



U.S. OFFICE OF SPECIAL COUNSEL

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202-254-3600

October 29, 2008

Xx Xxxx Xxxxx

VIA E-MAIL: Xxxxxx@xxxx.xxx

Re: OSC File No. AD-08-xxxx

Dear Xx Xxxxxxxx:

This letter is in response to your request for an advisory opinion concerning the Hatch Act. The Office of Special Counsel ("OSC") is authorized pursuant to 5 U.S.C. § 1212(f) to issue opinions under the Act. Specifically, you ask whether the Hatch Act prohibits a federal employee from conducting partisan voter registration drives through the canvassing of residents in government housing within National Park Service units, such as national parks. You explained that the federal employee also may promote various candidates of one of the major political parties during the canvassing. We reviewed this matter, and as explained below, we do not believe that the Hatch Act prohibits this activity.¹

The Hatch Act, 5 U.S.C. §§ 7321-7326, governs the political activity of federal civilian executive branch employees. The Act permits most employees to actively participate in partisan political management and partisan political campaigns. Employees, however, are prohibited from, among other things, engaging in political activity while on duty, in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency or instrumentality thereof, while wearing a uniform or official insignia identifying the office or position of the employee, or using any vehicle owned or leased by the Government of the United States or any agency or instrumentality thereof. 5 U.S.C. § 7324. 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.

¹ Please note that this advisory opinion assumes the employee at issue is not further restricted under the Hatch Act. Employees in the following positions or agencies are further restricted under the Hatch Act: Career Senior Executive Service employee, Administrative Law Judge, Administrative Appeals Judge, or member of the Contract Appeals Board; or employees of the Merit Systems Protection Board, National Security Agency, National Security Council, Office of Investigative Programs (Customs Service), Office of Law Enforcement (Bureau of Alcohol, Tobacco and Firearms), Office of Special Counsel, Secret Service, Office of Criminal Investigations of the IRS, National Geospatial-Intelligence Agency, Central Intelligence Agency, Criminal Division of the Department of Justice, National Security Division of the Department of Justice, Defense Intelligence Agency, Federal Bureau of Investigation, Office of the Director of National Intelligence, Elections Assistance Commission, or Federal Elections Commission.

If the employee at issue is employed in one of the preceding positions or agencies, he is prohibited from participating in a partisan voter registration drive, regardless of the location.

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Conducting a partisan voter registration drive and promoting partisan political candidates is political activity, as defined above. Therefore, a federal employee is prohibited from doing so while on duty, in any room or building occupied in the discharge of official duties, while wearing an official uniform, or using a government vehicle. However, because federal housing units are not considered rooms or buildings occupied in the discharge of official duties, the Hatch Act does not prohibit a federal employee from conducting partisan voter registration drives, or otherwise promoting partisan political candidates, through the canvassing of residents in government housing within National Park Service units.

Please be advised, however, that the Hatch Act prohibits federal employees from using their official authority or influence for the purpose of affecting the result of an election. 5 U.S.C. § 7323(a)(1). Thus, notwithstanding the advice above, if a federal employee is a supervisor, the Act prohibits him from canvassing his subordinate employees to further partisan voter registration efforts or promote partisan political candidates. It would be a serious violation of the Hatch Act for a supervisor to engage in such activities, regardless of where they occur.

Please contact me at (202) 254-3673 if you have additional questions regarding this matter.

Sincerely,

/s/

Erica S. Hamrick
Senior Attorney
Hatch Act Unit