



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 218

Washington, D.C. 20036-4505

202-254-3600

August 6, 2015

Mx. XXXXX XXXXXXXXX

Re: OSC File No. AD-15-XXXX

Dear Mx. XXXXXXXX:

This letter is in response to your request for an advisory opinion concerning the Hatch Act. The U.S. Office of Special Counsel is authorized pursuant to 5 U.S.C. §1212(f) to issue advisory opinions about the Hatch Act. Specifically, you ask whether the Hatch Act prohibits a GS-11 employee with the XXXX XXXX XXXXX (XXXX) from serving as treasurer of a partisan political campaign. As explained below, the Hatch Act does not prohibit the employee from serving as treasurer of a partisan political campaign, provided he does not engage in any activities prohibited by the Act.

The Hatch Act (5 U.S.C. §§ 7321-7326) governs the political activity of federal civilian executive branch employees, including XXXX employees. The Hatch Act permits most employees to actively participate in partisan political management and partisan political campaigns. Employees, however, are prohibited from: using their official authority or influence for the purpose of affecting the result of an election; knowingly soliciting, accepting or receiving political contributions from any person; being candidates for public office in partisan elections; and knowingly soliciting or discouraging the political activity of any individual with business before their employing office. 5 U.S.C. § 7323(a)(1)-(4). The Hatch Act also prohibits employees from engaging in political activity while on duty, in a government building, while wearing an official uniform or insignia, or using a government vehicle.¹ 5 U.S.C. § 7324.

The Hatch Act does not prohibit the XXXX employee from serving as treasurer of a partisan political campaign, provided he does not engage in any of the prohibited activities discussed above. Thus, because the employee is prohibited from soliciting, accepting, or receiving political contributions, he may not host a fundraiser or otherwise fundraise for the candidate, including via email, social media, or any other means. 5 C.F.R. § 734.303. And the employee's name may not appear on an invitation to a fundraiser for the campaign as a sponsor or point of contact for the fundraiser. 5 C.F.R. § 734.303, Example 2. In addition, the employee may not allow his name to appear anywhere on materials soliciting political contributions for the candidate, even in the letterhead of stationary used to send out solicitation letters. Further, if the employee distributes campaign literature to individuals, that literature should not mention making political contributions to the campaign.

¹ Political activity has been defined as activity directed toward the success or failure of a political party, candidate for a partisan political office, or partisan political group. 5 C.F.R. § 734.101.

U.S. Office of Special Counsel

Page 2

In addition, the Hatch Act prohibits the employee from coming into possession of a contribution from another person officially on behalf of the campaign, which includes collecting contribution checks from individuals. 5 C.F.R. § 734.101. However, it is permissible for the employee to perform ministerial duties such as handling, disbursing, or accounting for contributions once they are received by the campaign.² 5 C.F.R. § 734.204, Example 2. Thus, as you note in your request, the employee may act as custodian of the campaign's money once the contributions are received by someone else within the campaign. In addition, the employee is not prohibited from gathering checks that have been mailed to, for example, the campaign's post office box.

Because the employee is prohibited from using his official authority or influence to affect an election, any political activity in which he engages must be done in his personal capacity and not in his official capacity as a XXXX employee. Therefore, the employee's official title or agency affiliation should not be used in connection with any of his campaign-related activities, including speaking on the candidate's behalf. *See* 5 C.F.R. § 734.302(b)(1). Lastly, the employee is prohibited from engaging in any campaign-related activities while he is on duty or in the federal workplace, including forwarding or sending campaign emails or posting campaign-related items on social media.

Finally, you note that the federal employee's name would appear on campaign signs and literature. As mentioned above, the employee's name cannot appear on any materials that solicit political contributions, including campaign signs and literature. Therefore, if serving as treasurer for the campaign requires the employee's name to appear on all campaign materials, including solicitation materials, it is likely that the employee will not be able to be treasurer for the campaign.

Please contact me at (202) 254-3673 if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Erica Hamrick". The signature is written in black ink and is positioned above the printed name.

Erica Hamrick
Deputy Chief
Hatch Act Unit

² Such ministerial activities could include depositing campaign contributions into an account, paying bills for the campaign, or filing necessary paperwork with the appropriate election authorities.