



U.S. OFFICE OF SPECIAL COUNSEL  
1730 M Street, N.W., Suite 201  
Washington, D.C. 20036-4505

February 23, 2007

Ms. XXXX  
XXXXXXXX  
XXXXXXXX

Re: OSC File No. AD-07-XXXX

Dear Ms. XXXXX:

This letter is in response to your request for an opinion concerning the Hatch Act. The Office of Special Counsel (OSC) is authorized pursuant to 5 U.S.C. § 1212(f) to issue advisory opinions under the Act. Specifically, you ask whether the Hatch Act would prohibit you from being a candidate for school board. You are currently employed with the Pennsylvania Department of Public Welfare (Department of Public Welfare). As explained below, we believe that you are covered by the Hatch Act, and are prohibited from being a candidate for school board.

Persons covered by the Hatch Act, 5 U.S.C. §§ 1501-1508, are subject to certain protections and restrictions with respect to their political activity. Thus, under section 1502, covered employees are protected from being coerced into political activity. On the other hand, the Act prohibits such employees from being candidates for public office in partisan elections, that is, elections in which any candidate is running as a representative of, for instance, the Republican and/or Democratic Party. 5 U.S.C. § 1502(a)(3).

Covered employees are those whose principal position or job 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 positions or jobs, they perform duties in connection with 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 F.3d 917 (4<sup>th</sup> Cir. 1995), cert. denied, 516 U.S. 1071 (1996) (unreported decision).

We understand from Mr. XXXXXX that you are employed pursuant to the Commonwealth of Pennsylvania's Public Assistance Program as an Income Maintenance Caseworker. As an Income Maintenance Caseworker, your primary duties are to determine the eligibility of individuals who apply for the Medicaid, Food Stamps and Low Income Home Energy Assistance (LIHEAP) Programs. Additionally, Mr. Marshall informed our office that the Medicaid, Food Stamps and LIHEAP Programs are heavily funded with federal grants.

Based on the preceding, we believe that you perform duties in connection with federally financed programs, and as such, are covered by the provisions of the Hatch Act. Therefore, the Hatch Act would prohibit you from being a candidate for school board because it is a partisan election, i.e., an election in which candidates represent political parties, such as, the Republican and/or Democratic Party.

Please contact me at (800) 854-2824 or (202) 254-3609 if you have any questions concerning this matter.

Sincerely,

Mariama Liverpool  
Attorney  
Hatch Act Unit