

POLITICAL ACTIVITY AND THE STATE AND LOCAL EMPLOYEE

BY
THE U.S. OFFICE OF SPECIAL COUNSEL

The Hatch Act restricts the political activity of individuals principally employed by state, county or municipal executive agencies who work in connection with programs financed in whole or in part by federal loans or grants. An officer or employee of a state or local agency is covered by the Hatch Act, if he or she has duties in connection with an activity financed in whole or in part by federal funds. These state and local employees:

may be candidates for public office in nonpartisan elections, *i.e.*, an election where no candidates are running with party affiliation.

EXAMPLE: An employee may run for the school board in Washington D.C., as long as the school board elections in Washington D.C. remain nonpartisan.

may hold elective office in political parties, clubs and organizations.

EXAMPLE: An employee may serve as the vice president of the local Democratic or Republican party.

may be appointed to fill a vacancy for an elective office.

EXAMPLE: An employee may be appointed to finish the unexpired term of an elected officeholder. The employee may not run for reelection if the election is partisan.

may actively campaign for candidates for public office in partisan and nonpartisan elections.

EXAMPLE: An employee may campaign for candidates by making speeches, writing letters, working at the polls on election day and organizing political rallies and meetings.

may contribute money to political organizations.

EXAMPLE: An employee may make a monetary contribution to any candidate, political party, club or organization.

may attend and give a speech at a political fundraiser, rally or meeting.

EXAMPLE: An employee may attend and give a speech or keynote address at a political fundraiser.

There continue to be important restrictions on employees' political activity. State and local employees:

may not be candidates for public office in partisan elections.

EXAMPLE: An employee may not run for office in an election where any of the candidates are running as representatives of a political party, e.g., the Democratic or Republican party.

may not use official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office.

EXAMPLE: A supervisor should not ask a subordinate employee to volunteer for a political party.

may not directly or indirectly coerce contributions from other state or local employees.

EXAMPLE: A supervisor should not advise employees that they may purchase tickets to a fundraising event.

may not orchestrate a "write-in" candidacy during a partisan election.

EXAMPLE: An employee may not solicit voters to write his name on the ballot on election day.

CAUTION: An employee's conduct is also subject to the laws of the state and regulations of the employing agency. State or local laws do not affect the prohibitions of the Hatch Act.

State and Local Employees Who Are Not Covered By The Hatch Act:

Individuals who have no duties in connection with federally funded activities and individuals employed by publicly financed educational or research institutions, including state university systems and local public school systems are not covered by the Hatch Act.

Application of the Hatch Act to employees of private nonprofit organizations:

The Hatch Act applies to employees of private non-profit organizations only if the statute through which the organization derives its federal funding contains a provision, which states that recipient organizations shall be deemed to be state or local government agencies for purposes of the Hatch Act.

The U.S. Office of Special Counsel and the Hatch Act:

The U.S. Office of Special Counsel (OSC) is authorized by law to provide Hatch Act advisory opinions. Employees and members of the public are encouraged to write to OSC with specific questions that address permitted and prohibited activities under the Hatch Act.

OSC is also responsible for enforcing the Hatch Act. OSC receives complaints alleging Hatch Act violations, investigates the complaints and where warranted, prosecutes cases before the Merit Systems Protection Board.

Penalties:

If the Merit Systems Protection Board finds that the offense warrants dismissal from employment, the employing agency must either:

- (1) dismiss the employee or
- (2) forfeit a portion of the federal assistance equal to two years salary of the employee.

How to file a Hatch Act Complaint:

Individuals may report suspected violations of the Hatch Act to OSC. Complaints should be submitted in writing to:



HATCH ACT UNIT
U.S. Office of Special Counsel
1730 M Street, NW (Suite 201)
Washington, DC 20036-4505
Tel: (800) 85-HATCH (800-854-2824)
(202) 653-7143
Fax: (202) 653-5151

E-mail: hatchact@osc.gov
Web site: <http://www.osc.gov>