

TECHNICAL ASSISTANCE –EMPLOYEE PARTICIPATION IN POLITICAL ACTIVITIES

Prepared by the Division of Human Resources in the Department of Personnel & Administration. October 28, 2008.

GENERAL

In general, employees of the State of Colorado may not participate in political activities while on-duty. In addition, employees may not use state resources such as telephones, faxes, computers, email, and bulletin boards for partisan political activities. The purpose of laws and rules on the topic is to ensure that an individual's political beliefs can not be interpreted as an official policy, or advocacy, by the State of Colorado. The limitations on political activities in the workplace are found in the Federal Hatch Act and the Fair Campaign Practices Act (FCPA).

The Hatch Act limits the political activities of individuals employed in state departments and higher education institutions (departments) that have programs financed in whole or in part by federal loans or grants. The FCPA sets parameters for election activities for State of Colorado employees, in general. Key provisions of the Hatch Act and the Fair Campaign Practices Act (FCPA) are outlined below:

Hatch Act

Employees of departments utilizing federal funds may:

- be candidates for public office in non-partisan elections;
- register and vote as they choose;
- assist in voter registration drives;
- express opinions about candidates and issues;
- contribute money to political organizations;
- attend political fundraising functions;
- attend and be active at political rallies and meetings on the employee's own time;
- join and be active members of a political party or club;
- sign nominating petitions;
- campaign for or against referendum questions, constitutional amendments, municipal ordinances on the employee's own time;
- campaign for or against candidates in partisan elections on the employee's own time;
- make campaign speeches for candidates in partisan elections on the employee's own time;
- distribute campaign literature in partisan elections on the employee's own time; and
- hold office in political parties or clubs.

Employees of departments utilizing federal funds may not:

- use their official authority or influence to interfere with an election;

- collect political contributions unless both individuals are members of the same federal labor organization or employee organization and the one solicited is not a subordinate employee;
- knowingly solicit or discourage the political activity of any person who has business before the department;
- engage in political activity while on duty;
- engage in political activity while in any government office;
- engage in political activity while wearing an official uniform;
- engage in political activity while using a government vehicle;
- solicit political contributions from the general public during work time; and,
- in some circumstances, be candidates for public office in partisan elections (e.g. gubernatorial, statewide elections).

Fair Campaign Practices Act (FCPA).

The FCPA sets the parameters for election activities. A distinction is made between activity as a citizen on one's own time and activity as an employee of a department, board, or any other political subdivision. As long as an employee is acting as a citizen, no restraints are placed on campaign activities. A person may expend personal funds, make a contribution in kind and use personal time to urge electors to vote in favor of or against any issue before the electorate.

An employee "on the job", however, must be careful not to violate the FCPA. While the department or other political subdivision may pass a resolution or take a position either in favor of or against an issue, the department or other political subdivision may not make any contributions or contributions in kind.

Contributions or contributions in kind include a donation of time by the employee. Any time spent on the job in envelope stuffing, preparing literature or contacting electors is prohibited by the FCPA. In addition, any use of materials from the office is prohibited. The only exception is that a member or employee of the department who has policy-making responsibility may expend no more than \$50 of public money in the form of letters, telephone calls, or other activities to respond to questions about an issue or to express an opinion.

If an employee does not have policy-making responsibilities, any time spent on the job responding to questions or giving partisan information about an issue is prohibited by law. However, an employee is able to direct an inquiry to an appropriate source of information or give fair and balanced information on any issue of official concern before the electorate.

Employees have a right not to perform tasks that violate the FCPA and departments must be careful not to ask or expect employees to engage in activities that constitute a FCPA violation.

As a practical matter, appointing authorities are advised to prohibit employees from other forms of advocacy in the workplace. This would include; wearing buttons or clothing and displaying posters or signs that advocate a partisan political viewpoint on any candidate or election issue.

The table provided below is a general summary of permitted and prohibited activities. Specific questions about political activities should be directed to the department’s legal counsel.

ACTIVITY	PERMITTED	NOT PERMITTED
PUBLIC PRESENTATIONS	During the work day employees may respond to unsolicited questions with strictly factual answers regarding a campaign issue. Those answers should not tend to urge a particular vote.	It is a violation of state law to campaign or support a political cause while “on the clock.” Staff needs to use their best judgment to avoid the perception of championing a cause as a state employee. During work time employees may not work to promote or defeat a candidate or ballot issue. “Work time” includes all times employees are on duty during regular hours or in attendance as a work requirement beyond regular work hours.
	Employees may make presentations that express a position on a ballot issue or candidate off the work site and outside of employee work hours.	Employees may not: <ul style="list-style-type: none"> ▪ use their official authority or influence to interfere with an election; ▪ engage in political activity while wearing an official uniform; ▪ engage in political activity while using a government vehicle.
STATE OWNED MATERIALS AND EQUIPMENT	A state department may expend state resources to create an unbiased factual summary on any issue of official concern before the electorate that includes arguments both for and against a proposal. The summary may not contain a conclusion or opinion in favor of or against any particular issue. The “Blue Book” prepared by Colorado Legislative Council is a good source for this type of information on statewide ballot issues.	State-owned materials and equipment cannot be used to prepare, post, sort, or distribute any materials or information advocating a position concerning an election. This includes the use of email, fax machines, copy machines, paper, telephones, bulk mailing permits, etc.
STATE OWNED FACILITIES	State-owned facilities may be used by organizations to present information and/or literature in accordance with department access policies for community use of department facilities, if the facilities are available to all non-department organizations on the same terms.	
INTERACTING WITH OTHER EMPLOYEES		Employees should not take any stand on a candidate or ballot issue with fellow employees while on duty. Employees shall not distribute to fellow employees any materials that express a position on campaign issues during work time.
PHONE CALLS	Employees may give undisputed factual responses about a campaign issue on department phones in response to an unsolicited telephone inquiry.	Employees may not work to promote or defeat a candidate or ballot issue while using department phones.
	Employees may make phone calls stating	

	their position on a candidate or ballot issue on their own time and on their own personal phone.	
WEARING OF CAMPAIGN BUTTONS, POSTING LITERATURE, ETC.		Employees should not wear, display, or distribute campaign materials at the work site.
FLIERS	Employees may distribute campaign materials on their own time outside of work site as long as the distribution is not done in connection with any official activity.	On election day, electioneering materials are specifically prohibited from public display in a department facility being used as a polling place.
VOTING	Employees may encourage citizens to register to vote and give them information on registration, absentee voting, and polling locations.	
CAMPAIGN CONTRIBUTIONS	Employees may make personal contributions to any candidate or organization supporting a ballot issue.	Employees may not solicit or accept cash or other campaign contributions during work time.
PUBLIC RECORDS ACT	Employees should respond to Public Records Act requests from candidates or election organizations in the same manner they would respond to such a request from the public at large.	Employees must not release employees' names, addresses, or telephone numbers unless such information is in response to a request under the Public Records Act.

Every attempt is made to keep this information updated. For additional information, refer to the *State Personnel Board Rules and Director's Administrative Procedures* or contact your department human resources office. Subsequent revisions to rule or law could cause conflicts in this information. In such a situation, the law or rule is the official source upon which to base a ruling or interpretation. This document is a guide, not a contract or legal advice.

**TECHNICAL ASSISTANCE
DHR APPROVAL FOR PUBLICATION**

Technical Guide Topic: Employee Participation in Political
Activities

Effective Date of Revisions: October 28, 2008

Date of Superseded Version: _____

Section Manager: Tom Marino Date: 10-28-2008

Division Director: [Signature] Date: 10/28/08