

UNITED STATES
DEPARTMENT OF COMMERCE

POLITICAL ACTIVITIES

SUMMARY OF ETHICS
RULES

2009



UNITED STATES
DEPARTMENT OF COMMERCE
Ethics Law and Programs Division
Office of the Assistant General Counsel
for Administration
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www.ogc.doc.gov/ethics.html

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 – January 2, 2009

CONTENTS

Do's and Don'ts – General Rules for Most Employees – page 3

Do's and Don'ts – Special Rules for Career Members of the SES, ALJs, and NOAA
Corps Officers – page 4

Do's and Don'ts – Special Rules for Special Government Employees and Intermittent
Employees – page 5

Rules for Presidential Appointees – page 6

Working with Presidential Appointees – page 6

Political Fund-Raising – page 7

Running for Office – page 8

Use of Government Resources – page 8

Political Travel – page 9

Political Recommendations – page 9

Ethics Laws – page 10

Examples – page 11

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

You may (if you are not a career SES member, ALJ, or NOAA Corps officer):

- + register and vote;
- + be a candidate for public office in a nonpartisan election;
- + 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 referenda, constitutional amendments, or ordinances;
- + sign and circulate nominating petitions and assist in voter registration drives;
- + personally distribute campaign literature (except for fund-raising literature);
- + hold office in a political club or political party;
- + stuff envelopes for a political party or candidate; and
- + display a political sticker on a personal vehicle (when not on official business).

However, you may not:

- use Government resources for political activities, including to send e-mail;
 - use official authority to interfere with an election, including your title;
 - personally solicit, accept, or receive political contributions (except that you may solicit for a Federal labor or employee organization’s multi-candidate political committee from an employee in the organization who is not your subordinate);
 - 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);
 - 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 partisan banner, sign, sticker, or poster in a Federal office; or
 - consider political affiliation for a personnel action (if not a political appointee),
- (with some exceptions for Senate-confirmed Presidential Appointees and employees serving 130 days or less or intermittent employees (as explained below)).

– DO’S AND DON’TS –
SPECIAL RULES FOR
CAREER MEMBERS OF THE SENIOR EXECUTIVE SERVICE,
ADMINISTRATIVE LAW JUDGES, AND NOAA CORPS OFFICERS

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

- + 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 may not engage in the management of a political campaign, which means that you may not:

- use Government resources for political purposes, including to send e-mail;
- use official authority or influence to interfere with an election;
- personally solicit, accept, or receive a political contribution;
- 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);
- campaign for or against a candidate in a partisan election (except an independent candidate in certain localities);
- circulate a nominating petition;
- serve as an officer in a political party or a convention delegate;
- 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 banner, sign, sticker, or poster in a Government office; or
- consider political affiliation or political activity with regard to a personnel action.

If you are a NOAA Corps officer, similar rules apply, although you are subject to some additional restrictions; contact the Ethics Law and Programs Division for further advice.

**- DO'S AND DON'TS -
SPECIAL RULES FOR
EMPLOYEES WHO WORK 130 DAYS OR FEWER PER YEAR
AND INTERMITTENT EMPLOYEES**

If you serve as a special Government employee, 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 subject to restrictions on engaging in political activities during non-duty hours or when not on Government premises.

However, you may not:

- use Government resources for political activities, including to send e-mail;
- 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).

SPECIAL SITUATIONS REGARDING THE POLITICAL ACTIVITIES OF PRESIDENTIAL APPOINTEES

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 covering most Federal employees. However, a PAS (other than the Inspector General) may:

- + 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 may not 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 non-career SES members and Schedule C employees. Regardless of your position, you may not 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, even if you are a political appointee, (or if you are the Inspector General) you may not:

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

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

If you work for a PAS, you may not 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 may not participate in, or assist the PAS with, political activities, even during non-duty hours.

POLITICAL FUND-RAISING

As noted above, you may not 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 may not (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 may:

- + 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 may:

- + 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.

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

- + 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).

RUNNING FOR OFFICE

You may not 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 in a local partisan election.

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

USE OF GOVERNMENT RESOURCES FOR POLITICAL ACTIVITIES

Government resources may not be used 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.

POLITICAL TRAVEL

The prohibition on using Government funds for political purposes also applies to travel expenses of Presidential Appointees and others participating in political events. For travel to purely political events, the political campaign for which the Presidential Appointee is traveling 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, a *pro rata* share of the costs based on the time spent on political activities in contrast to the time spent on official activities or, for campaign events relating to a Presidential campaign, the costs that would have been incurred if the trip was solely for the Presidential campaign. White House policy currently bars Presidential Appointees from traveling 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 incidental 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.

POLITICAL RECOMMENDATIONS

Government officials with examining or appointing authority may not 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.

The interplay between the political activities rules and the basic ethics rules may not be readily evident. For example, you may serve as an officer of a political campaign (unless you are a career SES member, administrative law officer, or NOAA Corps officer), but you may not represent the campaign in a dispute before the Federal Election Commission because such action would be a violation of the basic prohibition that bars a Government employee from acting as an agent on behalf of a non-Federal entity before a Federal agency or Federal court. Similarly, although you may run for office in a local jurisdiction in a nonpartisan election, you may not accept the position and retain Federal employment if the position to which you are elected is inconsistent with your Government duties, such as if your Federal duties include working with the local government in which you serve as an elected official because a conflict of interest statute requires your disqualification from working for the Federal Government on matters affecting an outside employer.

**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.**

EXAMPLES

NO PROBLEM

1. A GS-9 employee holds a campaign meeting in her apartment on a partisan mayoral race.
2. A Schedule C employee is elected chair of a local political party.
3. A Special Assistant runs for City Council in an election where candidates are not listed by party.
4. A non-career employee accompanies a Presidential Appointee on a trip to do advance work for Department events.
5. An employee writes a campaign speech using her computer at home.
6. A Confidential Assistant volunteers to work on a political event during non-duty hours.
7. An employee (who is not in the SES) stuffs envelopes with a fund-raising letter for a candidate on a weekend.
8. A GS-7 employee serving in a 120-day position makes political fund-raising calls from her home at night.

PROBLEM

1. A GS-9 employee holds a campaign meeting in her Government office on a partisan mayoral race.
2. A career SES member is elected chair of a local political party.
3. A Special Assistant runs for City Council in an election where candidates are designated by political party.
4. A non-career employee accompanies a Presidential Appointee on a trip to do advance work for political and Department events.
5. An employee writes a campaign speech using her office computer.
6. A Presidential Appointee asks her Confidential Assistant to work on a political event during non-duty hours.
7. An employee (who is not in the SES) hands out a fund-raising letter for a candidate on a weekend.
8. A GS-7 employee serving in a permanent position makes political fund-raising calls from her home at night.