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**The Hatch Act Modernization Act of 2012 – OSC’s Guidance Regarding
the Use of Official Title by State and Local Employees Who Are
Now Permitted to Be Candidates in Partisan Elections**

Due to recent amendments to the Hatch Act, many state and local government employees are now permitted to be candidates in partisan elections, but remain subject to the Act’s other restrictions. This advisory provides guidance regarding the Hatch Act’s restrictions on employees who are now permitted to run for office, and also explains the extent to which these individuals may use their official titles to bolster their candidacies without violating the Hatch Act.

On December 19, 2012, Congress passed the Hatch Act Modernization Act of 2012. The Act allows state and local government employees to run for partisan political office unless the employee’s salary is paid for entirely by federal loans or grants. 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.

- A. The Hatch Act continues to prohibit covered state or local government employees from engaging in coercive political conduct or misusing their official authority for partisan purposes.

A state or local government employee who is permitted to run for office is still covered by other Hatch Act prohibitions if the employee works in connection with a program financed in whole or in part by federal loans or grants. Specifically, any covered state or local government employee – including an employee who is a candidate for partisan office – is prohibited by the Hatch Act from: (1) using her official authority or influence to affect the result of an election, and (2) coercing or attempting to coerce other employees into making political contributions.

Under these provisions, a covered employee who is a candidate for partisan political office **may not**:

- wear her uniform while campaigning for office, including at campaign events or in campaign advertisements, web pages, signs, or literature;¹

¹ Please note that this advisory does not change OSC’s previous guidance to elected officials who are covered by the Hatch Act, which can be found at <http://www.osc.gov/documents/hatchact/state/redacted%20AO%20re%20sheriff%20political%20activities.pdf>. OSC has advised that elected officials who are covered by the Hatch Act may use their official titles and uniforms when engaged in any kind of political activity because their principal employment is an elected

U.S. Office of Special Counsel

Page 2

- use agency resources to advance her candidacy; or
- request, encourage, suggest, or imply that subordinate employees assist her campaign efforts.

B. The Hatch Act does not restrict candidates from limited use of their official title in connection with their own campaign.

While covered employees remain subject to Hatch Act restrictions cited above, OSC has concluded that a covered state or local government employee may refer to her official title as part of her biography, resume, or qualifications in connection with her own campaign. The extent of such use must be limited, as explained below.

A covered employee may refer to her official title, position, and/or accomplishments during her own campaign when promoting her qualifications for the elective office she is seeking. This rule takes into account one of Congress's reasons for loosening the restriction on candidacy, namely, so that qualified candidates would no longer be precluded from running for partisan elective office. See S. Rep. No. 112-211, at 4 (2012). In light of Congress's intent, it would be unreasonable to prohibit candidates from advertising their complete resumes. Thus, a covered employee running for partisan public office may inform voters of her current job title and her achievements while holding that position.

An employee may not, however, use her official title and/or position when, for example, signing campaign communications and solicitations or identifying herself on campaign signs (e.g. "Vote for Chief Deputy Joan Smith"). Doing so would create the impression that she is running in her official capacity with the authority of the agency behind her, and as such, would violate the Hatch Act. Moreover, she may not use her title and/or position when endorsing other candidates or political parties.

Please contact the Hatch Act Unit at (202) 254-3650 with any questions.

partisan political office, and Congress has evidenced its intent to give these individuals greater latitude with respect to their political activities. The same latitude is not afforded to candidates who have not been elected to a partisan political office and are covered by the guidance in this advisory opinion.