



DEPARTMENT OF THE ARMY
OFFICE OF THE GENERAL COUNSEL
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WASHINGTON DC 20310-0104

SAGC-EF

23 June 2020

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Political Activities and the Hatch Act Guidance for Army Civilian Employees When Teleworking

1. This memorandum provides information on the rules and restrictions for engaging in political activity while teleworking. Political activity is defined as an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group. With the increase in home-based telework due to recent events and the Presidential election this year, there may be questions about political activity while teleworking.
2. Teleworking away from the traditional office is considered “while on duty.” From whatever location an employee teleworks, that site constitutes his or her place of duty for that particular workday. If the employee is teleworking from home, he or she is on duty and may NOT engage in political activities in their home while they are on duty. Employees participating in virtual work-related conferences are subject to the same on-duty Hatch Act restrictions as when they attend meetings or communicate in-person with others at work. For example, employees should not wear a campaign t-shirt or hat while participating in a work-related video conference call, and they should ensure that any partisan materials, like campaign signs or candidate pictures, are not visible to others during the call.
3. Additionally, some teleconferencing programs and email applications allow individuals to add a profile picture, which is visible to others. Employees using email or other conferencing programs for work purposes may NOT use the profile pictures associated with these platforms to show support for or opposition to a political party, partisan political group, or candidate for partisan political office. For example, employees may not use candidate images, campaign slogans, or political party symbols for profile pictures associated with official accounts or when communicating on official matters.
4. DoD personnel may NOT use their government computer or government mobile phone to engage in partisan political activity after they finish teleworking for the day. Employees are prohibited from using Government-issued office equipment, email, and the internet at any time for the purpose of engaging in political activities. For example, employees may NOT send or forward political material or messages using their government laptop or government mobile phone after completing a day of telework.

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5. Army personnel may NOT fundraise for a partisan political party, candidate for partisan political office, or partisan political group, to include during their personal time and using my personal devices. The Hatch Act prohibits federal employees from soliciting or receiving political contributions. Fundraising is a 24/7 prohibition. For example, Army personnel may not ask for contributions, collect contributions, host or forward an online political fundraiser, or promote political fundraisers.

6. Army employees MAY, after they finish teleworking for the day, use their personal computer or personal mobile phone to engage in partisan political activity. But they may NOT, while still teleworking, use their personal computer or personal mobile phone to check social media and engage in partisan political activity. While teleworking, Army employees are on duty and therefore cannot use their personal devices to participate in political activity.

a. Example 1: An employee is looking at Facebook on their personal cell phone. The employee sees that a friend posted a message encouraging others to vote for members of a certain political party. The employee may not like or share that message while he or she is on duty.

b. Example 2: An employee is teleworking from home and looking at Twitter on their personal computer. The employees sees that the President tweeted an endorsement of a congressional candidate. The employee may not like or retweet that message while on duty.

7. An employee, MAY, however, use their personal computer or mobile phone to engage in political activity while on their lunch break during a telework day, provided they are not in a federal building or vehicle. If a civilian employee is on their lunch break, they are on personal time. Therefore, the employee MAY use his or her personal computer or personal mobile phone to engage in political activity while on a lunch break during a home telework day. ***Remember, employees may NOT use their personal computer or personal mobile phone to engage in political activity if they are in a federal building during a lunch break.

8. Employees MAY use their government computer or government mobile phone to post a comment on a professional association's online discussion forum or an online news article about a current policy or a proposed policy change. Commenting about a current policy or proposed policy change is not considered political activity and therefore the Hatch Act does not restrict this activity. Federal employees may express their opinions about current events and matters of public interest, such 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. Employees must still be mindful of using official time for official

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purposes and of DoD computer-use policies and must ensure they do not use or make any reference to their official position or title when expressing personal opinions.

9. This memorandum does not provide comprehensive guidance, nor should it be substituted for legal advice. It is intended to provide an overview of the interplay between the Hatch Act and a telework setting. The Hatch Act is a very complex law and involves nuanced analysis. There are different prohibitions that apply depending on whether the employee is a Further or Lesser Restricted Employee, or a Political Appointee. Political Activity by Members of the Armed Forces is covered under DoDD 1344.10. For more information, please contact your local ethics counsel.

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