CAMPAIGN ACTIVITIES

Toolkit

In this toolkit, you will…

Learn how to engage with congressional candidates during the election season by attending or hosting candidate forums and holding meetings with candidates. This guide also includes the NARFE 2014 Candidate Questionnaire, and explains how to use it to learn more about the candidate's support of NARFE issues.

National Active and Retired Federal Employees Association

www.PROTECTAmericasHeartbeat.org

Meeting with a Candidate

During the election season, it is important to introduce yourself to congressional candidates and discuss NARFE issues with them. This is an opportunity to teach them about the issues we care about and to learn about their views of federal employees and retirees. It also can serve as the first step in building a strong relationship with potential members of Congress.

Schedule the Meeting

- To invite a candidate to meet with you, modify the Template Meeting Request for In-State Visit letter. To invite the candidate to come to a chapter meeting, modify the Template Meeting Request for Chapter Meeting letter.

- If you cannot find contact information for the campaign scheduler, call the campaign headquarters and ask how they would like you to send a meeting request letter. Some campaigns may have a certain process for invitations, so be sure to follow their directions carefully.

- Follow up with the campaign a few days after sending the invitation. Be flexible in the scheduling process as candidates for federal office are very busy. Once you schedule a date, follow up a few days before the event to reconfirm.

During the Meeting

- Introduce yourself and give a short summary of your federal work experience. Discuss how many federal employees live in the district/state and what type of work they do (refer to the state-specific At a Glance document and give them a copy).

- Provide the candidate with a brief overview of what NARFE is and our priorities. Give them NARFE's Priorities for the 113th Congress, and discuss how these issues affect the federal community. This is especially important if they are a current state Representative or Senator, as they may not be well-versed in federal employee and retiree issues but may have some familiarity with state employees.

- Explain how federal employees and retirees have been targeted over the past several years, including being subject to a three-year pay freeze, furloughs as a result of sequestration and constant additional threats from Congress. The Federal

Employee Deficit Reduction Contribution Fact Sheet can be helpful in explaining the sacrifices.

- Ask them for their opinion on the issues NARFE cares about most. Use the Candidate Questionnaire as a basis for your questions. If they have already responded to the questionnaire, ask them follow-up questions regarding their positions or express gratitude/disappointment at their responses.

- Express the sentiment that you look forward to building a relationship with them and that you hope they can look to you and NARFE for guidance in the future.

- Do not discuss the NARFE-PAC if you are meeting with an elected official in his/her official capacity. It is not appropriate to discuss contributions when meeting with a legislator or staff in the official office. However, if attending a fundraiser with a current legislator or meeting with a candidate who does not currently hold elected office, it is ok to discuss NARFE-PAC.

After the Meeting

- Send a Thank You letter to the candidate for meeting with you. In this letter, follow up with any information the candidate may have asked for or that you may have offered to provide.

- Share the outcome of the meeting with others in your NARFE chapter. Discuss ways to continue building the relationship and whether your chapter will take any action to support or oppose the candidate's campaign.

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Hosting a Candidate Forum

Holding a special chapter meeting featuring a candidate forum prior to the November 2016 elections is a great way to meet with candidates and to hear their views on the issues that matter most to NARFE members.

Hosting a candidate forum is easy. Simply work with other chapters in your congressional district to hold a joint chapter event and invite candidates for Congress or their representative to attend. Then work with your federation legislative officer to coordinate the event. You also can work with your federation to organize a statewide event for Senate candidates.

Planning Your Event

Inviting Candidates

The first thing you should do is pick a date and location and submit official scheduling requests to the campaign offices of **all** candidates for the office using the sample request letter. Shortly thereafter, follow up the initial request with a phone call, since schedules may be tight. Many campaign offices now also make it possible to request a meeting on their website. You can obtain office contact information from the candidate's website, the Board of Elections or your local party office.

Timing of Forum

Decide if you want to host the forum before or after the primary election. If you hold the event after, then you only need to invite the winners of the primary, including any major third party candidates. If you host the event before the primary, you should invite all the candidates who may appear on the ballot. Consider how many candidates you will have to include when deciding the timing and format for your forum.

Working with the Campaigns

Work with the campaigns to finalize plans for the forum, including the format and the date and location if the ones proposed don't work for the candidates.

A few format questions to finalize with the campaigns include:

- Time limits for responses, rebuttals, introductory/closing statements.
- How will questions from the audience be taken (i.e. directly from the audience or collected cards)?

- Will the media be invited to cover the event? Publicity could boost NARFE's local profile but candidates may be more forthcoming at media-free events.
- Are surrogates welcome or do you only want to hear from the candidates?

Run of Show for Your Event

NARFE Members Arrive

NARFE members from invited chapters arrive, mingle briefly and take their seats.

The designated emcee moves to the front of the room and introduces the event.

Introductions

The emcee gives a brief introduction about the issues impacting NARFE members (key issues can be found in the Fact Sheets and Issue Briefs Toolkit).

The emcee introduces the panel of guests (if multiple congressional campaigns sent representatives) or the single speaker (if only one). You can request short biographies from the campaigns to plan this introduction.

The emcee describes the format of the event and requests that members in attendance remain polite throughout the forum. Misconduct and rudeness should not be tolerated.

Conclusion

The emcee thanks the candidates once again and adjourns the event.

Meet-and-Greet

The emcee thanks the candidate(s) and opens up the event for individual NARFE members to meet and speak with them, if the candidates have agreed to this.

Following the Event

No later than a week following the forum, send thank you letters to the campaigns.

Also, don't forget to report the forum in your chapter newsletter and email advocacyinaction@narfe.org to tell the Legislative Department about your forum.

PROTECT *America's Heartbeat*

Template Candidate Forum Request Letter

[Date]

Mr./Ms. (Not "The Honorable" if the candidate isn't a current elected official) [Insert the candidate's first and last names]
Attn: Scheduler
[Insert the main campaign office address]
[Insert the office city, state and ZIP code]

Dear [Representative [OR] Senator for incumbents] [Mr. [OR] Ms. for Candidates] [Insert last name]:

On [insert a specific date], local members of the National Active and Retired Federal Employees Association (NARFE) are requesting your participation in a candidates' forum to discuss issues important to active and retired federal employees and their survivors. Members from several NARFE chapters in [Insert chapter cities] and statewide officers will attend the forum. We are happy to work with you and your opponent(s) on a date, time and location that are mutually convenient, if the above date does not work.

NARFE members in [Insert state name] defend the retirement, pay and benefits of the [xx,xxx] federal retirees and [xx,xxx] active federal employees in [state]. Coverage of our forum will appear in chapter newsletter(s), and a photo story might run in our national monthly magazine, *narfe.* You can learn more about NARFE at www.narfe.org.

I look forward to your prompt reply.

Sincerely,

[Insert your first and last name]
[Insert your address]
[Insert your city, state and ZIP code]
[Telephone number]
[E-mail address]

Attending Non-NARFE Candidate Forums

During election season, attending candidate forums hosted in your community is a great way to raise awareness of and put a local face on federal retirees and federal workforce issues.

What Are Candidate Forums?

During an election season, many community and civic organizations will hold candidate forums or debates that are open to the public. Forums may be held prior to a primary or a general election. They also can be open to only top candidates or all candidates for an office.

Traditionally, these forums are held in community centers, churches, libraries and other public spaces.

What You Can Do

Attend a candidate forum and speak up! If appropriate, wear your NARFE T-shirt or button.

If the forum is open to the general public, find other NARFE members who may want to attend.

Come armed with facts and questions for the candidates. If you can, ask a question during the candidate forum, especially if the topic is relevant to the wider audience. For example, if the forum is being sponsored by a local seniors group, you can ask about the Chained CPI because that impacts all seniors.

Following the Candidate Forum

Candidates will frequently stay around to meet voters (i.e. potential supporters!). Try to get a few minutes with the candidate and introduce yourself and NARFE. You can ask additional questions or invite the candidate to your NARFE meeting.

Then, tell the Legislative Department about the candidate forum. Email advocacyinaction@narfe.org to tell the Legislative Department about the event. This information is important in our continued efforts.

NARFE Questionnaire for Congressional Candidates

The National Active and Retired Federal Employees Association (NARFE) represents the interests of the five million federal workers and retirees and their spouses and survivors, 85 percent of whom live outside the Washington, DC area. NARFE has over 230,000 dues-paying members who live in every congressional district across the country. The organization has been safeguarding the earned rights and benefits of America's active and retired federal employees since 1921. For more information, go to www.narfe.org, or contact our Legislative Department at 703-838-7760, ext. 201 or leg@narfe.org.

Please return this questionnaire to leg@narfe.org.

Candidate Information

Name: _____

Congressional District: _____

Today's Date: _____

Primary Date: _____

Please attach a biography as well. Space for additional comments or explanations is provided at the end.

1. **Do you believe federal employees, on average, are: (Please circle one)**
    a. **Undercompensated**
    b. **Overcompensated**
    c. **Compensated fairly**
    d. **Do not know**

2. In the past five years, federal employees had their pay frozen for three years and then received a 1 percent raise in 2014 and 2015. The Employment Cost Index (ECI), which measures increases in private-sector wages and salaries, is typically used to determine annual raises for federal employees, absent action by Congress and/or the President. During the past five years, federal employees' pay has increased by only 2 percent. Meanwhile, private-sector wages and salaries have risen 8.3 percent in the past five years, and the cost of living increased 11 percent. **Do you: (Please circle one)**

a. Oppose providing federal employees with pay increases in line with private sector wage and salary increases.

b. Support providing federal employees with pay increases in line with private sector wage and salary increases.

c. Do not know

3. Over the past five years, the federal community has been asked to sacrifice more than $120 billion towards deficit reduction, through a three-year pay freeze, two increases in retirement contributions for newly hired employees and sequestration-related furloughs. When you add in the lost wages from smaller pay raises than statutorily prescribed, the federal community has given $159 billion towards deficit reduction.

The FY16 House and Senate budget resolutions assumed savings from additional cuts to the federal community. The House budget resolution in particular, specifically included more than $318 billion in cuts, including:

- Increasing retirement contributions for current employees;
- Reducing the workforce through attrition;
- Increasing employees' and retirees' Federal Employees Health Benefits Program (FEHBP) premiums by tying the government's employer contribution to inflation;
- Decreasing the rate of return on the Thrift Savings Plan's Government Securities Fund (G Fund);
- Increasing some federal retirees' share of their health insurance premiums by basing the government contribution on their years of service;
- Encouraging the total elimination of the defined- benefit Federal Employees Retirement System (FERS); and
- Eliminating the FERS Annuity Supplement.

Do you: (Please circle one)

a. Oppose additional cuts, like the ones outlined in the FY16 House budget resolution, to federal employees' and retirees' pay and benefits.

b. Support additional cuts, like the ones outlined in the FY16 House budget resolution, to federal employees' and retirees' pay and benefits.

c. Do not know

4. There is a strong consensus in Congress that the United States Postal Service (USPS) is in need of legislative reform. Over the past several years, the USPS has reduced service standards, closed mail processing facilities and faced pressure to reduce the number of delivery days from six to five. Many of these cuts are driven by a congressional mandate that requires the USPS to prefund future retiree health benefits at a pace no other public or private sector company is required to do so. Without the prefunding requirement, the USPS is incurring operating profits. **Do you: (Please circle one)**

a. Oppose relieving the USPS of the prefunding mandate.

b. Support relieving the USPS of the prefunding mandate.

c. Do not know

Postal reform legislation approved by the Senate Homeland Security and Governmental Affairs Committee in the 113th Congress, S. 1486, would have required postal retirees to enroll in Medicare Part B in order to continue receiving health benefits coverage through the federal government as they currently do. This would increase total health insurance premiums paid by those postal retirees, plus shift costs to Medicare. **Do you: (Please circle one)**

a. Oppose requiring postal retirees to enroll in Medicare Part B.

b. Support requiring postal retirees to enroll in Medicare Part B.

c. Do not know

5. Cost-of-living adjustments (COLAs) to federal civilian and military retirement annuities, as well as Social Security benefits, veterans' benefits and disability benefits, currently are determined by the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), which is computed by the Bureau of Labor Statistics (BLS) at the Department of Labor.

The Chained Consumer Price Index for All Urban Consumers (Chained CPI-U) is a different formula calculated by the BLS. A switch to using the Chained CPI instead of the CPI-W would result in estimated yearly benefits 3 percent lower after 10 years, 6.2 percent lower after 20 years and 9.4 percent lower after 30 years.

The Consumer Price Index for the elderly (CPI-E) is still another formula calculated by the BLS. It measures the costs experienced by Americans age 62 and older. Notably, while health care accounts for about 12 percent of spending for those aged 62 and older, it accounts for only 5 percent of spending for the general population. A switch to using the CPI-E instead of the CPI-W would increase yearly benefits.

a) Do you: (Please circle one)

i. **Support using the Chained CPI to calculate cost-of-living adjustments that would result in lower Social Security benefits and federal retirement annuities**

ii. **Oppose using the Chained CPI to calculate cost-of-living adjustments that would result in lower Social Security benefits and federal retirement annuities**

iii. **Do not know**

b) Do you: (Please circle one)

i. **Support using the CPI-E to calculate cost-of-living adjustments that would result in higher Social Security benefits and federal retirement annuities**

ii. **Oppose using the CPI-E to calculate cost-of-living adjustments that would result in higher Social Security benefits and federal retirement annuities**

iii. **Do not know**

6. The Federal Employees Health Benefits Program (FEHBP) is the nation's most efficiently administered and cost-effective employer-sponsored health insurance plan, providing coverage to federal employees, retirees and their spouses and dependents. Currently, the government provides a contribution equal to 72 percent of the weighted average of all plan premiums, and caps the contribution at 75 percent of any plan's total premium, with the enrollee paying the remainder. **Do you: (Please circle one)**

a. Oppose reducing the government contribution towards FEHBP premiums, which would increase costs for federal employees and retirees

b. Support reducing the government contribution towards FEHBP premiums, which would increase costs for federal employees and retirees

c. Do not know

7. Please provide a candidate bio and any additional comments you may have.

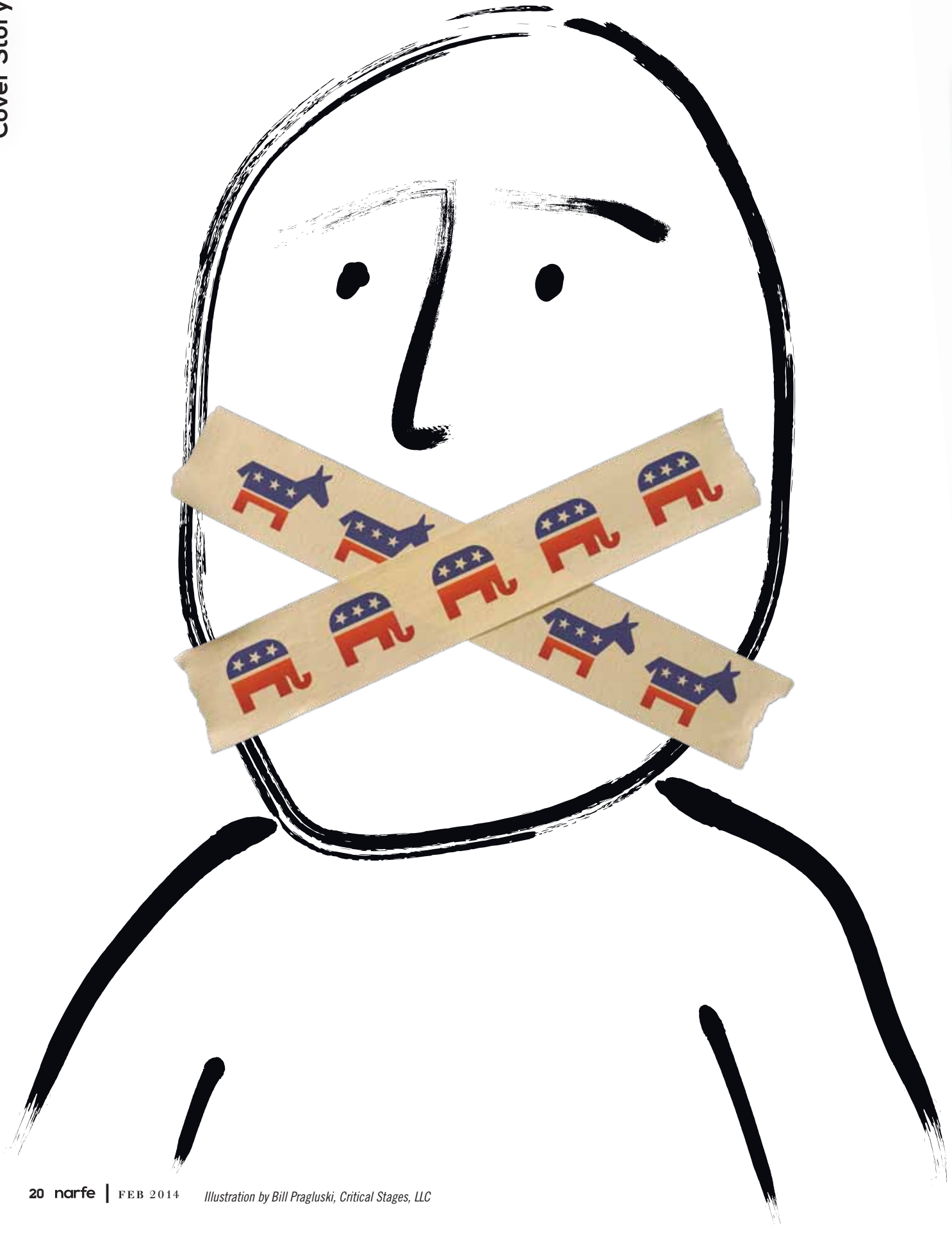

Illustration by Bill Pragluski, Critical Stages, LLC

THE HATCH ACT

By David Tobenkin

It's confusing and can end a career. Email and social media make it easier than ever to violate the law that limits feds' partisan political activities.

Ill-advised political communications in the workplace can cost a federal employee dearly, as Theresa Taddeo found out the hard way.

In January 2008, Taddeo was a New York-based Department of Homeland Security senior intelligence research specialist. She says she had received a variety of disparaging emails about President Barack Obama sent to her personal email account and that she mistakenly forwarded, rather than deleted, one such email, captioned "Fwd: What Oprah forgot to tell you ... about Obama," to about 85 people, including a few coworkers, on a personal email account but using a government computer during work hours.

The result was an investigation leading to a settlement between Taddeo and the Office of Special Counsel (OSC), the federal agency that polices impermissible partisan speech and activities by federal employees, in which Taddeo admitted that she had violated the Hatch Act. That federal statute limits certain partisan political activities of federal executive branch employees in order to protect the federal workforce from partisan political influence and ensure the nonpartisan administration of laws. The consequences for Taddeo were stiff: a six-week suspension without pay, which she says amounted to $10,000, not to mention the $3,500 she paid to retain

an attorney. The attorney helped Taddeo negotiate a settlement with the OSC, which she said was initially pursuing a four-month suspension.

"The monetary aspect didn't hit me so hard as the fact that I was just hurt," says Taddeo, who retired in 2012. "I was in reputable positions, and I hadn't done anything in my 37 years in federal government that merited this. This was a first-time, accidental offense."

A PERFECT STORM

With no raises for three years, the federal government shutdown, sequester days and ongoing denigration of federal workers in many quarters, many federal employees are steaming mad. And, conveniently, the 2014 political season is upon them, promising outraged federal workers an opportunity to vent their frustrations.

But active federal employees – the Hatch Act does not apply to retirees – had best do so with caution, because a single ill-advised partisan political email at work or solicitation of money for a partisan election campaign could result in severe penalties. While some recent Hatch Act-related developments will allow expanded political activities by some federal workers and will give the Merit Systems Protection Board (MSPB), which hears and decides OSC Hatch Act prosecutions, discretion to impose less severe Hatch Act penalties than in the past, the basic, considerable challenges of complying with the complicated Act remain.

The Hatch Act limits federal employee partisan political activities and communications in two primary ways:

First, it limits many partisan political activities to outside the workplace, outside duty hours, out of uniform and outside of government vehicles. Second, it places absolute bars against certain forms of partisan political activities, whether an employee is on duty or off duty, at the workplace or away from it.

The communications revolution of the past two decades has ensured that it is easier than ever to engage in actionable violations of the Act.

Two decades of email communications have greatly expanded the scope of potential violations by providing, first, tangible, long-lived and irrefutable evidence of violations and, second, easy dissemination to multiple message recipients, any one of whom can report violations to agency ethics officers or the OSC, leading to enforcement action.

The past decade's development of social media vehicles such as Facebook, MySpace and Twitter have continued the trend by increasing the number and extent of communications and blurring the distinction between federal employees' private and public lives. The increasing prevalence of federal employee teleworking, where employees are "on duty" while they are working electronically from home, further blurs the line.

"Because the Internet and social media have made solicitations [to make partisan political financial contributions] easier to effectuate, we are likely to see an increase in the number of cases involving solicitation of political contributions, such as taking an email that includes a solicitation and forwarding it to others," says Ana Galindo-Marrone, chief of the OSC's Hatch Act Unit. "Also, because there is so much discussion of federal benefits and salaries and furloughs, we expect there is likely to be some confusion between activities directed at legislative efforts, which are acceptable, versus activity directed at electing a specific partisan candidate or candidates [which, during duty hours, at the government workplace and in some other circumstances, violate the Act]."

New Hatch Act complaints received by the OSC increased in fiscal year 2012 by 11 percent compared to fiscal year 2011, from 451 to 502, while total advisory opinions issued in fiscal year 2012 increased 10.8 percent, from 3,110 to 3,448 compared to fiscal year 2011, according to the OSC's fiscal year 2012 annual report to Congress. Still, disciplinary actions like Taddeo's, whether obtained by negotiation or ordered by the MSPB, remain fairly rare, with only four in fiscal year 2012.

THE DEVIL IN THE DETAILS

The Hatch Act was designed to carefully balance federal employees' First Amendment right to free speech and participation in political life with their interest, and that of the public, in a depoliticized federal work environment. But finding the right balance, clearly explaining what is and is not permissible under the Act, and administering the appropriate level of penalties have not proven easy.

Speech and actions relating to certain political activities are restricted under the Hatch Act.

Determining what is permissible under the Act and what is a violation can be maddeningly detail-specific.

The definition of political activity may be wider than anticipated, as it includes activity directed toward the success or failure of a political party, candidate for partisan political office or partisan political group, even after a particular campaign concludes. (See 5 C.F.R. § 734.101.) An OSC advisory document notes that, therefore, even after Election Day, the Hatch Act still prohibits federal employees, while they are on duty or in the federal workplace, from wearing or displaying items that show support for, or opposition to, a political party or a partisan political group.

Another complicating factor is that, pursuant to the Hatch Act, there are two levels of scrutiny and limitations applied by the statute: a general rule for most federal employees; and more restrictive provisions that limit the activities of employees at certain agencies, and offices within agencies, clustered in enforcement, intelligence, elections, as well as certain federal worker categories, such as Senior Executive Service members and administrative law judges. (See 5 U.S.C. § 7323(b).) Unless otherwise indicated, advice and analysis below refer to the less restricted category of employees.

Finally, determining what is permissible under the Act and what is a violation can be maddeningly detail-specific. It took a lengthy OSC notice to federal employees in April 2011 to communicate which types of photos of President Obama they could display in the workplace while he was a candidate for re-election and which would constitute Hatch Act violations.

Can federal employees be blamed for their confusion when even a cabinet-level department secretary runs afoul of the statute? In 2012, the OSC concluded that Department of Health and Human Services Secretary Kathleen Sebelius violated the Hatch Act when she made extemporaneous partisan remarks in a speech delivered in her official capacity on February 25, 2012.

HOW TO COMPLY WITH THE ACT

Many federal agencies include Hatch Act components in their regular ethics training. The statute's provisions concerning federal employees are found at 5 U.S.C. § 7321-7326, and implementing regulations can be found at 5 C.F.R. § 733 through § 734.

In addition, the OSC has a wealth of information on its website regarding how to comply with the Act, including a helpful summary of do's and don'ts. To access this information, go to www.osc.gov, click on "Political Activity (Hatch Act)," then on "Other Helpful Information," then select "The Hatch Act and Federal Employee (poster)."

Five major prohibitions for less-restricted federal employees are detailed in that summary and capture the breadth of the law:

1. Federal employees may not use their official authority or influence to interfere with or affect the result of an election, by, for example, using their official titles or positions while engaged in political activity. (5 U.S.C. § 7323(a)(1)) This rule applies on or off duty, at home or at the office.
2. Federal employees may not solicit, accept or receive a donation or contribution for a partisan political party, candidate for partisan political office or partisan political group. (5 U.S.C. § 7323(a)(2)) This rule applies on or off duty, at home or at the office. For example, they may not host a political fundraiser. While they may not collect or solicit money, they may contribute money to political campaigns, parties and groups provided they are not on duty or in the workplace. There is a narrow exception to the no-solicitation rule: when the person solicited for a political contribution belongs to the same federal labor organiza-

tion, or federal employee organization, as the employee who solicits, accepts or receives the contribution; *and* the person solicited is not a subordinate employee; *and* the request is for a contribution to the multicandidate political committee of a federal labor organization or federal employee organization.

3. Federal employees may not be candidates for public office in partisan political elections, though they may be candidates for public office in nonpartisan elections. (5 U.S.C. § 7323(a)(3)) There have been some new developments in this area. In December 2012, Congress passed legislation amending the Hatch Act, the Hatch Act Modernization Act of 2012, which contains the most significant changes to the law in nearly two decades.

For public employees at the state and local levels, but not the federal level, the changes were dramatic: The Hatch Act Modernization Act allows most state and local government employees to run for partisan political office by eliminating a previous Hatch Act prohibition on state and local government employees from running for partisan office if they worked in connection with programs financed in whole or in part by federal loans or grants, so long as an employee's salary is not paid for completely by federal loans or grants.

In November, the Office of Personnel Management amended its regulations to grant federal employees residing in the District of Columbia a partial exemption from the Hatch Act's political activity restrictions by making the District of Columbia a designated locality under the Hatch Act. The ruling permits federal employees who live in the District of Columbia to run for partisan political office in local elections as independents. Federal employees in 75 Maryland and Virginia cities and towns near Washington, DC, already had this right. The purpose of the regulations is to avoid limiting citizen participation in local governments in jurisdictions with large numbers of federal employees. The final rule became effective December 9, 2013.

4. Federal employees may not knowingly solicit or discourage the participation in any political activity of anyone who has business pending before their employing office. (5 U.S.C. § 7323(a)(4)) This rule applies on or off duty, at home or at the office.

5. Federal employees may not engage in political activity – that is, activity directed at the success or failure of a political party, candidate for partisan political office or partisan political group – while the employee is on duty, in any federal room or building, while wearing a uniform or official insignia, or using any federally owned or leased vehicle, by, for example, distributing campaign materials or items. (5 U.S.C. § 7324(a))

Elsewhere on the OSC's website (www.osc.gov/haFederalfaq.htm), an OSC Hatch Act Q&A document provides answers to some of the most frequently asked questions that the OSC receives from federal employees concerning political activity. It provides case-specific examples that can better help employees understand exactly what conduct is and is not permitted.

Still, John Mahoney, a lawyer who represents federal employees facing agency enforcement actions, including Hatch Act violations, notes that federal employees may wish to consult agency ethics officers and possibly outside counsel if they intend to engage in certain activities. "For example, a federal employee in DC wanting to run for

Legislative activism by NARFE members, whether writing letters or attending fundraisers, is not prohibited by the Act.

local office would be tricky under the new amendments to the Hatch Act, and such an employee should consult with an attorney before launching any campaign," says Mahoney, a partner at the law firm Tully Rinckey PLLC.

A KINDER, GENTLER HATCH ACT?

The Hatch Act Modernization Act also resulted in some significant changes for federal employees concerning penalties by giving the MSPB discretion to mete out less severe penalties for violations than in the past. While the OSC had discretion to resolve cases with warning letters or settlements, for cases that the OSC determined were serious enough to prosecute and that the MSPB determined were violations, the Hatch Act allowed the MSPB only a handful of disciplinary options. The presumed penalty was removal from federal service for a violation of the Act, unless the MSPB found, by unanimous vote, that the violation did not warrant removal, in which case the MSPB could impose a penalty of not less than a 30-day suspension without pay.

Under the modified penalty structure, an employee the MSPB finds violated the Hatch Act is subject to a range of disciplinary actions. This includes removal from federal service, reduction in grade, debarment from federal employment for a period not to exceed five years, suspension, reprimand or a civil penalty not to exceed $1,000. The modified penalty structure applies to violations that occurred before, on or after January 27, 2013, except in some circumstances.

ENFORCEMENT

Certain patterns of conduct are more likely to result in OSC enforcement action. "In terms of what cases would cause us to pursue enforcement action, they are usually more serious," Galindo-Marrone says. "In many cases where we investigate and find a violation, we issue a warning letter. More serious cases [that may warrant prosecution] involve officials using their authority to interfere with an election, such as a supervisor advising subordinates to vote a certain way, solicitation of other federal employees, or continued violations after an employee has been warned."

With respect to Taddeo's penalty, "prior to the Hatch Act Modernization Act of 2012, the presumptive penalty for Hatch Act violations was termination," says OSC Press and Public Affairs Liaison Ann O'Hanlon. "In light of this, OSC typically asked for stiffer penalties than we do today. More typical cases in recent years include an Army Corps of Engineers employee who sent an email to 76 recipients, advocating for the success of a political party, while she was on duty and in the federal workplace. The majority of the recipients were federal employees. The employee who sent the email received a one-day suspension."

"The current Special Counsel has been very fair trying to handle complaints in an appropriate way based on what the law says," observes J. Ward Morrow, assistant general counsel-legislation for the American Federation of Government Employees.

NARFE ACTIVISM DOES NOT VIOLATE THE ACT

In response to a *narfe* magazine survey, several NARFE members asked whether activism on legislative issues violates the Act. It does not. As noted previously, advocating for or against *legislation*, rather than for or against candidates or parties, is not limited or prohibited by the Act.

"Legislative activism by NARFE members, whether writing letters or calling congressional offices to express an opinion, is not prohibited by the Hatch Act," says NARFE Legislative Director Jessica Klement. "The Act deals exclusively with electoral politics, not with legislative advocacy or lobbying activities. However, employees still should not engage in such advocacy activities on government time or using government equipment or resources.

"Some agency officials maintain that a federal provision against using appropriated funds to influence members of Congress on legislation, at 18 U.S.C. § 1913, prohibits federal employees from participating in grass-roots lobbying campaigns on government time or using government resources.

"In addition, use of duty time or government equipment or resources for such activities could violate other federal rules. And there also is the danger of unintentionally veering into partisan political activities, which would violate the Act."

—**DAVID TOBENKIN** *IS A FREELANCE WRITER BASED IN THE GREATER WASHINGTON, DC, AREA.*

HATCH ACT GOVERNS FEDS' ELECTION-YEAR POLITICAL ACTIVITIES

As the 2016 election season begins in earnest, federal employees should keep in mind the rules and regulations established by the Hatch Act regarding their political activities.

The Hatch Act limits certain partisan political activities of federal employees. The law was created to protect the federal workforce from partisan political influence and ensure the nonpartisan administration of laws. Enforced by the Office of Special Counsel (OSC), it applies to all civilian employees in the executive branch, except the president and the vice president. *However, the law does not apply to federal retirees.*

What Is Prohibited. In general, federal employees may not engage in political activity – that is, activity directed at the success or failure of a political party, candidate for partisan political office or partisan political group – while the employee is on duty, in any federal building, while wearing a uniform or official insignia, or using any federally owned or leased vehicle. Activities prohibited in the workplace include wearing or displaying political items and sending emails or posting on social media content that advocates for or against a partisan political party, candidate or group.

The ease of accessing social media accounts at work, either on computers or smartphones, has made it easier for federal employees to violate the Hatch Act. The OSC recently updated its social media guidance for federal employees to simplify the do's and don'ts of posting on social media.

What Is Allowed. Federal employees may contribute to the campaign of a candidate, or to a political party or organization, provided the employee does not do so while on duty or in the federal workspace. Similarly, NARFE members are allowed to make contributions to the Association's political action committee, NARFE-PAC.

How about advocacy? Legislative activism by NARFE members, whether by writing letters or calling congressional offices to express an opinion, is not prohibited by the Hatch Act. However, employees still should not engage in such advocacy activities on government time or using government equipment or resources.

More information on Hatch Act compliance can be found on OSC's website, www.osc.gov. Click on "What We Do" and then "Hatch Act." To access OSC's new social media guidance, click on "Social Media Guidance" in the left tab bar. Federal employees with specific questions about violating the Hatch Act should contact OSC or their agency ethics officers.

Federal Retirees. Federal retirees have no Hatch Act prohibitions, so if you are retired and looking to volunteer for a campaign or engage in other similar political activity, don't hesitate!

—**BY JASON FREEMAN,** *POLITICAL AND LEGISLATIVE SPECIALIST*