

# Hatch Act Guidance on Social Media

The U.S. Office of Special Counsel (OSC) routinely receives questions from federal employees and others about when the use of social media could violate the Hatch Act. Social media platforms are easily accessible to most employees while at work—on computers, smartphones, or other devices. OSC has created this guidance to help federal employees understand what the Hatch Act does and does not allow when using social media.<sup>1</sup>

In general, all federal employees may use social media and comply with the Hatch Act if they remember the following three prohibitions:

- (1) On Duty or in the Workplace Prohibition – Employees may not engage in political activity while on duty or in the federal workplace.
- (2) 24/7 Prohibition – Employees may not knowingly solicit, accept, or receive a political contribution for a political party, candidate in a partisan race, or partisan political group.
- (3) 24/7 Prohibition – Employees may not use their official authority or influence to affect the outcome of an election.

Some employees are considered “further restricted” under the Hatch Act.<sup>2</sup> In addition to the three prohibitions above, further restricted employees are subject to a fourth prohibition:

- (4) 24/7 Prohibition – Further restricted employees may not take an active part in partisan political management or campaigning.

As such, further restricted employees may not engage in political activity on behalf of or in concert with a political party, candidate in a partisan race, or partisan political group. For instance, taking an “active part” would include: distributing material created by a political party, candidate in a partisan race, or partisan political group; speaking at a political rally organized or sponsored by such entities; or serving as a campaign volunteer.

This guidance will discuss each of the above prohibitions in turn. The last prohibition discussed is applicable only to further restricted employees. There are some very limited exceptions to these prohibitions for certain employees in specific positions and, when in doubt, employees are encouraged to contact OSC at [hatchact@osc.gov](mailto:hatchact@osc.gov) or (202) 804-7002 with any additional questions.

<sup>1</sup> This Hatch Act Guidance supersedes OSC’s prior guidance on social media in 2012 and 2015.

<sup>2</sup> You are a further restricted employee under the Hatch Act if you are a career member of the Senior Executive Service, an administrative law judge, a contract appeals board member, an administrative appeals judge, or if you work in one of the following agencies, or agency components: (1) Central Intelligence Agency; (2) Criminal Division of the Department of Justice; (3) Defense Intelligence Agency; (4) Election Assistance Commission; (5) Federal Bureau of Investigation; (6) Federal Election Commission; (7) Merit Systems Protection Board; (8) National Geospatial- Intelligence Agency; (9) National Security Agency; (10) National Security Council; (11) National Security Division of the Department of Justice; (12) Office of Criminal Investigation of the Internal Revenue Service; (13) Office of the Director of National Intelligence; (14) Office of Investigative Programs of the United States Customs Service; (15) Office of Law Enforcement of the Bureau of Alcohol, Tobacco, and Firearms; (16) Office of Special Counsel; or (17) Secret Service. See 5 U.S.C. § 7323(b)(2)-(3).

(1) **ON DUTY OR IN THE WORKPLACE PROHIBITION** – Employees may not engage in political activity while on duty or in the workplace.<sup>3</sup> Political activity is an activity directed at the success or failure of a political party, candidate in a partisan race, or partisan political group.

(A) **Posting, Liking,<sup>4</sup> Sharing, or Retweeting Partisan Messages**

**Rule:** Employees may not post, like, share, or retweet a message or comment in support of or opposition to a political party, candidate in a partisan race, or partisan political group while on duty or in the workplace, even if their social media account is private.

*Example 1: You are at home after work. You **may** like or tweet a message encouraging others to vote for your favored candidate in a partisan race.*

*Example 2: You are on duty and looking at Facebook on your personal cell phone. You see that a friend posted a message encouraging others to vote for members of a certain political party. You **may not** like or share that message while you are on duty.*

*Example 3: You stay at work during your lunch break and check Facebook on your personal cell phone. A Facebook friend posted a message about an upcoming event supporting a candidate in a partisan race. Even if you are not in a pay status during your lunch break, you **may not** like or share that post while you are in the workplace.*

*Example 4: You are teleworking from home and on your lunch break in which you are not in a pay status. You are looking at Facebook on your personal iPad and see that a friend posted a message about an upcoming event supporting a political party. Because you are on your lunch break and not in a federal building, you **may** like or share that post.*

*Example 5: You are teleworking from home and looking at Twitter on your personal computer. You see that the President tweeted an endorsement of a congressional candidate. You **may not** like or retweet that message while on duty.<sup>5</sup>*

*Example 6: You are teleworking and looking at Facebook on your personal cell phone. You see that a Senate candidate posted a message asking for votes on Election Day. You **may not** post a comment in support of that message while on duty.*

<sup>3</sup> Employees also may not engage in political activity while wearing a uniform or official insignia identifying the office or employee's position, or while using a government owned or leased vehicle.

<sup>4</sup> Liking includes the use of other emojis or reactions, such as those in the "like" function of Facebook.

<sup>5</sup> The President and Vice President are not covered under the Hatch Act and, as a result, are not subject to its social media restrictions.

## **(B) Liking, Following, or Friending Candidates or Partisan Groups**

**Rule:** Employees may not like, follow, or friend the social media account of a political party, candidate in a partisan race, or partisan political group while on duty or in the workplace.

*Example 1: You are at home after work and find the Instagram account of a partisan political group. You **may** follow them on Instagram and like their posts.*

*Example 2: You are at work and looking at your private Facebook account on your personal iPad. A Facebook friend shared the post of a candidate in a partisan race announcing that he or she received an endorsement. You **may not** like, follow, or friend the candidate's Facebook page while on duty or in the workplace.*

## **(C) Liking, Following, or Friending the Official Social Media Accounts of Government Officials**

**Rule:** Employees may continue to follow, be friends with, or like the official social media accounts of government officials after those officials become candidates for reelection.

*Example 1: You follow the official government Twitter account of the President or a Member of Congress, who has just announced their candidacy for reelection. You **may** continue to follow these official accounts.*

## **(D) Using an Alias on Social Media**

**Rule:** Employees may not use an alias on social media to engage in any activity that is directed at the success or failure of a political party, candidate in a partisan race, or partisan political group while on duty or in the workplace.

*Example 1: Your name is John Smith, but you create a Facebook profile as John Jones. You are at home after work and see that a Facebook friend posted a negative message about a candidate in a partisan race. You **may** share or like that post.*

*Example 2: Your name is Jane Smith, but you create a Twitter account as Jane Jones. You are at work, on duty, and looking at your alias Twitter account on your personal cell phone. An actor you follow on Twitter posted a negative message about a political party. You **may not** like or retweet that message either as Jane Smith or Jane Jones while on duty or in the workplace.*

## **(E) Profile Pictures on Social Media Accounts**

**Rule:** Employees may display a political party or current campaign logo or the photograph of a candidate in a partisan race as a profile picture on personal Facebook or Twitter accounts; however, they may not post, share, tweet, or retweet on those accounts while on duty or in the workplace.<sup>6</sup>

<sup>6</sup> Because a profile picture accompanies most actions on social media, employees would not be permitted, while on duty or in the workplace, to post, share, tweet, or retweet any items on Facebook or Twitter, because each such action would show their support for a political party, candidate in a partisan race, or partisan political group, even if the content of the post, share, tweet, or retweet is not about those entities.

*Example 1: You decide to use a current campaign logo as your profile picture on your personal Twitter account. Although you **may** use the logo as your profile picture, you **may not** tweet or retweet any messages on that account while on duty or in the workplace.*

**(F) Cover and Header Photographs on Social Media Accounts**

Rule: Employees may display a political party or campaign logo or photograph of a candidate in a partisan race as a cover or header photograph on their personal Twitter or Facebook accounts.<sup>7</sup>

*Example 1: You recently took a photograph with a candidate in a local partisan race. You **may** use the photograph as the header on your personal Facebook account.*

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<sup>7</sup> Unlike profile pictures, cover and header photographs do not accompany most actions on social media. Therefore, the Hatch Act generally does not prohibit employees from using their social media accounts at work, even if they display a political party or campaign logo or photograph of a candidate in a partisan race as their cover or header photograph. But employees should always consult their agency's computer-use policies before using any social media at work.

- (2) **24/7 PROHIBITION** – Employees may not knowingly solicit, accept, or receive a political contribution for a political party, candidate in a partisan race, or partisan political group.

(A) **Posting or Tweeting Solicitations**

**Rule:** Employees, even when not on duty or in the workplace, may not post or tweet a message that solicits political contributions or invites people to a fundraising event.

*Example 1: You **may not** tweet a message asking your Twitter followers to contribute five dollars to help a candidate in a local partisan race.*

*Example 2: You are attending a political party's annual fundraising event. You **may not** post a message on Facebook inviting friends to join you at the event.*

(B) **Liking, Sharing, or Retweeting Solicitations**

**Rule:** Employees, even when not on duty or in the workplace, may not like, share, or retweet a post that solicits political contributions, including invitations to fundraising events.

*Example 1: Someone tweets a message offering to match the donation of the first five friends that donate to a certain candidate in a local partisan race. Although the Hatch Act does not prohibit you from donating to the campaign, you **may not** like, share, or retweet that post.*

*Example 2: A friend shares a post on Facebook that includes an invitation to a local fundraising event for a political party. You **may not** like or share that post.*

*Example 3: Someone tags you in a post, or posts a message to your Facebook page, that asks for donations for a partisan political group. You do not have an affirmative duty to remove that post from your Facebook page or un-tag your name from the post; however, you **may not** like or share the post.*

(C) **Accepting Invitations to Fundraising Events on Social Media**

**Rule:** If not on duty or in the workplace, employees may accept invitations to, or mark themselves as “attending,” a fundraising event on social media.

*Example 1: A friend sends you an invitation on Facebook to a fundraising event for a candidate in a partisan race. You **may** accept the invitation or mark yourself as “attending” the fundraising event, provided you are not on duty or in the workplace.*

(D) **Using an Alias on Social Media**

**Rule:** Employees, even when not on duty or in the workplace, may not use an alias on social media to solicit a political contribution for a political party, candidate in a partisan race, or a partisan political group.

*Example 1: Your name is John Smith, but you create a Facebook profile as John Jones. You are at home after work and see that a Facebook friend posted a message that solicits campaign contributions for a candidate in a partisan race. You **may not** share that message either as John Smith or John Jones.*

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- (3) **24/7 PROHIBITION** – Employees may not use their official authority or influence to affect the outcome of an election.

(A) **Using Official Title or Position in Social Media Profile**

Rule: Employees may include their official titles or positions and where they work in their social media profiles, even if they also include their political affiliation or otherwise use their account to engage in political activity.

*Example 1: Your Twitter profile includes your official title or position and where you work. You **may** also list your political affiliation.*

*Example 2: Your Facebook profile includes your official title or position, where you work, and your political affiliation. You **may** post a message supporting a candidate in a partisan race, provided you are not on duty or in the workplace.*

(B) **Using Official Title or Position in Social Media Communications**

Rule: Employees may not use their official titles or positions when posting messages directed at the success or failure of a political party, candidate in a partisan race, or partisan political group.

*Example 1: While at home after work, you decide to post a positive comment on the Twitter account of a candidate in a local partisan race. You **may not** mention your official title or position in that comment, even if your Twitter account is private.*

*Example 2: Your LinkedIn profile headline includes your official title or position. You **may not** use that LinkedIn account to post or share messages directed at the success or failure of a political party, candidate in a partisan race, or partisan political group.<sup>8</sup>*

(C) **Using Official Social Media Accounts**

Rule: Employees may not use a social media account designated for official purposes to post or share messages directed at the success or failure of a political party, candidate in a partisan race, or partisan political group. All such official social media accounts should remain politically neutral.

*Example 1: While accessing the Twitter account you use for official purposes, you see that a political party tweeted its support for a candidate in a partisan race. You **may not** retweet or like that post from the account used for official purposes (or from your personal social media account if you are on duty or in the workplace).*

<sup>8</sup> A LinkedIn profile headline accompanies most actions on LinkedIn. Therefore, employees who include an official title or position in their LinkedIn profile headline would not be permitted to post or share any messages on LinkedIn that are directed at the success or failure of a political party, candidate in a partisan race, or partisan political group.

#### **(D) Misusing Personal Social Media Accounts**

**Rule:** Employees may not engage in political activity on a personal social media account if they are using such accounts for official purposes or posting in their official capacities. Factors indicating that a personal social media account is being used in ways that suggest it is an official social media account include, for example: (1) the account contains little to no personal content; (2) the account identifies the individual as a federal employee; (3) the account extensively uses photographs of the employee's official activities; (4) the account often references, retweets, likes, comments, or otherwise shares material related to official activities; or (5) the account is linked to an agency website or other official page. No one factor is dispositive.

*Example 1: You are a federal employee and maintain only a personal Twitter account. While you have some personal posts about family vacations and events with friends, most of your posts are retweets of your agency's initiatives and photographs of you at official events. You **may not** use this account to make posts directed at the success or failure of a political party, candidate in a partisan race, or partisan political group.*

#### **(E) Targeting Subordinates and Certain Groups<sup>9</sup> in Social Media Communications**

**Rule:** Supervisors and subordinates may be friends or follow one another on social media platforms. However, supervisors may not send to subordinates, or to a subset of friends that includes subordinates, any message that is directed at the success or failure of a political party, candidate in a partisan race, or partisan political group.

*Example 1: You are a supervisor. You **may** tweet generally about your support of a candidate in a local partisan race even if one of your subordinates follows you on Twitter, provided you are not on duty or in the workplace.*

*Example 2: You are a supervisor. You **may not** mention, or use the Twitter handle of, a subordinate who follows you on Twitter when tweeting your support of a candidate in a partisan race.*

*Example 3: You are a supervisor. You want to send via Facebook Messenger your opinion about which candidate to support in an upcoming partisan election. You **may not** include a subordinate employee in the recipient group of that message.*

<sup>9</sup> The Hatch Act prohibits an employee from knowingly soliciting or discouraging the political activity of any person who, for example, has a grant application pending before, or is the subject of an investigation by, the employee's employing office.



- (4) **24/7 PROHIBITION** – *\*Further restricted employees\** may not take an active part in partisan political management or campaigning.

(A) **Sharing or Retweeting Partisan Messages**

**Rule:** Further restricted employees may not share or retweet posts from, or the page of, a political party, candidate in a partisan race, or partisan political group, even if they are not on duty or in the workplace.

*Example 1: You are at home using your personal cell phone to look at Facebook. You see that a political party has posted a message about voting on Election Day. You **may not** share that post.*

*Example 2: You **may** like the campaign Facebook page of a candidate in a partisan race, but you **may not** share that page.*

*Example 3: A friend has shared a Facebook post from the campaign of a Presidential candidate. You **may not** share that post.*

(B) **Linking to Partisan Material or Websites**

**Rule:** Further restricted employees may not link to campaign or other partisan material of a political party, candidate in a partisan race, or partisan political group, even if they are not on duty or in the workplace.

*Example 1: You **may not** include in your Facebook profile the link to the website of a candidate in a partisan race.*

*Example 2: You **may not** tweet a message in support of a candidate in a partisan race that includes a link to that candidate's Twitter account.*

(C) **Posting to or Liking Partisan Social Media Accounts or Messages**

**Rule:** Further restricted employees may post to or like the social media accounts or messages of a political party, candidate in a partisan race, or partisan political group, provided they are not on duty or in the workplace.

*Example 1: Your friend is running for Congress. You **may** like her campaign Facebook page or post a message of support on her page, provided you are not on duty or in the workplace.*

(D) **Posting Personal Political Opinions**

**Rule:** While not on duty or in the workplace, further restricted employees may engage in political activity on social media, provided it is not done in concert with or on behalf of a political party, candidate in a partisan race, or partisan political group.

*Example 1: You **may** tweet your own message advocating the defeat of a Presidential candidate, are not on duty or in the workplace.*