

Use of Social Media by Civilian Employees under the Hatch Act

Passed in 1939, the Hatch Act (5 U.S.C. §§ 7321-7326) was drafted to restrict the partisan political activity of civilian executive branch employees. As amended in 1993, restrictions were loosened to permit most federal employees to engage in partisan political management and partisan political campaigns in their personal capacity and while off-duty. Now as we move into the digital age of the 21st century, it is important for affected employees to familiarize themselves with how the Act may apply when utilizing social media tools such as *Facebook*, *Linked In* and *Twitter*. Certain requirements affect all covered employees, while further distinctions are made between those designated as **Less Restricted Employees** (including DoD civilian employees and Schedule C Appointments) and **Further Restricted Employees** (including PAS and SES positions and employees in intelligence and enforcement-type agencies such as the CIA, NSA and the Criminal Division of the Department of Justice).

All Employees

- May remain a “friend” or “like” the **official** White House *Facebook* page and/or follow the **official** White House *Twitter* account while the president conducts his reelection campaign. (Please note: The *Twitter* account @barackobama and the *Facebook* page www.facebook.com/barackobama are maintained by Obama for America, the 2012 campaign of President Obama, and therefore are considered partisan political sites.)
- May not solicit, accept or receive political contributions at any time, including via social media platforms. This prohibition extends to providing links to the contribution page of any partisan political entity, or forwarding invitations to political fundraising events.
- Need not feel required to take further steps when an outside source posts a partisan political comment or solicits for political contributions on his or her *Facebook* page or at his or her *Twitter* account. Employees are not held liable for the actions of third parties under the Hatch Act. However, further action to disseminate the post is prohibited.
- May not use official authority or influence to affect the results of an election. (Please note: Inclusion of an official title on one’s social media profile, without more, would not be considered an improper use of official authority or influence.)
- May not direct a subordinate employee to a *Facebook* message, *Facebook* wall post, or “Tweet” regarding the success or failure of a political party, partisan political group, or partisan political candidate.
- Must keep a *Facebook* page or *Twitter* account created in your official capacity neutral, limited information posted to matters of business, and void of content directed at the success or failure of a partisan political candidate or political party. (This restriction likewise applies to a federal agency’s official *Facebook* page or *Twitter* account.)

Less Restricted Employees

- May freely express opinions concerning a partisan political campaign, political party or partisan political candidate via social media platforms when off duty. However, **may not** participate in such activities during duty hours or in the federal workplace.
- May freely “friend” or “like” the *Facebook* page, or become a follower of a partisan political candidate, political party or partisan political campaign, however, any action on those pages must be when off duty and away from the federal workplace.

Further Restricted Employees

- May freely express **personal** opinions concerning a partisan political campaign, political party or partisan political candidate via social media platforms when off duty and outside the federal workplace.
- May not, however, take active part in partisan political management and partisan political campaigns. This prohibition includes:
 - Posting or linking to campaign material or the website of a political party, partisan candidate, or partisan political group (including “sharing,” “resharing” such *Facebook* pages, or “retweeting” posts from such *Twitter* accounts).
 - Commenting or posting on the *Facebook* page of a political party, partisan candidate, or partisan political group, or directing a “tweet” at their *Twitter* accounts.
- May “friend” or “like” the *Facebook* page, or become a follower of a partisan political candidate, political party or partisan political campaign when off duty and away from the federal workplace provided that site security settings limits access to this information to those already privy to such personal information. Please note, however: In light of the frequent changes to the format and security setting options on platforms such as *Facebook*, please be advised to engage in this type of activity **with caution** to avoid what may be viewed as a conflict with Hatch Act requirements.

For more detailed information on Hatch Act requirements, please consult the U.S. Office of Special Counsel’s Hatch Act Frequently Asked Questions Page at <http://www.osc.gov/haFederalfaq.htm>.