



Political Activities by Members of the Armed Forces



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Deputy Director, Office of Legal Policy

Office of Under Secretary of Defense for Personnel & Readiness



This stuff really happens...





A picture is worth a thousand words





Your Mission

- **Help identify and prevent** hi-vis issues
- **Draw a clear line** between **permissible and prohibited** political activities for military members
- Provide **preventive guidance/training**
- If a violation occurs, ensure proper corrective action taken and necessary training provided
- **Keep on your radar screen...**not confined to campaign season



References

- Political Activities by Military Personnel and on Military Installations
 - **DoD Directive 1344.10**, *Political Activities by Members of the Armed Forces*, 19 Feb 08
 - **2016 PAG**: *DoD Public Affairs Policy Guidance Concerning Political Campaigns and Elections*
 - **DoD Instruction 1334.01**, “*Wearing of the Uniform*” (plus NAVPER 156651; MCO P1020.34G)
 - **Service-specific Guidance on Use of DoD Facilities**



Who does DoDD 1344.10 Apply To?

- Primarily Members of the Armed Forces on Active Duty
- Expands coverage for some provisions to include Service members not on Active Duty – even retirees
- Defines Active Duty to include full-time National Guard duty



DoDD 1344.10 Organization

- 4.1.1 Permissible Activities
- 4.1.2 Prohibited Activities
- 4.2 Nominees or Candidates
- 4.3 Additional Limitations: Nominees, Candidates, Campaigning
- 4.4 Holding and Exercising U.S. Government Office
- 4.5 Holding and Exercising State or non-U.S. Government Office



Key Issues

- Political Activities by Military Personnel
 - Do's and Don'ts
 - Wearing of the Uniform
- Political Activities on Military Installations
 - Official vs. campaign visits to installations
 - Use of DoD facilities for partisan and nonpartisan political activities
- Political Activities and Use of Social Media



DoD Policy

- Members on Active Duty should not engage in partisan political activity, and members not on active duty **should avoid inferences that their political activities imply or appear to imply official sponsorship, approval, or endorsement.** *DoDD 1344.10, para 4.*
- Members of the Armed Forces **may not wear the uniform during or in connection with furthering political activity or when an inference of official sponsorship for the activity may be drawn.** *DoDI 1334.01, para 3.1.2.*



Political Activity

“Partisan political activity” is activity supporting or relating to candidates representing, or issues specifically identified with, national State political parties and associated or ancillary organizations or clubs. *DoDD 1344.10 Enclosure 2 (Definitions)*



Permissible Activities by Members on Active Duty

- Register and vote
- Express personal political opinion
 - In personal capacity – Caution!
- Encourage others to participate in political process
- Sign a petition for a specific legislative action
 - As private citizen
- Write letter to editor
 - Not part of organized letter-writing campaign
 - Can't solicit votes
 - **Disclaimer required**





Permissible Activities by Members on Active Duty

- Donate money to political organization, party, or committee
 - Caution – Member on AD cannot give to or receive from another member on AD
 - Caution – Members not on AD must consider JER





Permissible Activities by Members on Active Duty

- Display normal sized bumper sticker on car





PROHIBITED Activities by Members on Active Duty

- Participate in partisan political fundraising activities
- Publish partisan political articles, letters, or endorsements that solicit votes
- Speak before a partisan political gathering
- Participate in any radio, television, or other program or group discussion as an advocate for partisan party, candidate, or cause
- Engage in fundraising activities for any political cause or candidate on military installation
- Display partisan political sign, poster, banner visible to public in military installation housing



PROHIBITED Activities by Members on Active Duty

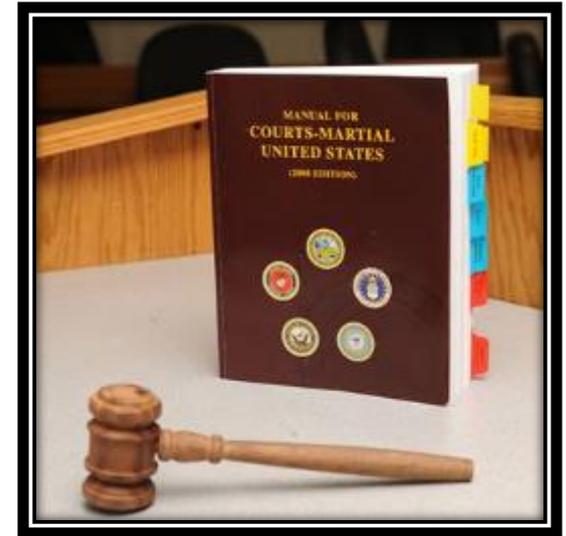
- **Activities not expressly prohibited may be contrary to the spirit and intent of this Directive (DoDD 1344.10). Any activity that may be reasonably viewed as directly or indirectly associating the Department of Defense or any component of these Departments with a partisan political activity or is otherwise contrary to the spirit and intention of this Directive shall be avoided. *DoDD 1344.10, para 4.1.5***



Criticism of Senior Government Officials

- **UCMJ, Art 88 – Contempt Toward Officials**

- President
- Vice President
- Secretary of Defense
- Secretary of a Military Department
- Congress
- Secretary of Transportation
- Governor or legislature (when on duty or present in State, Territory, possessions)



- **Applicable to Commissioned Officers**



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April 5, 2012 4:55 AM

Marine Sgt. Gary Stein should go for criticizing Obama on Facebook, Board says

(AP) CAMP PENDLETON, Calif. - A military board has recommended dismissal for a Marine sergeant who criticized President Obama on his Facebook page, including allegedly putting the president's face on a "Jackass" movie poster.

The Marine Corps administrative board said after a daylong hearing late Thursday at Camp Pendleton that Sgt. Gary Stein has committed misconduct and should be dismissed.

The board also recommended that Stein be given an "other than honorable" discharge. That would mean Stein would lose his benefits and would not be allowed on any military base.

The board's recommendations go to a general who will either accept or deny them. If the general disagrees with the board, the case could go to the secretary of the Navy.

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Anti-Obama Marine spurs possible DoD review

By Gina Watkins - Staff writer
Posted: Friday, April 5, 2012 10:30:00 EDT

The Marine Corps is recommending an update to the Defense Department directive that landed an anti-Obama Marine in hot water.

Maj. Gen. Vaughn Aiy, staff judge advocate to the commandant, is asking DoD to incorporate social media guidelines in its policy covering political activity in uniform.

Aiy's call for review was spelled out in a letter he sent to Rep. Duncan D. Hunter, R-Calif.

The Congressman's spokesman provided the letter to Marine Corps Times.

The letter stated that Marine Corps staff was being instructed to contact the Defense Department to recommend an update to "provide service members with additional guidance on how to use social media in a responsible manner."

This came in response to a letter Hunter sent Tuesday urging the Corps to withdraw the discharge proceedings against Stein and to update the directive. Hunter spoke out in Stein's defense last week, stating that the Corps would lose the majority of its force if they kicked everyone out based on political speech.

DoD directive 1344.10 is the one Aiy is suggesting be changed. It addresses appropriate political activities for service members. Stein was told he violated Article 92 of the Uniform Code of Military Justice by failing to adhere to DoD Directive 1344.10 after criticizing President Obama on Facebook.

Aiy does not advocate for Stein in the letter.

"I am confident that the leadership at [Marine Corps Recruit Depot] San Diego will make the very best decision in Sgt. Stein's case in accordance with time-honored and well-known Marine Corps standards," the letter states.

Stein faced a Marine Corps administrative separation board Thursday.



Nominees or Candidates On Active Duty

- Regular; Retired Regular or RC member on AD call or order > 270 days
 - Requires Secretary Concerned permission
 - **Cannot be delegated below Secretary Concerned**
- Retired Regular or RC member on AD call or order ≤ 270 days
 - No permission required
- All must complete Acknowledgement of Limitations (Enclosure 4 of DoDD 1344.10)



Nominees or Candidates Not On Active Duty

- **May use military rank and service affiliation**
 - **But** clearly indicate retired or reserve status
- **In campaign material:**
 - Include current or former duty titles and positions with other biographical information
 - Include “prominent and clearly displayed disclaimer”
 - Photographs may **NOT** be “primary graphic representation”



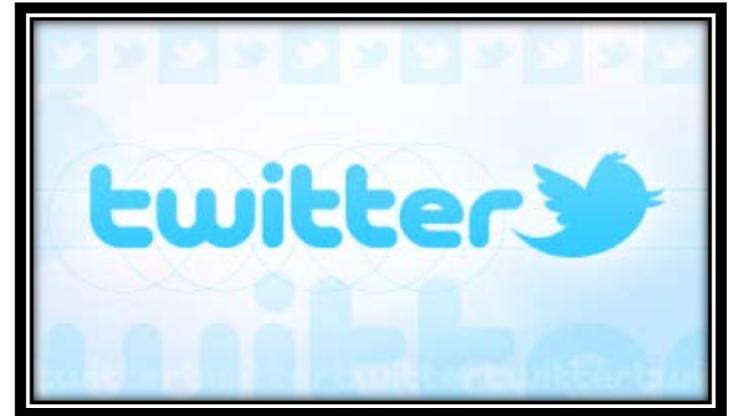
Nominees or Candidates On Active Duty

- Limitations:
 - No campaign activity
 - No work behind the scenes
 - Must document efforts to inform campaign workers of limitations
 - Freeze Web sites, stop advertisements





Social Media and Political Activities



Instagram



Social Media and Political Activities

- **May an AD member express his or her own personal views on public issues or political candidates via social media platforms, such as Facebook, Twitter, or personal blogs?**
 - Yes, personal views OK, much the same as writing a letter to the editor of a paper, but may not engage in any partisan political activity
 - “Partisan political activity” is activity directed at the success or failure of a political party, partisan political candidate, campaign, group or cause
 - Cannot solicit others, fundraise, etc.
 - If identifiable as military must disclaim
 - No direct links of “likes” to partisan sites (akin to distribution of literature)
- **May an AD member become a “friend” of, or “like,” the Facebook page, or “follow” the Twitter account of a political party or partisan candidate, campaign, group, or cause?**
 - Yes, but must refrain from engaging in activities with respect to partisan political entities’ accounts that would constitute political activity
 - Cannot suggest that others “like”, “friend” or “follow” the partisan account
 - Cannot forward invitations to partisan events, solicit or fundraise



Use of DoD Facilities and Resources

- No use of installation or facilities by candidates or for campaign activities
 - **Consult PA Guidance on Installation Visits** by elected officials and candidates
 - is intended to assist installation commanders by **drawing bright and clear lines**, insulate military members/federal employees from partisan politics
 - *Just say no to press participation in such cases*
- Command newspapers – no campaign news, discussions, cartoons, endorsements, editorials
- No official support for off-post partisan events (unless clear exception applies)



Visits by Candidates to DoD Installations and Facilities

- Installation visit by candidates
 - Distinguish type of visit:
 - **Official government visits = Yes**
 - Senator participates in “Town Hall” on Military Family issues
 - **Personal visit = Yes**
 - MOC Reservist goes to fitness center
 - **Campaign visit or event = No***

* *While DoD policy cannot restrict a sitting President, given the prohibitions the Hatch Act and DoDI 1344.10 place on individuals, it would be imprudent for a sitting president to campaign on a military installation as it would expose individuals to violations of said rules.*



Decommissioned Vessel







Servicemembers in Campaign Materials





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WELCOME

Hi, I'm Kirk Lippold, retired Navy Commander and proud Nevadan. Thanks for visiting my website and giving me the chance to share some of my ideas and conservative vision for the future of Nevada and our great nation.

As you know, the challenges facing us are daunting. Too many Nevadans are out of work, have lost their homes to foreclosure, or seen their retirement savings dwindle to nothing. Righting the ship won't be easy and it won't be done overnight, but it will be done. No matter how tough things appear, I remain optimistic. After all, we're Americans and we're Nevadans. There is, simply, no challenge we cannot overcome. I believe a big reason for our current situation is the lack of strong, conservative leadership from our elected officials who believe government solves all problems. I don't. Plain and simple, I believe government needs to get off the backs of the taxpayer.

I know what it means to lead Americans into dangerous, hostile environments and that bold and decisive leadership can mean the difference between life and death, between victory and defeat. I know that it is leadership, not political rhetoric that will lead Nevada back to its status as the greatest, most dynamic state in the union.

I've never run for public office before. I'm not a career politician and I don't intend to be one. But there are times when the call to serve cannot be ignored. This is one of those times.



Commander Kirk S. Lippold
U.S. Navy (Ret.)

to visit my website and I hope I can count on your support!

Sincerely,

Commander Kirk Lippold

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Political mud on his uniform

Retired admiral running for Congress receives GOP flak for event attire

By William K. McMichael and Mark D. Farnes

Is it inappropriate for a retired officer running for Congress to wear his uniform during Memorial Day events that fall during the campaign? That depends on a number of things — most importantly, whether retired Rear Adm. Joe Sestak or his staff did any actual campaigning.

Pennsylvania's Republican leadership thinks they did. So does the 19-year GOP incumbent in the state's 7th District, Rep. Curt Weldon.

Sestak, the Democrat who will face off with Weldon in the November general election, says it didn't happen.

All agree that Sestak wore his summer whites during two Memorial Day events: May 27 in Marcus Hook, a small borough southwest of Philadelphia, and May 29 in Springfield Township, another Philly suburb.

But Sestak says he wasn't campaigning at the time, had his uniformed participation in the two events vetted by the Navy and did nothing out of the ordinary.

"I've marched in many parades over the years," Sestak said. "I've been asked numerous times to wear my uniform, and I've always declined." But the opportunity to do it in Memorial Day events in his home town of Springfield and nearby, he said, was too much to pass up.

But before agreeing to wear his uniform, he said, "We made sure we got a copy of all the regs, and called the Navy ... and made sure we did it just right. There was absolutely no conflict — it was exactly what the book said to do." He said he was honored to take part and was surprised to get any criticism.

about uniform regulations, when he should be worrying about the men and women serving in uniform," Sestak said.

In a July 20 news release titled "Sestak's Got No B-E-S-P-E-C-T For Uniform" (the play on words from an old Otis Redding song), the executive director of the Republican State Committee of Pennsylvania, Scott Migh, questioned Sestak's "suspected violation of federal law and U.S. Navy regulations" by inappropriately wearing his uniform and — a double whammy — handing out campaign literature while doing so.

Migh told Navy Times, "It's really not just one incident ... there's been a number of those." Committee communications director Mike Barley later toned things down, saying that the uniformed Sestak stood by in Marcus Hook while his campaign workers went door-to-door handing out literature, ready to greet any residents who came to the door.

What their sources say

Asked how the committee knew that happened, he followed up with an e-mail note: "There were reports of a literature drop, but those cannot be confirmed by my sources," Barley wrote. But then he added, "He was in the parade, surrounded by his campaign workers, and they were handing out his campaign materials." Barley said his sources were in the Weldon campaign.

A spokesman for Weldon, also citing sources, said Sestak's workers were picketing at both events. "I've spoken to people that saw him campaigning in uniform," said Peter Peterson. "He was at the parade, and his staff was distributing campaign material." Marcus Hook is Weldon's home town, and Weldon appeared in the same parade.

Sestak's campaign says the

Sestak's campaign manager in mid-June. Walsh called the accusations "an outrageous attempt to take focus off of issues."

"There was no literature drop whatsoever," Sestak said. "We met with the staff beforehand and re-emphasized that."

Sestak said he did do some campaigning in Marcus Hook after his appearance there, changing into civilian clothes and knocking on doors and introducing himself to residents.

The Navy declined to comment on the matter.

Navy regulations say the uniform cannot be worn "during or in connection with political activities," and retired members can wear it only during memorial services or "publicistic parades or ceremonies in which any active or reserve United States military unit is taking part." The Defense Department also bans its wear during political activities.

Sestak and Walsh both say a memorial service was held during each event.

But Migh and Peterson also charge that Sestak violated federal law because he was wearing the rank of vice admiral, which he attained before putting in his retirement papers. He moved to retire after an unexpected transfer within the Navy staff and wanted to look after his daughter, who'd been diagnosed with a brain tumor that is now in remission. Lacking sufficient time in grade, he officially retired as a two-star rear admiral. The GOP committee produced a photo taken at the Springfield event, showing Sestak in his dress whites, wearing three stars on his shoulder boards.

What regulations say

The Weldon campaign, however, is incorrect, but they not have read the regulations closely enough. True, according to the



Retired Rear Adm. Joe Sestak, running for Congress in Pennsylvania's 7th District, speaks Memorial Day in Springfield Township, Pa. His opponent's campaign staff criticized him for wearing the uniform at what they say was a campaign event.

prescribed circumstances. For Sestak, that would be the rank of rear admiral.

But reading farther, in (c), a former member who served "honorably in time of war" can wear the uniform "in the highest grade held by him during that war" when authorized by regulations "prescribed by the President." In the legislative language attached to the law, that authorization "is delegated to the Secretary of Defense." Both DoD and Navy regulations authorize the wearing of the uniform "in the highest grade held during such war service."

Sestak did serve during wartime, having commanded the George Washington Carrier Strike Group during the early stages of Operation Enduring Freedom as a two-star admiral and continuing to serve during the ongoing war on terrorism as a three-star.

A retired Navy captain who practices law in San Diego and who did the uniform regulation research for this story, says

"My take is that they knew exactly what they were doing," Banders said. "And I think Weldon ought to apologize. To me, that is really, really slim."

Said Rames Pollock, a Republican co-chair of Veterans for Sestak and commander of the Springfield American Legion, "As a Republican, I can safely say that Dwight Eisenhower and Ronald Reagan would be turning in their graves if they knew that Curt Weldon would be using this as another desperate attempt to 'swift-boot' a man who served his country for 31 years."

Pollock was referring to the controversial attacks on Sen. John Kerry's military service during the Vietnam War by the group Swift Boat Veterans for Truth in effort to sway his contribution to Kerry's defeat in the 2004 presidential election.

For his part, Sestak has had no second thoughts about wearing his uniform at the events, despite the ongoing campaign.



Let's Move Forward ...Together!





Takeaways

- Be proactive and prevention-minded advisor
- Work closely with commanders & Public Affairs
- When in doubt, ask for advice; raise issues through Service legal advisors first; they will reach out to OSD PA and Legal Policy
- Recommend what you believe is the right call



Good Luck!

