passage of the 19th Amendment.

Following the 1964 election, a variety of civil rights organizations banded together to push for the passage of legislation that would ensure Black voting rights once and for all. The campaign to bring about federal intervention to prevent discrimination in voting culminated in the voting rights protests in Selma, Alabama, and the famous Selma to Montgomery marches. President Lyndon B. Johnson advocated the Congress to enact a strong voting rights bill. Congress passed the bill and on 6 August 1965, President Johnson signed the Act into law. The Voting Rights Act of 1965 protects every American against racial discrimination in voting. It stands for the principle that everyone's vote is equal.

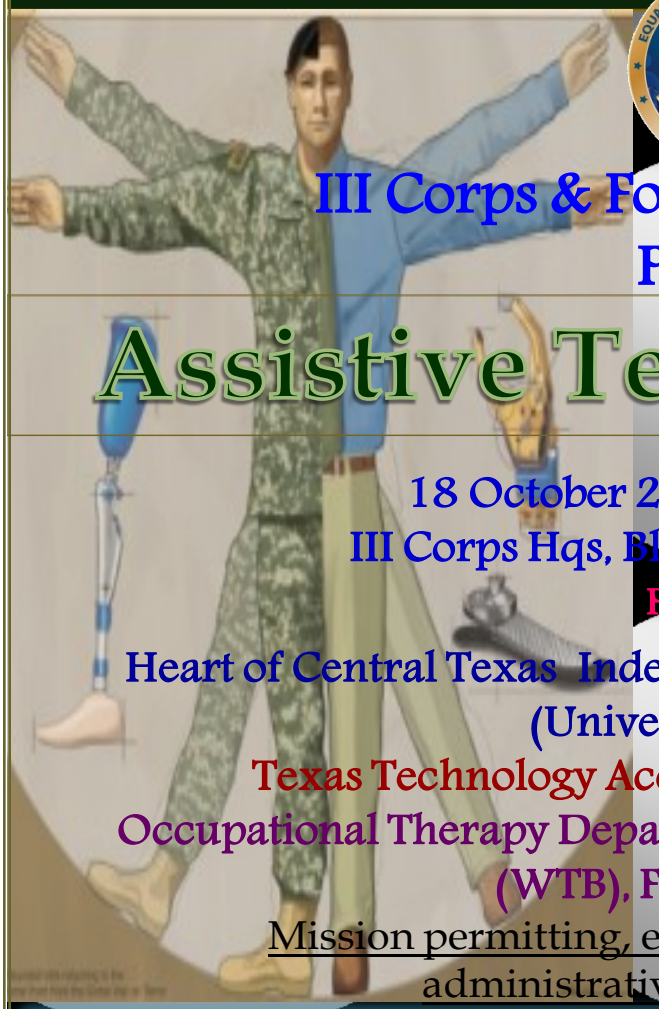
We have a fundamental right to choose those who will represent us and make the decisions that affect our life and career.

On 6 November 2012, **Be Smart, Do Your Part, Vote!!!**

Inside this issue:

National Disability Employment Awareness Month, October 2012

"A Strong Workforce is an Inclusive Workforce: What Can YOU Do"?



III Corps & Fort Hood EEO Office Presents

Assistive Technology Fair

18 October 2012, 1300 – 1500
III Corps Hqs, Bldg 1001, East Atrium

Featuring

Heart of Central Texas Independent Living Center (HOCTILC)
(University of Texas)
Texas Technology Access Program (Belton, Texas)
Occupational Therapy Department, Warrior Transition Brigade (WTB), Fort Hood, Texas

Mission permitting, employees may be gran
administrative leave to attend.

Come and see assistive and adaptive technologies such as electronic note taking devices, smart phones, digital voice recorders, smart pens, keyboards, magnifiers, face-to-face communicators, listeners, vertical mouse, accessibility tools and information on reasonable accommodations.

"Door Prizes" – Must be present to win

Large Print | cc | oc | Braille | Guide Dogs | CAP

Individuals who require service or accommodation due to disability must contact the EEO Office at 287-3602 NLT 1 October 2012

Disability and Reasonable Accommodation at a Glance

What is considered a Disability? According to Americans with Disabilities Amendments Act (ADAAA), disability is defined as: • having a physical or mental condition that substantially limits one or more major life activity; • or having a record (or past history) of such an impairment; • or having a physical or mental impairment that is not transitory (lasting or expected to last six months or less) and minor (even if he/she does not have such an impairment).

Disability Is
Not a Choice -
Your Attitude Is!!!

The term "substantially limits" requires a lower degree of functional limitation than the standard previously applied by the court prior to enactment of the ADA Amendments Act of 2008 (ADAAA). An impairment does not need to prevent or severely or significantly restrict a major life activity to be considered "substantially limiting". However, not every impairment will constitute a disability. The determination of whether an impairment substantially limits a major life activity requires an individualized assessment, as was prior to the ADAAA. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

What are major life activities? The ADAAA of 2008 broadened the scope of major life activities to include, but not limited to: • Caring for oneself, • Seeing, • Hearing, • Eating, • Sleeping, • Walking, • Standing, • Lifting, • Bending, • Speaking, • Breathing, • Learning, • Reading, • Concentrating, • Thinking, • Communicating. Major life activities also include major bodily functions such as: • Functions of the immune system; • Normal cell growth, etc.

Reasonable Accommodation: Title I of the ADA of 1990 requires an employer to provide reasonable accommodation to qualified individuals with disabilities who are employees or applicants for employment, unless to do so would cause undue hardship. In general, a reasonable accommodation is any change in the workplace or the way things are customarily done that provides an equal employment opportunity to an individual with a disability. While there are some things that are not considered reasonable accommodation, (i.e. removal of an essential job function or personal use items such as a hearing aid that is needed on and off the job), reasonable accommodations can cover most things that enable an individual to apply for a job, perform a job, or have equal access to the workplace and employee benefits such as parking lots. Common types of accommodations include: modifying work schedules, granting breaks or providing leave, altering how or when job duties are performed, moving to different office space, providing assistive technology, including information technology and communications equipment or specially designed furniture, or removing an architectural barrier.

Requesting Reasonable Accommodation: Generally, employee must let the supervisor know that he or she needs an adjustment or change concerning some aspect of the job, or a benefit of employment for a reason related to a medical condition. Employee may request a reasonable accommodation at any time, **orally or in writing.** A request does not have to include any special words, such as "reasonable accommodation," or "disability." The reasonable accommodation process begins as soon as the oral or written request for accommodation is made to a supervisor. A denial of an accommodation does not prevent employee from making another request at a later time if circumstances change and he/she believes that an accommodation is needed due to limitations from a disability. After a request for accommodation has been made, the next step is for the parties to begin the interactive process to determine what, if any, accommodation should be provided. This means that the individual requesting the accommodation and the supervisor must communicate with each other about the request, the precise nature of the problem that is generating the request, how a disability is prompting a need for an accommodation, and alternative accommodations that may be effective in meeting an employee and the agency's needs.

Requests for Medical Information: If an employee's disability and/or need for accommodation are not obvious or already known, supervisor is entitled to ask for and receive medical information showing that the requestor has a qualified disability that requires accommodation. It is the responsibility of the applicant/employee to provide appropriate medical information requested by the supervisor where the disability and/or need for accommodate are not obvious or already known.

For additional information, visit our website @ http//www.hood.army.mil/EEO/

EEOC Press Release 9-19-12

Intellectually Disabled Workers Awarded $1.3M for Pay Discrimination by Henry's Turkey Service

Dallas—Hill Country Farms Inc., doing business as Henry's Turkey Service, violated the Americans with Disabilities Act (ADA) by paying 32 workers with intellectual disabilities severely substandard wages, a judge has ruled in a lawsuit filed by the U.S. Equal Employment Opportunity Commission (EEOC). The court ordered the company, based in Goldthwaite, TX, to pay its former employees lawful wages totaling $1.3 million for jobs they performed under contract at a turkey processing plant in West Liberty, Iowa, between 2007 and 2009.

"This case reflects the Commission's longstanding commitment to enforce the anti-discrimination laws nationwide on behalf of all workers, including workers with intellectual disabilities and other vulnerable communities," said EEOC General Counsel P. David Lopez.

Disability Employment Statistics- August 2012

Labor Force Participation

People with disabilities: **20.9%**
People without disabilities: **69.4%**

Unemployment Rate

People with disabilities: **13.9%**
People without disabilities: **8.0%**

Service Animals in the Workplace

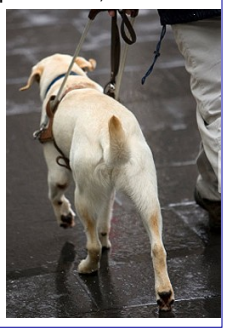
Source: U.S. Department of Labors' Office of Disability Employment Policy

What is a service animal?

A service animal is an animal that performs a task or tasks for a person with a disability to help overcome limitations resulting from the disability. Federal law defines service animals as "any guide dog, signal dog, or other animal individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items".

What types of services do service animals provide?

Traditionally, a service animal helps guide people with vision impairments. However, today there are many other types of services provided by service animals. For example, there are hearing dogs that alert people who are deaf to sounds in their environments, seizure dogs for people who have seizure disorders, assist animals for people with motor impairment, and psychiatric service dogs to help people with psychiatric impairments. manage their symptoms.



What is the difference between service, therapy, companion, and social/therapy animals?

According to the Delta Society, a human-services organization dedicated to improving people's health and well-being through positive interactions with animals, service animals are legally defined, under Title III of the American with Disabilities Act (ADA), as animals trained to meet the disability-related needs of their handlers who have disabilities. The ADA protects the rights of individuals with disabilities to be accompanied by their service animals in public places. Service animals are not considered "pets".

Therapy animals are not legally defined by federal law, but some states have laws defining therapy animals. Therapy animals are usually the personal pets of their handlers, and work with their handlers to provide services to others, including working with people who have disabilities. Federal laws have no provisions for people to be accompanied by therapy animals in places of public accommodation that have "no pets" policies. Therapy animals usually are not service animals.

A companion animal is not legally defined, but is accepted as another term to pet.

Companion animal, social, and therapy animal have no legal definition.

Does Title I of the ADA require employers to automatically allow employees with disabilities to bring their service animals to work?

No, while Title I of the ADA does not require employers to automatically allow employees to bring their service animals to work, however, Title III of the ADA requires a public accommodation to modify policies, practices, or procedures to permit the use of a service animal by an individual with a disability. Allowing service animal into the workplace is a form of reasonable accommodation. However, employers do not have to allow an employee to bring an animal into the workplace if it is not needed because of a disability or if it disrupts the workplace.

What kind of documentation can employers ask for related to a service animal? What if the employee's doctor was not involved in the acquisition of the service animal or the employee trained his/her own service animal and nobody else was involved so the typical kind of medical documentation that employers ask for is not be available? What might be considered sufficient documentation in this type of situation?

(continue on next page)

Service Animals in the Workplace (con't)

Source: U.S. Department of Labors' Office of Disability Employment Policy

Under the ADA, employers have the right to request reasonable documentation that an accommodation is needed (EEOC, 2002). However, according to informal guidance from the EEOC, employers need to be aware that sometimes reasonable documentation is not always going to be from a doctor or some other health care professional. In some cases the documentation should come from the appropriate provider of a service. In the case of a service animal, the appropriate documentation might be from whoever trained the service animal. The goal of an employer is to understand why the service animal is needed and what it does for the person, so the training is important. If an employee has a service animal in a workplace where there could be lots of different kinds of distractions, lots of thing going on, the employer has the right to require that the service animal be fully trained and capable of functioning appropriately, not just for the employee with disability, but also in terms of the setting. An employee who trains his/her own service animal needs to be able to document or demonstrate that the service animal is in fact trained and will not disrupt the workplace.

If an employee wants to bring his service animal to work to help with personal medical needs (e.g., an employee with diabetes wants to bring his/her service animal to work to help monitor his/her blood sugar level), can the employer deny the request and ask the employee to take care of his/her medical needs in another way?

According to the EEOC, if the service animal has been trained to help with the employee's medical needs, the employee has a right to ask that, as a reasonable accommodation, the service animal be allowed to accompany him/her to work. In general, employers should not be involved in employee's personal medical decisions so an employer should not deny an employee's request to use his/her service animal at work if the animal helps the employee with his/her personal medical needs, unless the employer can show undue hardship.

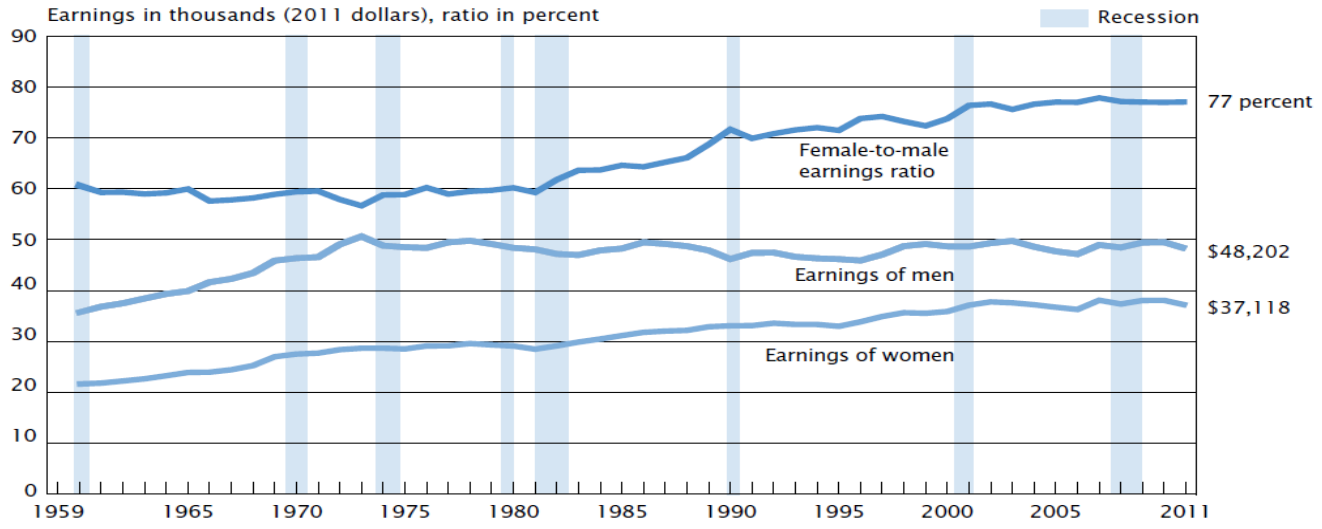
Who is responsible for taking care of a service animal at work? Employee is responsible for the care of his/her service animal, but employer may have to provide accommodations that enable the employee to do so.

Do employers have to create a relief area for a service animal when an employee with disability uses the service animal in the workplace? From a practical standpoint, an employer faced with a request to create a relief area for a service animal might want to consider doing so even though it is not clearly required as an accommodation under the ADA because otherwise the employee is not going to be able to use his/her service animal at work.

Do employers have to allow employees to train service animals in the workplace? Under the ADA, only employees with disabilities are entitled to reasonable commodations so if an employee without a disability is training a service animal for someone else, there is no accommodation obligation under the ADA. For employee with disabilities who wishes to train his/her own service animals, supervisor should consider the potential disruption a service animal in training may create and may have to consider not to allow the employee to bring in the service animal until it is trained or at least until it can be in the workplace without disruption.

Public Sector Earning Gap: Women v. Men

Figure 2.
Female-to-Male Earnings Ratio and Median Earnings of Full-Time, Year-Round Workers 15 Years and Older by Sex: 1960 to 2011



Note: Data on earnings of full-time, year-round workers are not readily available before 1960. Implementation of 2010 Census population controls beginning in 2010. For information on recessions, see Appendix A.
Source: U.S. Census Bureau, Current Population Survey, 1961 to 2012 Annual Social and Economic Supplements.

In 2011, the official poverty rate in the United States was 15.0%. There were 46.2 million people in poverty (an annual income of $23,021 or less for a family of four).

According to the Census Bureau, men who worked full-time and year-round, inflation-adjusted median earnings fell about 2.5 percent between 2010 and 2011, to $48,202. For women working full-time, the median, or midpoint, of annual earnings also fell by about 2.5 percent, to $37,118.

Women also get post secondary degrees at higher rates than men, and more education generally translates into higher earnings over the course of a lifetime. However, men usually get more technical (degrees) and women are in education and social work and the kind of softer sciences, and they pay less.

In 2011, the unemployment rate for men was 10.5% and 8.6% for women. As of August 2012, the unemployment rate for men was 8.3% and 7.8% for women.

Between June 2009 and October 2011, while women represented just over half (57.2%) of the public-sector workforce, they lost a disproportionate share (63.8%) of the 578,000 jobs cut in the public sector.

The gap between women's and men's pay remained about the same for the fourth straight year in 2011.

While women's unemployment rate declined for the past years; the wage gap has persisted even though women have made huge gains in traditionally male-dominated fields and positions.

Despite such gains, women generally take home less money than men for doing the same job; women continued to earn 77 cents for every dollar a man earned in 2011.

Sources: The Census Bureau annual report on income and poverty, issued September 2012 @ http://www/census.gov/prod/2012pubs/p60-243.pdf;
US News, Money Careers, 8 November 2011 by Ben Baden

Employees' Disciplinary Actions and the Douglas Factors

The Douglas Factors, [Douglas v. Veterans Administration, 5 MSPR 280 (at 305-6), 1981], are the twelve relevant factors established by the Merit Systems Protection Board (MSPB) to determine the appropriate penalty for employees of the federal government that consider the relationship or "nexus" between the misconduct and the efficiency of the service.

The 12 Douglas Factors are as follows:

1. The nature and seriousness of the offense, the relation of the offense to the employee's duties, whether the offense was intentional or inadvertent, or whether or not the offense was committed for gain, with malice, or repeatedly. This factor generally refers to how serious an allegation is and how it relates to a federal employee's particular position. For example, an allegation of theft would be treated more seriously, under the Douglas Factors, for an employee that holds a law enforcement position.

2. The employee's job level and type of employment – supervisory or fiduciary, contact with the public, prominence of the position. Under this factor, a federal agency may consider a particular position that one holds, i.e., supervisory, etc. as an aggravating factor when considering disciplinary action.

3. The employee's past disciplinary record. Typically, this factor is considered for the purposes of lessening a penalty.

4. The employee's work record: length of service, quality of performance, and dependability. Typically, this factor is used to support a reduction in penalty based on their good record of service.

5. The effect of the offense upon the employee's ability to continue performing at a satisfactory level, and the effect on the supervisor's confidence in the employee after the misconduct. This factor can be considered to mitigate where an employee has continued to work successfully in their normal position, over an extended period of time, after the underlying incident has occurred.

6. The consistency of the penalty with those imposed upon other employees for the same or similar offenses. Supervisor should not issue a light penalty for one person, i.e. 10-day suspension for one employee and propose removal for another employee based on similar allegations.

7. Consistency of the penalty with the Agency's Table of Penalties (if any). The table of penalties is the lists of individual offenses and ranges of penalties for such offenses.

8. The notoriety of the offense and the impact on the reputation of the Agency. Most commonly, this factor comes into play when the underlying incident is reported in the media.

9. The clarity with which the employee was notice of the rules violated in committing the offense, including warnings about the conduct. Typically, a disciplinary action is proposed based on a violation of a particular agency rule.

10. The potential for the employee's rehabilitation. Employee's good career record and actions may demonstrate that they are good candidates for rehabilitation or to receive a lower penalty.

11. Mitigating circumstances surrounding the offense such as unusual job tensions, personality conflicts, mental impairment, harassment, bad faith, malice or provocation on the part of others involved in the matter. Supervisor may consider work environment, medical issues related to the offense, etc. when imposing proposed penalty.

12. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by this employee or others. A different penalty (other than the one proposed) may be considered more appropriate and still serve the same disciplinary purpose.

In essence, these factors are a tool to make sure that the "punishment fits the misconduct".

Our Commitment

Our Mission

- The mission of the EEO office is to enhance the Fort Hood Leadership's commitment to equal employment opportunity through implementation of strong equal employment opportunity programs and affirmative employment plans without regard to race, religion, color, sex, national origin, age, genetic information, physical or mental disability or reprisal for previous EEO activity.
- Our office facilitates compliance with EEO laws and regulations, and assists the workforce in EEO related matters tailored to meet the needs of its' diverse population.

Our Vision

- A work environment where employees are free from discrimination, harassment, sexual harassment and are appraised solely on the basis of merit and ability.
- Leading change and improvement in the areas of equal employment opportunity.
- The Model EEO Program
- Ready for the mission
- Committed to the EEO Program Principles and Goals and the well-being of the Fort Hood Community.

Our Pledge

- Develop strategies, and collect data to address EEO discrimination.
- Enhance visibility of EEO Programs and Goals as we strive to eradicate discrimination.
- Engage employees, supervisors and managers to promote equality in the workplace.
- Collaborate with the workforce to promote diversity and inclusiveness; and to emphasize the importance of promoting dialogue about bias, discrimination and cultural issues in the workplace.

Equal Employment Opportunity is

THE LAW

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Fort Hood, TX 76544
Phone: 254-287-3602
Fax: 254-287-4426
TTY: 254-285-5303

Please send comments to
Wattanaporn.videtto@us.army.mil

U.S. Office of Special Counsel

Additional Guidance on the Hatch Act

E-Mail and Blogging As Political Activity:

Q: If I am on duty and/or in my government workspace, can I login to my non-government e-mail account and from that account, send or forward a partisan political e-mail?

A: No. You cannot use government resources, or send a partisan political e-mail from your non-government e-mail address, while you are on duty and/or at work.

Q: May I write a letter to the editor or post a comment on a blog endorsing a partisan political candidate?

A: Yes, but with some limitations. Federal employees are permitted to express their opinions privately and publicly on political subjects and participate in political activities. *However, the Hatch Act expressly prohibits federal employees from engaging in political activity while on duty, in a federal building, or in government vehicle. In addition, federal employees may not use their official authority or influence to interfere with the result of an election or solicit, accept, or receive political contributions at any time.*

Q: A Hatch Act complaint has been filed against me. Can I find out who filed it?

A: As a general matter, OSC staff may not disclose the name of the person who filed a Hatch Act complaint.

Social Media

Q: May a federal employee advocate for or against a political party, political group, or candidate of a political party, partisan political group, or candidate for public office in posts on a blog, Facebook, Twitter, or any other social media platform?

A: Yes, but with the following limitations. The act does not prohibit federal employee from expressing their opinions concerning partisan political candidates and political parties. *However, federal employees are prohibited from advocating for or against a political party, partisan political group, or candidate for partisan public office through a blog, Facebook, Twitter, or any other social media platform while they are on duty or in the federal workplace. However, doing so off duty and away from the federal workplace would not violate the Hatch Act.*

Q: May a federal employee create a Facebook or Twitter page in his/her official capacity and advocate for or against a political party, partisan political group, or partisan candidate on the page?

A: No. Any page created in an employee's official capacity must be limited to official business matters and remain politically neutral. Thus, the Hatch Act would prohibit a federal employee from posting on his/her official Facebook or Twitter account information directed at the success or failure of a political party, candidate for partisan political office, or partisan political group, including providing links to webpages that contain such information. The Hatch Act also would prohibit a federal employee from becoming a "friend" of, "liking," or "following" political parties, partisan political campaigns, or partisan political groups on their official social media accounts. Such advocacy must be confined to the employee's personal Facebook page or personal Twitter account.

Two Federal Employees to Serve Suspensions for Violating the Hatch Act

Washington, D.C., 17 August, 2012

A technology specialist for the Social Security Administration volunteered for a gubernatorial candidate's 2010 campaign. While on duty and in his federal office, he spent a significant amount of time coordinating volunteer efforts for the campaign. His activities included recruiting precinct captains, enlisting people to march in parades, etc. In addition, he hosted a fundraiser for another partisan political candidate. He invited over 50 people to the event and asked two individuals to contribute $250. The employee will be suspended for 180 days without pay.

The other employee, a contracting officer for the GSA, invited—from her government office and while on duty—23 people to an Obama fundraiser during the 2007-2008 campaign cycle. She also distributed Obama campaign material in the workplace and sent an e-mail from her government e-mail account supporting his Presidential campaign. She will serve a 30 day suspension without pay .

Source: http://www.osc/gov