

## **DHHS POLICIES AND PROCEDURES**

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<b>Section V-(a):</b>	Human Resources
<b>Title:</b>	Division of Health Benefits, Political Activities
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### **Purpose**

The political activities policy is to establish policy on political activities of Department of Health and Human Services (DHHS), Division of Health Benefits' (DHB) employees and to set guidelines for compliance with state and federal laws that restart or prohibit employee participation in certain aspects of the political process.

This policy applies to all current DHB employees.

### **Policy**

#### **Employee Rights and Obligations as a Citizen**

It is the policy of DHB to encourage its employees to exercise their rights and obligations as Citizens.

#### **Prohibited Activities**

A DHB employee may not engage in any political activity prohibited by state or federal law nor engage in any political activities while on duty or during any period during which the employee is expected to perform services which are compensated by the state.

#### **State Law**

Employees and temporary state employees shall not:

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 during which he or she is expected to perform services for which he or she receives compensation from the state; or
2. Otherwise use the authority of the employee's position, or utilize state funds, supplies, or vehicles to secure support for or oppose any candidate, party, or issue in a partisan election involving candidates for office or party nominations, or affect the results thereof.

No department employee or official shall use any promise of personal preferential treatment or threat of loss to encourage or coerce any state employee or temporary state employee to support or contribute to any political issue, candidate or party.

All personnel decisions will be made without regard to political affiliation, in accordance with 5 CFR 900.603(e) and (f).

An employee who directly or indirectly attempts to coerce or intimidate any other employee to vote or not to vote for a candidate for public office by threatening that person's employment with state government is guilty of a misdemeanor and subject to punishment by fine or imprisonment, or both, in the discretion of the court.

### **Federal Law**

The Federal Hatch Act applies to department employees in federally aided programs. The act prohibits:

1. Use of official authority or influence for interfering with or affecting the result of an election or nomination for office;
2. Directly or indirectly coercing, attempting to coerce, commanding, or advising 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; and candidacy for public office in a partisan primary, general or special election.

For purposes of administering the Federal Hatch Act, a partisan election has been defined as one in which any of the candidates represents a nationally established party.

[https://files.nc.gov/ncoshr/documents/files/Limitation\\_of\\_Political\\_Activity.pdf](https://files.nc.gov/ncoshr/documents/files/Limitation_of_Political_Activity.pdf)

### **Roles and Responsibilities**

Every department official and manager shall ensure that all managers, supervisors, and employees under their jurisdiction are informed of the above policy, provisions, and regulations. An employee's failure to comply with statutory and policy restrictions on political activities is grounds for disciplinary action which, in case of deliberate or repeated violations, may include dismissal. An employee who is in doubt as to whether any activity is prohibited, should present the matter in writing to the immediate supervisor before engaging in the activity and shall refrain from such activity until advised by the supervisor that it is permissible. The supervisor shall secure assistance and interpretation from appropriate management in responding to the employee's request or questions.

#### **Authority**

GS 143B-10, 163-271, and the Federal Hatch Political Activities Act.

### **Implementation**

#### **Political Items in the Workplace**

An employee shall not post, nor cause or allow to be posted, signs, notices, or other materials related to any national, state, or local political party or candidate in or on property owned, leased, or used by the department in the conduct of its official business. An employee shall

not wear or display badges, buttons, or other items or emblems related to national, state, or local political party or candidate while on duty or during any period during which the employee is performing services for the department.

### **Candidacy for and Service in a Public Office**

1. The primary responsibility of full-time employees is to the DHHS. Any other employment or service activity in which an employee chooses to engage is secondary. An employee shall have approval of the appropriate leadership level employee before engaging in any secondary employment. The department also has the right under law and policy to determine whether candidacy for and service in a public elective or appointive office, otherwise permissible under law, might have an adverse effect on the employment relationship and/or create a conflict of interest.
2. An employee, regardless of employment status, shall give the department written notice of intended candidacy or candidacy for partisan elective office, or appointment to a vacancy in a partisan elective office. The notice shall be given to the employee's immediate supervisor and in advance of action whenever possible. In the case of candidacy for nomination or election, an employee shall give notice at least 45 days prior to the applicable filing deadline.
3. Upon receipt of such notice, the supervisor shall forward the notice to the Division Director. The Director shall determine whether candidacy for or service in the office might have adverse effect on the employment relationship and/or create a conflict of interest. The Director may discuss the matter with the employee and with the unit and the department management as he or she deems necessary. The Director also shall make a preliminary decision as to the possible application of the Federal Hatch Act to the specific situation. The following criteria shall be considered in making the preliminary decision:
  - a. An employee is considered subject to the act if his or her position is funded in whole or in part by federal monies.
  - b. An employee may be subject to the act if, as a normal and foreseeable incident to his or her principal job or position, he or she performs duties about an activity which is financed in whole or in part by federal loans or grants.
4. If the Division Director's opinion is that the employee is subject to the act, the Director should refer the matter to the DHHS General Counsel's Office who will contact the Office of the Special Counsel of the U.S. Merit Systems Protection Board for a binding written opinion.
5. If the Director concludes that the employee is not subject to the act, that no conflict of interest exists, and that there would be no adverse effect on the employment relationship, the employee's candidacy for or service in the office shall be approved. The employee shall be given written notice of approval; the notice shall include and specify any administrative conditions or requirements associated with the candidacy/service. A copy of the notice shall be sent to DHHS General Counsel's Office and to the Director of the Division of Human Resources.

6. The Director shall also notify the employee in writing if it is determined that candidacy for and/or service in an office would seriously compromise the employment relationship or create or have the potential for creating a clear and unacceptable conflict of interest between the employee in regard either to the employee's status as a department employee or to the employee's duties and responsibilities and his or her service or responsibilities in the public office. The notice shall include the specific basis for the determination and the options available to the employee considering the determination.
7. An employee may request a review of the Director's determination by the Secretary of the DHHS. The request shall be filed in writing within 15 working days of the date of the director's notice to the employee. The Secretary's decision on the matter shall be final.

**Procedures for Requesting Formal Opinions on Hatch Act Applicability**

1. Management and employee requests for opinions by the U.S. Merit Systems Protection Board on Hatch Act applicability shall be handled by the DHHS General Counsel's Office.
2. The requesting director or employee shall submit a written request for a Special Counsel opinion to the DHHS General Counsel's Office with a copy to the Director of the Division of Human Resources. The request shall include the following information:
  - a. A copy of the employee's written notice of intended candidacy or candidacy.
  - b. A copy of the unit director's written response to the employee.
  - c. A copy of the employee's current job description.
  - d. A statement as to if the employee's position is funded in whole or part by federal monies. If the position is federally funded to any extent, specify the federal grant/program source(s) and amount(s).
  - e. A statement of any programs or activities wholly or partly funded by federal monies in which the employee either is directly engaged or for which the employee has supervisory, administrative, or managerial responsibilities and/or for which the employee has a staff, advisory or other relationship about the principal duties.
  - f. Other information deemed relevant.
3. The requesting party also shall submit a copy of the above information to the employee or unit director as appropriate. The employee or unit director may submit additional written information for consideration by the Special Counsel.
4. The DHHS General Counsel's Office shall submit the above information to the Office of the Special Counsel together with such other information the Director deems necessary to an objective assessment.

**References**

GS 143B-10, 163-271, and the Federal Hatch Political Activities Act.

*For questions or clarification on any of the information contained in this policy, please contact the DHB Human Resources Manager. For general questions about department-wide policies and procedures, contact the [DHHS Policy Coordinator](#).*