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Federal Hatch Act Advisory:
Restricted Employee Becoming a Member of a Partisan Political Group

October 16, 1997

This letter is in response to your request for an advisory opinion concerning the Hatch Act. Specifically, you ask whether the Act would prohibit an Administrative Law Judge (ALJ) at the _____ from joining the Republican Senatorial Inner Circle (Inner Circle).

The Hatch Act Reform Amendments of 1993 (5 U.S.C. §§ 7321-7326) generally permit most federal employees to actively participate in partisan political management and partisan political campaigns. However, Congress continued the prohibition against taking an active part in partisan political management and partisan political campaigns to certain groups of employees. 5 U.S.C. § 7323(b)(2)(B). One such group of employees is Administrative Law Judges employed in positions described under 5 U.S.C. § 5372.

Employees who are prohibited from engaging in partisan political activities are restricted from participating in the types of activities listed below: soliciting votes in support of or in opposition to a candidate for public office in a partisan election; endorsing or opposing a candidate for public office in a partisan election; initiating or circulating a partisan nominating petition; organizing partisan political meetings; serving as an officer of a political party or club; soliciting, accepting or receiving political contributions; distributing campaign materials; and serving as a delegate to a political party convention. These employees retain the right to express their personal opinion privately and publicly on political subjects and candidates.

The Hatch Act would not prohibit an ALJ from becoming a member of the Republican Inner Circle, however, such membership must be inactive. An inactive member may attend events sponsored by the Inner Circle, but may not participate in policy planning or political strategy sessions for the Republican Party. The ALJ would be permitted to attend briefings sponsored by the Inner Circle and attend open forums, panel discussions, debates on issues of the day, receptions and dinners.

For your information I am enclosing our publication which explains the application of the Hatch Act to federal employees. Please call me at (202) 653-7143 if you have any questions.

Sincerely,

_____/s/_____
Karen Dalheim
Attorney