THE HATCH ACT

Permitted and Prohibited Activities for Federal Employees Subject to Further Restrictions*

Generally, federal employees who are considered “further restricted” are prohibited from taking an active part in partisan political management or partisan political campaigns. Specifically, these employees may not engage in “political activity” on behalf of a political party or partisan political group (collectively referred to as “partisan groups”) or candidate in a partisan election. Political activity refers to any activity directed at the success or failure of a partisan group or candidate in a partisan election.

For more information, contact the U.S. Office of Special Counsel at (202) 804-7002 or hatchact@osc.gov.

- May be candidates in non-partisan elections.
- May register and vote as they choose.
- May assist in non-partisan voter registration drives.
- May contribute money to partisan groups and candidates in partisan elections.
- May attend political rallies, meetings, and fundraisers.
- May join partisan groups.
- May sign nominating petitions.
- May participate in campaigns where none of the candidates represent a political party.
- May campaign for or against referendum questions, constitutional amendments, or municipal ordinances.
- May express opinions about political issues.
- May express opinions about partisan groups and candidates in partisan elections while not at work or using official authority.
- May not be candidates in partisan elections.
- May not use official authority to interfere with an election or while engaged in political activity.
- May not invite subordinate employees to political events or otherwise suggest that they engage in political activity.
- May not knowingly solicit or discourage the political activity of any person with business before the agency.
- May not solicit, accept, or receive political contributions (including hosting or inviting others to political fundraisers) unless both persons are members of the same federal labor or employee organization, the person solicited is not a subordinate employee, the solicitation is for a contribution to the organization’s political action committee, and the solicitation does not occur while on duty or in the workplace.
- May not engage in political activity while on duty, in the workplace, wearing a uniform or official insignia, or in a government vehicle. For example:
  - May not wear or display partisan materials or items.
  - May not make political contributions.
  - May not use email or social media to engage in political activity.
- May not be active in partisan political management. For example:
  - May not hold office in partisan groups.
  - May not organize or manage political rallies or meetings.
  - May not assist in partisan voter registration drives.
- May not be active in partisan political campaigns. For example:
  - May not make campaign speeches or otherwise campaign for or against candidates.
  - May not distribute campaign materials, including via email or social media.
  - May not circulate nominating petitions.

*Further-restricted agencies and employees include:
  - Election Assistance Commission
  - Federal Election Commission
  - Office of the Director of National Intelligence
  - Central Intelligence Agency
  - Defense Intelligence Agency
  - National Geospatial Intelligence Agency
  - National Security Agency
  - National Security Council
  - National Security Division (Department of Justice)
  - Criminal Division (Department of Justice)
  - Federal Bureau of Investigation
  - Secret Service
  - Office of Criminal Investigation (IRS)
  - Office of Investigative Programs (Customs Service)
  - Office of Law Enforcement (ATF)
  - Merit Systems Protection Board
  - U.S. Office of Special Counsel
  - Career members of the Senior Executive Service
  - Administrative law judges, administrative appeals judges, and contract appeals board members

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Prohibited Personnel Practices

By law, Federal employees may not:

- Discriminate
- Solicit or consider employment recommendations based on factors other than personal knowledge or records of job related abilities or characteristics
- Coerce the political activity of any person
- Deceive or willfully obstruct any person from competing for employment
- Influence any person to withdraw from job competition
- Give an unauthorized preference or advantage to improve or injure the prospects of any particular person for employment
- Engage in nepotism
- Take or threaten to take a personnel action because of whistleblowing
- Take or threaten to take a personnel action because of the exercise of a lawful appeal, complaint, or grievance right
- Discriminate based on personal conduct which does not adversely affect the performance of the employee or other employees
- Knowingly take or fail to take personnel action in the violation of veteran's preference laws
- Violate any law, rule or regulation implementing or directly concerning merit system principles
- Implement or enforce a nondisclosure agreement or policy lacking notification of whistleblower rights
- Access the medical record of an employee or applicant, as part of, or in furtherance of any of the above-listed prohibitions

More information may be obtained from:

U.S. OFFICE OF SPECIAL COUNSEL
1730 M STREET, N.W., SUITE 218
WASHINGTON, DC 20036-4505
WWW.OSC.GOV

PHONE: (202) 804-7000*
*Hearing and Speech Disabled: Federal Relay Service 1-800-877-8339
Rules on Political Activity for State, District of Columbia, and Local Employees

Under the Hatch Act, state, D.C., and local employees, who work in connection with programs funded in whole or in part by federal loans or grants, may not:

- use their official authority or influence for the purpose of interfering with or affecting the results of an election or nomination for office;
- directly or indirectly coerce, attempt to coerce, command or advise state or local officers or employees to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for partisan political purposes.

In addition, employees whose salary is entirely federally funded may not:

- be a candidate for public office in a partisan election.

Caution: Activity permitted by federal law may be restricted or prohibited by state or local law or regulation.
Whistleblowing

A "whistleblower" discloses information he or she reasonably believes evidences:

- A violation of any law, rule or regulation
- Gross mismanagement
- A gross waste of funds
- An abuse of authority
- A substantial and specific danger to public health or safety
- Censorship related to scientific research if censorship meets one of the above-listed categories

The Office of Special Counsel (OSC) provides a secure channel through which current and former federal employees and applicants for federal employment may make confidential disclosures. OSC evaluates the disclosures to determine whether there is a substantial likelihood that one of the categories listed above has been disclosed. If such a determination is made, OSC has the authority to require the head of the agency to investigate the matter.

To make a disclosure contact:

U.S. OFFICE OF SPECIAL COUNSEL
1730 M STREET, N.W., SUITE 218
WASHINGTON, DC 20036-4505

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WWW.OSC.GOV

Rev. 01/18
WHISTLEBLOWER RETALIATION
—5 U.S.C. § 2302(b)(8)—
THE U.S. OFFICE OF SPECIAL COUNSEL

What is whistleblower retaliation?

A federal employee authorized to take, direct others to take, recommend, or approve any personnel action may not take, fail to take, or threaten to take any personnel action against an employee because of protected whistleblowing.

*Example:* A supervisor directs the geographic reassignment of an employee because the employee reported safety violations to senior agency officials.

Protected whistleblowing is defined as disclosing information that the discloser reasonably believes evidences:

1. a violation of law, rule, or regulation;
2. gross mismanagement;
3. gross waste of funds;
4. an abuse of authority;
5. a substantial and specific danger to public health or safety; or
6. censorship related to scientific research if censorship meets one of the above-listed categories.

This section also prohibits retaliation against government scientists who challenge censorship or make disclosures concerning the integrity of the scientific process if the censorship will cause one of the five types of misconduct described above.

What can you do if you believe whistleblower retaliation has occurred?

If you believe that you have been subject to retaliation for protected whistleblowing you can file a complaint with the U.S. Office of Special Counsel (OSC). OSC is an independent agency that investigates and prosecutes allegations of prohibited personnel practices (PPP) by federal employees. OSC has the authority to investigate PPPs, including allegations of whistleblower retaliation, and may seek corrective or disciplinary action when warranted.

**U.S. Office of Special Counsel**

1730 M Street, N.W., Suite 218 | Washington, D.C. 20036
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[www.osc.gov](http://www.osc.gov)
Where can I report wrongdoing?

Current and former federal employees and applicants (henceforth “federal employees”) can report on any of the following types of wrongdoing:

• a violation of any law, rule, or regulation,
• gross mismanagement,
• a gross waste of funds,
• an abuse of authority,
• a substantial and specific danger to public health or safety, or
• censorship related to scientific research if censorship meets one of the above-listed categories.

Federal employees have many options on where to disclose wrongdoing, including but not limited to, making disclosures to supervisors or someone higher up in management; agency's Inspector General (IG); OSC; or, Congress. For whistleblower disclosures involving classified national security information or other information protected from public release by law (e.g. patient privacy information), whistleblowers must use confidential channels such as an IG, OSC, or Congress in order to be protected from adverse personnel actions related to their disclosures.

OSC has jurisdiction to protect federal employees at most agencies from retaliation for filing an appeal, complaint, or grievance; helping someone else file or testifying on their behalf; cooperating with or disclosing information to the Special Counsel or an Inspector General; or, refusing to obey an unlawful order.

Can I keep my identity confidential?

Yes. Most Inspectors General have hotlines that allow employees to make confidential disclosures. Inspectors General are prohibited from disclosing an employee’s identity unless the IG determines that disclosure is unavoidable or is compelled by a court order. If you file a disclosure with OSC, your identity will not be shared outside of OSC without your consent. However, OSC may disclose your identity only if OSC determines that it is necessary because of an imminent danger to public health or safety or an imminent violation of any criminal law.

What will OSC do once I make a disclosure?

When a federal employee discloses wrongdoing to OSC, OSC evaluates the information and interviews the federal employee. OSC determines whether it is substantially likely that the employee’s allegation – or any portion of it – can be proven and whether it discloses a violation of a law, rule, or regulation; gross mismanagement; a gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety. If it meets that standard, OSC will require the agency to investigate and submit a report of the agency’s findings to OSC. The whistleblower then has an opportunity to comment on the agency report. Those comments, together with any comments or recommendations by the Special Counsel, are sent with the agency report to the President and congressional oversight committees. The agency report is usually made available to the public.
Are whistleblowers protected from retaliation?

Yes. The Whistleblower Protection Act prohibits retaliation. This means it is unlawful for agencies to take or threaten to take a personnel action against an employee because he or she disclosed wrongdoing. Personnel actions can include poor performance review, demotion, suspension, or termination.

However, disclosures of information specifically prohibited by law or required by Executive Order to be kept secret are protected only when made to an OIG, OSC, or Congress. Additionally, federal law establishes that a federal employee has the right to communicate with and provide information to Congress.

What can you do if you believe retaliation occurred?

If you believe that an agency has retaliated against you because of your whistleblowing or because you engaged in protected activity such as disclosing information to an Inspector General, you can:

- file a complaint with OSC, which may seek corrective action when warranted;
- file a union grievance; or
- if you have been subject to a significant personnel action, you can file an appeal with the Merit Systems Protection Board (MSPB; www.mspb.gov) and assert retaliation as a defense.

Note that a federal employee may choose only one of these three options when appealing a significant personnel action.

What relief is available to an employee who has suffered retaliation?

Many forms of relief are available. They include job restoration, reversal of suspensions and other adverse actions, back pay, reasonable and foreseeable consequential damages, such as medical costs, attorney fees, and compensatory damages. In addition, damages may be awarded for attorney fees and expenses incurred due to retaliation.

Can the OSC delay a personnel action while the matter is investigated?

Yes. An individual may ask OSC to delay, or “stay,” an adverse personnel action pending an investigation. OSC will consider requesting a delay of a personnel action if OSC has reasonable grounds to believe that a prohibited personnel action was taken and, absent a stay, the employee will be subjected to immediate and substantial harm, such as removal, suspension for more than 14 days, or geographic reassignment.

How can the OSC remedy a prohibited personnel practice?

Federal employees may report suspected prohibited personnel practices (PPPs) to OSC. Their complaint will be investigated. If there is sufficient evidence to prove a violation, OSC can seek corrective action, disciplinary action, or both. Alternatively, parties in selected cases may agree to mediate their dispute in order to reach a mutually agreeable resolution of the complaint. OSC may attempt to resolve a case with an agency at any stage. If an agency refuses to provide corrective action, then OSC can take the case to the MSPB. The MSPB can order the agency to take corrective action. Such litigation begins with the filing of a petition by OSC that alleges there are reasonable grounds to believe a prohibited personnel practice occurred, is occurring, or is imminent.

Can a manager be held accountable for retaliating against a federal employee?

Yes. OSC may seek disciplinary action against any employee who commits a prohibited personnel practice. If an agency fails to take disciplinary action, then OSC can bring a disciplinary action case to the MSPB against the employee who committed the prohibited personnel practice. If the MSPB finds that an individual has committed a prohibited personnel practice, it can order disciplinary action, including removal, reduction in grade, debarment from federal employment for up to five years, suspension, reprimand, or a fine of up to $1,000. Additionally, new statutory provisions impose a minimum penalty for supervisors that commit violations of 5 U.S.C. § 2302(b)(8), (b)(9), or (b)(14).

For more information on prohibited personnel practices (PPPs), including retaliation, go to www.osc.gov/ppp.

To learn more about filing a whistleblower disclosure with OSC, go to www.osc.gov/disclose.

To file a PPP complaint or whistleblower disclosure with OSC, go to www.osc.gov/efile.

U.S. Office of Special Counsel

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