U.S. Office of Special Counsel (OSC)

Information Sheet

Coercing Politcal Activity – 5 U.S.C. § 2302(b)(3)

PURPOSE

This information sheet provides general guidance and background information on **5 U.S.C. § 2302(b)(3)**. This document does not serve as legal advice and should not be cited as legal authority. Rather, the statute and current case law control with respect to matters discussed here.

WHAT IS 2302(b)(3)?

Section 2302(b)(3) prohibits an official with the authority to take or influence a personnel action from coercing any person to engage in political activity (including providing a political contribution or service) or from taking any action against an employee or applicant in retaliation for their refusal to engage in political activity.

WHAT IS PROHIBITED?

Depending on the particular facts, the following may violate section 2302(b)(3):

- A Contracting Officer Technical Representative using their government email to send fundraiser emails to federal contractors who they exercised control over based on their influence over the contract.
- A supervisor suggesting that an employee should donate a portion of their annual bonus to the supervisor's preferred candidate in an upcoming local election.
- A supervisor reassigning an employee after the employee refuses to donate their time to canvassing for the supervisor who is running in a nonpartisan election for the county schoolboard.
- A team lead asking an employee to buy tickets for a political fundraiser.
- A member of a hiring panel informing an applicant that they will be overlooked for promotion if they do not vote for a certain candidate.

TIPS AND RECOMMENDATIONS

1. Educate employees on their First Amendment rights and the Hatch Act. For free training on the Hatch Act from the Office of Special Counsel, please contact certification@osc.gov.
2. Ensure respect for individuals' personal privacy concerning political views, while recognizing and upholding their First Amendment rights to freedom of speech and expression.
3. Establish clear policies that explicitly prohibit any form of coercion or retaliation related to political activity.