

UNITED STATES DEPARTMENT OF COMMERCE

SUMMARY OF ETHICS RULES ON ENGAGING IN POLITICAL ACTIVITIES



2017

ETHICS LAW AND PROGRAMS DIVISION
OFFICE OF THE GENERAL COUNSEL
UNITED STATES DEPARTMENT OF COMMERCE
202-482-5384 – ethicsdivision@doc.gov – www.commerce.gov/ethics

POLITICAL ACTIVITIES

BASIC PRINCIPLE: KEEP POLITICS OUT OF GOVERNMENT SERVICE

The principle behind the rules on political activities is generally the same as with other outside activities: you should not mix your Government activities 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 charged to 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 General Counsel,
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 GENERAL COUNSEL, UNITED STATES DEPARTMENT OF COMMERCE – 202-482-5384 – ETHICSDIVISION@DOC.GOV – AUGUST 4, 2016

POLITICAL ACTIVITIES RULES

PERMITTED	PERMITTED FOR MOST EMPLOYEES BUT PROHIBITED FOR CAREER SES, NOAA CORPS OFFICERS, AND ADMINISTRATIVE	PROHIBITED
+ vote + contribute money to a campaign or party + attend political rallies and fund-raisers + run for office in a non-partisan election + run for office as an independent candidate in certain localities (including the suburbs of Washington, D.C.) + participate in a referendum campaign + display a political bumper sticker on a personal vehicle	▪ work for a political campaign or party (such as by stuffing envelopes, making calls for votes, giving speeches, etc.) ▪ hold office in a political party	– fundraise for a candidate or political party – engage in political activities when on duty* – engage in political activities when in a Government building or on Government premises* – use the authority of one's Government position to influence an election – run for office in a partisan election (other than as an independent candidate in a local election in certain areas) * <i>allowed for a Presidential appointee in a Senate-confirmed position</i>

POLITICAL ACTIVITIES RULES

FOR EMPLOYEES WHO ARE NOT CAREER SES MEMBERS,
NOAA CORPS OFFICERS, OR ADMINISTRATIVE LAW JUDGES

You are entitled to engage in most, but not all, political activities when not on duty and when not on Government property if you are not a career member of the Senior Executive Service, a NOAA Corps officer, or an administrative law judge.

PERMITTED ACTIVITIES

You may, when not on duty and when not on Government property:

- + contribute money to, and attend fundraisers for, political parties and candidates;
- + vote and sign nominating petitions;
- + attend and be active at political rallies, meetings, conventions, and caucuses;
- + campaign for or against candidates and political parties (including by giving speeches, stuffing envelopes, distributing non-fundraising materials, and making non-fundraising phone calls);
- + campaign for or against referenda, constitutional amendments, or ordinances;
- + display a political sticker on a personal vehicle (when not on official business);
- + sign and circulate nominating petitions and assist in voter registration drives;
- + hold office in a political club or political party;
- + be a candidate for public office in a nonpartisan election; and
- + if you are a member of a Federal employees' union, solicit contributions to a multi-candidate fund of the union from an employee who is a member of the same union if the employee is not your subordinate.

PROHIBITED ACTIVITIES

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;
- fundraise or accept funds for a candidate or party (except for a union fund, as explained under “Allowed”);
- 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 candidate in certain local elections);
- engage in political activity while on duty;*
- engage in political activity while on Government premises;*
- engage in political activity while displaying Government identification;
- engage in political activity while using a Government owned or leased vehicle (unless you are the Secretary);
- wear a political button while on duty;
- display a political sign in a Federal office; or
- consider political affiliation for a personnel action (unless for a political appointee position).

** unless you are a Presidential appointee in a Senate-confirmed position*

POLITICAL ACTIVITIES RULES

FOR CAREER MEMBERS OF THE SENIOR EXECUTIVE SERVICE, NOAA CORPS OFFICERS, AND ADMINISTRATIVE LAW JUDGES

If you are a career member of the Senior Executive Service, an administrative law judge, or a NOAA Corps officer, you cannot actively assist a political campaign at other times even when not on duty and when not on Government premises.

PERMITTED ACTIVITIES

You may, when not on duty and when not on Government property:

- + 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 and meetings;
- + attend political 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).

PROHIBITED ACTIVITIES

You may not:

- use official authority or influence to interfere with an election;
- personally fundraise—solicit or accept a political contribution;
- coerce other 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 candidate in certain local elections);
- campaign for or against a candidate in a partisan election;
- circulate a nominating petition;
- serve as an officer in a political party;
- distribute materials, stuff envelopes, or make calls for a party or candidate;
- wear a political button when on duty;
- engage in a political activity while on duty;
- engage in political activity while on Government premises;
- display a partisan sign in a Government office;
- consider political affiliation or political activity with regard to a personnel action; and
- if you are a NOAA Corps officer, attend a political event while in uniform or engage in other activities barred under NOAA Corps regulations.

POLITICAL ACTIVITIES RULES

FOR EMPLOYEES WHO WORK ON AN INTERMITTENT SCHEDULE OR FOR 130 OR FEWER DAYS PER 135-DAY PERIOD

If you work 130 days or fewer in a 365-day period, you are a special Government employee and subject to restrictions on your political activities only when on duty and when on Government premises. This is also the case if you work on an intermittent schedule, even if you worked more than 130 days in a given year.

PERMITTED ACTIVITIES

You may, when not on duty and when not on Government property, fully engage in political activities, including:

- + fundraise—raise money for a candidate or political party;
- + run for office in a partisan election;
- + host a fund-raising event;
- + register and vote and sign nominating petitions;
- + assist in voter registration drives, including partisan voter registration drives;
- + participate in campaigns in political elections;
- + contribute money to political organizations and candidates;
- + attend political rallies and meetings;
- + attend political fundraising events;
- + campaign for or against referenda and constitutional amendments; and
- + display a political sticker on a personal vehicle (when not on official business).

PROHIBITED ACTIVITIES

You may not:

- use Government resources for political activities, including to send email;
- 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 position).

POLITICAL ACTIVITIES RULES FOR PRESIDENTIAL APPOINTEES IN SENATE-CONFIRMED POSITIONS

If you are a Presidential appointee in a Senate-confirmed position (other than the Inspector General), some special rules apply regarding engaging in political activities.

GENERAL RULES FOR PRESIDENTIAL APPOINTEES – It is not uncommon for Presidential appointees in Senate-confirmed positions (PASs) (other than the Inspector General) to actively participate in political campaigns, including by speaking at rallies, fund-raisers, and other political events and advising a campaign. These activities are permitted. However, even if you are a PAS:

- you may not use Government funds for political purposes,
- you may not use the authority of your position for political purposes, and
- you may not target persons with matters before Commerce for a political message.

USE OF GOVERNMENT RESOURCES – If you are a PAS (other than the Inspector General), you may engage in political activities while on Government premises and you may use Government resources (with reimbursement) for political purposes. However, Department of Commerce policy allows only the Secretary to call a political meeting in a Department office or use a Department vehicle or other resource for a political purpose (and any costs incurred must be reimbursed).

USE OF GOVERNMENT TITLE AND AUTHORITY – You may not use your Government title or reference to your affiliation to the Department when engaging in political activity, even as part of more general biographical information. You may be referred to as “The Honorable” but not as “Secretary,” “Under Secretary,” “Assistant Secretary,” etc.

TARGETING POLITICAL MESSAGES TO COMMERCE CLIENTS – You may not focus a political message to persons who have interests in matters pending before the Department of Commerce. If you participate in a political event, the host organization cannot target invitations to persons based on their interest in matters before Commerce. If the group addressed is small—20 or fewer persons—none of those attending (or their employer) may have a matter pending before the Department.

REVIEW OF POLITICAL EVENTS AND OFFICIAL EVENTS BY AN ETHICS OFFICIAL – To ensure that participation in an event will not present a problem, the Ethics Law and Programs Division reviews events at which a PAS will be a speaker or noted guest and the allocation of travel payments for trips with both political and official events. Furthermore, ethics review is required if you are participating in an event in an official capacity on behalf of the Government at which a candidate for elective office is present or a public event at a location in which there is an election scheduled within 90 days of the event to confirm that the event is not political in nature. For review of political and official events, contact an attorney in the Ethics Law and Programs Division at ethicsdivison@doc.gov or 202-482-5384.

STAFF SUPPORT FOR PRESIDENTIAL APPOINTEES IN SENATE-CONFIRMED POSITIONS WHO ENGAGE IN POLITICAL ACTIVITIES

Employees, including political appointees, who work closely with Presidential appointees in Senate-confirmed positions (PASs) must be careful not to assist senior official with regard to political activities. Only PASs can engage in political activities during duty hours or while on Government premises, so if you are not in such a position but work closely with a Presidential appointee, you must be careful when performing your Department duties to not provide assistance for campaign-related activities.

PERMITTED STAFF SUPPORT

You may, depending on your position, as part of your Department duties:

- + keep track of a PAS's schedule, including information on political and personal events and contact points;
- + collect information from a political campaign in order to allocate travel costs for mixed official/political trips and to obtain ethics review of political events;
- + collect travel payment from a political campaign, as necessary, for mixed official/political trips;
- + provide security services, including at political events or traveling to or from political events, when warranted; or
- + serve as a Department liaison (or "plus-one") to assist the Presidential appointee in order to handle any Government matters that arise, including at a political event, if deemed necessary.

PROHIBITED STAFF SUPPORT

You may not (unless you are a PAS other than the Inspector General):

- write a speech to be used at a political event as part of your Commerce duties;
- provide advice regarding a PAS's participation in a political event;
- provide advance work or other logistical or administrative services in connection with a PAS's participation in a political event;
- work for a Department supervisor as an outside activity, including in connection with a political campaign; or
- accompany a PAS to a political event to provide assistance regarding that event, including by carrying papers or collecting information.

POLITICAL FUNDRAISING

All Federal employees are free to contribute to a campaign or a political party but all employees (other than those serving for fewer than 130 days or on an intermittent basis) are barred from fundraising for a partisan campaign or political party.

PERMITTED FUNDING ACTIVITIES

You may:

- + give money to a candidate or a political campaign or party;
- + attend a political fundraiser;
- + engage in fundraising and ask for voluntary services for a non-partisan election (meaning an election in which none of the candidates are identified by party affiliation);
- + ask for voluntary services and funds for a referendum or ballot initiative; and
- + ask for voluntary services for an independent candidate in a local election in areas designated by regulation (including the suburbs of Washington, D.C.).

If you are not a career SES member, a NOAA Corps officer, or an administrative law judge, you can also:

- + organize a political fundraiser (but not serve as the host of a fundraiser or a member of a host committee);
- + stuff envelopes that include a request for funds;
- + speak at a fundraiser;
- + if you are a member of a Federal employee union, solicit funds from another union member who is not a subordinate of yours for a multi-candidate political committee fund of the union; and
- + engage in fundraising for an independent candidate in a local election in one of the areas designated in regulations (which includes Washington, D.C. and its suburbs) if you reside in such area.

PROHIBITED FUNDING ACTIVITIES

You may not:

- ask anyone to give money to a partisan political campaign;
- ask anyone to give money to a political party;
- invite anyone to a political fundraiser;
- accept or receive funds for a partisan political campaign or political party;
- engaging in fundraising for a Super PAC (Political Action Committee);
- serve as the treasurer of a political organization if state law requires that your name be listed on all campaign literature, including fundraising letters;
- host a political fundraiser or serve on the host committee of a fundraiser for a partisan election or political party;
- hand out fliers to a partisan political fundraiser; or
- include a link on a website of yours, including a social media site, to make donations to a partisan political campaign or a political party.

USE OF GOVERNMENT RESOURCES FOR POLITICAL PURPOSES

You cannot use Government resources for political purposes (unless you are a Presidential appointee in a Senate-confirmed position, in which case some use is permitted if you reimburse the Government).

BAR ON USE OF GOVERNMENT RESOURCES – You may not use Government resources for political activities. This includes the use of:

- nonpublic information, including potential donor lists;
- the services of subordinates;
- your Government title;
- Government email service or access to a personal email account from a Government computer or mobile device; and
- the authority of your position.

In addition, unless you are a Presidential appointee in a Senate-confirmed position (other than the Inspector General), you cannot use the following resources for political purposes:

- Government equipment, services, and supplies;
- Government time; and
- a Government vehicle.

SPECIAL RULES FOR PRESIDENTIAL APPOINTEES IN SENATE-CONFIRMED POSITIONS – Use of equipment, services, and supplies for a political purpose by a Presidential appointee in a Senate-confirmed position must be paid for in advance; in the Department of Commerce, only the Secretary may use a Government vehicle for such purposes. The Inspector General may not use Government resources for political purposes.

CONTRACTORS – Although most of the rules regarding engaging in political activities do not apply to persons providing services to the Government under a contract or employees of a Government contractor, the bar on use of Government resources applies to contractors and employees of contractors, as well as to Federal employees. Anyone who has access to Government resources through a contract is barred from using those resources for unauthorized purposes and use of equipment, services, and supplies for political purposes is not authorized. Similarly, premises provided to contractors to perform work under a Government contract are subject to the same restriction as offices of Federal workers. Contractors may not post political signs or pictures on such premises.

RUNNING FOR OFFICE

All Federal employees (except those serving for fewer than 130 days or on an intermittent schedule) are barred from running for office as a candidate of a political party. They also may not run for office even as an independent candidate, except as for local office in certain designated areas.

BAR ON RUNNING FOR ELECTIVE OFFICE IN A PARTISAN ELECTION – 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 serve for 130 days or less or an employee who works on irregular or occasional basis or
- you live in Washington, D.C. or one of its suburbs 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.

RUNNING FOR OFFICE IN A NONPARTISAN ELECTION – You may run for office in a nonpartisan election, which is an election in which none of the candidates are designated by party affiliation. School board elections, for example, are often nonpartisan.

HOLDING ELECTIVE OFFICE – Note that holding or running for office can be an ethics problem, even if not a problem under political activity rules. For example, although you can be appointed to a position with a local government or run for office in a nonpartisan election without violating political activities rules, after appointment or while running you are disqualified from working on any matter as a Department employee in which the local government has an interest. You may not accept the appointment or run for the office if the disqualification would present a problem because your agency duties require you to work on such matters.

POLITICAL TRAVEL

Government funds may not be used for travel expenses incurred by an employee to engage in political activities. If an employee is engaged in both official and political activities during a trip, costs are allocated between the Government and the campaign.

DETERMINING COSTS TO BE ALLOCATED – If an employee, such as a Presidential appointee in a Senate-confirmed position, is engaging in only political activities during a trip, all travel costs must be paid by the appropriate campaign and all arrangements must be made by the campaign.

If a Department official is engaging in both political and official events during a trip, costs are allocated based on one of the following formulas.

Pro-Rata Formula – Costs are allocated based on the percentage of time spent at political and at official events. This formula is used for all mixed political/official trips that do not involve a Presidential election. Note that all costs incurred during the entire trip, not just one leg of the trip, are included in the allocation of expenses.

Hypothetical Trip Formula – The campaign is charged for all expenses it would have incurred if the only activity during the trip was the political event. This formula is used for trips containing Presidential election campaign events.

COSTS OF AGENCY LIAISONS AND SECURITY PERSONNEL – Travel costs for Department employees participating in a political trip to perform Government duties, such as security personnel or an agency liaison (“plus-one”), are paid for by the Department, not a political campaign.

ETHICS REVIEW – An ethics attorney should be contacted to review the schedule for a mixed political/official trip. The ethics attorney will determine how to characterize each event on the trip and the consequent percentage of costs that should be charged to a political campaign or campaigns.

POLITICAL RECOMMENDATIONS

There are restrictions on the use of recommendations from Members of Congress with regard to personnel actions.

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 rules on engaging in political activities as described above, other ethics rules may apply in a given situation.

There are general ethics rules on appearances of impropriety, conflicts of interest, gifts, representing others before the Government, outside activities, and seeking employment, and misuse of Government resources.

The interplay between the political activities rules and the basic ethics rules may not be readily evident. For example, under political activities rules you may serve in a personal capacity as an officer of a political campaign (unless you are a career SES member, NOAA Corps officer, or administrative law judge), but you may not represent the campaign in a dispute before the Federal Election Commission because such action would be a violation of the conflict of interest statute that bars a Government employee from acting as an agent for an organization or person before a Federal agency. Therefore, before engaging in any political activity, you should consider not only the rules set forth in this summary, but other ethics rules and whether they would present a problem. You can obtain a summary of ethics rules at the Ethics Law and Programs Division website at www.commerce.gov/ethics.

FOR FURTHER GUIDANCE ON POLITICAL ACTIVITY RULES AND ETHICS RULES, CONTACT THE
ETHICS LAW AND PROGRAMS DIVISION, OFFICE OF THE GENERAL COUNSEL,
U.S. DEPARTMENT OF COMMERCE,
202-482-5384 OR ETHICSDIVISION@DOC.GOV.