

## Limitation of Political Activity Policy

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**§ 1. State Statutory Authority**

Note: Some employees are exempt from the statutes discussed below. Employees with questions about whether they are exempt from these statutes should consult their agency's General Counsel's Office.

**Section 126-13 (Appropriate political activity of state employees defined)**

Most state employees are subject to section 126-13(a) of the North Carolina General Statutes.<sup>1</sup> In general, this statute prohibits covered employees from engaging in political activity (including without limitation taking an active part in managing a campaign) while on duty or during work hours, and the statute prohibits covered employees from using state resources or the authority of a state position to secure support for (or oppose) any political candidates. Subsection (a) of the statute reads:

§ 126-13. Appropriate political activity of State employees defined.

(a) As an individual, each State employee retains all the rights and obligations of citizenship provided in the Constitution and laws of the State of North Carolina and the Constitution and laws of the United States of America; however, no State employee subject to the North Carolina Human Resources Act or temporary State employee shall:

- (1) Take any active part in managing a campaign, or campaign for political office or otherwise engage in political activity while on duty or within any period of time

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<sup>1</sup> Section 126-13, which is part of Article 5 of the State Human Resources Act, does not apply to the following types of employees: exempt policymaking, exempt managerial, chief deputies or chief administrative assistants, confidential assistants, confidential secretaries, and certain kinds of statutorily exempt employees. See G.S. § 126-5(c)-(c3), (c7)-(c8), (c16), and § 126-11 (stating these exceptions).

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during which he is expected to perform services for which he receives compensation from the State;

- (2) Otherwise use the authority of his position, or utilize State funds, supplies or vehicles to secure support for or oppose any candidate, party, or issue in an election involving candidates for office or party nominations, or affect the results thereof.

G.S. § 126-13(a).

The statute also provides that no state institution shall “interfere with the right of any State employee as an individual to engage in political activity while not on duty or at times during which he is not performing services for which he receives compensation from the State.” G.S. § 126-13(b).

### **Sections 126-14 and 14.1 (Promises or threats to obtain political contributions or support)**

In addition, state employees are subject to G.S. § 126-14, which prohibits promises or reward or threats of loss to support or contribute to a political candidate, committee, or party.<sup>2</sup> The statute makes it unlawful “to coerce” certain state employees or applicants “to support or contribute to a political candidate, political committee ..., or political party,” or to change party, by threatening “a change in employment status or discipline,” or by promising “preferential personnel treatment.” G.S. 126-14(a).<sup>3</sup> The statute prohibits these threats or promises if made to state employees subject to the Human Resources Act, applicants for positions subject to the Human Resources Act, and probationary or temporary state employees. *Id.*

The statute also prohibits constitutional officers of the State from coercing anyone to make support or contributions to a political candidate, committee, or party by “threatening discipline or promising preferential treatment with regard to [a] person’s business” with a State office or with a person’s activities regulated by a State office. G.S. § 126-14(a1) (cross-referencing G.S. § 138A-3(70)(a) and § 138A-32(d)(1)-(3)).

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<sup>2</sup> This statute states that it applies to state employees or persons appointed to State office “whether or not subject to the North Carolina Human Resources Act.” G.S. § 126-14(a).

<sup>3</sup> See *also* G.S. § 126-14.1, which uses almost precisely the same language.

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### § 2. Federal Statutory Authority

Employees in federally aided programs are also subject to the Federal Hatch Political Activities Act, as amended, 5 U.S.C. §§ 1501-1508 (hereinafter Hatch Act).

The Hatch Act prohibits state employees whose positions “are financed in whole or in part by [federal] loans or grants” from using “official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office.” 5 U.S.C. § 1502(a)(1). The federal statute also provides that state employees whose positions “are financed in whole or in part by loans or grants” may not “directly or indirectly coerce” 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.” 5 U.S.C. § 1502(a)(2).

Finally, the federal statute prohibits a state employee whose salary “is paid completely, directly or indirectly, by [federal] loans or grants” from being “a candidate for elective office.” 5 U.S.C. § 1502(a)(3) (emphasis added).

These provisions of the Hatch Act do not apply to employees of public universities. 5 U.S.C. § 1501(4)(B). In addition, state employees “exercising no functions in connection with” the federally funded activity will generally not be covered by the Hatch Act. 5 U.S.C. § 1501(4)(A).

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### § 3. Miscellaneous Terms

#### § 3.1. Relationship of this Policy to Laws and Statutes

This Limitation of Political Activity Policy, first adopted in 1967, acts only as a nonbinding interpretive statement that explains the meaning of the statutes and administrative code rules listed and summarized above. The text of each statute, not this policy, governs employees’ conduct, and this policy does not create any duties, responsibilities, or restrictions that are not found in the text of the statute.

Failure to comply with a law may be grounds for disciplinary action, as stated in the Disciplinary Action Policy.

#### § 3.2. Sources of Authority

This policy is issued under the following source of law:

- G.S. § 126-1 states:  
“The Office of State Human Resources shall make recommendations for policies and rules to the Commission based on research and study in the field of personnel

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management, develop and administer statewide standards and criteria for good personnel management, [and] provide training and technical assistance to all agencies, departments, and institutions.”

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### § 4. History of This Policy

Date	Version
December 2, 2021	Updated the text to reflect amendments to state statutes since the date of the original policy. Added a paragraph summarizing the federal Hatch Act. Added a paragraph making clear this policy is only a nonbinding interpretive statement summarizing state statutes.
July 1, 1967	Amendment to State Personnel Act which prohibits certain political activities. Policy adopted to implement this.