

SUBJECT: **Hatch Act**

REFERENCE: Workforce Investment Act of 1998; Hatch Act (5 United States Code 1501-1508); Federal Register/Vol. 65, No. 156/Aug. 11, 2000; and TEGL 35-10.

BACKGROUND: Providing responsible stewardship for and oversight of public funding for federally-funded workforce programs must be accomplished in a way that demonstrates strong integrity, accountability, and transparency in order to preserve the public trust. The responsibility for this stewardship and oversight is shared in the public workforce system by federal, state and local entities. Workforce programs are largely governed under the Workforce Investment Act (WIA) by state and local Workforce Investment Boards (WIBs). The WIBs are responsible for multiple functions, including procurement decisions. Local WIBs select One-Stop Career Center operators and youth service providers, and develop a budget for carrying out the duties of the local WIB. These decisions often have significant implications for service providers and participants they serve, and thus must be made in a transparent and ethical manner. In 1939, Congress approved legislation known as the Hatch Act which limits the political activities of federal employees, employees of the District of Columbia government, and certain state and local government employees. Members of state and local WIBs should be aware of the federal, state and local laws and regulations which guide their conduct while serving on the WIB.

POLICY: For individuals paid with federal funds, the Hatch Act restricts the political activity of individuals principally employed by state or local executive agencies and who work in connection with programs financed in whole or in part by federal loans or grants. Covered state and local employees may not, among other things, use their 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.

Definitions under Section 1501 of the Hatch Act

- “State” means a state or territory or possession of the United States.
- “State or local agency” means the executive branch of a state, municipality, or other political subdivision of a state, or an agency or department thereof. [Earlier decisions have determined local boards meet this definition.]
- “Federal agency” means an executive agency or other agency of the United States, but does not include a member bank of the Federal Reserve System.
- “State or local officer or employee” means an individual employed by a state or local agency whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a federal agency, but does not include an individual who exercises no functions in connection with that activity; or an individual employed by an educational or research institution, establishment agency, or system which is supported in whole or in part by a state or political subdivision thereof, or by a recognized religious, philanthropic, or cultural organization.

The Hatch Act clarifies that a state or local officer or employee retains the right to vote as he chooses and to express his opinions on political subjects and candidates. However, a state or local officer or employee (whose job is funded with federal money) may not be a candidate for elective office. There are exceptions. This does not apply to 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; or an individual holding elective office.

When a federal agency charged with the duty of making a loan or grant of United States funds for use in an activity by a state or local officer or employee has reason to believe that the officer or employee has violated the Hatch Act, it shall report the matter to the U.S. Office of Special Counsel. On receipt of the report or on receipt of other information which seems to the Special Counsel to warrant an investigation, the Special Counsel shall investigate the report and such other information and present his findings and any charges based on such findings to the Merit Systems Protection Board, which shall: fix a time and place for a hearing; and send, by registered or certified mail, to the officer or employee charged with the violation and to the state or local agency employing him a notice setting forth a summary of the alleged violation and giving the time and place of the hearing.

More information about how the Hatch Act applies to state and local officials is available at http://www.osc.gov/documents/hatchact/ha_sta.pdf. 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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