

Local Hatch Act 2013

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 Act of 2013”.

Sec. 2 Definitions.

For the purposes of this act, the term:

- (1) “Board” means the 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) “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.
- (3) “Employee” means:
 - (A) Any individual paid by the District government from grant or appropriated funds for his or her services or holding office in the District of Columbia, other than the following (if not otherwise employed by the District):
 - (i) Employees of the courts of the District of Columbia;
 - (ii) The Mayor;
 - (iii) The Attorney General, after January 1, 2018;
 - (iv) The members of the Council;
 - (v) Advisory Neighborhood Commissioners;
 - (vi) Members of the State Board of Education; or
 - (vii) Members of the District of Columbia Statehood Delegation;
 - (B) A member of a board or commission who is nominated for a position pursuant to section 2(e) of the Confirmation Act of 1978, approved March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(e)); and
 - (C) A member of a board or commission who is nominated for a position pursuant to section 2(f) of the Confirmation Act of 1978, approved March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(f)), when the member is engaged in political activity that relates to the subject matter that the member’s board or commission regulates.
- (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.
- (7) “Partisan political office” means any office in the District government for which any candidate is nominated or elected as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected, but shall exclude any office or position within a political party or affiliated organization.
- (8)
- (A) “Political Activity” means any activity that is regulated by the District directed toward the success or failure of a political party, candidate for partisan political office, partisan political group, ballot initiative, or referendum. For purposes of section 4, political activity is not limited to activities regulated by the District.
 - (B)
 - (i) The Board may, by rule, define certain basic activities as non-political activities.
 - (ii) The term “non-political activities” shall include:
 - (I) Media inquiries;
 - (II) Answering questionnaires; and
 - (III) Scheduling.
- (9)
- (A) “Political Contribution” means:
 - (i) A gift, subscription, loan, advance, or deposit of money, or anything of value, made for any political purpose;
 - (ii) A contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any political purpose;
 - (iii) A payment by any person, other than a candidate or a political party or affiliated organization, of compensation for the personal services of another person which are rendered to any candidate or political party or affiliated organization without charge for any political purpose; and
 - (iv) The provision of personal services, paid or unpaid, for any political purpose.

(B) The term “political contribution” shall not include the value of services provided without compensation by any individual on behalf of any candidate, campaign, political party, or partisan political group.

(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.

Sec. 3. Political activity authorized; prohibitions.

(a) An employee may take an active part in political management or in political campaigns; provided, that an employee shall not:

(1) Use his official authority or influence for the purpose of interfering with or affecting the result of an election;

(2) Knowingly solicit, accept, or receive a political contribution from any person, except if the employee has filed as a candidate for political office;

(3) File as a candidate for election to a partisan political office; or

(4) Knowingly direct, or authorize anyone else to direct, that any subordinate employee participate in an election campaign or request a subordinate to make a political contribution.

(b) The Mayor and each member of the Council may designate one employee while on leave to perform any of the functions described in subsection (a)(2) of this section; provided, that:

(1) The employee shall not perform the activities while the employee is on duty or in any room or building occupied in the discharge of official duties in the District government, including any agency or instrumentality thereof;

(2) Any designation pursuant to this subsection shall be made in writing to the Secretary of the District of Columbia or the Secretary to the Council;

(3) Any designated employee shall file a report within 15 days of being designated and as otherwise required pursuant to section 224 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Act of 2011, effective April 27, 2012 (D.C. Law 19-124, D.C. Official Code § 1-1162.24); and

(4) The Mayor and the Council shall issue standards of conduct implementing this subsection.

Sec. 4. Political activities on duty; prohibition.

(a) An employee shall not engage in political activity:

(1) While the employee is on duty;

- (2) In any room or building occupied in the discharge of official duties in the District government, including any agency or instrumentality thereof;
 - (3) While wearing a uniform or official insignia identifying the office or position of the employee; or
 - (4) Using any vehicle owned or leased by the District of Columbia, including any agency or instrumentality thereof.
- (b) An employee may not coerce, explicitly or implicitly, any subordinate employee to engage in political activity.
- (c) For 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.

Sec. 5. Enforcement.

A violation of this act shall constitute a violation of the Code of Conduct set forth 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.

Sec. 6. Repealed

Sec. 7. Rules.

The Board, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this act.

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 paragraph (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);".

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, passed on emergency basis on February 19, 2013 (Enrolled version

of Bill 20-137)(“Emergency Act”), this 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. 9. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report 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. 10. 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), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 St. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.