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The Hatch Act and Activities after Election Day

Each presidential election year, the U.S. Office of Special Counsel (OSC) receives questions from federal employees about permissible and prohibited activities after Election Day. This advisory opinion addresses common questions about wearing or displaying campaign items in the workplace after Election Day and participating in certain post-Election Day activities. Please note that this opinion addresses only the Hatch Act, and employees should consult with their agency ethics officials about any other laws, rules, or regulations that may apply.

Wearing or Displaying Items about Presidential Candidates

The Hatch Act prohibits federal employees from engaging in political activity while on duty, in a government room or building, wearing an official uniform or insignia, or using a government vehicle.¹ 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.² This prohibition includes wearing or displaying partisan political items while on duty or in the workplace.

Previously, OSC advised that once an individual was no longer a candidate, the Hatch Act did not prohibit employees from displaying campaign items related to that individual while they were on duty or in the federal workplace. However, on May 20, 2024, the Special Counsel issued an advisory opinion in which he advised that the prohibition against displaying political items while on duty or in the workplace is not limited to current candidates for partisan political office but is now also applicable to “current or contemporaneous political figures” (CCPF).³ A CCPF is an individual who received a political party’s nomination for President or Vice President in the most recent presidential election. And with respect to CCPFs, the prohibition against displaying political items on duty or in the workplace includes items that are campaign or election related.

After the November 5, 2024 election, although no longer candidates, Democratic nominees Kamala Harris and Tim Walz, Republican nominees Donald Trump and JD Vance, and any third party nominees will be CCPFs. Accordingly, even after the election, federal employees on duty or in the workplace should not wear or display any campaign or election related items

¹ 5 U.S.C. § 7324(a).

² 5 C.F.R. § 734.101.

³ See [Updating Agency Approach to Enforcement of the Hatch Act.pdf \(osc.gov\)](https://osc.gov/Updating-Agency-Approach-to-Enforcement-of-the-Hatch-Act.pdf).

associated with these individuals, including but not limited to items such as t-shirts, hats, buttons, signs, stickers, or mugs.

Wearing or Displaying Items about Political Parties or Partisan Political Groups

After Election Day, the Hatch Act also continues to prohibit federal employees from engaging in activity that shows support for or opposition to a political party or partisan political group such as a committee, club, or other entity affiliated with a political party while they are on duty or in the workplace. Examples of activities that could violate this prohibition include wearing or displaying political party items, forwarding emails from a political party, texting about a partisan political group event, or sharing a post from a political party on social media while on duty, in a government room or building, wearing an official uniform or insignia, or using a government vehicle.

Participating in Other Post-Election Day Activities Concerning the Election

The Hatch Act prohibits all federal employees from using their official authority or influence or agency resources for the purpose of interfering with or affecting the result of an election.⁴ Accordingly, after Election Day, the Hatch Act continues to prohibit employees from using their official authority or agency resources to affect the outcome of the presidential election.

In addition, engaging in certain post-Election Day activity on behalf of a political party, partisan political group, or candidate for partisan political office is still political activity because it has the potential to affect the outcome of the election. Examples of such activity include taking part in legal challenges, a recount, or other ballot-related efforts, or attempting to influence electors' votes. As explained below, whether an employee may participate in these activities depends on an employee's status under the Hatch Act.⁵

"Less Restricted" Employees

Employees who are considered "less restricted" under the Hatch Act are permitted to take an active part in partisan political management and campaigning, which can include taking part in a wide variety of activities on behalf of a candidate or political party. Thus, the Hatch Act does not prohibit "less restricted" employees in their personal capacity from engaging in the abovementioned post-Election Day activities on behalf of a political party, partisan political group, or candidate for partisan political office. However, "less restricted" employees may not perform any tasks related to these activities while they are on duty, in the federal workplace,

⁴ See 5 U.S.C. § 7323(a)(1).

⁵ See OSC's website, <https://osc.gov/Services/Pages/HatchAct-Federal.aspx>, for a description of which employees are "less restricted" and which are "further restricted."

wearing an official uniform or insignia, or using a government vehicle. In addition, employees may not solicit political contributions to support these efforts.⁶

“Further Restricted” Employees

Employees in certain agencies and positions are considered “further restricted” under the Hatch Act and are prohibited from actively participating in partisan political management and campaigning, even while they are off duty and away from the federal workplace.⁷ Therefore, at all times, the Hatch Act prohibits “further restricted” employees from engaging in post-Election Day activities with the potential to affect the outcome of an election, such as legal challenges or recount efforts, if these activities are done on behalf of a political party, partisan political group, or candidate for partisan political office.

⁶ Although “less restricted” employees may engage in these activities while off duty and away from work, they remain subject to all other Hatch Act prohibitions, including the prohibition against soliciting, accepting, or receiving political contributions. See 5 U.S.C. § 7323(a).

⁷ See 5 U.S.C. § 7323(b)(2); 5 C.F.R. § 734.401(a).