



November 27, 2018

Ms. Anne L. Weismann
Chief FOIA Counsel
Citizens for Responsibility and Ethics in Washington (CREW)
455 Massachusetts Ave., NW
Washington, DC 20001

RE: FOIA Request No. 867383

Dear Ms. Weismann:

This letter is in partial response to your Freedom of Information Act (FOIA request) dated September 10, 2018 (tracking # 867383). In response to CREW's fourth and fifth request, these were assigned to the Office of the Solicitor (SOL) for processing.

This response is based solely on SOL records. Your request has also been assigned to the Office of the Secretary for responses to CREW's first, second and third document requests. You should expect to receive responses from that Office under a separate cover letter.

In CREW's fourth and fifth requests, you requested:

Fourth . . . copies of records sufficient to show the formula the Labor Department uses to apportion costs incurred during travel that has both official and political components

Fifth . . . copies of all records concerning how the Labor Department ensures compliance with the Hatch Act's restrictions on political travel.

As to the first request above, the Department, in determining costs to be apportioned with respect to mixed political and official travel, uses the formula set forth at 5 C.F.R. § 734.503.

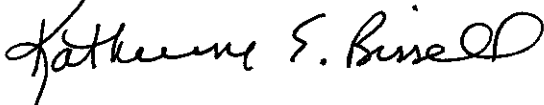
As to the second request above, we have searched our records and copies of the responsive documents are attached.

If you have questions about this response you may contact the DOL FOIA Public Liaison, Thomas Hicks, at 202-693-5427 or by email at hicks.thomas@dol.gov. Alternatively, you may contact the Office of Government Information Services (OGIS), within the National Archives and Records Administration, to inquire about the mediation services they offer. The contact

information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. You can also reach that office by e-mail at ogis@nara.gov, by phone at 202-741-5770, by fax at 202-741-5769, or by calling toll-free at 1-877-684-6448.

Additionally, if you are not satisfied with the response to this request, you may administratively appeal by writing to the Solicitor of Labor within 90 days from the date of this letter. The appeal must state in writing the grounds for the appeal, and it may include any supporting statements or arguments, but such statements are not required. In order to facilitate processing of the appeal, please include your mailing address and daytime telephone number, as well as a copy of the initial request and copy of this letter. The envelope and letter of the appeal should be clearly marked "Freedom of Information Act Appeal." Any amendment to the appeal must be made in writing and received prior to a decision. The appeal should be addressed to the Solicitor of Labor, Division of Management and Administrative Legal Services, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N2420, Washington, DC 20210. Appeals may also be submitted by email to foiaappeal@dol.gov. Appeals submitted to any other email address will not be accepted.

Sincerely,

A handwritten signature in cursive script that reads "Katherine F. Bissell".

Katherine Bissell
Deputy Solicitor for Regional Enforcement

Enclosures

▶ Home ▶ FOIA ▶ Search ▶ Reports ▶ Help

Correspondence ID: Find

3 Overdue Request(s) Found for OLC; 3 Overdue Request(s) Assigned to Patricia Morgan.

[FOIA Request](#) [FOIA Assignments](#) [HOT/SENSITIVE STATUS](#) [Responding Offices](#) [Info Toll](#) [FOIA Documents](#)

Correspondence ID: **SOL-FOIA-F2018-867383** Record Status: **Active** Operator: **Darlene Miller**

Requestor Information:

Last Name: Weismann
First Name: Anne
Middle Name/Initial: **L**
Organization: **CREW**
Address 1: 455 Massachusetts Avenue NW
Address 2:
City: Washington
State: District Of Columbia Zip Code: 20001
Phone No.: **202-408-5565**
Email: **aweismann@citizensforethics.org**

General Request Information:

Subject: Records re presidentially-appointed Senate confirmed officials since 1/20/17.
Requestor Type: Other
Request Type: FOIA Privacy Act PA Amendment
Consultation: No
Hot/Sensitive: No
Short Subject:
Request Received Via: **Electronic**
Request Fee Waiver: Yes
Request Expedited Treatment: No
Remarks:

Date Stamps:

Date of Letter: **9/10/2018**
Date of Receipt in DOL: **9/10/2018**
Date Entered: **9/28/2018**

User: **Patricia Morgan** Office: **OLC**

New Rec'd 10/1/2018

September 10, 2018

BY E-Mail: foiarequest@dol.gov

Office of the Secretary
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, D.C. 20210

Re: Freedom of Information Act Request

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington ("CREW") makes this request for records pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, and U.S. Department of Labor regulations.

First, CREW requests copies of records sufficient to show all travel taken or planned by all presidentially-appointed Senate confirmed ("PAS") officials in the Labor Department to any event attended by a sitting member of the United States House of Representatives in that member's district between May 1, 2018 through November 6, 2018.

Second, CREW requests copies of records sufficient to show all the political events to which PAS officials in the Labor Department traveled from January 20, 2017 to the present, identifying the event, agency participants, and the costs of each trip.

Third, CREW requests copies of records sufficient to show all the political events PAS officials in the Labor Department are scheduled to attend in 2018, including but not limited to those events expected to have mixed travel, *i.e.*, travel for official and political purposes, identifying the event, agency participants, and anticipated costs of each scheduled trip.

Fourth, CREW requests copies of records sufficient to show the formula the Labor Department uses to apportion costs incurred during travel that has both official and political components.

Fifth, CREW requests copies of all records concerning how the Labor Department ensures compliance with the Hatch Act's restrictions on political travel.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Our request includes without limitation all correspondence, letters, emails, text messages, facsimiles, telephone messages, voice mail messages, and transcripts, notes, or minutes of any meetings, telephone conversations, or discussions. Our request also includes any attachments to emails and other records, as well as those who were cc'ed or bcc'ed on any emails.

If it is your position any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. See *Mead Data Central v. U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

I note this request seeks many of the same documents sought in July 2016 by the House Oversight and Government Reform Committee from a number of executive branch agencies, including the Defense Department.¹

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A) and Labor Department regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. See 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. See, e.g., *McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

On August 21, 2018, senior White House aides reportedly revealed in a call with reporters that various "official" government events attended by President Trump and senior administration officials have been part of a coordinated effort "to help Republicans in the coming midterm elections."² According to an unnamed White House official, "the president's Cabinet and senior staff have done 35 events with or affecting House districts in August already."³ These events purported were official government events that presumably were paid for with government funds.

These trips implicate the Hatch Act, which prohibits nearly every executive branch official from using their "official authority or influence for the purpose of interfering with or affecting the result of an election."⁴ In cases involving mixed travel – travel that includes attendance at both official and political events during the same trip – the law requires the costs

¹ That request is available at <https://oversight.house.gov/release/committee-requests-information-hatch-act-compliance/>.

² S.V. Date, *White House Admits Trump Is Using Official Events for Midterm Campaigning*, *Huffington Post*, Aug. 22, 2018, available at https://www.huffingtonpost.com/entry/trump-official-campaign_us_5b7c896ce4b07295150dcd5d.

³ *Id.*

⁴ 5 U.S.C. § 7323(a)(1).

be properly apportioned between the federal government and the relevant political organization or candidate to ensure that the federal government is appropriately reimbursed for taxpayer funds expended for political events.⁵ The requested records would shed light on whether PAS officials at the Labor Department, including Secretary Acosta, incurred expenses for mixed travel and how the agency handled those expenses, as well as the policies in place to ensure full compliance with the Hatch Act.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases, or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, www.citizensforethics.org. The release of information obtained through this request is not in CREW's financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. See *Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a "representative of the news media" and broadly interpreting the term to include "any person or organization which regularly publishes or disseminates information to the public").

CREW routinely and systematically disseminates information to the public in several ways. CREW's website receives tens of thousands of page views every month. The website includes a blog that reports on and analyzes newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts the documents it receives under the FOIA on its website, which has been visited hundreds of thousands of times.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

Conclusion

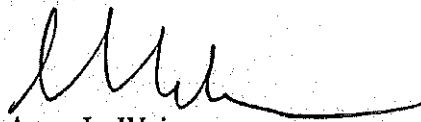
If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 408-5565 or aweismann@citizensforethics.org. Also, if CREW's request for expedition and/or a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

⁵ See U.S. Office of Special Counsel, OSC Advisory Regarding Mixed Travel by Presidentially-Appointed/Senate Confirmed (PAS) Employees (Oct. 6, 2011); 5 U.S.C. § 7324(b); 5 C.F.R. § 734.503.

FOIA Officer
September 10, 2018
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Where possible, please produce records in electronic format. Please send the requested records to me either at aweismann@citizensforethics.org or Anne L. Weismann, Citizens for Responsibility and Ethics in Washington, 455 Massachusetts Ave., N.W, Washington, D.C. 20001. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anne L. Weismann', with a long horizontal flourish extending to the right.

Anne L. Weismann
Chief FOIA Counsel



HATCH ACT/POLITICAL ACTIVITIES 2018 Briefing

**U.S. Department of Labor
Office of the Solicitor**

**Peter J. Constantine, Associate Solicitor for Legal Counsel
Rob M. Sadler, Counsel for Ethics
Zach Mancher, Attorney-Advisor**



Today's Objectives

- Familiarize you with the laws and regulations concerning your personal participation in partisan political activities.
- Review the basic concepts associated with partisan political activity.
- Look at examples of permissible and prohibited activities.

Purpose of the Hatch Act



- An urban myth – it is not named after Senator Orrin Hatch.
- Dates back to 1939; significant amendments in 1993.
- Major purposes:
 - Separate official and political activity.
 - Make sure that no government resources are used for political activity.
 - Ensure that federal employees – including non-career employees – are not coerced into engaging in partisan political activity.



Overview

- Federal employees are allowed to engage in a wide range of partisan political activities as long as they do so:
 - On their own time;
 - On non-federal property; AND
 - Without using any federal resources
- Nevertheless, this is an area heavily scrutinized by the media and such investigative agencies as the U.S. Office of Special Counsel.



Two Basic Principles

- The Hatch Act covers participation in “partisan political activity” – defined as any “activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.”
- Participation in partisan political activities by all employees – career and non-career – is voluntary and cannot be directed or mandated.

Levels of Hatch Act Coverage



- The basic provisions of the Hatch Act apply to the vast majority of employees; there is **no distinction** between career and non-career.
- PAS-level employees have less restrictions in terms of when and where they can engage in partisan political activity.
- Career SES employees and ALJ's are subject to more restrictions.

TOP 10 TIPS TO MAKE SURE YOU COMPLY WITH
THE HATCH ACT



1. Do not conduct partisan political activity while you are on duty, in your office, or in a government building.

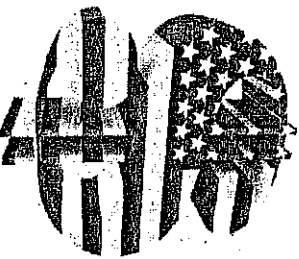
- May not be connected to official activity.
- May not appear to be officially sanctioned





2. While you may voluntarily contribute to the candidate or party of your choice, you are prohibited (even in your personal capacity) from fundraising.

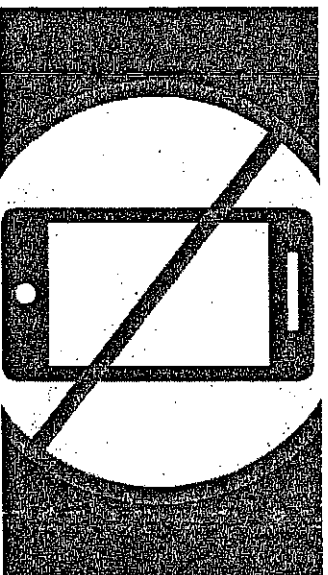
- Soliciting, accepting, or receiving campaign contributions in any manner.
- E-mails
- May not ask others to do what you may not do.





3. Use your own electronic equipment (smartphone, computer, tablet, etc.) for political activities.

- Never use any government equipment for this purpose. This includes linking to a personal email account on your government computer.





4. Do not use your official title or DOL affiliation in connection with any partisan political activities.
- Always personal activity.
 - Inadvertent use of title – must take some affirmative action to correct.

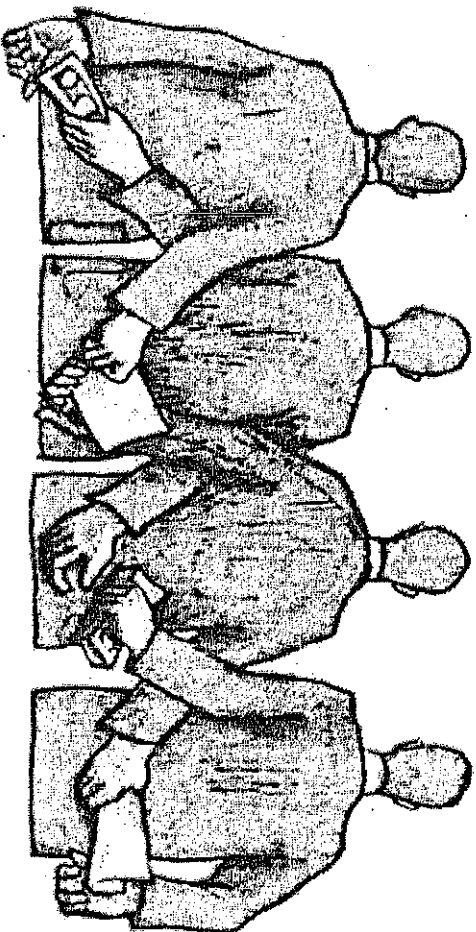


5. While off duty, you can wear campaign buttons, or display posters or yard signs at your home.
- Buttons are prohibited while you are on duty, as is the display of campaign-related photos and posters in your office or in common workspaces.





6. It is illegal to take an official action for the express purpose of affecting the outcome of an election.



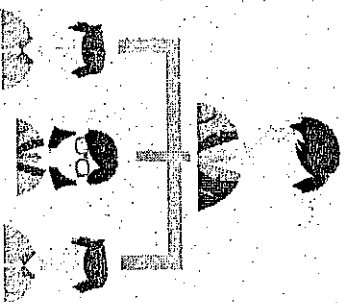


7. Any reimbursement for campaign-related activities must come from the official candidate or party committee.
- Government may not appear to subsidize political activity.

Reimbursement

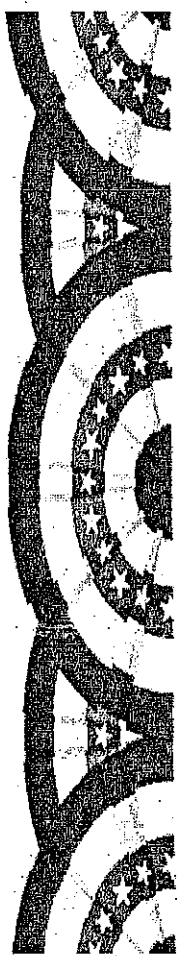


8. Do not ask subordinates or persons doing business with the government (contractors, grantees) to support particular candidates or a political party.
- Do not volunteer services to your supervisor in connection with partisan political activity.



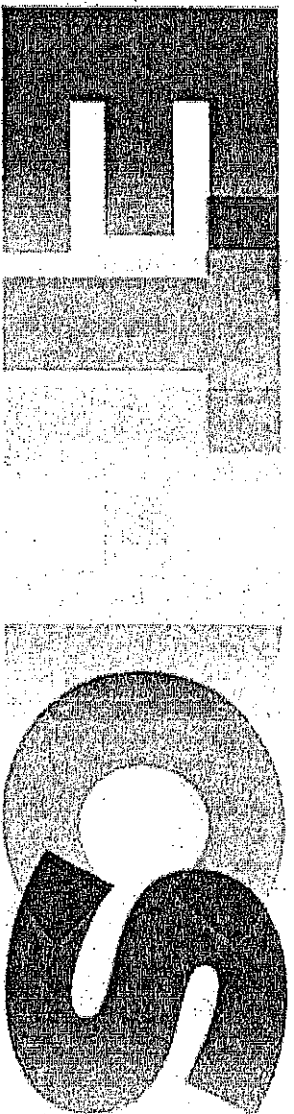


- 9. You may not run for partisan political office.
 - If elected to an office and you become a federal employee you may finish your term.
 - You may run for office in nonpartisan elections.
 - You may run as an “independent” candidate in elections in DC and the surrounding counties.
 - Must terminate service before taking any steps to run for partisan political office.





10. Always check with your ethics officials if you have any questions about your own or other people's activities.





#SocialMedia

- All the Hatch Act rules apply to social media – Facebook, Twitter, etc.
- Permissible to “follow” or “friend” candidates or campaign organizations.
- Permissible to list political affiliation in profile.
- Permissible to receive partisan political e-mail.

@SocialMedia



- Permissible to display campaign logos or candidate photos as cover or header photo at the top of social media profiles on personal Facebook or Twitter accounts. *
- Permissible to display campaign logos or candidate photos as a profile picture on personal Facebook or Twitter accounts. *
- * May not post, share, tweet or retweet any such items while on duty or in federal workplace.



Questions and Contacts

- Peter Constantine (202/693-5505)
- Rob Sadler (202/693-5528)
- Zach Mancher (202/693-5694)

Additional resource. SOL has a comprehensive “Guide to Political Activities”. We strongly encourage employees planning to engage in political activities to review it. E-mail anyone on the staff.



HATCH ACT/POLITICAL ACTIVITIES 2018 Briefing

U.S. Department of Labor
Office of the Solicitor

Rob M. Sadler
Acting Associate Solicitor for Legal Counsel
and Counsel for Ethics

Today's Objectives



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3

Overview



- Federal employees are allowed to engage in a wide range of partisan political activities as long as they do so:
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 - On non-federal property; AND
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- Nevertheless, this is an area heavily scrutinized by the media and such investigative agencies as the U.S. Office of Special Counsel.

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Two Basic Principles



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5

Levels of Hatch Act Coverage



- The basic provisions of the Hatch Act apply to the vast majority of employees; there is **no distinction** between career and non-career.
- PAS-level employees have less restrictions in terms of when and where they can engage in partisan political activity.
- Career SES employees and ALJ's are subject to more restrictions.

6

Permissible activities [For all employees]



- Register and vote.
- Make financial contributions to a party or candidate committee (except while on duty or using government equipment).
- Express an opinion on political subjects.
- Sign a nominating petition
- Take an active part in support of, or be, a candidate in a non-partisan race.
- Be politically active in connection with an question that is not specifically identified with a political party, such as a constitutional amendment, referendum, municipal ordinance, or any other question of a similar character.

7

More Permissible Activities [Except for Career SES & ALJ's]



- Take an active part in managing or volunteering on a political campaign.
- Serve as an officer of a political party or other political group, or as a member of a national, state or local committee of a political party.
- Attend and participate fully in nominating caucuses of political parties.
- Organize a political party or political group.

8

Still More Permissible Activities [Except for Career SES & ALJ's]



- Actively participate in a political convention, rally or political gathering, including serving as a delegate or alternate to a political convention.
- Canvass for votes in support of or in opposition to a political candidate.
- Endorse or oppose a candidate in political advertisements, broadcasts, or campaign literature (as long as DOL title/affiliation is not used).

9

Even More Permissible Activities [Except for Career SES & ALJs]



- Address a convention, rally, caucus or similar gathering of a political party in support of or in opposition to a partisan candidate for public office.
- Serve as a party or candidate challenger or poll watcher.
- Attend (**but not host or solicit, collect, or receive funds at**) political fundraisers.

10

Prohibited Activities [For ALL Employees]



- Employees cannot seek nomination or be a candidate for partisan political office.
- Employees cannot solicit, accept, or receive contributions for candidates or political parties.
- Employees cannot accept voluntary services from subordinate employees.
- Employees may not use their official authority or influence for the purpose of interfering with or affecting the result of an election.

11

More Prohibited Activities [For All Employees]



- Employees may not knowingly solicit or discourage the participation in any political activity of any person who:
 - Has an application for any compensation, grant, ruling, license, permit or certificate pending before the employee's agency; or
 - Is the subject of, or a participant in, an ongoing audit, investigation, or enforcement action being carried out by the employee's agency.

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And finally...



- No employee may intimidate, threaten, command, or coerce any federal employee to engage in or not engage in political activity.

13

When can I engage in political activity?



- Federal employees can engage in political activity only when they are on their own time. For most employees, this means:
 - Off-duty hours (evenings, weekends, holidays);
 - Lunch hour (as long as the employee is away from a federal building); or
 - Approved annual and compensatory leave.
- No time parameters for PAS-level employees.

14

What are “Partisan Political Activities”?



- Defined as any “activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group”.
- Does not include casual “water cooler talk” (general discussion of current events – even political ones – that are not aimed at encouraging political activity).
- Career employees can nevertheless be sensitive to such discussions.

15

Can I use my office computer for political activities?



- In a word – **NO**.
- Even though the Department has an “appropriate use” policy allowing limited non-official use of computers, political activity is explicitly prohibited. (This prohibition includes government-issued smartphones, and tablets.)
- Do not even use your computer to link to a private email account to engage in partisan political activities.
- Occasional, limited viewing of news websites is ok – but there is no expectation of privacy.

16

What if I get an unsolicited email at work about political activities?



- Merely receiving an unsolicited email inviting you to participate in political activities will not get you in trouble. BUT
- You should not RSVP or respond substantively from your government computer – or forward the message.
- The most you should do is to tell the sender it is inappropriate to send emails to your government account and provide (if you wish) your personal email address. Then – delete it.

17

Can I engage in any fundraising for a candidate or a party?



- **ABSOLUTELY NOT!** All federal employees are prohibited from soliciting, accepting or receiving political contributions.
- You may not:
 - serve as the inviter, a host, or a member of a host committee for any political fundraiser;
 - work on a phone bank soliciting contributions even if you do not identify yourself.

18

More fundraising issues



- You may:
 - attend a fundraiser.
 - contribute to candidates or a party (consistent with FEC limits).
 - speak at a fundraiser as long as:
 - Your remarks go to the candidate's merits (and do not ask for funds).
 - Your official title or DOL affiliation is not listed on the invitation, program, website, or other materials
 - You are identified on the invitation or program as a "Special Guest" or "Featured Speaker" – not the inviter or host.

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One more fundraising issue



- Do not post announcements or invitations to political fundraisers in an email or on your blog, Facebook, Twitter, or any other social media platform.
- Do not forward or re-tweet fundraising event announcements or invitations sent to you by others.

20

Can I wear campaign buttons & put bumper stickers on my car?



- Buttons. You may not wear a campaign button while on duty or in a federal government office. While off-duty, you can accessorize to your heart's delight.
- Bumper stickers. You may place a bumper sticker on your car even if you park it in a DOL garage – unless you are regularly using your car for official business.
- Yard signs at your house are permissible.

21

What campaign posters or photos can I display in the office?



- Very few. This is an area where the Office of Special Counsel has been very active.
- You should not have any posters or photos of any candidate running for election or re-election in your office or common area of the building.
- Photos of you and the candidate should not be displayed unless they depict some personal or official event at which the candidate attended.

22

Pictures



- Official pictures of the President – OK
- Memento pictures of you and a currently announced candidate – OK if not in a “campaign” context
- Pictures should have already been posted prior to announcement of candidacy.
- Multiple pictures – potentially problematic.

23

Are there any other pitfalls?



- Yes – most particularly a provision that says employees may not use their official authority or influence for the purpose of interfering with or affecting the result of an election. This means:
 - Don’t allow the use of your title or DOL affiliation in connection with any political activity.
 - Do not make/justify official actions or activities on the basis of how they will help a candidate.

24

Staff Support for Political Activities

- In general, staff should not provide any staff support for officials to participate in political activities.
- However, a very limited amount of support is permitted solely to assist the principal in carrying out official duties in the areas of logistics, scheduling and advance, security, and liaison.
- Staff may never volunteer time to help the principal with political activities.

25

#SocialMedia

- All the Hatch Act rules apply to social media – Facebook, Twitter, etc.
- Permissible to “follow” or “friend” candidates or campaign organizations.
- Permissible to list political affiliation in profile.
- Permissible to receive partisan political e-mail.

26

@SocialMedia



- Permissible to display campaign logos or candidate photos as cover or header photo at the top of social media profiles on personal Facebook or Twitter accounts.*
- Permissible to display campaign logos or candidate photos as a profile picture on personal Facebook or Twitter accounts.*
- * May not post, share, tweet or retweet any such items while on duty or in federal workplace.

27

Questions and Contacts



- Rob Sadler (202/693-5528)
- Zach Mancher (202/693-5694)

Additional resource. SOL has a comprehensive "Guide to Political Activities". We strongly encourage employees planning to engage in political activities to review it. It is available from Rob Sadler.

28

Guidance Concerning Political Travel and Related Issues

In most cases, determining whether travel is “political” is fairly clear, for example when an employee is speaking on behalf of a partisan political candidate or when the event or activity is sponsored by a campaign committee. In other circumstances, the event or activity may not be as readily identifiable as political. In those instances, in determining its character, we look at various factors, including the nature of the sponsoring organization, the nature of the activity or event (in particular fundraisers), the location, and the proximity in time to an election.

Mixed Official / Political Trips

PRORATE EXPENSES BETWEEN OFFICIAL AND POLITICAL ACTIVITIES

There are instances when travel by the Secretary and other senior Department officials may encompass both official and political activity. This is commonly known as a “mixed trip.” For such travel, a principle of proration of expenses has been applied. It is important to emphasize that no appropriated funds may be used in connection with the political activity portion of any such trip. This principle also precludes the Department from “advancing” money for the political portion of a trip pending the actual accounting and reimbursement of costs.

As a consequence, two separate formulas have been developed to address costs associated with mixed trips: one for use with mixed trips involving official activities and political activities associated with a Presidential election campaign, and one for use with mixed trips involving official activities and political activities associated with non-Presidential election campaign events.

Presidential Election Campaign: If the travel involves an official component and a political one related to a Presidential election campaign, the “hypothetical trip” formula is used to determine which costs are attributable to the Presidential campaign.

Under this formula, the campaign must pay for the entire cost of a senior Department official’s travel from Washington, D.C. to the location of the political event and back, including lodging and per diem expenses, to the same extent it would have had to pay if there had been no official Government activities performed during the trip. This formula must be used for political travel if any campaign activity (no matter its duration) for the President occurs at the political event. THE EXPENSES MUST BE PAID BY THE RESPECTIVE AUTHORIZED PRESIDENTIAL CAMPAIGN ORGANIZATION PRIOR TO THE TRAVEL TAKING PLACE. (This transaction should be handled directly with the Presidential Election Campaign.)

Non-Presidential Election Campaign Events: With regard to non-Presidential election campaign events (e.g., Congressional and State and local campaigns), applicable law and regulations provide that when an individual, other than a candidate, conducts campaign-related activities on a trip, the portion of the trip attributed to each candidate shall be allocated on a reasonable basis. Guidance from past Counsels to the President has been to use a “hard time” formula, in which

expenses are pro-rated based upon percentages of time the employee engages in official and political activities while on travel.

OASAM performs this breakdown of expenses based upon travel expense figures obtained by the Office of Scheduling and Advance, with the assistance of this Division as needed. A POLITICAL CAMPAIGN MUST PAY IN ADVANCE FOR THAT PERCENTAGE OF THE TRAVEL THAT IS POLITICAL. (This transaction should be handled directly with the Congressional and State and local campaign.)

Personal Accounts: Because the Department may not advance payment in connection with political activities, past Secretaries have set up personal accounts here at the Department with the DOL Credit Union to address this need.

In connection with mixed trip issues, it is important that your staff consult with OASAM and the Office of the Solicitor to ensure that these formulas are followed and that proper documentation is maintained.

General Principles Concerning Staff Activity in Connection with Political Activity and Events

DOL CANNOT PAY FOR POLITICAL TRAVEL

The use of staff (whether Schedule C political appointees or career employees) to conduct, on official time, any political activities or activities in connection with the Secretary=s attendance or participation in a political activity is generally governed by appropriations law. The general principle is that the costs of **wholly** official activity must be paid from appropriated funds; expenses in connection with **wholly** political activity must be paid from sources other than appropriated funds.

SERVICES THAT ARE PART OF AN EMPLOYEE'S OFFICIAL DUTIES MAY BE PROVIDED

In applying this principle, it has been consistently recognized that any employee of the government may provide to a Cabinet-level or other senior Department official who is appointed by the President with the advice and consent of the Senate those services that are part of the employes's official functions, whether the activity is official or political.

Generally, such services would ordinarily include full provision for the

- safety of the official, and
- effectiveness in connection with official responsibilities, e.g., schedule coordination, communication, clerical, logistical, and administrative support; and assistance in the management of paperwork and records.

Making Travel Arrangements

MINIMUM LOGISTICAL ARRANGEMENTS MAY BE PROVIDED

Instances in which an employee makes a supervisor's travel arrangements in connection with political activities or events should be limited. Previous White House Counsels' Offices have advised that only the Secretary and other senior Department officials who are appointed by the President with the advice and consent of the Senate may use subordinates to make logistical arrangements for political travel.

- Employees making the arrangements should limit their involvement to the bare logistical arrangements, i.e., making transportation and hotel reservations, and coordinating advance and security arrangements (if appropriate).

EMPLOYEES MAY NOT BE DIRECTLY INVOLVED IN THE SUBSTANCE OR THE PLANNING OF THE POLITICAL ACTIVITY OR EVENT

- It is important that these employees **do not** become involved in any discussions concerning the arrangements for, or the program of, the activity or event itself. Such involvement could violate the appropriations principle and possibly the Hatch Act. The Secretary or senior Department official should make the direct contacts with the campaign or political group. It is appropriate, however, for staff to collect material, even that supplied by the campaign or political group, for inclusion in a briefing book.

Accompanying the Secretary

EMPLOYEES MAY PERFORM ESSENTIAL OFFICIAL LIAISON AND OTHER DUTIES

In rare instances, employees may be needed to accompany the Secretary or other senior Department officials to the political activity or event in order to perform official duties, whether or not the official is on official business. In these instances, the accompanying employees would be traveling in their official capacity and expenses incurred by them would be paid by the Government. Specifically, the individuals allowed to accompany the Secretary may include security agents responsible for the Secretary's protection (if appropriate), the chief of staff, or, in the case of the Secretary or other senior Department official, special assistant(s). Because official funds are being used for these employees, the number of personnel accompanying the Secretary or other senior Department official on a trip should be limited to one or two individuals whose services are essential to the performance of the senior official's duties.

- Because these employees are traveling on inherently official business, it is important that they absolutely refrain from any participation in any political activity or event.

- These employees' attendance at the activity or event should be limited to those situations where it is absolutely necessary to provide security, or provide essential liaison activities to enable the Secretary or senior Department official to perform official responsibilities.
- **The Secretary and other senior Department officials may not solicit, accept, or receive uncompensated volunteer services from a subordinate for any political purposes.** This is true even if the employee's offer is entirely voluntary and self-initiated. [For example, a member of the Secretary's staff may not volunteer directly to the Secretary to write a speech for the Secretary's use at a political event or to accompany the Secretary to the political event to do advance work. Employees may, however, independently volunteer their services to a party or candidate committee to work at an event outside of duty hours and, in turn, be assigned by the party or candidate committee to the Secretary.]

Providing Briefing Materials

OFF-THE-SHELF MATERIALS MAY BE PROVIDED

It is appropriate for the Secretary or other senior Department official to request from employees publicly-available, "off-the-shelf" materials, even though the senior official may be using them in connection with a political activity or event.

- Employees **may not** be requested to write or prepare any materials in a Federal office during normal duty hours that will be used solely for political purposes, nor may they prepare materials containing statements of political advocacy.

ADDITIONAL INFORMATION

ROBERT A. SHAPIRO	(202) 693-5500
ROBERT M. SADLER	(202) 693-5528
RACHEL S. RIKLEEN	(202) 693-5702

Political Appearance Request Form

This form is to be used for requests for participation in political activities or attendance at political events for the President, White House staff, and Administration officials.

This form must be completed in addition to any scheduling forms required by the official's scheduling office and should be submitted to the Office of Political Affairs.

Requested Attendee Name

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Requester Information

Organization:									
Type of Organization:	<table border="0"> <tr> <td>Campaign Committee</td> <td>Federal Party Committee</td> </tr> <tr> <td>State Party Committee</td> <td>Local Party Committee</td> </tr> <tr> <td>Social Welfare Org. / 501(c)(4)</td> <td>Independent Expenditure Org.</td> </tr> <tr> <td colspan="2">Other: _____</td> </tr> </table>	Campaign Committee	Federal Party Committee	State Party Committee	Local Party Committee	Social Welfare Org. / 501(c)(4)	Independent Expenditure Org.	Other: _____	
Campaign Committee	Federal Party Committee								
State Party Committee	Local Party Committee								
Social Welfare Org. / 501(c)(4)	Independent Expenditure Org.								
Other: _____									
Office Sought:									
FEC Committee ID:									
Organization Website:									
Coordinator Name & Title:									
Contact Information:									

Event Information

Event Name:	
Event Description:	
Event Type: <i>E.g., Rally, Endorsement, Photo Op, Fundraiser, Meal, Meeting, etc.</i>	
Date, Time & Location: <i>Include information about travel if outside D.C.</i>	
Other Organizations or Officials Participating:	
Decision Deadline:	

Additional Event Information

Fundraising Activity? <i>If yes, describe type and beneficiary</i>	
Projected Attendees: <i>List notable attendees, type, and expected number</i>	
Remarks Requested? <i>Include expected speaking program</i>	
Media Plan:	

Invitations, Promotional Materials, Etc.

Please attach any additional information about event and include draft invitations, promotional materials, reply devices, press releases, or other accompanying items that may be used in connection with event. Clearly mark all such items as *DRAFT* before submitting. **Absolutely no materials may be distributed concerning activity with any official's name, title, or position on them without being specifically approved in writing in advance.**

Making unapproved announcements and/or distributing unapproved materials concerning officials' attendance may result in rejection or cancellation of event.

Organization Legal Sign-Off

All political appearance requests must have been reviewed and approved by the relevant legal official prior to being submitted for White House review. This includes review of this form, event format, draft invitation, promotional materials, disclaimers, and any other accompanying items.

- *For state and local party committees and Republican National Committee — RNC Counsel's Office*
- *For incumbent U.S. Senate campaigns and NRSC — NRSC Counsel*
- *For incumbent U.S. House campaigns and NRCC — NRCC Counsel*
- *For State entities, Independent Expenditure committees, or other groups — Outside Counsel*

Counsel Signature: _____

Counsel Name: _____

Counsel Contact Information: _____

Internal Use Only

Political Affairs	
Counsel's Office	
Notes	