

DATE: August 3, 2010

PERSL #1401

TO: Agency Heads
Deputy Commissioners
HR Directors/Designees

FROM: Tom J. Hanson *TJH*
Commissioner

RE: Election Issues Guidance – This supersedes PERSL #1401 dated 9/8/08

The purpose of this memo is to bring to your attention some minor changes to the law regarding voting time leave as well as a reminder concerning other issues that may arise during the upcoming 2010 election season.

Election Judge Leave

State law M.S. 204B.195, as well as our contracts and plans, allow for paid leave for purposes of serving as an election judge. This paid leave includes not only the date(s) of an actual election, but also includes any training required of the election judge. Any paid leave for election judge training purposes should be only for the training period, plus a reasonable commute period. An appointing authority is not required to adjust an employee's schedule such that the employee's work schedule coincides with the date(s) or hours of leave for training or serving as an election judge. While state law allows an employer to offset the employee's pay by the amount of remuneration earned for service as an election judge, the State has elected to forego such an offset due to the administrative costs of collecting such an offset. In order for employees to be granted paid election judge leave they must provide at least 20 days notice of the need for such leave. You may request a certificate of appointment as an election judge from the employee. You may also request documentation of the time required for the training.

Voting Time Leave

Under M.S. 204C.04, as well as contracts and plans, employees are entitled to paid time off during regular work hours as necessary, for the purposes of voting in any statewide primary or general election or an election to fill a vacancy in the office of a representative in Congress. General election includes elections at either the city or county level, as well as state and federal level. Note that voting time off is no longer limited to morning hours, but may be scheduled throughout the work day. Voting time leave must be granted to employees who are eligible to vote and is only available on the day of the election for the time necessary to appear at the employee's polling place, cast a ballot, and return to work. Voting time leave must be pre-arranged and is for a reasonable period of time, considering voter turnout and commute time. The most recent Personnel Policy memo on this issue is provided for your information:

<http://www.mmb.state.mn.us/doc/persl/1400.pdf>

Use of State Computers and Computer System

The State's computers and its computer system may not be used for political activities. It is inappropriate for employees, employee groups or exclusive representatives to use state computers, computer systems, email addresses or fax numbers to communicate messages that are politically partisan. Encouraging employees to "get out and vote" is not partisan politics and is not prohibited. Encouraging employees to vote for a particular candidate, platform or party is partisan and is prohibited. Further information regarding the appropriate use of electronic communications can be found in the statewide policy on such use. A link to that policy is included:

http://www.admin.state.mn.us/documents/bulletin_2006_cell-phone-policy.pdf

Political Speech

Government has the ability to regulate the speech of its employees within the workplace so long as employees' First Amendment rights to freedom of speech are not abridged. Signs of a political nature may be posted, but should be kept out of areas of public access and/or public view. State-provided bulletin boards, either physical or electronic, should not be used for purposes of posting political speech. Employees are permitted to post political speech within their cubicle, provided it is not in an area of public access or visible to the public. Employees sharing workspace should be respectful of the sensitivities of their co-workers with regard to any political speech that may be posted. Buttons or pins containing a partisan message may be worn unless your agency otherwise regulates insignia that may be worn on a uniform or when meeting with the public during the course of their work responsibilities.

Political Activities of State Employees

An employee may be a candidate for public office, but may not campaign during work time, in state uniform or on state premises. Any state employee who has filed for an elected public office must request the opinion of the Minnesota Management & Budget to determine if the holding of that office conflicts with his/her regular state employment. Requests for an opinion must be in writing and submitted with a completed Political Activities form to the Commissioner of Minnesota Management & Budget. For further details, refer to MMB's Administrative Procedure 32 and Minnesota Statutes Section 43A.32.

<http://www.mmb.state.mn.us/doc/proc/32.pdf>

<http://www.mmb.state.mn.us/doc/hr/policy/pol-activity.pdf>

<https://www.revisor.mn.gov/statutes/?id=43A.32>

If other issues arise, or if you have questions about any of the issues included in this memo, you are encouraged to contact your Minnesota Management & Budget Labor Relations Representative.

cc: Labor Relations Division