

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on an emergency basis, due to Congressional review, the Prohibition on Government Employee Engagement in Political Activity Act of 2010 to add definitions, clarify that the District of Columbia Board of Ethics and Government Accountability shall enforce its provisions, address non-District elections, and provide enforcement of the act through the Code of Conduct.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Prohibition on Government Employee Engagement in Political Activity Congressional Review Emergency Amendment Act of 2013”.

Sec. 2. The Prohibition on Government Employee Engagement in Political Activity Act of 2010, effective March 31, 2011 (D.C. Law 18-335; D.C. Official Code § 1-1171.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 1-1171.01) is amended as follows:

(1) Paragraph (1) is amended to read as follows:

"(1) "Board" means the District of Columbia Board of Ethics and Government Accountability established by section 202 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1162.02)."

(2) Paragraphs (2), (3), (4), and (5) are redesignated as paragraphs (3), (7), (8), and (9) respectively.

(3) A new paragraph (2) is added to read as follows:

"(2) "Candidate" means an individual who seeks nomination or election to any elective office in the District whether or not the person is elected. An individual is deemed to be a candidate if the individual has received political contributions or made expenditures or has consented to another person receiving contributions or making expenditures with a view to bringing about the individual's nomination or election."

(4) The newly redesignated paragraph (3)(A) is amended as follows:

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(A) The lead-in text is amended by striking the phrase "other than the following" and inserting the phrase "other than the following (if not otherwise employed by the District)" in its place.

(B) Sub-subparagraph (iii) is amended to read as follows:

“(iii) The Attorney General, after January 1, 2018;”.

(C) Sub-subparagraph (vi) is amended by striking the phrase "Education;" and inserting the phrase "Education; or" in its place.

(D) A new sub-subparagraph (vii) is added to read as follows:

"(vii) Members of the District of Columbia Statehood Delegation;".

(5) New paragraphs (4), (5), and (6) are added to read as follows:

"(4) "On duty" means the time period when an employee is:

"(A) In a pay status other than paid leave, compensatory time off, credit hours, time off as an incentive award, or excused or authorized absence (including leave without pay); or

"(B) Representing any agency or instrumentality of the District government in an official capacity.

"(5) "Partisan" when used as an adjective means related to a political party.

"(6) "Partisan political group" means any committee, club, or other organization that is regulated by the District and that is affiliated with a political party or candidate for public office in a partisan election, or organized for a partisan purpose, or which engages in partisan political activity."

(6) The newly redesignated paragraph (7) is amended by striking the phrase "means any office" and inserting the phrase "means any office in the District government" in its place.

(7) The newly redesignated paragraph (8) is amended as follows:

(A) Subparagraph (A) is amended as follows:

(i) Strike the phrase "any activity" and insert the phrase "any activity that is regulated by the District" in its place.

(ii) Strike the phrase "referendum" and insert the phrase "referendum. For the purposes of section 4, political activity is not limited to activities regulated by the District" in its place.

(B) Subparagraph (B) is amended as follows:

(i) Sub-subparagraph (i) is amended by striking the phrase "Board of Elections and Ethics" and inserting the word "Board" in its place.

(ii) Sub-subparagraph (ii)(II) is amended by striking the word "questioners" and inserting the word "questionnaires" in its place.

(8) New paragraphs (10) and (11) are added to read as follows:

"(10) "Political party" means a national political party, a State political party, or an affiliated organization that is regulated by the District.

"(11) "Political purpose" means an objective of promoting or opposing a political party, candidate for partisan political office, or partisan political group that is regulated by the District."

(b) Section 3 (D.C. Official Code § 1-1171.02) is amended as follows:

(1) Subsection (b)(3) is amended by striking the phrase "section 602 of the District of Columbia Campaign Finance Reform and Conflict of Interest Act, approved August 14, 1974 (88 Stat. 467; D.C. Official Code § 1-1106.02)" and inserting the phrase "section 224 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1162.24)" in its place.

(2) Subsection (c) is repealed.

(c) Section 4 (D.C. Official Code § 1-1171.03) is amended as follows:

(1) The existing text is designated as subsection (a).

(2) New subsections (b) and (c) are added to read as follows

"(b) An employee may not coerce, explicitly or implicitly, any subordinate employee to engage in political activity.

"(c) For the purposes of this section, the term "political activity" is not limited to activities regulated by the District and includes soliciting, accepting, receiving, or making political contributions or other political activities."

(d) Section 5 (D.C. Official Code § 1-1171.04) is amended to read as follows:

"Sec 5. Enforcement.

"A violation of this act shall constitute a violation of the Code of Conduct as defined in section 101(7) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(7)), and shall be enforceable by the Board in accordance with that act."

(e) Section 6 (D.C. Official Code § 1-1171.05) is repealed.

(f) Section 7 (D.C. Official Code § 1-1171.06) is amended by striking the phrase "Board of Elections and Ethics" and inserting the word "Board" in its place.

(g) A new section 7a is added to read as follows:

"Sec. 7a. Conforming amendment.

"Section 101(7) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01(7)), is amended by adding a new subparagraph (E-i) to read as follows:

"(E-i) The Prohibition on Government Employee Engagement in Political Activity Act of 2010, effective March 31, 2011 (D.C. Law 18-335; 58 DCR 599);".

(h) Section 8 (D.C. Official Code § 1-1171.07) is amended to read as follows.

"Sec. 8. Applicability.

"(a) This act shall apply as of January 29, 2013.

“(b) For an offense committed between January 29, 2013, and the effective date of the Prohibition on Government Employee Engagement in Political Activity Emergency Amendment of 2013, effective March 7, 2013 (D.C. Act 20-25; 60 DCR 3986)(“Emergency Act”), this act shall not be construed to prohibit any conduct that was proscribed under the federal Hatch Act, 5 U.S.C. § 7321 *et seq.*, or this act, or authorize any penalties that were not available before the effective date of the Emergency Act.”.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report for the Prohibition on Government Employee Engagement in Political Activity Amendment of 2013, passed on 2nd reading December 3, 2013 (Enrolled version of Bill 20-117), as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia