

The history of the Hatch Act

NALC lost a Supreme Court battle against the law, but ultimately saw it amended

In 1939, a law “to prevent pernicious political activities” was passed with the goal of preventing powerful government officials from having undue political influence on those seeking work, but the law came to infringe on the free speech rights of all federal employees—including letter carriers. For more than 50 years, NALC made it a priority to see the law reformed, allowing carriers to work on political campaigns and lobby their members of Congress. After at least one high-profile setback, NALC succeeded.

The road to the Hatch Act began in 1938, when President Franklin Delano Roosevelt tried unsuccessfully to purge members of his own party. In his New Deal proposals, aimed at helping those affected by the Great Depression, he often was stymied in Congress by a group of moderate Democrats, largely from the South. During that fall’s elections, FDR threw his support behind new Democratic candidates challenging the incumbents.

“FDR felt these senators were too obliged to corporations’ interests in their states, too unwilling to recognize the unemployed’s need or the entire



President Franklin Roosevelt (l) and Works Progress Administration Director Harry Hopkins

country’s need for social welfare legislation,” FDR scholar William Leuchtenburg told *Time* magazine.

The purge failed, and the men whom FDR supported generally lost. But worse, people began to question whether the president’s campaign had gone too far.

Permissible activities under the Hatch Act

NALC encourages all members to be engaged in a wide range of political activities to advance the letter carrier agenda, but it is crucial to remember that all active letter carriers, career and non-career alike, are federal employees, and that political activities are governed by the Hatch Act—including online activities that involve social media and/or email.

Letter carriers should always be off the clock, out of uniform (and government vehicles) and away from the workplace whenever engaging in any partisan political activity, and they should make sure that the activity is in a permissible category.

The following are permissible activities active letter carriers may do (on their

own time, away from work, out of uniform and without using a postal vehicle):

- Be candidates for public office in non-partisan elections (that is, elections in which none of the candidates to be nominated or elected is representing a political party).
- Register and vote.
- Sign and circulate candidate nominating petitions and ballot initiative positions.
- Assist in voter-registration drives.
- Speak and write publicly and otherwise express opinions about candidates, ballot measures and issues.
- Attend political rallies, meetings and other events.
- Attend fundraisers and contribute money to political organizations and campaigns.
- Volunteer for political campaigns and encourage others to volunteer.
- Participate in phone banking and precinct walking for candidates and ballot measures.
- Display bumper stickers, lawn signs and other campaign paraphernalia.
- Raise money for the Letter Carrier Political Fund from other NALC members. (Note: Letter carriers, while detailed to 204b or other higher-level assignments, should not solicit contributions to the Letter Carrier Political Fund from postal employees who may be viewed as their subordinates.)



Sen. Carl Hatch, the author of the Hatch Act

The Supreme Court, which in 1973 heard NALC's case against the Hatch Act



According to Leuchtenburg, newspaper articles claimed that Works Progress Administration (WPA) Director Harry Hopkins—a close ally of FDR—had promised jobs and promotions within the WPA in exchange for votes in the Kentucky election for senator. Hopkins compounded his problems when he said that if he were an Iowa voter, he would support Rep. Otha Wearin—rather than the incumbent, Sen. Guy Gillette—“on the basis of his record.” (Wearin’s record included participating in an annual hog-calling contest on the Capitol building’s steps.)

Sen. Carl “Cowboy Carl” Hatch, a moderate Democrat from New Mexico, had had enough and introduced an amendment to a relief spending bill in 1937. The amendment called for prohibiting officials and employees of federal relief programs from engaging in partisan political activities.

Though the amendment failed, it resurfaced in 1938 after a Senate Committee on Campaign Expenditures found that WPA funds and manpower had been used for political purposes that year in three states. Congress passed the Hatch Act in July 1939, and FDR eventually decided to sign it on the last day he could do so, contending that he had supported it all along.

The 1939 act forbids the intimidation or bribery of voters and restricts political campaign activities

by federal employees. It prohibits the use of any public funds designated for relief or public works for electoral purposes. It forbids officials paid with federal funds from using promises of jobs, promotion, financial assistance, contracts, or any other benefit to coerce campaign contributions or political support. It provides that people below the policy-making level in the executive branch of the federal government must not only refrain from political practices that would be illegal for any citizen, but also must abstain from “any active part” in political campaigns.

Since its passage, federal employees have fought against it, and one fight saw letter carriers take the law all the way to the Supreme Court.

In 1973, six letter carriers wanted to campaign for candidates for public office, and with their union and

- Volunteer, run for and hold an office in a local or state political party or club.

Active letter carriers may not (while on the clock, at the workplace, in a postal uniform or in a postal vehicle) engage in any of the otherwise permissible political activities listed above. For example, while on the clock, at the workplace, in a postal uniform or in a postal vehicle, you may not:

- Send or forward a partisan political email.
- Wear or display any political or campaign material, even as a computer screensaver or desktop wallpaper.
- Circulate partisan political materials to co-workers.

- Sign up electronically to contribute to the Letter Carrier Political Fund or solicit other letter carriers to contribute.

Active letter carriers may not (even on their own time, away from work, out of uniform and without using a postal vehicle):

- Use their official titles or positions when engaging in otherwise permissible activities.
- Raise money for partisan political groups or campaigns (except for the Letter Carrier Political Fund), including phone banking, letter writing, selling tickets, hosting a fundraiser, inviting people to attend a fundraiser, or allowing your name to be used in a fundraising appeal.

- Otherwise solicit, receive or handle contributions for a partisan political group or campaign.
- Run for elective office in partisan (party-label) elections (even if you report “No Party Affiliation”).
- Raise money for the Letter Carrier Political Fund from non-NALC members (except from the member’s immediate family).

The information above is general guidance on common partisan political activity. It is not inclusive of all activity with potential Hatch Act ramifications. For more information, please visit the NALC website or the Unites States Office of Special Counsel website.

If you have questions or concerns, please contact the appropriate national business agent. PR

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NALC President Vincent R. Sombrotto (l) at an event where he pretended to be arrested for his Hatch Act violation



several local Democratic and Republican political committees, sought an injunction against the enforcement of the Hatch Act on the grounds that the law violated their First Amendment rights to freedom of speech. They also argued that the act was unconstitutionally vague. The case became *United States Civil Service Commission v. National Association of Letter Carriers*, 413 U.S. 548.

The December 1972 edition of *The Postal Record* reported that NALC was represented by attorney Thomas C. Matthews Jr., who argued that it was unconstitutional to take disciplinary action against a federal employee who had done the following: “Made a wager on an election; disparaged the president publicly; engaged in a political discussion; wrote a political letter; allowed his name to be associated with an objectionable political affair.”

The United States District Court for the District of Columbia agreed, finding for the letter carriers. The court held that the term “political activity” was impermissibly vague and overbroad. The federal government appealed the case to the U.S. Supreme Court, where the judges took a different view, deciding against the letter carriers, 6-3.

Associate Justice Byron White wrote the decision for the majority, holding that federal workers’ freedom of speech can be regulated and that the impartiality of government, and also the appearance of impartiality, can justify infringing on these rights. He also said that the rulemaking of the United States Civil Service Commission since the creation of the act had established sufficient rules so that the law was not unconstitutionally vague.

Associate Justice William O. Douglas wrote the dissent, equating freedom of speech to freedom of religion, and concluded that “speech, assembly, and petition are as deeply embedded in the First Amendment as proselytizing a religious cause.” In other words, if the Supreme Court wouldn’t let the federal government infringe on a federal worker’s religious speech, it shouldn’t infringe on his or her political speech.

For the first 54 years of the Hatch Act’s existence, letter carriers found their ability to engage in the legislative process extremely limited. NALC members turned to the Auxiliary—made up of letter carriers’ spouses—as well as to retired members to conduct

much of its lobbying. Because they were not federal workers, the Auxiliary and retirees could help elect letter carrier-friendly members of Congress and communicate to elected representatives NALC’s views on legislation being considered on Capitol Hill.

But by the 1980s, NALC President Vincent Sombrotto recognized that participation in the nation’s political process was essential if the union were to continue to protect the rights, benefits and economic security of letter carriers. In fact, in 1987, the U.S. Merit Systems Protection Board declared that Sombrotto had violated the Hatch Act and suspended him and two other union presidents from federal service for 60 days. What were the union presidents’ violations? Three years earlier, they had announced their unions’ endorsements for presidential candidate Walter Mondale and Senate candidate Mike Lowry.

The symbolic act (Sombrotto was on union leave from his letter carrier job to serve as union president) only emboldened him. “Letter carriers won’t let this political vendetta stop us from making our voices heard in Washington, DC,” Sombrotto said in the March 1987 *Postal Record*.

In 1990, Congress passed a reform amendment, but it was vetoed by President George H.W. Bush. The House overrode the veto, but the Senate fell two votes short. Not until 1993 was NALC able to mount another serious run at Hatch Act reform. In September of that year, both houses of Congress approved legislation granting active carriers the right to work on political campaigns, hold party office, serve as delegates to political conventions and speak out for the candidate of their choosing. A few weeks later, President Bill Clinton signed the bill and NALC could finally declare victory over the Hatch Act.

While not a complete repeal, the amendment meant that letter carriers could campaign for candidates off the clock, could solicit political contributions to the letter carrier political action committee, and could run for political office.

In the November 1993 *Postal Record* article celebrating the bill’s passage, Sombrotto was quoted as follows: “After a half-century of political discrimination, letter carriers are ready to take their place as involved and active citizens.” **PR**