



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 218

Washington, D.C. 20036-4505

202-254-3600

April 8, 2010

Xx. Xxxx XXXXXXXX
XXXX XXX XXXX
XXXX XXXXXXX, XX XXXXX

Re: OSC File No. HA-10-XXXX

Dear Xx. XXXXXXXX:

This letter responds to information the U.S. Office of Special Counsel (OSC) received concerning the Hatch Act and your current candidacy for the Democratic County Committee in XXXXXXXX County, XXXXXXXX. We understand that you are currently employed as a teaching technician for the XXXXXXXX County Child Development Center. We reviewed this matter and for the reasons stated below we are closing our file with this letter.

The Hatch Act, 5 U.S.C. §§ 1501-1508, restricts the political activity of individuals principally employed by state, county, or municipal executive agencies in connection with programs financed in whole or in part by loans or grants made by the United States or a federal agency. It has long been established that an officer or employee of a state or local agency is subject to the Hatch Act if, as a normal and foreseeable incident of her principal position or job, she performs duties in connection with an activity financed in whole or in part by federal funds. In re Hutchins, 2 P.A.R. 160, 164 (1944); Special Counsel v. Gallagher, 44 M.S.P.R. 57 (1990). Coverage is not dependent on the source of an employee's salary, nor is it dependent upon whether the employee actually administers the funds or has policy duties with respect to them. See Special Counsel v. Williams, 56 M.S.P.R. 277, 283-84 (1993); aff'd, Williams v. M.S.P.B., 55 F.3d 917 (4th Cir. 1995). An employee covered by the Act may not, among other things, be a candidate for public office in a partisan election, *i.e.*, an election in which any candidate represents, for example, the Republican or Democratic Party. 5 U.S.C. § 1502 (a)(3). However, a covered employee may campaign for and hold elective office in political clubs and organizations.

Even if you are an employee covered by the provisions of the Hatch Act, the Hatch Act would not prohibit you from being a candidate for the XXXXXXXX County Democratic Committee. In light of this fact, OSC has not made a determination as to whether you are covered by the Hatch Act, and we are closing our file in this matter.

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Enclosed for your convenience is a copy of the OSC pamphlet that explains the Hatch Act as applied to state and local executive agency employees. If you have any questions about this matter, feel free to contact me at (202) 254-3681.

Sincerely,

Leslie J. Gogan
Attorney
Hatch Act Unit