

# RESTRICTIONS ON POLITICAL ACTIVITIES OF COUNTY OFFICERS AND EMPLOYEES

(Updated November 2023)

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County officers and employees may express their political opinions and engage in political activities, but must live with some restrictions imposed by state and, sometimes, federal law. In general, this means that County officers and employees must ensure that when they engage in political activities, they do so only in their individual capacities, **while not on duty**, and avoid even the appearance that they are speaking or acting for the County of Tulare when they engage in such activities.

This brief review is intended as a guide to assist County officers and employees in determining what they can and cannot do when engaging in political activities.

## I. CALIFORNIA LAW<sup>i</sup>

### A. What Is Permitted

Under California law, County officers and employees, **while not on duty**, and if their jobs do not involve federally funded activities, may do any of the following:

1. Register and vote.
2. Express their personal opinions on political subjects, issues, and candidates.
3. Participate in conversations about campaign issues and/or candidates during lunch breaks, in areas away from work areas. (Remember the need to be sensitive, even in lunch/break rooms, to those who may be offended by a particular viewpoint.)
4. Become candidates for nomination or election in any partisan or nonpartisan campaign – national, state, or local.
5. Engage in partisan or nonpartisan political activities as an individual or as a member of a group.
6. Contribute to political campaigns.
7. Join political organizations and vote on any question presented.
8. Organize, join or manage and be active in political clubs, or serve as officers, delegates, or alternates, or as members of any committee.
9. Participate actively in political conventions.
10. Attend political meetings, rallies, etc., and organize, prepare and conduct such gatherings or make speeches.

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- 11.** Initiate, sign or circulate partisan or nonpartisan nominating petitions, distribute campaign literature, badges, etc. (provided it is not done in the workplace or during other employees' working hours).
- 12.** Wear campaign badges or buttons (**when not on duty**).
- 13.** Display bumper stickers, pictures, or posters on their private cars, even when parked in a County lot.
- 14.** Post pictures or posters in the windows of their homes, or display lawn signs.
- 15.** Speak publicly, or write letters or articles for or against any political candidates, and endorse or oppose such candidate in a political advertisement.

In an endorsement, officers and employees may use their titles in addition to their names, in order to identify themselves for informational purposes only ("Robert Smith, Sheriff of Tulare County"), but may not use their titles alone ("the Tulare County Sheriff"). When appropriate (such as in an op-ed piece in the newspaper), the speaker should add an appropriate disclaimer, such as "the opinions expressed are the personal views of the author and do not reflect the official position of Tulare County or the \_\_\_\_\_ Department."

- 16.** Manage the campaign of a political candidate.
- 17.** Assist in voter registration drives.
- 18.** Campaign for or against candidates in partisan elections; or for or against referendum questions, constitutional amendments, etc.

**B. What Is Prohibited**

Under California law, County officers and employees, **while on duty**, may **not**:

- 1.** Attempt to use their County positions or official authority to influence the political actions of other County officers or employees or those seeking County employment.<sup>ii</sup> For example: County officers and employees cannot wear a campaign button, shirt or logo **at work**, or post or distribute a political message using County e-mail or the County's access to the Internet.

Solicit political funds or contributions from other officers or employees of the County or from persons on the employment list of the County.

- 2.** Participate in conversations about campaign issues and/or candidates during any paid County time, including paid rest periods (breaks).<sup>iii</sup>

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**C. Solicitation of Political Contributions**

County officers and employees, **while off duty**, and **using non-County resources only**, are no longer prohibited from seeking political contributions from other officers and employees of the County. A recent case held that the underlying statute, which prohibits local, but not state, government employees from soliciting these contributions, is unconstitutional.<sup>iv</sup> The court cited a statute for state employees regarding outside activities as the proper boundary for soliciting contributions. The parallel statute for County employees<sup>v</sup> is implemented by Personnel Rule 7.

Accordingly, County officers and employees are no longer limited to general mailing lists which may include County officers or employees, or to the exception allowing soliciting (off-duty) only in regard to ballot measures affecting working conditions.

**D. What Is Prohibited Even Off Duty**

Under California law, County officers, and employees, **whether on or off duty**, may **not** do any of the following:

1. Participate in political activities of any kind while in uniform. *For example:* neither the Sheriff nor deputy sheriffs may participate in political activities of any kind while in uniform.<sup>vi</sup>
2. Participate in political activities of any kind on the premises of a local agency. This does not include use of a public park for which sponsors of an event have obtained the appropriate permits or at public facilities (e.g., convention center, library, or other meeting hall) that are routinely available for private functions.<sup>vii</sup> Political conversations during lunch breaks are permitted as indicated in section A (3) above.
3. While in office or seeking election or appointment to an office, directly or indirectly offer to increase compensation or salary for an employee in exchange for, or a promise of, a contribution or loan to any committee controlled by the person who holds or who is seeking an office.<sup>viii</sup>
4. Use or permit others to use County or other publicly-owned land, buildings, facilities, funds, equipment, supplies, telephones, computers, vehicles, or other property or assets for a campaign activity.<sup>ix</sup> Note that intentional or negligent violation of this restriction can result in a civil penalty of up to \$1,000 per day for each day a violation occurs and that either the Attorney General or the District Attorney can bring an action to enforce the restriction and recover the penalties.<sup>x</sup>

**II. FEDERAL LAW**

In addition to being covered by state law, County employees whose primary job is in connection with **federally financed activities** are covered by the Hatch Act.<sup>xi</sup> This statute restricts the activities of County **employees** (the law does not apply to elected officials) in regard to **partisan** political activity (i.e., activities involving a political party, such as the Democratic or Republican parties).

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Due to the wide variety of County activities involving federal funding (from welfare to roads to law enforcement), employees who are considering **partisan** political activities should inquire carefully with their departments regarding the source of funding for their positions before engaging in these activities.

**A. What Is Permitted**

County employees subject to the Hatch Act, **while not on duty**, may:

1. Vote as they choose and express their opinions on political subjects and candidates.
2. Be candidates for **nonpartisan** offices. (Caveat: federal officials should be consulted if political parties become involved in campaigns for officially nonpartisan offices.)

**B. What Is Prohibited**

County employees covered by the Hatch Act may **not**:

1. Use their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office.

This means that employees covered by the Hatch Act may **not** use their job titles in **partisan** political endorsements.

2. Directly or indirectly coerce, attempt to coerce, command, or advise a state or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes; or
3. Be candidates for **partisan** elective offices, unless they take a leave of absence to run.

“Elective public office” does not include a political party office. Thus, a Hatch Act employee may be a candidate for a position of officer of a political party, or any similar position, without taking a leave of absence.<sup>xii</sup>

**III. COUNTY ORDINANCE CODE**

Tulare County Ordinance Code section 02-09-1000 et seq., *Posting Signs on County Property*, prohibits the posting of signs, posters, and other paraphernalia, including political signs, on County property, unless authorized by the County Administrative Officer. County property is defined in Section 02-09-1005 as any real or personal property owned, leased, or operated by the County, including County property leased or licensed to third parties.

**IV. CAUTION**

The information in this brief memorandum is necessarily general. Officers and employees who wish to engage in private political activities should inquire about specific situations as needed.

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- i Gov. Code, § 3201 et seq.
- ii Gov. Code, § 3204.
- iii Gov. Code, § 3207.
- iv *Progressive Democrats for Social Justice v. Bonta* (2023) 73 F.4th 1118.
- v Gov. Code, § 1126.
- vi Gov. Code, § 3206.
- vii Gov. Code, § 3207.
- viii Gov. Code, § 3505.5.
- ix Gov. Code, § 8314.
- x Gov. Code, § 8314.
- xi 5 U.S.C. § 1501 et seq.
- xii 5 C.F.R. § 151.122.