



Hatch Act Policy

The Hatch Act

In 1939, Congress approved landmark legislation known as the Hatch Act which limits the political activities of federal employees, employees of the District of Columbia government, and certain employees of state and local governments. With the enactment of the Hatch Act, regulations governing the political activities of these employees were written into the United States Code for the first time. In passing the Hatch Act, Congress determined that partisan political activity by federal employees, employees of the District of Columbia government, and certain employees of state and local governments must be limited for public institutions to function fairly and effectively. Through the years, various challenges to the Hatch Act have only reaffirmed this basic premise.

Hatch Act Modernization Act

On December 19, 2012, Congress passed the Hatch Act Modernization Act of 2012. The Act allows most state and local government employees to run for partisan political office. Prior to this change, state and local government employees were prohibited from running for partisan office if they worked in connection with programs financed in whole or in part by federal loans or grants. With the change, the federal Hatch Act no longer prohibits state and local government employees from running for partisan office unless the employee's salary is paid for completely by federal loans or grants. This change will allow hundreds of thousands of state and local government employees to participate more actively in the democratic process in their communities.

Covered Employees

The Hatch Act restricts the political activity of an individual principally employed by a state or local executive agency in connection with a program entirely (100%) financed by federal loans or grants.

The following list offers examples of the types of programs which frequently receive financial assistance from the federal government:

- Public Health
- Public Welfare
- Housing
- Urban Renewal and Area Redevelopment
- Employment Security
- Labor and Industry Training
- Public Works
- Conservation
- Agricultural
- Civil Defense
- Transportation
- Anti-Poverty
- Law Enforcement

Usually, employment with a state or local agency constitutes the principal employment of the employee in question. When an employee holds two or more jobs, principal employment is generally deemed to be that job which accounts for the most work time and the higher earned income.

It's important to note that State and local employees subject to political activity laws continue to be covered while on annual leave, sick leave, leave without pay, administrative leave or furlough.

Hatch Act provisions do not apply to:

- Individuals who exercise no functions in connection with federally financed activities; or
- Individuals employed by educational or research institutions, establishments, or agencies which are supported in whole or in part by state or political subdivisions thereof, or by recognized religious, philanthropic, or cultural organizations.
- The law also exempts certain specified employees from the prohibition on candidacy for elective office. These exemptions include:
 - The governor or lieutenant governor of a state, or an individual authorized by law to act as governor;
 - The mayor of a city;
 - A duly elected head of an executive department of a state or municipality who is not classified under a state or municipal merit or civil service system; and
 - An individual holding public elective office. The latter exemption applies only when the elective office is the position which would otherwise subject the employee to the restrictions of the Hatch Act.

Permitted Activities

State or local employees who are acting in a personal capacity (i.e., not an official capacity) may engage in the following activities:

- Register and vote as they choose
- Assist in voter registration drives
- Express opinions about candidates and issues
- Contribute money to political organizations
- Attend political fundraising functions
- Attend and be active at political rallies and meetings
- Join and be active members of a political party or club
- Sign and circulate nominating petitions
- Campaign for or against candidates in partisan elections
- Campaign for or against referendum questions, constitutional amendments and/or municipal ordinances
- Make campaign speeches for candidates in partisan elections
- Distribute campaign literature in partisan elections
- Volunteer to work on a partisan political campaign
- Campaign for and hold office in political clubs or parties
- Participate in any activity not specifically prohibited by law or regulation.

Prohibited Activities

Covered State and local employees may not:

- Be candidates for public office in a partisan election;
- Use official authority or influence to interfere with or affect the results of an election or nomination; or
- Directly or indirectly coerce, attempt to coerce, command, or advise a state or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.

State and local employees subject to the Hatch Act should note that an election is partisan if any candidate is to be nominated or elected as representing a political party, for example, the Democratic or Republican Party.

Penalties

If the Merit Systems Protection Board (MSPB) finds that an employee violated the Hatch Act and that the violation warrants dismissal from employment, the employing agency must either remove the employee or forfeit a portion of its federal assistance equal to two years' salary of the employee. If within eighteen months of his removal, the employee becomes employed by a state, or local agency within the same state, then that agency, or the agency from which the employee was removed, may lose some of its federal funding.

General Points

An employee's conduct is also subject to the laws of the state and the regulations of the employing agency. Prohibitions of the Hatch Act are not affected by state or local laws.

For answers to specific questions, call the Office of Special Counsel at 800-85-HATCH (854-2824) or 202-254-3650. Requests for written advisories may be made to the:

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References

Workforce Innovation and Opportunity Act
Hatch Act
Hatch Act Modernization Act of 2012; and
TEGL 35-10