

DHMH POLICY

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OFFICE OF THE INSPECTOR GENERAL
DHMH POLICY 01.03.03
Effective Date: February 12, 2007

POLICY ON EMPLOYEE PARTICIPATION IN POLITICAL ACTIVITY

I. EXECUTIVE SUMMARY

The Secretary of the Department of Health and Mental Hygiene (DHMH) recognizes the right of all DHMH and local health department officials and employees to participate in political activities as outlined in State and Federal codes and regulations. This policy explains when and how officials and employees are affected by the applicable laws and regulations.

Authority for the rights and restrictions of employee participation in political activity is cited; then, the applicability of this policy and the associated statutes and regulations are explained; and finally, the responsibilities of employees, the Department, and the Office of the Inspector General are provided.

II. BACKGROUND

DHMH 01.03.03 Policy on Employee Participation in Political Activity was established to ensure compliance with State and Federal laws and regulations that apply to participation in political activity. This version supersedes and replaces DHMH Policy 02.09.08, dated April 21, 1998, which was preceded by DHMH Policy 2.5, dated April 15, 1976.

The major changes from earlier versions are 1) the transfer of responsibility from the Personnel Services Administration to the Office of the Inspector General, 2) the updating of authority citations, and 3) the rewriting of the Executive Summary and Background sections. The substantive requirements of the earlier policy version remain intact.

III. POLICY STATEMENTS

A. AUTHORITY

1. The State Personnel and Pensions Article §2-304, Annotated Code of Maryland states that, unless otherwise provided in this section or Federal law, "a State employee: may participate in any political activity and express any political opinion; and may not be required to provide any political service." Further, "an employee may not engage in political activity while on the job during work hours; or advocate the overthrow of the government by unconstitutional or violent means."

http://mlis.state.md.us/cgi-win/web_statutes.exe?qsp&2-304

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2. State Government Article §2-1205, Annotated Code of Maryland exempts employees of the Department of Legislative Services from the above code. http://mlis.state.md.us/cgi-win/web_statutes.exe?gsg&2-1205
3. Election Law Article §2-301, Annotated Code of Maryland imposes restrictions on members or employees of State or local election boards. http://mlis.state.md.us/cgi-win/web_statutes.exe?qel&2-301
4. The Hatch Act, Title 5 U.S.C. §§1501-1508 restricts the political activity of individuals principally employed by State or local executive agencies who work in connection with programs financed in whole or in part by Federal loans or grants. http://www.osc.gov/ha_state.htm
5. The Intergovernmental Personnel Act of 1970 5 CFR Subpart F- Standards for a Merit System of Personnel Administration, Sections 900.601 to 900.606, Office of Personnel Management, applies to officials and employees of State and local agencies that accept Federal grants or that operate Federal assistance or intergovernmental programs. <http://www.opm.gov/fedregis/1997/62R33971.txt>
6. Wherever any provisions of the Maryland code may conflict with Federal code, the Federal code takes precedence.
7. The Secretary, DHMH, delegates authority for oversight to the DHMH Inspector General, and also assigns the responsibility for implementation and enforcement of this policy and the relevant State and Federal codes.

B. APPLICABILITY

1. All officials and employees of DHMH and local health departments whose principal employment is in connection with an activity which is funded in whole or part by loans or grants made by the United States or a Federal agency, are subject to the provisions of the Hatch Act.
2. All officials and employees of DHMH and local health departments who are engaged in the administration of various United States or Federal agency grant-in-aid programs, regardless of whether employment in the grant-in-aid activity is the employee's principal employment, are also subject to the provisions of the Standards for a Merit System of Personnel Administration.
3. All officials and employees of the Department of Health and Mental Hygiene and local health departments who are covered by the governing statutes and regulations are prohibited from engaging in the following:
 - a. Under the Md. Code Ann, State Personnel & Pensions §2-304, a public official or employee of the State:
 - (1) may not engage in political activity while on the job during working hours, and
 - (2) may not advocate the overthrow of the government by unconstitutional and violent means, or
 - (3) may not require a State employee to make a political contribution. The Election Law Article §1-101, Annotated Code of Maryland defines a [political] "contribution" as "the

gift, transfer or promise of gift or transfer of money or other thing of value to any candidate, or the candidate's representative, or a representative of any political party or partisan organization to promote or assist in the promotion of the success or defeat of any candidate, political party, principle or proposition submitted to a vote at any election." A contribution "includes proceeds from the sale of tickets to a campaign fund-raising event."

- b. Under the Hatch Act and the Standards for a Merit System of Personnel Administration, covered public officials or employees of the State:
 - (1) may not use their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office,
 - (2) may not directly or indirectly coerce, attempt to coerce, command, or advise a State or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes, or
 - (3) may not be a candidate for public office in a partisan election. (Candidacy for office in a political party is not prohibited.)

- 4. All officials and employees of the Department of Health and Mental Hygiene and local health departments who are covered by the governing statutes and regulations are entitled to engage in the following activities:
 - a. Under Md. Code Ann., State Personnel and Pension-§2-304, a public officer or employee of the State:
 - (1) may freely participate in any political activity and express any political opinion, and
 - (2) may not be required to provide any political service.

 - b. Under the Hatch Act and the Standards for a Merit System of Personnel Administration, covered public officers or employees of the State:
 - (1) may take an active part in political management or in political campaigns,
 - (2) may be a candidate for an elected public office in non-partisan elections (elections in which none of the candidates is to be nominated or elected as representing a political party whose candidates for presidential elector received votes at the last preceding presidential election),
 - (3) may vote as they choose and may express their opinions on political subjects and candidates, and
 - (4) may hold a public office. (If an employee holds elective office when appointed to a covered State position, the employee may continue to serve, but may not be a candidate for reelection in a partisan election. Likewise, an employee may accept an appointment to fill a vacancy in

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an elective office while concurrently serving in a covered position, assuming there is no conflict of interest.)

C. RESPONSIBILITIES

1. All appointing authorities, including local health officials, are responsible for publicizing and disseminating this policy to all the employees under their jurisdiction at least once a year. The appointing authority shall stress that, where applicable, the individual employee must abide by provisions of the Hatch Act, the Standards for a Merit System of Personnel Administration and the pertinent articles of the Maryland Annotated Code.
2. It shall be the responsibility of each individual official or employee who is thinking of participating in political activity to find out before participating in political activity the law or laws and/or standard that he/she may be obligated to abide by, and abide by same.
3. Officials and employees who may have questions about whether a particular political activity is permitted or not permitted should contact through channels, in writing, the DHMH Inspector General for a written opinion as to the permissibility of the official or employee to participate in a particular political activity. <http://www.dhmh.state.md.us/oig/>
4. The DHMH Inspector General, or designee, upon receipt of a written inquiry as to whether or not an official or employee may participate in a particular political activity, will request, in writing, a determination on the question, based on the facts in the inquiry from one of the following authorities:
 - a. Questions concerning the Hatch Act should be directed to:
U.S. OFFICE OF SPECIAL COUNSEL
1730 M STREET NW (SUITE 210)
WASHINGTON, DC 20036-4505
TELEPHONE: (800) 85-HATCH (800) 854-2824
E-MAIL: hatchact@osc.gov WEBSITE: http://www.osc.gov/ha_state.htm
 - b. Questions concerning the Standards for a Merit System of Personnel Administration should be directed to:
OFFICE OF PERSONNEL MANAGEMENT (OPM)
1900 E STREET NW
WASHINGTON, DC 20415-1000
TELEPHONE: (202) 606-1800 | TTY (202) 606-2532
WEBSITE: <http://www.opm.gov>
 - c. Questions concerning the Maryland Annotated Code should be directed to:
DHMH OAG-ASSISTANT ATTORNEY GENERAL
300 W. PRESTON STREET
BALTIMORE, MD 21201
TELEPHONE: (410) 767-1861
The Inspector General or designee, upon receipt of determination on the question from the authority or authorities listed above, will notify, in writing, all concerned, whether or not the official or

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employee may participate in that particular political activity in question.

5. An official or employee who is found guilty of violation of any portion of the policy, codes or regulations is subject to appropriate disciplinary action, including dismissal from State service.
6. If, in the case of violations of the Hatch Act or the Standards for a Merit System of Personnel Administration, the employing agency chooses not to dismiss the offending employee, the employing agency may forfeit part of their Federal assistance (equal to two years salary of the employee).

V. REFERENCES

- State Personnel & Pensions Article § 2-304, Annotated Code of Maryland, http://mlis.state.md.us/cgi-win/web_statutes.exe?qsp&2-304
- Election Law Article, §1-101 and §2-301, Annotated Code of Maryland, http://mlis.state.md.us/cgi-win/web_statutes.exe?qel&1-101 http://mlis.state.md.us/cgi-win/web_statutes.exe?qel&2-301
- The Hatch Act, Title 5 U.S.C. §§1501-1508, US Office of Special Counsel (OSC). http://www.osc.gov/ha_state.htm
- Intergovernmental Personnel Act - Standards for a Merit System of Personnel Administration - Subpart F - 5 C.F.R. §§900.601-900.606, US Office of Personnel Management (OPM). <http://www.opm.gov/fedregis/1997/62R33971.txt>
- Department of Health and Mental Hygiene, Office of the Inspector General, <http://dhmh.state.md.us/oig>

APPROVED:

/s/ Signature on File

JOHN M. COLMERS, Secretary

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