

WEST VIRGINIA DEPARTMENT OF TRANSPORTATION
ADMINISTRATIVE PROCEDURES
VOLUME III, CHAPTER 18

SUBJECT: PAYROLL/PERSONNEL
CHAPTER TITLE: POLITICAL ACTIVITIES

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Effective: 10/15/96

Depending on the type and nature of employment, state law prohibits employees from engaging in certain political activities. Some restrictions apply to all employees while others do not. These prohibitions include the following:

- (1) Employees cannot appoint, promote, demote or dismiss (from any position in the classified service under the State Division of Personnel) or in any way favor or discriminate against anyone in the classified service on the basis of politics. (All employees)
- (2) Employees cannot seek or attempt to use any political endorsement in connection with any appointment in the classified service. (All employees)
- (3) Employees cannot use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position for the purpose of influencing the vote or political action of any person, or for any consideration. (All employees)
- (4) Employees in the classified service cannot be a candidate for any national or state paid public office or court of record; or hold any paid public office; or be a candidate or delegate to any state or national political party convention, a member of any national, state, or local committee of a political party, or a financial agent or treasurer.
- (5) Employees in the classified service cannot (directly or indirectly) solicit or receive any assessment, subscription, or contribution, or perform any service for any political party, committee, or candidate for compensation (other than for expenses actually incurred) or in any manner take part in soliciting any such assessment, subscription, contribution, or service of any employee in the classified service.

(6) Employees in the classified service or employees covered by the Hatch Act (employees whose principal employment is in connection with any activity which is financed in whole or in part by loans or grants made by the United States or federal agency) cannot use their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office.

(7) Employees in the classified service or employees covered by the Hatch Act cannot (directly or indirectly) coerce, attempt to coerce, command, or advise 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.

(8) No employee of the Division of Highways can be a candidate for, or hold any public office, or be a member of any political party committee.

(9) No employee covered by the Hatch Act can be a candidate for elective office.

These prohibitions are contained in W.V. Code §29-6-20 and 17-2A-5. For most of these provisions, a willful violation is a criminal offense under W.V. Code §29-6-22. The penalty for a conviction is a fine of not less than \$100 or more than \$500 or imprisonment in the county jail not to exceed one year, or both a fine and imprisonment.

Additionally, an employee convicted under this section has to forfeit his position and is not eligible for employment by the state for five years.

In construing these provisions of the law, the Attorney General's Office has issued the following directives:

(1) Employees in the classified service are prohibited from working as poll clerks or ballot commissioners, but may assist with the distribution of campaign materials outside the polls, provided they are not paid a fee for their services other than for actual expenses incurred.

(2) Employees in the classified service are prohibited from selling tickets for political affairs to other employees in the classified service. Employees in the classified service may sell tickets to political affairs to persons not in the classified service, provided that they are not paid a fee other than for actual expenses incurred.

(3) Employees in the classified service may serve on a campaign committee for a candidate seeking elective office, so long as such employee does not function as a financial agent or treasurer. The other prohibitions still apply even if an employee in the classified service serves on a campaign committee as provided above.

In addition to the provisions contained above, W.V. Code §17-19-4 prohibits any Division of Highways employee from operating, encouraging, or participating in any kind of system whereby a percentage of employees' salaries is donated or withdrawn for political purposes. This prohibition is aimed at what is commonly known as a "flower fund."

There are general election laws in Chapter 3 of the West Virginia Code that provide, among other things, that:

(1) No person shall use any room or building designated for official State business, as a

facility for soliciting political contributions of any kind from any person or organization.

(2) No person shall coerce or intimidate any employee into contributing to or participating in any political activity.

Violations of these prohibitions are misdemeanors and a person convicted of violating either of these prohibitions can be confined in jail for up to a year or fined up to \$1,000.00, or both fined and jailed.



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The following list is provided to inform classified employees, in simple terms, as to which political activities are acceptable.

Classified employees may:

- Campaign for a candidate or party during non-work time, off of State property, and without use of State supplies or equipment, if paid only for actual expenses incurred.
- Sell tickets to political affairs to individuals other than employees of the classified service.
- Erect campaign signs on private property, as long as the property is not used as a State office or an official office site for the State.
- Attend political dinners, rallies, and dances.
- Serve on campaign committees for a candidate, if not compensated.
- Be a candidate for elective office by requesting a leave of absence without pay commencing with filing date (except for employees of the Division of Highways and other employees who are under the Hatch Act).
- Make a monetary contribution to a political party or candidate within limits established by law.
- Place a campaign sticker on a personal vehicle that is not used for State business.
- Wear campaign buttons, display bumper stickers, or wear apparel with political logos or endorsements during non-work time, off State property, and not on State-issued uniforms or equipment.



Effective: 10/15/96

The following list is provided to inform classified employees, in simple terms, as to which political activities are not acceptable.

Classified employees may not:

- Serve as a ballot commissioner or election official working inside the polling place, or serve as a campaign financial agent or treasurer.
- Sell tickets to political affairs to employees in classified service.
- Be a candidate for any paid elective public office, or be a candidate or delegate to any State or national political party convention, or seek membership in any national, State, or local committee of a political party without being on unpaid leave of absence. (Division of Highways employees

and other employees under the Hatch Act must resign - and immediately vacate - their positions to be candidates for public office, candidates or delegates to a political convention, or members of political party committees.)

- Hold any paid elective public office, or be members of a political party committee.
- Post or distribute campaign literature in a State facility.
- Wear apparel with political logos or endorsements, or wear campaign buttons during work hours when their position requires that they be in contact with the public.
- Use any official authority or influence to interfere or influence an election or nomination for office.
- Solicit or receive any assessment, subscription, or contribution from employees in the classified service.
- Directly or indirectly coerce, attempt to coerce, command, or advise a State or local officer or employee to pay, lend, or contribute anything of value to a party, organization, agency, or person for political purposes.

