

Hatch Act for State and Local Employees

The Hatch Act applies to executive branch state and local employees who are principally employed in connection with programs financed in whole or in part by loans or grants made by the United States or a federal agency. Employees who work for educational or research institutions which are supported in whole or in part by a State or political subdivision of the State are not covered by the provisions of the Hatch Act.

Employees of private nonprofit organizations are covered by the Hatch Act only if the statute through which the organization receives its federal funds contains language which states that the organization shall be considered to be a state or local agency for purposes of the Hatch Act, e.g., Headstart and Community Service Block Grant statutes.

An employee's conduct is also subject to the laws of the state and the regulations of the employing agency. Additionally, employees should be aware that the prohibitions of the Hatch Act are not affected by state or local laws.

Permitted Activities

Covered state and local employees **may**-

- run for public office in nonpartisan elections
- campaign for and hold office in political clubs and organizations
- actively campaign for candidates for public office in partisan and nonpartisan elections
- contribute money to political organizations and attend political fundraising functions

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
- directly or indirectly coerce contributions from subordinates in support of a political party or candidate

Penalties for Violating the Hatch Act

If the Merit Systems Protection Board finds that the violation warrants dismissal from employment, the employing agency must either remove the employee or forfeit a portion of the federal assistance equal to two years salary of the employee. If the Board finds the violation does not warrant the employee's removal, no penalty is imposed.

Covered employees are those whose principal employment is with a state, county or municipal executive agency, and whose job duties are "in connection with" programs financed in whole or in part by loans or grants made by the United States or an agency thereof. 5 U.S.C.

§ 1501(4). Employees are subject to the Act if, as a normal and foreseeable incident of their principal employment, they perform duties in connection with the federally financed activities.

In re Hutchins, 2 P.A.R. 160, 164 (1944); Special Counsel v. Gallagher, 44 M.S.P.R. 57 (1990).

Coverage is not dependent on the source of an employee's salary, nor is it dependent upon whether the employee actually administers the funds or has policy duties with respect to them.

Special Counsel v. Williams, 56 M.S.P.R. 277, 283-84 (1993), aff'd, Williams v. M.S.P.B., 55

LIST OF RESOURCES FOR POTENTIAL CONFLICT OF INTEREST, RESIGN TO RUN LAW, AND HATCH ACT

Below are resources available to candidates and potential candidates to determine if a conflict of interest exists, if a person may be someone who would have to resign under Florida's resign-to-run law, or if a person may be precluded by the federal Hatch Act from holding his/her current job and becoming a candidate in a partisan office.

Commission on Ethics:

Opinions are issued by the Commission on Ethics (COE) and are binding on the conduct of the person who is the subject of the opinion and to assist in avoiding a prohibited conflict of interest. The Code of Ethics for Public Officers and Employees, adopted by the Legislature as [Part III of Chapter 112, Florida Statutes](#), contains standards of ethics conduct and disclosures applicable to public officers, employees, *candidates*, lobbyists, and others in Florida State and local government, with the exception of Judges. (The ethical standards for Judges of Florida's judicial branch are contained in the Code of Judicial Conduct, adopted by the [Florida Supreme Court](#).) Advisory opinions may be requested by letter presenting a question based on a real situation and including a detailed description of the situation to the:

Florida Commission on Ethics
Philip Claypool, Executive Director and General Counsel
P. O. Drawer 15709
Tallahassee, FL 32317-5709

OR

3600 Maclay Boulevard, South, Suite 201
Tallahassee, FL 32312
Phone: 850.488.7864
Fax: 850.488.3077

Website address: <http://www.ethics.state.fl.us/>

Division of Elections:

Pursuant to [FS 99.012\(3\) Restrictions on individuals qualifying for public office](#), no officer may qualify as a candidate for another public office, whether state, district, county, or municipal, if the terms or any part thereof run concurrently with each other, without resigning from the office he or she presently holds. If required, **written resignations are due at least 10 days prior to the first day of the qualifying period.**

The Florida Department of State, Division of Elections (DOE) provides advisory opinions, as outlined in [Rule 1S-2.010 Advisory Opinions](#), (attached) to Supervisors of Elections, *candidates*, local officers having election related duties, as well as to political parties, political committees, committees of continuous existence and other persons or organizations engaged in political activity relating to any provisions or possible violations of the Florida Election Laws. You may seek an advisory opinion in writing to the:

Florida Department of State
Division of Elections, Director's Office
Room 316, R.A. Gray Building
500 South Bronough Street
Tallahassee, Florida 32399-0250
Phone: 850.245.6200
Fax: 850.245.6217 or 850.245.6218
E-mail: DivElections@dos.state.fl.us
Website address: <http://election.dos.state.fl.us/>

United States Office of Special Counsel:

The U.S. Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency. The Counsel's basic authorities come from three federal statutes: the Civil Service Reform Act, the Whistleblower Protection Act, and the Hatch Act. OSC issues advisory opinions to persons seeking advice about political activity under the Hatch Act. You may request such advice by mail, phone, fax, or e-mail to the:

Hatch Act Unit
United States Office of Special Counsel
1730 M Street, N.W., Suite 201
Washington, D.C. 20036-4505
Phone: 800.854.2824 or 202.254.3650
Fax: 202.653.5151
E-mail: hatchact@osc.gov
Website address: http://www.osc.gov/ha_role.htm

Attorneys:

Potential candidates are encouraged to consult with their Employer and/or Attorney of your Employer, the attorney for the agency for the office being sought, and/or your personal attorney.