

Keep it Legal, Volume 10

Political Activity Reminder

Happy election year, everyone! During this election cycle, all DoD personnel -- military and civilian -- should be mindful of the various limitations that exist when it comes to participation in political activities. DoD personnel also must be mindful on how social media can and cannot be used in regards to political activities. This article provides a quick summary of the applicable rules.

Civilian Employees

For DoD civilians, participation in political activity is primarily regulated by the Hatch Act. The Hatch Act defines political activity as “an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.” Importantly, application of the Act varies depending on an employee’s position or office.

With regard to civilian employees within the DoD, there are two sets of restrictions. The *More Restricted* group is composed of individuals appointed by the President and confirmed by the Senate, members of the Senior Executive Service (SES), contract appeals board members, and all employees of the National Security Agency (NSA), the Defense Intelligence Agency (DIA), and the National Geo-Spatial-Intelligence Agency (NGA). Second and more lenient, the *Less Restricted* group is all other DoD Civilian Employees, including Schedule C political appointments.

More Restricted employees are prohibited from engaging in any political activity that is “in concert” with a political party, partisan political group, or candidate for partisan political office. “In concert” activity is any activity that is sponsored or supported by a political party, partisan political group, or candidate for partisan political office. Prohibited activities include writing or making speeches, soliciting or receiving political contributions, knocking on doors to solicit votes or handing out political leaflets, and even serving on a phone bank. *More Restricted* employees may, however, express their personal opinions, make monetary contributions to a campaign, place campaign signs in their yards, and attend, but not actively participate in, campaign events or fundraising functions sponsored by candidates for partisan political office or political parties.

Less Restricted employees, while in their personal capacities, may volunteer with a political campaign or political organization. Examples of permitted volunteer activities include organizing political rallies and meetings, making phone calls on behalf of a candidate, serving as a delegate to a party convention, and working for a political party to get out and vote on Election Day. *Less Restricted* employees are, however, prohibited from personally soliciting or receiving political contributions.

Regardless of whether a civilian employee is *More Restricted* or *Less Restricted*, he or she may never engage in political activity while on-duty or in a Federal building. This means that employees may not send or forward political emails, post political messages to their Facebook page, or engage in political tweeting while in a Federal building (including when off-duty), even

if the employee is using his device. Employees should never use government equipment when engaging in political activities.

Military Members

DoD Directive 1344.10 and AFI 51-902 are the primary sources for regulating military members' participation in political activities. Per longstanding policy, *Active Duty* personnel, including *Active Guard and Reservists* as well as *Traditional Reservists on Orders*, may not engage in partisan political activities. Members on *Active Duty* may not campaign for a partisan candidate, engage in partisan fundraising activities, serve as an officer of a partisan club, speak before a partisan gathering, march in a partisan political parade, or display large political signs in public at one's residence. (Engaging in any of these prohibited activities makes the member subject to prosecution under Article 92, UCMJ.) *Traditional Reservists*, however, may participate in such prohibited activities, provided the member is not in uniform and does not otherwise act in a manner that could reasonably give rise to the inference or appearance of official sponsorship.

All military personnel may vote, express their personal opinions on political candidates and issues, write letters to the editor, make monetary contributions to a political campaign or organization, attend political events as a spectator when not in uniform, and display political bumper stickers.

Social Media

Civilian and *Military Personnel* may generally express their personal views on public issues or political candidates via social media platforms, such as Facebook, Twitter, or personal blogs, much the same as they would be permitted to write a letter to the editor of a newspaper. If, when expressing a personal opinion, personnel are identifiable as DoD employees, then the posting must clearly and prominently state that the views expressed are those of the individual only and not of the DoD.

As previously noted, however, *Active Duty* military members and *More Restricted* civilian employees are prohibited from participating in partisan political activity. Therefore, while these employees may "follow," "friend," or "like" a political party or candidate running for partisan office, they may not post links to, "share," suggest others "like" or "follow," or "re-tweet" comments or tweets from the Facebook page or Twitter account of a political party or candidate running for partisan office. Such activity is the equivalent of distributing literature on behalf of those entities or individuals and thus deemed to constitute participation in political activities.

Traditional Reservists not on orders are not subject to the social media restrictions listed above so long as the member does not act in a manner that could reasonably create the perception or appearance of official sponsorship or endorsement by the DoD.

That said, *All Military Personnel* must be careful not to comment, post, or link to material that violates the UCMJ or service regulations. Examples include showing contempt for public

officials, releasing sensitive information, or posting unprofessional material that is prejudicial to good order and discipline under the UCMJ.

Conclusion

It is Air Force policy to encourage its members to carry out the rights and responsibilities of U.S. citizenship. However, no matter whether civilian, active duty military, and/or a traditional reservist, political matters ripe with conflicts of interest or the appearance of improper endorsement must be avoided. The military, by tradition and necessity, demands such discipline.

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