

Office of Special Counsel

Presented by:

The Office of Inspector General, National Science Foundation

What We'll Cover

- Prohibited Personnel Practices
- Whistleblower Protection
- Hatch Act
- Copy of PowerPoint slides will be posted at <http://www.nsf.gov/oig/pubs.jsp>
- Additional information on any of these topics is available at www.osc.gov

What is OSC?

“OSC” is Office of Special Counsel.

OSC is an independent investigative and prosecutorial agency in the Executive Branch.

OSC’s basic authorities come from three federal statutes - the Civil Service Reform Act, the Whistleblower Protection Act, and the Hatch Act.

OSC's Mission

- 1) To protect current and former employees, and applicants for federal employment, especially whistleblowers, from prohibited employment practices or from illegal veteran-related practices under the USERRA legislation.
- 2) To promote & enforce compliance by government employees with Hatch Act restrictions on political activity.
- 3) To facilitate disclosures by federal whistleblowers about government wrongdoing.

Notice of Rights & Remedies

5 U.S.C. 2302(c) charges “the head of each agency” with responsibility for “ensuring . . . that agency employees are informed of the rights and remedies available to them” under the prohibited personnel practice and whistleblower retaliation protection provisions of Title 5.

The No FEAR Act reinforces this as a duty of all agencies.

(See, e.g., <http://www.nsf.gov/od/oeo/nofear/notice.jsp>)

>> This assists OSC in its mission. <<



So THAT'S what this is!

What are
**PROHIBITED
PERSONNEL
PRACTICES?**

**Soliciting or considering
employment recommendations
based on factors other than
personal knowledge or records
of job-related abilities or
characteristics**

Discrimination

>> based on:

race, color, religion, sex (civil right), national origin, age, sex (labor/equal pay), disability (and also including marital status or political affiliation “as prohibited under any law, rule or regulation”)

**Deceiving or willfully
obstructing any person about
his/her right to compete for
employment**

Coercing the political activity of any person, or taking action against any employee as reprisal for refusing to engage in political activity

(“office politics” not included)

**Influencing any person to
withdraw from competition for a
position to improve or injure the
employment prospects of any
other person**

Giving an unauthorized preference to a person to improve or injure the employment prospects of any particular employee or applicant

Nepotism

Appoint, employ, promote, or advance a relative in or to a civilian position, or urge someone else to do so

“Relative” = Father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister

**Taking a personnel action
against an employee because
of whistleblowing**

**Taking a personnel action
against any employee
because of the exercise of
an appeal, complaint, or
grievance right**

Discriminating against
an employee on the basis
of conduct that does not
adversely affect the
performance of the
employee

**Taking or failing to take a
personnel action, if such
action would violate a
veterans' preference
requirement**



**Taking a personnel action
against an employee that
violates a law, rule, or
regulation that implements a
merit systems principle**

Take-away point:

Don't do those things!

And if any of those things are done to you, you can complain to the OSC

Whistleblowing

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

1. a violation of law, rule, or regulation,
2. gross mismanagement,
3. gross waste of funds,
4. an abuse of authority, or
5. a substantial and specific danger to public health or safety.

Whistleblower

- Current and Federal employees and applicants for employment can confidentially report wrongdoing in Federal agencies to OSC.
- Disclosures must be made in writing.
- If OSC determines if there is substantial likelihood that the disclosure involves one of the five factors, OSC can require the head of the agency where the alleged wrongdoing occurred to investigate the matter and report back to OSC.

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.

(Translation: A manager can't punish an employee for talking to the manager's boss or OSC about protected stuff and embarrassing the manager.)

EXAMPLE: A Supervisor directs the "geographic reassignment" of an employee because the employee reported safety violations to senior agency officials.

What Can You Do If You Believe Whistleblower Retaliation Has Occurred?

If you believe that you have suffered retaliation for protected whistleblowing you can file a complaint with OSC.

FEDERAL HATCH ACT
5 U.S.C. §§ 7321-7326

The Hatch Act



FEDERAL HATCH ACT
5 U.S.C. § 7324; 5 C.F.R. PART 734.101

POLITICAL ACTIVITY MEANS:

**AN ACTIVITY DIRECTED TOWARD THE SUCCESS OR
FAILURE OF A —**

- **POLITICAL PARTY**
- **CANDIDATE FOR PARTISAN POLITICAL OFFICE, OR**
- **PARTISAN POLITICAL GROUP**

FEDERAL HATCH ACT DOs
5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART B

GENERALLY, LESS RESTRICTED EMPLOYEES MAY –

1. ENGAGE IN PARTISAN POLITICAL CAMPAIGNING

(E.G., DISTRIBUTE CAMPAIGN LITERATURE, ORGANIZE CAMPAIGN EVENTS, SPEAK ON BEHALF OF A CANDIDATE, ETC.)

2. ENGAGE IN PARTISAN POLITICAL MANAGEMENT

(E.G., HOLD PARTY OFFICE, ORGANIZE PARTY EVENTS, SERVE ON A PARTY COMMITTEE, ETC.)

(Note: Career SES cannot engage in these activities)

FEDERAL HATCH ACT DON'Ts
5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART C

GENERALLY, LESS RESTRICTED EMPLOYEES MAY NOT —

1. USE OFFICIAL AUTHORITY OR INFLUENCE TO INTERFERE WITH AN ELECTION

- **USE OF OFFICIAL TITLE (GENERIC TITLE, OR “THE HONORABLE”)**
- **COERCE SUBORDINATES**
- **SOLICIT THE UNCOMPENSATED VOLUNTEER SERVICES OF SUBORDINATES**
- **PROVIDE NAMES/ADDRESSES OF EMPLOYEES TO CANDIDATE/CAMPAIGN**

FEDERAL HATCH ACT DON'Ts
5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART C

- 2. SOLICIT OR DISCOURAGE POLITICAL ACTIVITY OF ANYONE WITH BUSINESS BEFORE THEIR AGENCY**

FEDERAL HATCH ACT DON'Ts
5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART C

3. SOLICIT OR RECEIVE POLITICAL CONTRIBUTIONS

- **SOLICITATION LETTERS**
- **FUNDRAISERS**
- **PHONE BANKS**

*** A COVERED EMPLOYEE MAY HOST A MEET AND GREET, OR SPEAK AT A FUNDRAISER**

FEDERAL HATCH ACT DON'Ts
5 U.S.C. § 7323; 5 C.F.R. PART 734, SUBPART C

4. BE CANDIDATES FOR PUBLIC OFFICE IN PARTISAN ELECTIONS

- **NONPARTISAN ELECTIONS**
- **DESIGNATED LOCALITIES (*DC, MD & VA near DC, etc.*)**
- **WRITE-IN CANDIDACY**
- **PARTY OFFICE (e.g., **PRECINCT COMMITTEE PERSON**)**

FEDERAL HATCH ACT DON'Ts
5 U.S.C. § 7324; 5 C.F.R. PART 734, SUBPART C

5. ENGAGE IN POLITICAL ACTIVITY WHILE —

- **ON DUTY**
- **IN A GOVERNMENT OFFICE**
- **WEARING AN OFFICIAL UNIFORM**
- **USING A GOVERNMENT VEHICLE**

FEDERAL HATCH ACT
5 U.S.C. § 7324; 5 C.F.R. PART 734.101

EXAMPLES OF PROHIBITED POLITICAL ACTIVITY:

- **BUTTONS, POSTERS, COFFEE MUGS, ETC. IN THE WORKPLACE WITH THE FOLLOWING MESSAGES:**

“VOTE FOR _____”

“I SUPPORT _____”

“REGISTER FOR _____”

- **E-MAIL**
- **BUMPER STICKERS ON GOVERNMENT CARS**
- **INSERTION OF LINKS TO POLITICAL WEBPAGES IN GOVT SITE**
- **SEE : OSC FAQs, 14 JULY 2010, linked on Inside NSF Webpage, re application of Hatch Act to social media**

FEDERAL HATCH ACT
5 U.S.C. § 7324; 5 C.F.R. PART 734.101

NOT PROHIBITED POLITICAL ACTIVITY – *EXAMPLES:*

- **NRA**
- **“CRIME CONTROL, NOT GUN CONTROL”**
- **“RIGHT TO LIFE”**
- **“PRO-CHOICE”**
- **“I SUPPORT THE WAR”**
- **“PEACE, NOT WAR”**

DISCIPLINARY ACTION
5 U.S.C. § 1215

DISCIPLINE

OSC MAY REQUEST DISCIPLINARY ACTION FROM —

- **THE MERIT SYSTEMS PROTECTION BOARD**
- **THE PRESIDENT**
(FOR MOST PRESIDENTIAL APPOINTEES)

DISCIPLINARY ACTION / PENALTIES
5 U.S.C. § 7326

MERIT SYSTEMS PROTECTION BOARD MAY ORDER EMPLOYEE'S —

- **REMOVAL**

OR

- **SUSPENSION (30-DAY *MINIMUM*)**

HATCH ACT INFORMATION / ADVICE

5 U.S.C. § 1212 (f)

EMPLOYEES MAY:

- OBTAIN ANSWERS TO SPECIFIC QUESTIONS ABOUT POLITICAL ACTIVITY BY CALLING OSC, AT —

800-85-HATCH OR 202-254-3650

- OBTAIN WRITTEN ADVISORY OPINIONS ABOUT THE HATCH ACT BY CONTACTING OSC —

BY MAIL, AT: U.S. OFFICE OF SPECIAL COUNSEL
1730 M STREET, NW (SUITE 218)
WASHINGTON, DC 20036-4505
ATTN: HATCH ACT UNIT

BY FAX, AT: (202) 653-5151

OSC WEB SITE

(<http://www.osc.gov>)



U.S. Office of Special Counsel

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GENERAL INFORMATION

► **Introduction to OSC**

The U.S. Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency. Our basic authorities come from four federal statutes: the Civil Service Reform Act, the Whistleblower Protection Act, the Hatch Act, and the Uniformed Services Employment & Reemployment Rights Act (USERRA).

[read more](#)

THE AGENCY

- Senior Management Team
- OSC Organizational Chart

DIVISIONS

Prohibited Personnel Practices (PPP)

Protecting Federal Government Employees and Applicants from Prohibited Personnel Practices, including Reprisal for Whistleblowing



Whistleblower Disclosures (Disclosures)

Providing a Safe Channel for Government Employees to Disclose Wrongdoing



Political Activity (Hatch Act)

Enforcing Restrictions on the Political Activity of Federal Government Employees and Employees of Certain State and Local Government Agencies



USERRA

Protecting the Employment and Reemployment Rights of Veterans, Guardsmen, and Reservists



HEADLINES:

Latest OSC Press Release:

Department of Transportation Report Substantiates Allegations of FAA Oversight Failures

Disclosure Press Release:

OSC Transmits VA Report Confirming Hospital Failed to Inspect Medical Equipment Before use on Patients

New Hatch Act Advisory Opinion:

Frequently Asked Questions Regarding Social Media and the Hatch Act

PROGRAMS

- Certification

RESOURCES

- Open Government

OSC PHONE / E-MAIL CONTACTS

- COMPLAINTS EXAMINING UNIT.....(202) 254-3670
(800) 872-9855**
- DISCLOSURE HOTLINE.....(202) 254-3640
(800) 572-2249**
- HATCH ACT UNIT.....(800) 85-HATCH
(202) 254-3650
hatchact@osc.gov**
- USERRA UNIT.....(202) 254-3620
userra@osc.gov**