

## POLITICAL ACTIVITIES OF STATE EMPLOYEES

Objective - To provide information to appointing authorities and employees regarding legal participation in political activities.

Description and Coverage - This administrative procedure expands on M.S. § 43A.32, which imposes specific limitations on political activities of state employees.

In addition to state law, the Federal Hatch Act also imposes specific political activity limitations on certain state employees. In general, it restricts the political activities of individuals principally employed by the state in connection with an activity financed in whole or in part by federal loans or grants. Educational and research institutions, establishments, agencies or systems which are supported in whole or in part by state government are exempt from the Hatch Act. The Hatch Act is more restrictive than M.S. § 43A.32. For example, employees covered by the Hatch Act may not be candidates for partisan elective office.

Employees with questions about the Hatch Act may obtain an advisory opinion by telephoning the Office of the Special Counsel or by submitting questions, in writing, to: U.S. Office of Special Counsel, 1730 M Street NW, Suite 300, Washington, D.C. 20036, (202) 653-7188.

### Definitions - Key Terms -

"Partisan Election" means an election where the candidates are nominated or elected as representing a political party. It includes primary or run-off elections which are intended to determine the party's candidate.

"Non-Partisan Election" means an election where none of the candidates are nominated or elected as representing a political party.

### Responsibilities -

#### A. Appointing Authorities:

- Grant a leave of absence to an employee for political activity upon request.
- Review the potential for a conflict of interest if an employee is elected to public office.
- Inform DOER of potential conflicts of interest.

#### B. Department of Employee Relations:

- Determine if there is a conflict of interest requiring a leave of absence once an employee files for public office.

- Give opinion on need for, or entitlement to, a leave of absence.

C. Employee:

- Ask DOER for opinion on need for a leave of absence.
- Request leave of absence.

Provisions -

A. Prohibited Political Activity:

An employee is prohibited during hours of employment from:

1. directly or indirectly, soliciting or receiving funds for political purposes; or
2. using his/her official authority or influence to compel a classified employee to:
  - a. apply for membership in or become a member of any political organization, or
  - b. pay or promise to pay any assessment, subscription or contribution to any political organization, or
  - c. take part in any political activity.
3. using his/her official authority or influence for the purpose of interfering with or affecting the results of an election or nomination for office.

B. Permitted Political Activity:

An employee may:

1. be a candidate for public office. (See Note 1)
2. express opinions on political subjects and candidates (e.g., wear badges or buttons, or display stickers or posters on his/her car or house). Employees may not display political items on state property, such as desks or walls.

(NOTE 1: The Hatch Act varies from M.S. § 43A.32 in this regard. Under federal law and State of Minnesota v. Merit Systems Protection Board October 4, 1988, Eighth Circuit Court of Appeals, no state employee is exempted from the coverage of the Hatch Act. The federal law preempts § 43A.32 insofar as there may be a conflict between the state and federal law.)

3. take an active part in political management and political campaigns, but not on state time or premises (e.g., do volunteer work for a partisan candidate, campaign committee or political party; attend political meetings or rallies; originate, circulate and/or sign petitions for candidates). State time does not include vacation leave or compensatory time off. Employees engaging in these activities do so as private citizens and are not to use their official job titles or the fact that they are employed by a given state agency when working for or endorsing candidates. Employees may not campaign in state uniform.

4. be a candidate for a political party office even where such office is voted on in a partisan election, e.g., committee member or convention delegate.
5. make financial contributions to a political party or organization and solicit and collect voluntary political contributions so long as he/she does not coerce, command or advise another state employee to make such contributions and as long as such solicitations are not made during state hours of employment.

C. Leave of Absence:

1. A classified state employee must take a leave of absence upon:
  - a. assuming an elected federal or state public office, including elected state legislative office for those periods of time that the legislature is in session; or
  - b. assuming any other elected public office if the holding of such office conflicts with his/her regular state employment. This determination is made by the Department of Employee Relations.
2. All classified employees covered under M.S. §43A.32, who request a leave of absence upon becoming a candidate or during the course of such candidacy for elected public office must be given a leave of absence (see Note 1).
3. Unclassified employees are not entitled to a political leave of absence upon becoming a candidate or holding office. If a discretionary leave of absence is granted, it may not extend beyond the term of the office of the employee's appointing authority.

Unclassified employees who continue in their employment with the state may do so as long as their political activity does not conflict with their regular state employment. Agency heads should be aware of any potential conflict of interest and deal with it accordingly. This may mean requesting a resignation from or termination of an unclassified employee not covered by a collective bargaining agreement.

4. An unclassified employee covered by a collective bargaining agreement may not be required by the employer to take a leave of absence or be terminated solely due to becoming a candidate for public office. These employees must take a leave upon assuming elected federal or state office, including state legislative office for the period of time that the legislature is in session.

D. Requests for Leave of Absence/Opinion:

Requests for leave of absence will be handled on a case by case basis. Any state employee who has filed for an elected public office must request the opinion of DOER to determine if the holding of that office conflicts with his/her regular state employment.

- a. Requests for opinion and/or interpretation must be in writing and submitted with a completed Political Activities Form.

b. DOER shall issue the opinion within seven calendar days from receipt of request.

c. DOER opinion is final.

E. Violations:

State employees who violate any provision of M.S. §43A.32 may be subject to disciplinary action. A classified state employee who is convicted of intentionally violating any provisions of M.S. §43A.32 will be terminated.

Other Relevant Laws, Personnel Rules, Contracts and Administrative Procedures

Review of the following items is essential for a total understanding of the subject.

- A. 5 USC §§ 1501-1508, Hatch Act.
- B. M.S. § 43A.32.
- C. M.S. § 10A - No employee of the Ethical Practices Board may participate in any partisan political activity.
- D. M.S. § 179.03 - No mediator of the Bureau of Mediation Services may participate in any political campaigning.
- E. M.S. § 202A.135 - Employers must give employees time off to attend central committee meetings, conventions, and other political party activities if given proper notice.
- F. M.S. § 204C.04 - Employees are entitled to time off for voting during the morning of a general election or an election to fill a Congressional office vacancy.
- G. M.S. § 211B.09 - Prohibited Public Employee Activities.
- H. M.S. § 211B.10, Subd. 2 - Employers must grant time off to attend public meetings to persons elected to public office.

Political Activities of State Employees form is stored with the PE forms - PE-00271-08 (4/93)