



## Protest Activities Among Service Members

1. **Purpose.** To provide information on protest activities by service members. The information provided below is not applicable to federal civilian employees or defense contractors.

2. **Major Points.**

- **PROHIBITED ACTIVITIES:**

- Military personnel must not actively advocate supremacist, extremist, or criminal gang doctrine, ideology, or causes that advance, encourage, or advocate illegal discrimination, based on race, creed, color, sex, religion, ethnicity, or national origin or those that advance, encourage, or advocate the use of force, violence, or criminal activity or otherwise advance efforts to deprive individuals of their civil rights.
- Military personnel must reject active participation in criminal gangs and in other organizations that advocate doctrine, ideology, or causes that attempt to create illegal discrimination, based on race, creed, color, sex, religion, ethnicity, or national origin; advocate the use of force, violence, or criminal activity; or otherwise engage in efforts to deprive individuals of their civil rights.
- Active participation includes (but is not limited to): Fundraising; Demonstrating or rallying; Recruiting, training, organizing, or leading members; Distributing material (in print or on-line); Wearing of gang colors or clothing; Having tattoos or body markings associated with such gangs or organizations; Any other activity that furthers the objectives of these organizations.
- Commanders have the authority to employ the full range of administrative and disciplinary actions, including administrative separation or appropriate criminal action, against military personnel who engage in PROHIBITED activity.

- **OFF-POST DEMONSTRATIONS BY SERVICE MEMBERS.** Members of the Armed Forces are prohibited from participating in off-post demonstrations under ANY of these circumstances:

- They are on-duty.
- They are in a foreign country.
- The activities constitute a breach of law and order.
- Violence is likely to result.
- They are in uniform.
- Location has been placed off-limits by a commander (Please see next below)

- **OFF-POST GATHERING PLACES.** Commanders have the authority to place establishments **off-limits** in accordance with established procedures when, for example, the activities taking place at these establishments include, but are not limited to, counseling, encouraging, or inciting Service members to refuse to perform duty or to desert; pose a significant adverse effect on Service members' health, morale, or welfare; or otherwise present a clear danger to the loyalty, discipline, or morale of a Service member or military unit.

- **PUBLICATION OF PERSONAL WRITING MATTERS (TO INCLUDE WEB SITES, SOCIAL MEDIA, AND OTHER ELECTRONIC COMMUNICATIONS).** Service members may not pursue personal writing for publication, whether by traditional written or by electronic means (Web sites, SOCIAL MEDIA and other electronic communications), during duty hours, nor may they use Government or non-appropriated fund property for this purpose, on or off duty, unless it is for official use or authorized purposes. Publication of such matters by military personnel off-post, on

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their own time, and with their own money and equipment is not prohibited; however, if such a publication contains language the utterance of which is punishable under Federal law or otherwise violates DoD issuances, those involved in printing, publishing, or distributing it may be disciplined or face appropriate administrative action for such infractions.

- Any personal publication made by a service member must not imply DoD or Marine Corps endorsement. Service members may not speak for the DoD or Marine Corps. A service member's publication will not have direct nor implied association (endorsement) with DoD or Marine Corps.
- Examples of prohibited explicit or implied association with DoD or the Marine Corps include (but are not limited to): posting a message containing an image or video of the service member in uniform, using official letterhead for publications, signing publications with official titles, identifying your status as a service member on publications, and including the Marine Corps seal, Eagle Globe and Anchor (EGA) emblem, or a unit logo in publications.

### 3. **Frequently Asked Questions:**

#### ***Can Commanders put in place COVID-19 restrictions if these restrictions have an ancillary effect of limiting service member freedoms of assembly and expression?***

Yes, if the restrictions are reasonably necessary, implemented to protect service health safety and readiness and not unduly burdensome to protected freedoms overly broad so as to unnecessarily burden legally protected freedoms. In other words, the purpose of restrictions must focus on the protection of individual Marine and the force, not on restricting lawful speech.

Paragraph 3.b. of DoDI 1325.06 states “[a] service member’s right of expression should be preserved to the maximum extent possible in accordance with the constitutional and statutory provisions of titles 10 and 18, United States Code... and consistent with good order and discipline and the national security.” Commanders may restrict service members’ protest activities under HPCON conditions, or as a matter of safety, under DoDI 1325.06, even if the event does not qualify as partisan political activity under DoDD 1344.10. For example, in many locations, current off-duty movement of uniformed personnel is generally limited to “home to work” and other essential travel (e.g., grocery shopping, outdoor exercise) thereby as a practical matter, precluding participation in protests and issue advocacy in public places. Family members, civilian DON employees, and contractors are encouraged to follow this guidance and adhere to risk mitigation measures promulgated by the Centers for Disease Control (CDC).

#### ***Do state and local curfews apply to service members?***

Yes, service members must obey state and local authorities regarding curfews and other restrictions related to either public protests or COVID-19 response. Service members are exempt from general stay-at-home orders to perform their official duties. As state and local governments and military region or installation Commanders ease COVID-19 restrictions on movement (ROM), individual Service members wishing to participate in public activism or protests must adhere to local and DoD restrictions pertaining to those activities.

#### ***Can service members participate in public protests, vigil ceremonies, or similar events?***

Yes, with some restrictions. Provided consistent with COVID-19 restrictions and leave and liberty regulations, Service members may attend public protests, vigil ceremonies, and similar events subject to the limitations described the **“OFF-POST DEMONSTRATIONS BY SERVICE MEMBERS”** section above.

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UNIT LEVEL participation or support of a public protest or demonstration is NOT authorized.<sup>1</sup>

Additionally, DoDI 1325.06 also prohibits extremist behavior, stating “[m]ilitary personnel must not actively advocate supremacist, extremist, or criminal gang doctrine, ideology, or causes, including those that advance, encourage, or advocate illegal discrimination based on race, creed, color, sex, religion, ethnicity, or national origin or those that advance, encourage, or advocate the use of force, violence, or criminal activity or otherwise advance efforts to deprive individuals of their civil rights.”

### ***What can service members say and do on social media?***

Service members have broad freedom of speech and expression on social media with some restrictions. The Marine Corps Social Media home page contains the Marine Corps Social Media Handbook and is a helpful resource for navigating appropriate conduct online: <https://www.marines.mil/News/Social-Media/>.

For example,

#### **Service members may not:**

- Engage in any political activity via social media while on duty or in the workplace.
- Use their official titles or positions while engaging in political activity at any time. If your social media identifies you as a member of the DoD/DON/Marine Corps, then you must provide a prominent disclaimer that the views presented are your personal opinions and do not represent the views of the DoD/DON/Marine Corps.
- Suggest or ask anyone to make a political contribution at any time, including providing links to a political contribution page of any partisan group or candidate in a partisan race or “liking,” sharing, or “retweeting” a solicitation from one of those entities or an investigation to a political fundraising event.
- Post or link to partisan political articles, letters, or endorsements that solicits votes for or against a partisan political party, candidate, or cause.
- Use contemptuous words against the President, the Vice President, Congress, the Secretary of Defense, the Secretary of a Military Department, the Secretary of Homeland Security, or the Governor or legislature of any State, Territory, Commonwealth, or possession in which the service member is on duty or present.

### ***Can you give us a list of permitted and prohibited political activities?***

**It is important to note the difference in restrictions between discussing and advocating for issues (generally permitted) and discussing or advocating for partisan political candidates or officials (more restrictive).**

**Permitted political activities** for active duty and reserve members:

- Register to vote, vote, and express a personal opinion on political candidates and issues;
- Promote and encourage others to vote (in general, not for a particular candidate or issue);
- Join a political club and attend its meetings (not in uniform);
- Serve as an election official (requires prior approval by the Secretary of the Navy);
- Sign a petition as a private citizen;

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<sup>1</sup> See Para 4.2.12 of DoDD 5410.18 Prohibits unit participation in events where public confrontation is planned or likely . . . where the event is likely to increase public or media visibility due to direct public confrontation instead of open and constructive discussion.

- Write a letter to the editor of a newspaper expressing personal views (must include a disclaimer if letter identifies person as member of Armed Forces);
- Make monetary contributions to a political organization, party, or committee;
- Display ONE political bumper sticker on their private vehicles;
- Attend partisan and nonpartisan political fundraising activities, meetings, rallies, debates, conventions, or activities AS A SPECTATOR when NOT IN UNIFORM and no inference or appearance of official sponsorship, approval, or endorsement can reasonably be drawn; and
- Participate in the Federal Voting Assistance Program

**Prohibited activities** for active duty personnel:

- Participate in partisan political fundraising activities, rallies, conventions, management of campaigns, or debates, without respect to uniform or inference or appearance of official sponsorship or endorsement. Participation includes more than mere attendance as a spectator;
- Use official authority or influence to interfere with an election, solicit votes, or solicit contributions;
- Publish partisan political articles, letters, or endorsements that solicit votes;
- Serve in any official capacity with a partisan political club;
- Speak before a partisan political gathering or gathering that promotes a partisan political party, candidate, or cause;
- Participate in any radio, television, or other program as an advocate for or against a partisan political party, candidate, or cause;
- Distribute partisan political literature or conduct a political opinion survey;
- Perform ANY duties for a partisan political committee or candidate (e.g., stuffing envelopes, distributing leaflets, precinct walks, phone banks, etc.);
- Fundraise in Federal spaces for any political cause or candidate (including nonpartisan);
- March in a partisan political parade;
- Display large political signs on a private vehicle (more than one bumper sticker);
- Display partisan political signs at residence on a military installation (includes PPV housing);
- Help voters get to the polls if it is an organized effort by, or associated with, a partisan political party, cause, or candidate;
- Promote partisan political dinners and fundraising events;
- Attend partisan political events as an official representative of the Armed Forces (color guard exception);  
or
- Give to or receive from any other member of the Armed Forces a campaign contribution

4. **Point of Contact.** Please consult your local command's Staff Judge Advocate (SJA) if you have questions.