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MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
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SUBJECT: Civilian Employees' Participation in Political Activities

Under the Hatch Act, related statutes, and implementing regulations, civilian employees are subject to certain rules that limit their participation in political activities.[1] In general terms, these employees must take care that such participation does not create a real or apparent conflict of interest with the full and impartial performance of their official duties. A rule of particular note is the prohibition against soliciting or receiving political contributions.

Additional statutory restrictions apply to career members of the Senior Executive Service (SES), members of the contract appeals boards, and all employees of the National Security Agency (NSA), the Defense Intelligence Agency (DIA), and the National Geospatial-Intelligence Agency (NGA). Long-standing Department of Defense (DoD) policy places further, substantial restrictions on non-career SES members and officials who are appointed by the President with the advice and consent of the Senate (PAS).

The Deputy Secretary of Defense traditionally issues political activity guidance in advance of a national election to ensure that DoD employees comply with these rules.[2] In order to aid employees more effectively, the present guidance lists not only prohibited activities but also permitted activities consistent with governing statutes, regulations, and long-standing DoD policy. **Please note that nothing in this memorandum is intended to encourage or discourage employees' participation in political activities.**

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[1] The Hatch Act of 1939, as amended in 1993, is published in 5 U.S.C. §§ 7321-7326, and its implementing regulations are published in 5 C.F.R. parts 733-734. Members of the armed services are subject to different rules, published in DoD Directive 1344.10.

[2] The most recent guidance was a memorandum signed by Deputy Secretary Hamre on February 7, 2000.

Before participating in any political activity, employees must read the relevant part of this memorandum (guidance applicable to most employees is set forth in part I; guidance applicable to career SES officials, members of the contract appeals boards, and all NSA, DIA, and NGA employees is set forth in part II; and guidance applicable to PAS and non-career SES officials is set forth in part III). Employees with any questions concerning the contents of this memorandum should consult their component's legal office or the Office of the Deputy General Counsel (Legal Counsel) of the Department of Defense.[3]

## I. Rules Applicable to Civilian Employees (Except PAS and SES Officials, Members of the Contract Appeals Boards, and All NSA, DIA, and NGA Employees)

### A. Prohibited Political Activities

Civilian employees (except PAS and SES officials, members of the contract appeals boards, and all NSA, DIA, and NGA employees) *may not*:

- use their official authority or influence to interfere with or affect the result of an election, which includes:
    - using their official titles while participating in a permitted political activity;
    - using their authority to coerce anyone into participating in a political activity;
    - soliciting or receiving uncompensated volunteer services from a subordinate; and
    - soliciting or discouraging the participation in a political activity of anyone with official matters before DoD.
- participate in the following political fundraising activities:
    - soliciting or receiving political contributions (except under limited circumstances in relation with certain local elections or Federal labor organizations);
        - *Employees may not solicit contributions anonymously over the telephone.*
    - allowing the use of their official titles in relation with political fundraising; and
    - hosting or sponsoring a political fundraiser.
        - *An employee's spouse may host or sponsor a fundraiser, and the employee may attend it.*
- run for partisan office (except as independent candidates in certain local elections).
- participate in a permitted political activity while on duty, while in a Government office or building, or while using a Government vehicle.

[3] Employees also should consult counsel before accepting gifts related to permitted political activities (such as attendance fees or meals).

### B. Permitted Political Activities

Civilian employees (except PAS and SES officials, members of the contract appeals boards, and all NSA, DIA, and NGA employees) may participate in political activities to the extent not expressly prohibited above. These employees *may*:

- participate in the following political organization activities:
  - being members of a political party or partisan group;
  - serving as officers of a political party or partisan group;
  - attending and participating in a political convention, caucus, or rally; and
  - serving as delegates to a political party convention.

- take an active part in a political campaign, which includes:
  - displaying a political sign, sticker, button, or similar material (but not while on duty, in a Government office or building, or using a Government vehicle);
    - *Employees may place political stickers on their privately-owned vehicles even if they park in a Government lot or occasionally drive themselves to attend meetings at other agencies.*
  - initiating or circulating a partisan nominating petition;
  - canvassing for votes;
  - endorsing or opposing a candidate in a political advertisement, broadcast, or campaign literature;
  - addressing a political convention, caucus, or rally on behalf of a candidate;
  - managing a political campaign; and
  - distributing campaign literature.

- participate in the following election-related activities:
  - voting;
  - acting as recorders, watchers, or challengers at a polling place;
  - serving as election judges or clerks;
  - driving voters to a polling place; and
  - running for non-partisan office (that is, an office to which political parties may not designate candidates).
    - *Employees who run for non-partisan office may not seek the endorsement of a political party or print partisan campaign literature.*

- participate in the following political fundraising activities:
  - making a financial political contribution;
  - attending, addressing, or being featured guests at a political fundraiser (but refraining from soliciting contributions personally);
    - *Invitations to a fundraiser may list employees as guests or speakers but may not include their official titles.*
  - soliciting or receiving uncompensated volunteer services (but not from a subordinate or anyone with official matters before DoD); and

- managing or organizing a political fundraiser hosted or sponsored by others (but refraining from soliciting contributions personally).

- use work email to discuss political subjects in a manner similar to water-cooler conversations.
    - *Employees may not use work email to send messages to a high number of people with whom they have a minimal relationship for the purpose of encouraging the recipients to support or oppose a candidate, political party, or partisan group.*

## II. Rules Applicable to Career SES Officials, Members of the Contract Appeals Boards, and All NSA, DIA, and NGA Employees

### A. Prohibited Political Activities

Career SES officials, members of the contract appeals boards, and all NSA, DIA, and NGA employees *may not*:

- participate in a permitted political activity while on duty, while in a Government office or building, or while using a Government vehicle.

- use their official authority or influence to interfere with or affect the result of an election, which includes:

    - allowing the use of their official titles in relation with a political activity;
        - *A general form of address (such as "The Honorable") may be used.*
    - using their authority to coerce anyone into participating in a political activity; and
    - soliciting or discouraging political activity participation.

- participate in the following political organization activities:

    - serving as officers of a political party or partisan group;
    - serving as delegates, alternates, or proxies to a political party convention; and
    - addressing a political convention, caucus, or rally in support of or in opposition to a candidate, if done in concert with a candidate, political party, or partisan group.
        - *In their official capacity, employees may brief a political party or partisan group (but not at a partisan meeting conducted as a fundraiser) or a non-partisan policy conference (such as an official town-hall meeting sponsored by a Member of Congress) on issues of national defense or foreign policy.*

- participate in the following political fundraising activities:

    - soliciting or receiving political contributions (except under limited circumstances in relation with certain local elections or Federal labor organizations); and
        - *Employees may not solicit contributions anonymously over the telephone.*
    - hosting, sponsoring, managing, organizing, selling tickets to, promoting, addressing, or being featured guests at a political fundraiser.
        - *An employee's spouse may host, sponsor, manage, or organize a fundraiser, and the employee may be present at it solely as an attendee.*

- take an active part in a political campaign, which includes:

    - managing a political campaign (except for an independent candidate in certain local elections);
    - canvassing for votes in concert with a candidate, political party, or partisan group;
        - *Employees may not canvas anonymously over the telephone.*
    - endorsing or opposing a candidate in a political advertisement, broadcast, or campaign literature, in concert with a candidate, political party, or partisan group;
        - *At their own expense, employees may purchase air-time to express their individual political opinions but may not appear in a program sponsored by a campaign committee.*
    - initiating or circulating a partisan nominating petition;
    - distributing campaign literature printed by or in concert with a candidate, political party, or partisan group; and
        - *At their own expense, employees may print and distribute fliers that express their individual political opinions but may not distribute fliers printed by a campaign committee.*
    - providing volunteer services to a political campaign (such as writing a speech, doing clerical work at a campaign office, or participating in a phone bank).

- participate in the following election-related activities:

    - running for partisan office (except as independent candidates in certain local elections).
    - acting as recorders, watchers, or challengers at a polling place for a candidate, political party, or partisan group; and
    - driving voters to a polling place for a candidate, political party, or partisan group.

**B. Permitted Political Activities**

Career SES officials, members of the contract appeals boards, and all NSA, DIA, and NGA employees may participate in political activities to the extent not prohibited above. These employees *may*:

- express their political opinions publicly (but not in concert with a candidate, political party, or partisan group), which includes:

    - displaying a political sign, sticker, button, or similar material (but not while on duty, in a Government office or building, or using a Government vehicle);
        - *Employees may place political stickers on their privately-owned vehicles even if they park in a Government lot or occasionally drive themselves to attend meetings at other agencies.*
    - signing a political petition; and
    - using work email to discuss political subjects in a manner similar to water-cooler conversations.
        - *Employees may not use work email to send messages to a high number of people with whom they have a minimal relationship for the purpose of encouraging the recipients to support or oppose a candidate, political party, or partisan group.*

- be politically active in connection with a question that is not specifically identified with a political party (such as a constitutional amendment or municipal ordinance).

- participate in the following election-related activities:

    - voting;
    - running for non-partisan office (that is, an office to which political parties may not designate candidates); and
        - *Employees who run for non-partisan office may not seek the endorsement of a political party or print partisan campaign literature.*
    - serving as election judges or clerks when the law requires them to perform non-partisan duties.

- participate in the following political organization activities:

    - being members of a political party or partisan group; and
    - attending a political convention, caucus, or rally solely as spectators.

- participate in the following political fundraising activities:

    - making a financial political contribution; and
    - being present at a political fundraiser solely as attendees.

## III. Rules Applicable to PAS and Non-Career SES Officials

### A. Prohibited Political Activities

Under long-standing DoD policy, PAS and non-career SES officials may not participate in any activity that could be interpreted as associating DoD with a partisan political cause or issue. For example, they may not participate as organizers, speakers, hosts, or special guests in an activity sponsored by a candidate's campaign committee, or in an activity related directly or indirectly to fundraising on behalf of a candidate or political party. These officials *may not*:

- participate in a permitted political activity while on duty, while in a Government office or building, or while using a Government vehicle.

- use their official authority or influence to interfere with or affect the result of an election, which includes:

    - allowing the use of their official titles in relation with a political activity;
        - *A general form of address (such as "The Honorable") may be used.*
    - using their authority to coerce anyone into participating in a political activity; and
    - soliciting or discouraging political activity participation.

- participate in the following political organization activities:
    - serving as officers of a political party or partisan group;
    - serving as delegates, alternates, or proxies to a political party convention;
    - addressing a political convention, caucus, or rally; and
        - *In their official capacity, officials may brief a political party or partisan group (but not at a partisan meeting conducted as a fundraiser or, for PAS officials, at a Presidential nominating convention) or a non-partisan policy conference (such as an official town-hall meeting sponsored by a Member of Congress) on issues of national defense or foreign policy.*
    - attending a Presidential nominating convention (except non-career SES officials, who may attend solely as spectators).

- participate in the following political fundraising activities:
    - soliciting or receiving political contributions (except under limited circumstances in relation with certain local elections); and
        - *Officials may not solicit contributions anonymously over the telephone.*
    - hosting, sponsoring, managing, organizing, selling tickets to, promoting, addressing, or being featured guests at a political fundraiser.
        - *An official's spouse may host, sponsor, manage, or organize a fundraiser, and the official may be present at it solely as an attendee.*

- take an active part in a political campaign, which includes:
    - managing a political campaign (except for an independent candidate in certain local elections);
    - canvassing for votes publicly or in concert with a candidate, political party, or partisan group;
        - *Officials may not canvas anonymously over the telephone.*
    - endorsing or opposing a candidate in a political advertisement, broadcast, or campaign literature;
    - initiating or circulating a partisan nominating petition;
    - distributing campaign literature; and
    - providing volunteer services to a political campaign (such as writing a speech, doing clerical work at a campaign office, or participating in a phone bank).

- participate in the following election-related activities:
    - running for partisan office (except as independent candidates in certain local elections).
    - acting as recorders, watchers, or challengers at a polling place for a candidate, political party, or partisan group; and
    - driving voters to a polling place for a candidate, political party, or partisan group.

**B. Permitted Political Activities**

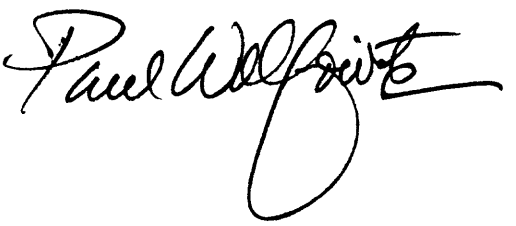
PAS and non-career SES officials may participate in political activities to the extent not prohibited above. These officials *may*:

- express their political opinions privately, which includes:
    - signing a political petition; and
    - using work email to discuss political subjects in a manner similar to private water-cooler conversations.
        - *Officials may not use work email to send messages to a high number of people with whom they have a minimal relationship for the purpose of encouraging the recipients to support or oppose a candidate, political party, or partisan group.*

- be politically active in connection with a question that is not specifically identified with a political party (such as a constitutional amendment or municipal ordinance).

- participate in the following election-related activities:
    - voting;
    - running for non-partisan office (that is, an office to which political parties may not designate candidates).
        - *Officials who run for non-partisan office may not seek the endorsement of a political party or print partisan campaign literature.*
    - serving as election judges or clerks when the law requires them to perform non-partisan duties.

- participate in the following political organization activities:
    - being members of a political party or partisan group; and
    - attending a political convention, caucus, or rally solely as spectators (except PAS officials, who may not attend a Presidential nominating convention).

- participate in the following political fundraising activities:
    - making a financial political contribution; and
    - being present at a political fundraiser solely as attendees.

Please distribute this memorandum to all civilian employees.