



U.S. OFFICE OF SPECIAL COUNSEL

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Washington, D.C. 20036-4505
202-254-3600

Mr. XXXXX

Via e-mail: XXXXXX

Re: OSC File No. XXXXX

Dear Mr. XXXXXX:

This letter is in response to your request for an opinion concerning the Hatch Act. The Office of Special Counsel is authorized pursuant to 5 U.S.C. § 1212(f) to issue advisory opinions under the Act. Specifically, you ask whether as an Americorps VISTA volunteer you are covered by the Hatch Act; whether you are further restricted by the Act; and whether you can speak at partisan political functions when not actively serving in your position as an Americorps VISTA member.

Americorps VISTA volunteers who serve in the Americorps VISTA program full-time or those who serve in a part-time capacity for at least 20 hours per week for at least 26 consecutive weeks, are considered federal executive branch employees covered by the Hatch Act. See 42 U.S.C. §§ 5055(b) and 5 U.S.C. §§ 7321-7326. The Hatch Act generally groups covered employees in two categories—less restricted employees and further restricted employees. Less restricted employees are permitted to actively participate in partisan political management and political campaigns. Examples of activities that less restricted employees can engage in are: 1) holding office in a political party or club; 2) attending and participating in nominating caucuses for political parties; 3) initiating or circulating a nominating petition for a candidate for partisan political office; and 4) canvassing for votes for a candidate for partisan political office.

While some federal employees are less restricted by the Hatch Act and can participate in partisan political management and political campaigns, other employees are further restricted by the Act and are prohibited from engaging in these activities. Section 7323(b)(2)(B) of Title IV provides a list of the further restricted employees. Included in the list of further restricted employees are individuals who work for certain agencies, such as, the Secret Service and the Central Intelligence Agency, and individuals who hold certain positions, such as, administrative law judges, contract appeals board members and career members of the Senior Executive Service. Americorps VISTA volunteers, however, are not on this list. Therefore, VISTA volunteers are not further restricted under the Act.

All employees covered by the Hatch Act, nonetheless, are prohibited from, using their official authority or influence for the purpose of interfering with or affecting the result of an election; soliciting, accepting or receiving political contributions; being candidates for public office in partisan elections; soliciting or discouraging the participation in political activity of any person with business pending before their agency; and engaging in political activity while on

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duty, in any room or building occupied in the discharge of official duties, while wearing a uniform or official insignia or while using a government vehicle. 5 U.S.C. §§ 7323(a)(1)-(4) and 7324(a)(1)-(4). Political activity is defined as activity directed toward the success or failure of a political party, candidate for partisan political office or partisan political group. 5 C.F.R. § 734.101. Thus, the preceding prohibitions apply to Americorps VISTA volunteers.

Based on the information above, if you are a full-time Americorps VISTA volunteer or a volunteer who works part-time for a minimum of 20 hours per week for at least 26 consecutive weeks, you are covered by the Hatch Act, but are not subject to the Act's further restrictions. As such, you would be permitted to engage in partisan political management and campaigning, including speaking at political functions in your personal capacity while off duty and not in the federal workplace, provided you do not engage in any of the prohibited activities discussed above.

Please contact me at (202) 254-3609 or (800) 854-2824 if you have any questions concerning this matter.

Sincerely,

/s/

Mariama Liverpool
Attorney
Hatch Act Unit