



U.S. OFFICE OF SPECIAL COUNSEL
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Washington, D.C. 20036-4505
202-804-7000

March 17, 2020

[REDACTED]

Re: OSC File No. AD-20-[REDACTED]

Dear [REDACTED]:

This letter is in response to your request for an advisory opinion concerning the Hatch Act.¹ You asked whether the law would prohibit a federal agency from hosting [REDACTED] events concerning reproductive health. As explained below, the U.S. Office of Special Counsel (OSC) advises that the Hatch Act generally would not prohibit a lecture on such topics at an agency-sponsored event.

The Hatch Act governs the political activity of federal executive branch employees, including [REDACTED] employees.² Among other things, the Hatch Act prohibits employees from using their official authority or influence for the purpose of affecting the result of an election or engaging in political activity while on duty, in a government building, while wearing an official uniform or insignia, or using an official vehicle.³ Political activity is defined as activity directed toward the success or failure of a political party, partisan political group, or candidate for partisan political office.⁴

In your request, you explained that your agency recently directed you to cancel a [REDACTED] lecture titled “Reproductive Health [REDACTED]” because the talk’s content could potentially violate the Hatch Act. You noted that the lecture planned to survey a range of reproductive health issues and include a discussion with [REDACTED] who advocate for reproductive health access. You asserted that the lecture would not have discussed candidates for partisan political office, partisan platforms, or political parties.

As a result of this incident, you request guidance on several issues concerning [REDACTED] subjects and speaker selection. First, you ask if the lecture topic of reproductive health or reproductive rights violates the Hatch Act and if you may use terms like “reproductive rights”

¹ The U.S. Office of Special Counsel is authorized pursuant to 5 U.S.C. § 1212(f) to issue opinions interpreting the Hatch Act.

² See 5 U.S.C. §§ 7321-7326.

³ 5 U.S.C. §§ 7323(a)(1) and 7324. The Hatch Act also prohibits employees from: knowingly soliciting, accepting, or receiving political contributions from any person; being candidates for partisan political office; and knowingly soliciting or discouraging the political activity of any individual with business before their employing office. 5 U.S.C. § 7323(a)(2)-(4).

⁴ 5 C.F.R. § 734.101.

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and “reproductive justice.” Second, you ask if lectures may cover proposed reproductive health legislation and its potential consequences. Third, you ask if the Hatch Act prohibits inviting speakers who work for organizations that advocate for reproductive rights or have endorsed candidates for partisan political office. Finally, you ask if those speakers could discuss, for example, their advocacy work opposing abortion restrictions.

The Hatch Act does not prohibit employees at any time, including when they are at work or on duty, from expressing their personal opinions about issues, even if politically charged, such as healthcare reform, gun control, or abortion, because such expressions do not constitute political activity. However, such expressions would constitute political activity if tied to candidates or political parties. For example, while on duty or in the workplace, an employee may not say, “If you disagree with healthcare reform, you should support candidate X.”

Based on the above, an agency would not violate the Hatch Act by hosting a lecture speaker from a reproductive rights organization to discuss issues related to reproductive health or reproductive rights, provided that such discussion does not cover topics like candidates for partisan political office or political parties.⁵ For example, the speaker may not identify candidates or political parties that support reproductive rights or identify candidates who support legislation that may affect reproductive health. However, the speaker could discuss, for example, actions they have taken to form a nonpartisan coalition of other like-minded groups, analysis of proposed legislation and its consequences, and efforts to oppose legislation by working on a letter-writing campaign in their local area. And they may use terms like “reproductive rights” or “reproductive justice.”

In sum, an agency may host a lecture on politically charged topics, provided the above guidance is followed. But there may be other agency rules that also govern such activity. If you have any questions, please contact Hatch Act Unit attorney Jacqueline Yarbrow at (202) 804-7139.

Sincerely,

/s/

Ana Galindo-Marrone
Chief, Hatch Act Unit

⁵ This analysis does not change even if the speaker’s organization has endorsed candidates for partisan political office.