



Know Your Rights: Federal Employees Have the Right to Protest!



In the wake of the Supreme Court's Dobbs decision eviscerating women's rights, federal employees are wondering if they can join protests in defense of abortion rights.

Federal employees have the right to protest, march in the streets, attend a protest rally, demonstration, or meeting.

As a federal employee, you should not do so when on duty, in uniform, wearing official insignia, or using a federal vehicle in connection with your protest activities.

But what about the Hatch Act?

- ➔ The Hatch Act permits employees of all ranks to attend "rallies and meetings."^[1]
 - A federal employee cannot do so when on duty, in uniform, wearing an official insignia, while engaging in the discharge of official duties, or using a federal vehicle.^[2]
- ➔ Issue advocacy is different than partisan political activity on behalf of a candidate or political party.
 - The Hatch Act does not prohibit federal employees from engaging in non-partisan political activities. Accordingly, employees may express their opinions about current events and matters of public interest at work so long as their actions are not considered political activity. Political activity is "an activity directed towards the success or failure of a political party, candidate for partisan political office, or partisan political group."^[3]
 - The U.S. Office of Special Counsel has repeatedly found that federal employees can use the phrases "Black Lives Matter" or "Tea Party"^[4] including when on duty.^[5]
- ➔ You can write letters, post opinions, and engage in social media on issue-advocacy around matters of public importance so long as it is on your own time as a private citizen and you are not using federal resources or an account that associates or identifies you with your federal employment or title.^[6] Supervisors should be careful not to target subordinates with messaging.

Becoming a federal employee does not take away your right to peacefully assemble and protest!

This is not intended as legal advice but rather as an noncomprehensive overview. For additional information and if you are considered a "high level" federal employee, visit <https://osc.gov/Services/Pages/HatchAct-FAQ.aspx>

[1] <https://osc.gov/Services/Pages/HatchAct-Federal.aspx#tabGroup33>

[2] 5 C.F.R. § 734.406.

[3] 5 C.F.R. § 734.101.

[4] U.S. Office of Special Counsel Advisory Opinion, *Black Lives Matter and the Hatch Act*, July 14, 2020.

[5] Although a specific candidate's campaign slogan would be prohibited while on duty. *Id.*

[6] *Pickering v Board of Education*, 391 US 563 (1968); *Garcetti v Ceballos*, 547 US 410 (2006)