



# THE JBSA JURIST

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## **Political Activities– Do's and Don'ts When Working For Uncle Sam**

This November, more than a million federal employees, including active-duty military members, will vote in federal midterm elections, and many may have questions regarding the permissibility of engaging in political activities. All American citizens enjoy their First Amendment right to free speech, but what happens when the free speech rights of an individual government employee are inconsistent with the federal government's prohibition on endorsing political candidates? Government employees enjoy freedom of association and the ability to exert their democratic rights in their personal capacity, but this must be balanced against the need for impartial and transparent government operations. AFI 51-902, DoD Directive 1344.10, and federal statutes such as the Hatch Act prescribe rules that ensure the personal politics of federal employees and military members (for purposes of this article, "military members" includes active duty and reservists on Title 10 orders) are not misconstrued as an official endorsement of any candidate, proposition, or party.

Under the Hatch Act (5 U.S.C. §§ 7321 -7326) and its implementing regulations, DoD civilians may not engage in political activities while on duty or in a federal workplace. This includes a prohibition on wearing campaign buttons and displaying images of political candidates. Most civilian government 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, displaying yard signs and working for a political party to get out the vote on Election Day. These employees are, however, prohibited from soliciting or receiving political contributions. Most importantly, these allowed political activities must take place outside duty hours and government buildings, and cannot give an impression of government endorsement.

Military members on active duty are subject to greater restrictions than government-employed civilians. Active duty personnel may not engage in partisan political activities and all military personnel must avoid the inference that their political activities imply or appear to imply DoD sponsorship, approval, or endorsement of a political candidate, campaign, or cause. Members on active duty may not campaign for a partisan candidate, engage in partisan fundraising activities, serve as an officer of a partisan club, or speak before a partisan gathering. Active duty members may, however, express their personal opinions on political candidates and issues, make monetary contributions to a political campaign or organization, and attend political events as a spectator *when not in uniform*.

In recent years, social media (Twitter, Facebook, Instagram, etc.) have become increasingly politically stratified. If your social media account identifies you as a military member, then any political post should be accompanied by a disclaimer stating that the views expressed are those of the individual only and not the military. For civilians and military members, political comments and non-commentary social media interactions (such as liking, retweeting, or favoriting) must take place outside duty hours and the federal workplace. However, employees and members may *never* like, share, retweet, or mark themselves as attending a post that solicits political contributions, including invitations to fundraising events.

Ultimately, civic engagement and playing a role in the political process are rights that we all work hard to protect, but government employees and military members must endeavor to preserve the military's long-standing position of remaining apolitical. As always, specific questions about what constitutes acceptable and prohibited political activities can be directed to your servicing Staff Judge Advocate.

**AREA DEFENSE COUNSEL**

*ADCs are experienced judge advocates outside the local chain of command to allow Airmen completely confidential legal advice for criminal and adverse matters.*

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**Lackland: DSN 473-2924/2926**

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1. Click on tab "Legal Worksheets"
2. Complete worksheet for documents you wish to have created
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4. Please complete survey online

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