



The purpose of this document is to provide direction regarding permitted and prohibited political activities for employees within agencies of the State of West Virginia and county health departments affiliated with the Division of Personnel.

Political activities of employees classified under the Division of Personnel’s merit system are delineated in West Virginia Code § 29-6-20 and Section 16 of the Division of Personnel’s *Administrative Rule*, and are permitted or prohibited, as follows. Please note that exempt (not classified or covered by civil service) employees and employees of the Division of Highways whom might otherwise be permitted by the civil service statute and/or rule to participate in certain political activities, may be prohibited from doing so by certain provisions of the federal Hatch Act and/or certain provision of State law.

The issue of political activities for State employees is complex and requires determination of the application of the appropriate State and/or federal law. The intent of this document is to provide some clarification in this matter. It is suggested that this information be posted or circulated to employees within each Department/Bureau/Division. Specific questions regarding this issue should be directed to the Division of Personnel, Employee Relations Section at 304-558-3950, extension 57209.

<b>CLASSIFIED EMPLOYEES MAY</b>	
1.	Serve as a poll clerk or worker.
2.	Be a candidate for or serve as a delegate to any state or national political party convention.
3.	Voluntarily campaign for a candidate or party during non-work time, off of state property, and without use of state supplies or equipment within the provisions of Election Guidelines and law, so long as they are not paid a fee other than actual expenses incurred.
4.	Voluntarily sell tickets to political affairs to individuals other than employees in the classified service during non-work hours.
5.	Voluntarily erect campaign signs on private property, as long as property is not used as a state office or official office site by the state.
6.	Voluntarily attend political dinners, rallies, and dances.
7.	Voluntarily serve on campaign committees for a candidate, so long as not receiving compensation for services.
8.	Be a candidate for paid local partisan or non-partisan elective office (except court of record) by taking an unpaid leave of absence commencing with the filing date. A leave of absence is not necessary to be a candidate for an unpaid elective office permitted by statute.

<b>CLASSIFIED EMPLOYEES MAY NOT</b>	
1.	Sell tickets to political affairs to employees in the classified service.
2.	Serve as a campaign financial agent or treasurer for a political committee or candidate.
3.	Be a candidate for any partisan or non-partisan national or state paid public office or court of record.
4.	Be a member of any national, state, or local committee of a political party.
5.	Hold any paid elective or appointive office.
6.	Solicit or receive any assessment, subscription, or contribution from employees in the classified service.
7.	Use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, for the purpose of influencing the vote or political action of any person.
8.	Post or distribute campaign literature in a state office building or during work hours. This includes employee organization bulletin boards.

## **Federally Funded Programs [Hatch Act]**

On December 19, 2012, Congress passed the Hatch Act Modernization Act of 2012 affecting the federal Hatch Act governing state and local employees, found in 5 U.S. Code §§ 1501-1508. The Hatch Act Modernization Act allows most State and local government employees to run for partisan political office. Prior to this change, State and local government employees were prohibited from running for partisan office if their principle employment is in connection with an activity which is financed in whole or in part by federal loans or grants, even if the connection is relatively minor. With the change, the federal Hatch Act no longer prohibits state and local government employees from running for partisan office unless the employee's salary is paid for completely by federal loans or grants. However, the Hatch Act Modernization Act did NOT change the federal Hatch Act's prohibitions on coercive conduct or misuse of official authority for partisan purposes. A State or local employee is still covered by these prohibitions if the employee works in connection with a program financed in whole or in part by federal loans or grants, even if the connection is relatively minor.

Hatch Act provisions do not apply to – (A) an individual who exercises no functions in connection with federally financed activities; or, (B) an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by State or political subdivision(s) thereof, the District of Columbia or by recognized religious, philanthropic, or cultural organizations.

More Hatch Act Information can be found at [www.osc.gov/Pages/HatchAct.aspx](http://www.osc.gov/Pages/HatchAct.aspx).

## **Division of Highways Employees [W. Va. Code § 17-2A-5]**

The Division of Highways' law provides, in pertinent part, that:

“... No person may be appointed as commissioner or employed in any other capacity or employment by the commission or commissioner when he is a candidate for or holds any public office or is a member of any political party committee. In the event the commissioner or any employee of the commission or commissioner becomes a candidate for or holds any public office or becomes a member of any political party committee, his office as commissioner or position as employee, as the case may be, shall be immediately vacated.”

## **Time Off for Voting [W. Va. Code § 3-1-42]**

Employees may be granted time off from work in accordance with W. Va. Code § 3-1-42, which states:

“Every person entitled to vote at any election who may be employed by any person, company, or corporation on the day on which such election shall be held in this state, shall, on written demand of such employee, made at least three days prior thereto, be given a period of not more than three hours, if necessary, between the opening and the closing of the polls on such day, for the purpose of enabling such person to repair to the place of voting to cast his vote and return, without liability to any penalty or deduction from his usual salary or wages on account of such absence, except that any employee, who has three or more hours of his own time away from his work or place of employment at any time between the hours of the opening and the closing of the polls on election day and who fails or neglects to vote or elects not to vote during such free time away from his work or employment, may be subject to wage or salary deductions for the time actually absent from his work or employment for voting in such election.



In essential government, health, hospital, transportation and communication services and in production, manufacturing and processing works requiring continuity in operation, the employer may, upon receipt of such written demand for voting time off, arrange and schedule a calendar of time off for any and all of his employees for voting so as to avoid impairment or disruption of essential services and operations, but every such schedule or calendar of time off for voting so arranged shall provide ample and convenient time and opportunity for each employee of such services or works to cast his vote as herein provided.”

### **Promise of Employment or Other Benefits [W. Va. Code § 3-8-12(e)]**

“A person may not, directly or indirectly, promise any employment, position, work, compensation or other benefit provided for, or made possible, in whole or in part, by act of the Legislature, to any person as consideration, favor or reward for any political activity for the support of or opposition to any candidate, or any political party in any election.”

### **Election Day Holiday**

Section 14.1.a. of the Division of Personnel’s *Administrative Rule*, entitled official holidays, states, in pertinent part, that “Employees shall be released from work with pay ... any day on which a state-wide election (Primary, General, or Special) is held ...” This section shall not apply to local (e.g., county or municipal) elections.

### **Links to West Virginia Code and other references:**

- [W. Va. Code § 3-1-42](#) – Time Off for Voting
- [W. Va. Code § 3-8-12\(e\)](#) – Promise of Employment or Other Benefits
- [W. Va. Code § 17-2A-5](#) – Division of Highways Employees
- [W. Va. Code § 29-6-1](#) – Civil Service System
- [W. Va. Code § 29-6-20](#) – Favoritism or discrimination because of political or religious opinions, affiliations or race; political activities prohibited
- [5 U.S. Code §§ 1501-1508](#) – Political Activity of Certain State and Local Employees (Title 5, Part II, Chapter 15, Sections 1501 through 1508)
- [Federal Hatch Act](#)
- [WV Division of Personnel Administrative Rule](#) – Election Day Holiday (scroll to Section 14.1)
- [WV Division of Personnel Administrative Rule](#) – Political Activities (scroll to Section 16)

