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Congress Allows Most State and Local Public Employees to Run for Partisan Office

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.

Before entering a race as a candidate, employees should keep in mind the following:

- *Make sure your salary is not completely funded by federal loans or grants.* A very small number of state and local employees may continue to be prohibited from running for office by the federal Hatch Act. Before running for office, take steps to determine that your salary is not entirely -- 100% -- funded by federal loans or grants. Your state or local finance office should be able to clarify whether your salary is completely funded by federal loans or grants.
- *Make sure state or local law does not prohibit you from running.* Employees should also make sure that they are not prohibited from running for office by state or local law. Nearly every state, many localities, and the District of Columbia have ethics rules that govern the political activity of their employees. This includes, in some cases, the ability of employees to run for state or local office. While the rules under the federal Hatch Act have been relaxed with regard to partisan candidacies, states and localities are free to implement more rigid requirements at their discretion. OSC does not keep a comprehensive list of state and local political activity laws, and OSC does not enforce laws passed at the state or local level. Your state or local ethics office should be able to clarify whether any provision of state or local law prohibits you from running for office.
- *The Hatch Act restricts state or local employees from engaging in political misconduct.* The Hatch Act Modernization Act did not change the federal Hatch Act's prohibitions on coercive conduct or misuse of official authority for partisan purposes. A state or local employee is still covered by these prohibitions if the employee works in connection with a program financed in whole or in part by federal loans or grants, even if the connection is relatively minor. A covered employee who runs for office would violate the Hatch Act if the employee:
 - uses federal or any other public funds to support his own candidacy;
 - uses his state or local office to support his candidacy, including by using official email, stationery, office supplies, or other equipment or resources; or
 - asks subordinates to volunteer for his campaign or contribute to the campaign.

If you have questions about the Hatch Act or the Hatch Act Modernization Act, please call (800) 85-HATCH or (800) 854-2824, or write to hatchact@osc.gov.