



U.S. OFFICE OF SPECIAL COUNSEL
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November 20, 1997

This letter is in response to your request for an advisory opinion concerning the Hatch Act. Specifically, you ask whether an employee of the Governor's Alliance Against Drugs (GADD) would be covered by the provisions of the Hatch Act. We understand that GADD is a state agency which receives some federal funding.

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. An employee covered by the Act may not 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. However, the Act does not apply to employees of educational or research institutions, establishments, agencies or systems which are supported in whole or in part by a state or political subdivision thereof. 5 U.S.C. § 1501(4)(B).

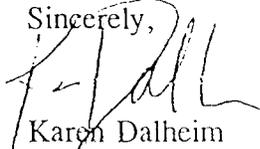
Based upon the information provided, we have concluded that GADD is not an educational institution for purposes of the Hatch Act. In Matter of Bambrick, 3 P.A.R. 224, (1973), the Civil Service Commission held that although the statute contains no definition of the term "educational institution," it is clear that the exemption was not designed to apply in every instance where educational functions were performed by an establishment or institution, and that the exemption is limited to those which are primarily education in nature. Id. at 228. The Commission determined that the proponents of the exemption were concerned primarily with teachers and that to interpret the exemption to include a correctional institution for girls based on the educational services provided, even if mandatory, would be to extend Section 1501(4)(B) beyond the limits conceived by Congress. Id.

It does not appear that the role of GADD is primarily educational in nature. According to information that you provided, GADD has taken a lead role in promoting community

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based anti-drug and anti-violence programs. It is our understanding that GADD administers funds to cities and towns, who in turn operate programs that address drug and violence related issues. Because GADD is not an educational institution for purposes of the Hatch Act, employees of GADD who work in connection with federally funded programs would be covered by the provisions of the Hatch Act. Please call me at 800-854-2824 if you have any questions.

Sincerely,



Karen Dalheim
Attorney