

UNITED STATES DEPARTMENT OF COMMERCE SUMMARY OF ETHICS RULES ON ENGAGING IN POLITICAL ACTIVITIES



2022

ETHICS LAW AND PROGRAMS OFFICE
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 Office, Office of the General Counsel,
U.S. Department of Commerce:

- To obtain legal advice regarding limitations on political activities and other ethics rules, contact a Commerce Department ethics official at 202-482-5384 or ethicsdivision@doc.gov.

Office of the Special Counsel:

- The Commerce Department Ethics Office 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.

Ethics Office, Office of the General Counsel, U.S. Department of Commerce –
202-482-5384 – ethicsdivision@doc.gov – January 31, 2022

POLITICAL ACTIVITIES RULES CHART

<p style="text-align: center; color: green; font-weight: bold;">PERMITTED</p>	<p style="text-align: center; color: orange; font-weight: bold;">PERMITTED FOR MOST EMPLOYEES BUT PROHIBITED FOR CAREER SES, NOAA CORPS OFFICERS, AND ADMINISTRATIVE LAW JUDGES</p>	<p style="text-align: center; color: red; font-weight: bold;">PROHIBITED</p>
<ul style="list-style-type: none"> + 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 	<ul style="list-style-type: none"> • 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 	<ul style="list-style-type: none"> – 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) <p style="margin-top: 20px; font-style: italic;">* allowed for a Presidential appointee in a Senate-confirmed position</p>

POLITICAL ACTIVITIES RULES

for employees who are not career SES members or NOAA Corps officers

You are entitled to engage in most, but not all, political activities when not on duty and when not on Government property (although see the next page for additional restrictions that will apply if you are a career member of the Senior Executive Service, an administrative law judge (ALJ), or a NOAA Corps officer).

You may, when not on duty and not on Government property, contribute money to a candidate or political party and attend fundraisers, in addition to voting for your candidate of choice. You may also attend political rallies, meetings, conventions, and caucuses and campaign for or against candidates and political parties (including by giving speeches, stuffing envelopes, distributing non-fundraising materials, and making non-fundraising phone calls).

You may display a political bumper sticker on a personal vehicle (even when parked in a Government parking lot), but not if you are using the vehicle to perform Government duties. You may hold office in a political organization. You may also run for office in a nonpartisan election (one in which candidates are not identified by party affiliation).

However, you may not:

- engage in political activity on Government premises (unless you are a Senate-confirmed Presidential appointee),
- use Government resources for political activities (including to send or receive emails or to solicit or discourage political activity of anyone with matters before your agency),
- use the authority of your Government position to support (or oppose) a candidate or political party (including by using your Government title when engaged in political activities),
- fundraise for a candidate in a partisan election or a political party (including a Political Action Committee) (except that if you are a member of a Federal employees' union, you may 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), or
- run for office in a partisan election (except as an independent candidate for local office in certain areas, including Washington, D.C. and its suburbs).

You may not wear political buttons on Government premises or display political signs in your office. You also may not "like" or retweet or forward a social media posting or email concerning a campaign contribution. You also may not consider party affiliation in connection with a Federal personnel action (except for a political appointee position).

POLITICAL ACTIVITIES RULES FOR CAREER MEMBERS OF THE SENIOR EXECUTIVE SERVICE AND NOAA CORPS OFFICERS

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

You may vote, contribute funds to a candidate or political party; assist in nonpartisan voter registration drives; attend political rallies, meetings, and fundraisers; display a political bumper sticker on your car (even if parked in a Government parking lot); and run for office in a nonpartisan election (an election in which candidates are not identified by party affiliation).

However, you may not:

- engage in political activity on Government premises,
- use Government resources for political activities (including to send or receive emails or to solicit or discourage political activity of anyone with matters before your agency),
- use the authority of your Government position to support (or oppose) a candidate or political party (including by using your Government title when engaged in political activities),
- fund raise for a candidate in a partisan election or a political party (including a Political Action Committee) (except that if you are a member of a Federal employees' union, you may 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),
- assist a campaign (such as through volunteer work making phone calls, stuffing envelopes, or otherwise working for a campaign or political party),
- circulate a nominating petition for a partisan election,
- hold office in a political party or partisan organization, or
- run for office in a partisan election (except as an independent candidate for local office in certain areas, including Washington, D.C. and its suburbs).

You may not wear political buttons on Government premises or display political signs in your office. You also may not "like" or retweet or forward a social media posting or email concerning a campaign contribution. You also may not consider party affiliation in connection with a Federal personnel action (except for a political appointee position).

If you are a NOAA Corps officer, you may not attend a political event while in uniform or engage in other activities barred under NOAA Corps regulations.

**POLITICAL ACTIVITIES RULES FOR
EMPLOYEES WHO WORK AN INTERMITTENT SCHEDULE OR
NO MORE THAN 130 DAYS IN A 365-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 Government premises and on days in which you perform Government duties. This is also the case if you work on an intermittent schedule, even if you worked more than 130 days in a given year.

Like other members of the public, on days in which you have not performed Government duties and when you are not on Federal premises, you may fully engage in political activities, including by fundraising for a party or candidate, providing services to a campaign, contributing funds to a candidate or party, and even running for office in a partisan election (although you may not campaign on days you perform Federal duties).

However, you may not engage in political activities while on Government premises, use Government resources (including your Government title or the authority of your position or a Government vehicle) to support or oppose a candidate or political party, or engage in political activities while wearing Government identification. You also may not consider party affiliation in connection with personnel actions (except for political appointee positions). Although you generally may engage in fundraising for a party or candidate, you may not do so on days in which you perform Government duties. Similarly, you may run for office in a partisan election, but you may not engage in campaign activities on a day in which you perform Government duties.

POLITICAL ACTIVITIES 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 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 Office of the Office of General Counsel 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, particularly if within 90 days of an election, to confirm that the event is not political in nature. For review of political and official events, contact an ethics official 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.

You may, depending on your position, 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; and 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.

However, you may not (unless you are a PAS other than the Inspector General) write a speech to be used at a political event; 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.

The restriction on fundraising does not bar you from making a campaign contribution or attending a fundraiser. Furthermore, the restriction on fundraising only applies to a partisan election (an election in which candidates are identified by party affiliation). If you are not a career SES member, administrative law judge, or NOAA Corps officer, you may also organize a political fundraiser (but not serve host a fundraiser); stuff envelopes that include a request for funds; and speak at a fundraiser. If you are a member of a Federal employee union, you may also solicit funds from another union member who is not a subordinate of yours for a multi-candidate political committee fund of the union. Furthermore, you may 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.

However, 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; engage in fundraising for a 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 seeking contributions or as a notice 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. You also may not “like” a posting to make a political contribution or support fundraising and you may not retweet, forward, or otherwise disseminate fundraising information to others, even on your own time and when not using Government devices.

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 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 as 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 an ethics official at 202-482-5384 or ethicsdivision@doc.gov 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 ACTIVITIES WHILE ON 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 that include 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 Office at 202-482-5384 or ethicsdivision@doc.gov, for advice.

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 Commerce Ethics website at www.commerce.gov/ethics.

For further guidance on political activity rules and ethics rules, contact the Ethics Office, Office of the General Counsel, U.S. Department of Commerce, 202-482-5384 or ethicsdivision@doc.gov.