

Federal Hatch Political Activities Act (As amended by the Hatch Act Modernization Act of 2012)

The following pages set out the text of the chapter of the United States Code commonly referred to as the “Hatch Act,” 5 U.S.C. §§ 1501 to 1508. The Hatch Act was substantially amended by the Hatch Act Modernization Act of 2012, Public Law 112-230, 126 Stat. 1616 (Dec. 28, 2012). The text below shows the Hatch Act as of September 2021, including the amendments made in 2012. For a summary of the Hatch Act, please see the Limitation of Political Activity Policy.

§ 1501. Definitions

For the purpose of this chapter [[5 USCS §§ 1501](#) et seq.]—

- (1) “State” means a State or territory or possession of the United States;
- (2) “State or local agency” means the executive branch of a State, municipality, or other political subdivision of a State, or an agency or department thereof, or the executive branch of the District of Columbia, or an agency or department thereof;
- (3) “Federal agency” means an Executive agency or other agency of the United States, but does not include a member bank of the Federal Reserve System; and
- (4) “State or local officer or employee” means an individual employed by a State or local agency whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or Federal agency, but does not include—
 - (A) an individual who exercises no functions in connection with that activity; or
 - (B) an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by—
 - (i) a State or political subdivision thereof;
 - (ii) the District of Columbia; or
 - (iii) a recognized religious, philanthropic, or cultural organization.

§ 1502. Influencing elections; taking part in political campaigns; prohibitions; exceptions

- (a) A State or local officer or employee may not—
 - (1) use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;

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- (2) 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) if the salary of the employee is paid completely, directly or indirectly, by loans or grants made by the United States or a Federal agency, be a candidate for elective office.
- (b) A State or local officer or employee retains the right to vote as he chooses and to express his opinions on political subjects and candidates.
- (c) Subsection (a)(3) of this section does not apply to—
- (1) the Governor or Lieutenant Governor of a State or an individual authorized by law to act as Governor;
 - (2) the mayor of a city;
 - (3) a duly elected head of an executive department of a State, municipality, or the District of Columbia who is not classified under a State, municipal, or the District of Columbia merit or civil-service system; or
 - (4) an individual holding elective office.

§ 1503. Nonpartisan candidacies permitted

Section 1502(a)(3) of this title [[5 USCS § 1502\(a\)\(3\)](#)] does not prohibit any State or local officer or employee from being a candidate in any election if none of the candidates is to be nominated or elected at such election as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected.

§ 1504. Investigations; notice of hearing

When a Federal agency charged with the duty of making a loan or grant of funds of the United States for use in an activity by a State or local officer or employee has reason to believe that the officer or employee has violated section 1502 of this title [[5 USCS § 1502](#)], it shall report the matter to the Special Counsel. On receipt of the report or on receipt of other information which seems to the Special Counsel to warrant an investigation, the Special Counsel shall investigate the report and such other information and present his findings and any charges based on such findings to the Merit Systems Protection Board, which shall—

- (1) fix a time and place for a hearing; and

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(2) send, by registered or certified mail, to the officer or employee charged with the violation and to the State or local agency employing him a notice setting forth a summary of the alleged violation and giving the time and place of the hearing. The hearing may not be held earlier than 10 days after the mailing of the notice.

§ 1505. Hearings; adjudications; notice of determinations

Either the State or local officer or employee or the State or local agency employing him, or both, are entitled to appear with counsel at the hearing under section 1504 of this title [[5 USCS § 1504](#)], and be heard. After this hearing, the Merit Systems Protection Board shall—

- (1) determine whether a violation of section 1502 of this title [[5 USCS § 1502](#)] has occurred;
- (2) determine whether the violation warrants the removal of the officer or employee from his office or employment; and
- (3) notify the officer or employee and the agency of the determination by registered or certified mail.

§ 1506. Orders; withholding loans or grants; limitations

(a) When the Merit Systems Protection Board finds—

- (1) that a State or local officer or employee has not been removed from his office or employment within 30 days after notice of a determination by the Board that he has violated section 1502 of this title [[5 USCS § 1502](#)] and that the violation warrants removal; or
 - (2) that the State or local officer or employee has been removed and has been appointed within 18 months after his removal to an office or employment in the same State (or in the case of the District of Columbia, in the District of Columbia) in a State or local agency which does not receive loans or grants from a Federal agency;
- the Board shall make and certify to the appropriate Federal agency an order requiring that agency to withhold from its loans or grants to the State or local agency to which notice was given an amount equal to 2 years' pay at the rate the officer or employee was receiving at the time of the violation. When the State or local agency to which appointment within 18 months after removal has been made is one that receives loans or grants from a Federal agency, the Board order shall direct that the withholding be made from that State or local agency.

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(b) Notice of the order shall be sent by registered or certified mail to the State or local agency from which the amount is ordered to be withheld. After the order becomes final, the Federal agency to which the order is certified shall withhold the amount in accordance with the terms of the order. Except as provided by section 1508 of this title [[5 USCS § 1508](#)], a determination or order of that Board becomes final at the end of 30 days after mailing the notice of the determination or order.

(c) The Board may not require an amount to be withheld from a loan or grant pledged by a State or local agency as security for its bonds or notes if the withholding of that amount would jeopardize the payment of the principal or interest on the bonds or notes.

§ 1507. Subpenas* and depositions

(a) The Merit Systems Protection Board may require by subpoena the attendance and testimony of witnesses and the production of documentary evidence relating to any matter before it as a result of this chapter [[5 USCS §§ 1501](#) et seq.]. Any member of the Board may sign subpoenas, and members of the Board and its examiners when authorized by the Board may administer oaths, examine witnesses, and receive evidence. The attendance of witnesses and the production of documentary evidence may be required from any place in the United States at the designated place of hearing. In case of disobedience to a subpoena, the Board may invoke the aid of a court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. In case of contumacy or refusal to obey a subpoena issued to a person, the United States District Court within whose jurisdiction the inquiry is carried on may issue an order requiring him to appear before the Board, or to produce documentary evidence of so ordered, or to give evidence concerning the matter in question; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(b) The Board may order testimony to be taken by deposition at any stage of a proceeding or investigation before it as a result of this chapter [[5 USCS §§ 1501](#) et seq.]. Depositions may be taken before an individual designated by the Board and having the power to administer oaths. Testimony shall be reduced to writing by the individual taking the deposition, or under his direction, and shall be subscribed by the deponent. Any

* [Editor's note: The older spelling "subpena" rather than "subpoena" is used throughout the statute.]

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person may be compelled to appear and depose and to produce documentary evidence before the Board as provided by this section.

(c) A person may not be excused from attending and testifying or from producing documentary evidence or in obedience to a subpoena on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify, or produce evidence, documentary or otherwise, before the Board in obedience to a subpoena issued by it. A person so testifying is not exempt from prosecution and punishment for perjury committed in so testifying.

§ 1508. Judicial review

A party aggrieved by a determination or order of the Merit Systems Protection Board under section 1504, 1505, or 1506 of this title [[5 USCS § 1504](#), [1505](#), or [1506](#)] may, within 30 days after the mailing of notice of the determination or order, institute proceedings for review thereof by filing a petition in the United States District Court for the district in which the State or local officer or employee resides. The institution of the proceedings does not operate as a stay of the determination or order unless—

- (1) the court specifically orders a stay; and
- (2) the officer or employee is suspended from his office or employment while the proceedings are pending.

A copy of the petition shall immediately be served on the Board, and thereupon the Board shall certify and file in the court a transcript of the record on which the determination or order was made. The court shall review the entire record including questions of fact and questions of law. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that the additional evidence may materially affect the result of the proceedings and that there were reasonable grounds for failure to adduce this evidence in the hearing before the Board, the court may direct that the additional evidence be taken before the Board in the manner and on the terms and conditions fixed by the court. The Board may modify its findings of fact or its determination or order in view of the additional evidence and shall file with the court the modified findings, determination, or order; and the modified findings of fact, if supported by substantial evidence, are conclusive. The court shall affirm the determination or order, or the modified determination or order, if the court

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determines that it is in accordance with law. If the court determines that the determination or order, or the modified determination or order, is not in accordance with law, the court shall remand the proceeding to the Board with directions either to make a determination or order determined by the court to be lawful or to take such further proceedings as, in the opinion of the court, the law requires. The judgment and decree of the court are final, subject to review by the appropriate United States Court of Appeals as in other cases, and the judgment and decree of the court of appeals are final, subject to review by the Supreme Court of the United States on certiorari or certification as provided by section 1254 of title 28. If a provision of this section is held to be invalid as applied to a party by a determination or order of the Board, the determination or order becomes final and effective as to that party as if the provision had not been enacted.

History of This Portion of the State Human Resources Manual

Date	Version
December 2, 2021	Revised this document to set out the text of the Hatch Act, rather than a summary of the act based on interpretation. For a summary of the Hatch Act, please see the Limitation of Political Activity Policy.
July 1, 2014	Amended to reflect changes enacted by Congress through the passage of the Hatch Act Modernization Act of 2012. New law specifically states that only employees who are 100% federally funded are prohibited from running for a partisan office. In addition: <ul style="list-style-type: none"> • Added a definition for “partisan political office.” • Clarified employees cannot use federal, State or other public funds to support a candidacy. • Clarified that employees cannot use State resources to support a candidacy. • Corrected references to old federal codes. • Added a section for Leave of Absences.
1939	Act adopted by federal statute