

The Hatch Act: Frequently Asked Questions on Federal Employees and the Use of Social Media and Email

The U.S. Office of Special Counsel (OSC) routinely receives questions from federal employees and others about when the use of social media and email could violate the Hatch Act.

Social media and email—and the ease of accessing those accounts at work, either on computers or smartphones—have made it easier for federal employees to violate the Hatch Act. Yet there are many activities employees can do on social media and email that do not violate the law. OSC has created this Frequently Asked Questions (FAQs) page to help employees understand what the Hatch Act does and does not allow when using social media and email.

In general, all federal employees may use social media and email and comply with the Hatch Act if they remember the following guidelines:

- (1) Do not engage in political activity while on duty or in the workplace.**
 - Federal employees are “on duty” when they are in a pay status, other than paid leave, or are representing the government in an official capacity.
 - Federal employees are considered “on duty” during telecommuting hours.
- (2) Do not engage in political activity in an official capacity at any time.**
- (3) Do not solicit or receive political contributions at any time.**

“Political activity” refers to any activity directed at the success or failure of a political party or partisan political group (collectively referred to as “partisan groups”), or candidate in a partisan race.

In addition, some federal employees are considered “further restricted,” which means they are prohibited from taking an active part in partisan political management or partisan political campaigns. Thus, they may not engage, via social media and email, in any political activity on behalf of a partisan group or candidate in a partisan race. Most further restricted employees work in law enforcement or intelligence agencies.

These rules have some very limited exceptions. When in doubt, federal employees should consult OSC or their agency ethics officers.

The following list of questions is not comprehensive, but answers many of the most commonly asked questions regarding the Hatch Act and the use of social media and email. Please note that although the FAQs refer to Facebook and Twitter, the advice provided is applicable to any social media platform. If federal employees have further questions, they should email OSC at hatchact@osc.gov.

* This guidance supersedes OSC’s April 2012 Frequently Asked Questions Regarding Social Media and the Hatch Act.

Social Media

(1) ***Q: May a federal employee engage in political activity on Facebook or Twitter?***

A: Yes, federal employees may express their opinions about a partisan group or candidate in a partisan race (e.g., post, “like,” “share,” “tweet,” “retweet”), but there are a few limitations. Specifically, the Hatch Act prohibits employees from:

- engaging in any political activity via Facebook or Twitter while on duty or in the workplace;
- referring to their official titles or positions while engaged in political activity at any time (note that inclusion of an employee’s official title or position on one’s social media profile, without more, is not an improper use of official authority); and
- suggesting or asking anyone to make political contributions at any time. Thus, they should neither provide links to the political contribution page of any partisan group or candidate in a partisan race nor “like,” “share,” or “retweet” a solicitation from one of those entities, including an invitation to a political fundraising event. An employee, however, may accept an invitation to a political fundraising event from such entities via Facebook or Twitter.

Further Restricted Employees: Yes, *further restricted* federal employees also may express their opinions about a partisan group or candidate in a partisan race (e.g., post, “like,” “share,” “tweet,” “retweet”), but there are a few limitations. In addition to the limitations above, the Hatch Act prohibits *further restricted* employees from:

- posting or linking to campaign or other partisan material of a partisan group or candidate in a partisan race;
- “sharing” these entities’ Facebook pages or their content; and
- “retweeting” posts from these entities’ Twitter accounts.

To illustrate, while off duty and away from the workplace, a further restricted employee may post on social media his opinion about a Presidential candidate, “share” a friend’s endorsement of a political party, or “like” a candidate’s Facebook page. However, the employee may not “share” a post from a campaign Facebook page, “retweet” a message from a political party, or “like” a post that requests contributions for a candidate.

(2) ***Q: May a federal employee engage in political activity on Facebook or Twitter if she is “friends” with or has “followers” who are subordinate employees?***

A: Yes, but subject to the limitations described in other related questions and the following guidelines. If a supervisor’s statements about a partisan group or candidate in a partisan race are directed at all of his Facebook friends or Twitter followers, e.g., posted on his Facebook page, then there is no Hatch Act violation. Such statements would be improper if the supervisor specifically directed them toward her subordinate employees, or to a subset of friends that includes subordinate employees. For example, a supervisor should not send to a subordinate employee a Facebook message or “tweet” that shows her support for a partisan group or candidate in a partisan race.

- (3) *Q: May a federal employee use a Facebook or Twitter account in his official capacity to engage in political activity?*

A: No. Any social media account created in a federal employee's official capacity should be limited to official business matters and remain politically neutral. Any political activity must be confined to the employee's personal Facebook or Twitter account, subject to the limitations described in other related questions.

- (4) *Q: May a federal employee become a "friend," "like," or "follow" the social media page of a partisan group or candidate in a partisan race?*

A: Yes, but not while on duty or in the workplace.

- (5) *Q: May a federal employee use an alias to "friend," "like," or "follow" the social media page of a partisan group or candidate in a partisan race?*

A: Yes, but be advised that federal employees remain subject to the Hatch Act even when they act under an alias. Therefore, the advice provided in response to other questions applies regardless of whether or not the employee is acting under an alias.

- (6) *Q: May a federal employee continue to "friend," "like," or "follow" an official social media page of a government official after he has become a candidate for reelection?*

A: Yes. For example, a federal employee may continue to "friend," "like," or "follow" the official government Facebook or Twitter account of the President or Member of Congress, even after the President or Member begins his reelection campaign.

- (7) *Q: What should a federal employee do if an individual posts or "tweets" a message soliciting political contributions to a partisan group or candidate in a partisan race, or a link to the political contribution page for such entities, on the employee's social media page?*

A: Although the Hatch Act prohibits federal employees from soliciting or receiving political contributions at any time, employees are not responsible for the statements of third parties, even when they appear on their social media page. Thus, if an individual posts a link to the political contribution page of a partisan group or candidate in a partisan race, or otherwise solicits political contributions, the employee need not take any action. The same advice applies to any "tweets" directed at the employee. However, the employee should not "like," "share," or "retweet" the solicitation, or respond in any way that would tend to encourage other readers to contribute.

- (8) *Q: If a federal employee has listed his official title or position on Facebook, may he also complete the “political views” field?*

A: Yes. Simply identifying one’s political party affiliation on a social media profile, which also contains one’s official title or position, without more, is not an improper use of official authority.

- (9) *Q: May a federal employee display a political party or campaign logo or candidate photograph as her cover or header photo on Facebook or Twitter?*

A: Yes, federal employees may display a political party or campaign logo or candidate photograph as their cover or header photo on their personal Facebook or Twitter accounts. This display, usually featured at the top of one’s social media profile, without more, is not improper political activity.

- (10) *Q: May a federal employee display a political party or campaign logo or a candidate photograph as his profile picture on Facebook or Twitter?*

A: Yes, but subject to the following limitations. Because a profile picture accompanies most actions on social media, a federal employee would not be permitted, while on duty or in the workplace, to post, “share,” “tweet,” or “retweet” any items on Facebook or Twitter, because each such action would show their support for a partisan group or candidate in a partisan race, even if the content of the action is not about those entities.

Email

- (11) *Q: What is a partisan political email?*

A: A partisan political email is an email that is directed at the success or failure of a partisan group or candidate in a partisan race.

- (12) *Q: May a federal employee—while on duty or in the workplace—receive a partisan political email?*

A: Yes. Simply receiving a partisan political email while at work, whether to a personal or government email account, without more, does not violate the Hatch Act. However, federal employees must not send or forward partisan political emails to others while on duty or in the workplace.

- (13) *Q: May a federal employee—while on duty or in the workplace—forward a partisan political email from her government email account to her personal email account?*

A: Yes. If a federal employee receives a partisan political email in his government email account, she may send that email to her personal email account while at work. Simply

forwarding such an email to one's personal email account, without more, does not violate the Hatch Act.

- (14) *Q: May a federal employee—while on duty or in the workplace—send or forward a partisan political email from his government email account or his personal email account to others?*

A: No. A federal employee cannot send or forward a partisan political email from either his government email account or his personal email account (even using a personal device) while at work.

- (15) *Q: May a federal employee—while on duty or in the workplace—send or forward an email about current events or matters of public interest to others?*

A: The Hatch Act does not prohibit federal employees from engaging in non-partisan political activities. Accordingly, employees may express their opinions about current events and matters of public interest at work so long as their actions are not considered political activity. For example, employees are free to express their views and take action as individual citizens on such questions as referendum matters, changes in municipal ordinances, constitutional amendments, pending legislation or other matters of public interest, like issues involving highways, schools, housing, and taxes. Of course, employees should be mindful of their agencies' computer use policies prior to sending or forwarding any non-work related emails.

- (16) *Q: May a federal employee send or forward a partisan political email to subordinate employees?*

A: No. It is an improper use of official authority for a supervisor to send or forward a partisan political email to subordinates, at any time.

- (17) *Q: May a federal employee send or forward an email invitation to a political fundraising event to others?*

A: No. The Hatch Act prohibits federal employees from soliciting or receiving political contributions, which includes inviting individuals to political fundraising events, at any time.