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Federal Hatch Act Advisory: Nonappropriated Fund Employees

December 17, 1997

This letter is in response to your request for clarification of the status of a nonappropriated fund employee under the Hatch Act. The employee in question works at the U.S. Hotel Thayer at the U.S. Military Academy at Westpoint.

The Hatch Act Reform Amendments of 1993 (5 U.S.C. §§ 7321-7326) generally permit most federal employees to actively participate in partisan political management and partisan political campaigns. However, a covered employee may not be a candidate for public office in a partisan election, i.e., an election in which any candidate represents, for example, the Democratic or Republican party.

Under the terms of section 2105(c) of title 5 of the United States Code, an employee paid from the nonappropriated funds of an instrumentality of the United States under the jurisdiction of the armed forces conducted for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the armed forces is not deemed to be an employee for the purposes of the Hatch Act. Consequently, such employees paid with nonappropriated funds are not covered by the provisions of the Hatch Act. Please call me at 800-854-2824 if you have any questions.

Sincerely,

/s/
Karen Dalheim
Attorney