OFFICE OF THE SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

JUN 2 9 2016

MEMORANDUM FOR: SEE DISTRIBUTION

SUBJECT: Guidance on Communication with Presidential Campaigns

It is the Secretary's priority to ensure a thorough, professional, and well-coordinated transition without regard to party affiliation. This memorandum outlines the responsibilities and expectations of Department of Defense (DoD) personnel in support of Presidential transition, both before and after the election.

Current federal law provides for the potential engagement on transition activities, prior to the election, with authorized representatives of eligible candidates only. Eligible candidates will be designated by the Administrator of the General Services Administration following the nominating conventions of the major parties. Until such time, DoD personnel are prohibited from engaging with potential candidates and their authorized representatives on any matter related to their official duties under any circumstances. Any contact from potential candidates and their campaigns should be reported immediately to the Head of DoD Transition.

Following the designation of eligible candidates, guidance on briefing materials will be provided by the White House Transition Coordinating Council and disseminated DoD-wide. To ensure proper, consistent, and equitable dissemination of information to the authorized representatives of eligible candidates, all requests for engagement must be routed through and approved by the Head of DoD Transition before any such engagement occurs.

All DoD personnel should also be aware of existing limitations on participation in partisan political activity, which is regulated by the Hatch Act and implementing regulations and departmental policies for DoD civilian employees and by DoD Directive 1344.10 for military members. Specific inquiries about participation in political activities should be directed to the DoD Office of the General Counsel for OSD and all other non-military department personnel. Military department personnel should direct inquiries to their respective Judges Advocates General or Offices of General Counsel.

The Secretary will be notified and individuals will be held appropriately accountable for deviations from the above direction. You are instructed to ensure that this memorandum is distributed to all personnel within your Component by July 1 and that personnel within your component are briefed as appropriate on the relevant policies and statute by no later than July 15.

On this matter, my points of contact are Mr. Michael Rhodes, at (703) 692-7138, and Ms. Sasha Baker, at (703) 692-7100. The points of contact within the Office of the General Counsel are Mr. Paul Koffsky, at (703) 697-8341, Mr. Paul Lekas, at (703) 697-2714, and Ms. Karen Dalheim, at (703) 571-9446.

Eric Rosenbach
Head of DoD Transition
Chief of Staff to the Secretary of Defense

Attachments:
Preparation for Orderly Transition
Guidance on Political Activity 2016

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Guidance on Political Activity 2016

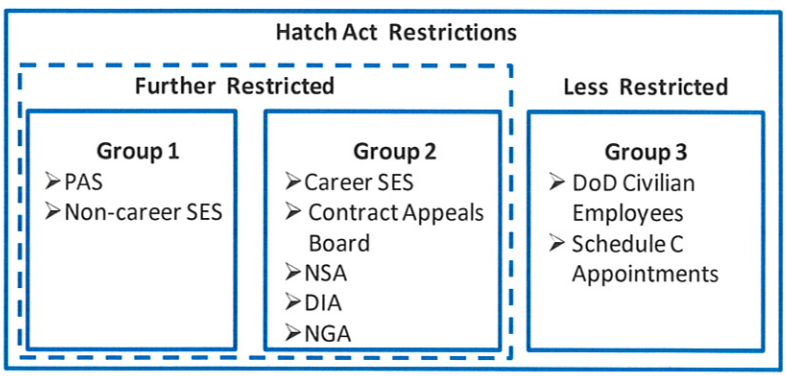
During the election cycle all DoD personnel – military and civilian – should be aware of the various limitations that exist when it comes to participation in political activity. A quick summary of the rules and links to substantive guidance are included in the information below.

Civilian Employees

For DoD civilians, participation in political activity is regulated by a number of sources: the Hatch Act (5 USC 7321 – 7326), implementing regulations (5 CFR 733 and 5 CFR 734), as well as DoD policy. For purposes of the Hatch Act, political activity is defined as "an activity directed toward the success or failure of a political party, candidate for partisan political office or partisan political group." Because the application of the rules varies depending on an employee's position or office, it is extremely important that employees who are engaging in political activity know which rules apply.

With regard to civilian employees, there are two sets of restrictions for three groups of employees. The first and more restrictive set of restrictions applies to: (1) individuals appointed by the President and confirmed by the Senate and individuals serving in non-career SES positions; and (2) career members of the SES, contract appeals board members, and all employees of the National Security Agency (NSA), the Defense Intelligence Agency (DIA), and the National Geo-Spatial-Intelligence Agency (NGA). The second and more lenient set of restrictions applies to all other employees (including Schedule C political appointments).

Employees in Groups 1 and 2 are prohibited from taking an active part in partisan political management or political campaigns and are referred to as "further restricted" employees.



Further restricted employees are expressly prohibited from participating in political activity. Specifically, further restricted employees are prohibited from engaging in any political activity which is "in concert" with a political party, partisan political group, or candidate for partisan political office. "In concert" activity is any activity that is sponsored or supported by a political party, partisan political group, or candidate for partisan political office. Prohibited activities also include soliciting or receiving political contributions. Further restricted employees may, however, express their personal opinions, make monetary contributions to a campaign, and attend, but not actively participate in, campaign events or fundraising functions sponsored by candidates for partisan political office or political parties. Partisan Political Activity Rules for "Further Restricted" DoD Civilians.

Less restricted employees (employees in Group 3), 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, 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. Partisan Political Activity Rules for "Less Restricted" DoD Civilians.

Regardless of whether a civilian employee is further restricted or less restricted, she may never engage in political activity while on-duty or in a Federal building. Specifically, an employee may not send or forward political emails, post political messages to a Facebook account or engage in political tweeting while in a Federal building (including when off-duty), even if the employee is using her personal smartphone, tablet, or computer. Employees should never use government equipment when engaging in political activities. The attached Office of Special Counsel Press Release illustrates these issues.

Military Members

The primary guidance concerning political activity for military members is found in DoD Directive 1344.10 [Guidance for Military Personnel]. Per longstanding DoD policy, active duty personnel may not engage in partisan political activities and all military personnel should 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.

Social Media

Civilian and military personnel may generally express their personal views on public issues or political candidates via social media platforms, such as Facebook, Twitter, or personal blogs, much the same as they would be permitted to write a letter to the editor of a newspaper. If, when expressing a personal opinion, personnel are identified by a social media site as DoD employees, the posting must clearly and prominently state that the views expressed are those of the individual only and not of the Department of Defense.

As previously noted, active duty military members and further restricted civilian employees are prohibited from participating in partisan political activity. Therefore, while these employees may "follow" "friend" or "like" a political party or candidate running for partisan office, they may not post links to, "share" or "re-tweet" comments or tweets from the Facebook page or twitter account of a political party or candidate running for partisan office. Such activity is deemed to constitute participation in political activities. Social media guidance for military members [FAQs Political Activities and Members of the Armed Forces] and civilian employees [Social Media and the Hatch Act] offers advice on how to avoid violating the rules.

Service members must also be careful not to comment, post, or link to material that violates the Uniform Code of Military Justice (UCMJ) or Service regulation. Examples include showing contempt for public officials, releasing sensitive information, or posting unprofessional material that is prejudicial to good order and discipline under the UCMJ.

For more information on the Hatch Act or DoD Directive 1344.10, personnel should contact their local legal or Staff Judge Advocate (SJA) office.

General guidance on the Hatch Act may be found at the U.S. Office of Special Counsel website at www.osc.gov.