



POLICY & PROCEDURE

PORTAGE POLICE DEPARTMENT

SUBJECT: **HATCH ACT**

SCOPE: All Department Personnel
DISTRIBUTION: Policy & Procedure Manual

REFERENCE: Federal: 5 U.S.C § 1501(4); WI State
Statutes: 11.36, 13.625

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 RESCINDS
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WILEAG 5TH EDITION
STANDARDS: N/A

PURPOSE: The purpose of this Policy & Procedure is to provide information and guidance to members of the Portage Police Department to ensure compliance with federal and state requirements regarding the Hatch Act and Wisconsin Little Hatch Act, also refer to Policy & Procedure 1.03: Code of Conduct, II. F. 45.

This Policy & Procedure consists of the following numbered sections:

- I. POLICY
- II. APPLICABILITY
- III. PROCEDURES

I. POLICY

- A. In accordance with the federal Hatch Act and Wisconsin's Little Hatch Act, it is the policy of the Portage Police Department to prohibit department personnel from using their official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office; or directly or indirectly coercing, attempting to coerce, commanding, or advising a state or local employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.

II. APPLICABILITY

- A. The Hatch Act is a federal law, however it may apply to more than just individuals employed by an agency in the federal executive branch; it also applies to 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.

1. To determine whether a municipal employee is subject to the Hatch Act, one must assess whether the employee performs duties in connection with a program financed by federal funds. Generally, this includes those employees involved in law enforcement.
2. Additionally, employees who are on annual leave, sick leave, leave without pay, or administrative leave are still subject to the Hatch Act.
3. Wisconsin has also enacted a "Little Hatch Act" which imposes additional restrictions on what political activities municipal and state employees may engage in.

III. PROCEDURES

A. The Hatch Act provides general prohibitions for officers:

1. From using their official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office.
2. Directly or indirectly coercing, attempting to coerce, commanding, or advising a state or local employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.
3. If the salary of the employee is paid completely, directly or indirectly, by loans or grants made by the United States or a Federal agency, be a candidate for elective office.
 - a) Note that 3 above does not apply to a local or state employee if they are running for a non-partisan position, meaning the position does not have a political party attached to it. This is true even if the local or state employee's salary is entirely paid via federal funds.
4. In addition to these federal prohibitions, Wisconsin Statutes for the Little Hatch Act provides prohibitions noted in 11.36:
 - a) No person may solicit or receive from any state officer or employee or from any officer or employee of the University of Wisconsin Hospitals and Clinics Authority any contribution or service for any political purpose while the officer or employee is engaged in his or her official duties, except that an elected state official may solicit and receive services not constituting a contribution from a state officer or employee or an officer or employee of the University of Wisconsin Hospitals and Clinics Authority with respect to a referendum only. Agreement to perform services authorized under this subsection may not be a condition of employment for any such officer or employee.

- b) No person may solicit or receive from any officer or employee of a political subdivision of this state any contribution or service for any political purpose during established hours of employment or while the officer or employee is engaged in his or her official duties.
- c) Every person who has charge or control in a building, office or room occupied for any purpose by this state, by any political subdivision thereof or by the University of Wisconsin Hospitals and Clinics Authority shall prohibit the entry of any person into that building, office or room for the purpose of making or receiving a contribution.
- d) No person may enter or remain in any building, office or room occupied for any purpose by the state, by any political subdivision thereof or by the University of Wisconsin Hospitals and Clinics Authority or send or direct a letter or other notice thereto for the purpose of requesting or collecting a contribution.
- e) In this section, "political purpose" includes an act done for the purpose of influencing the election or nomination for election of a person to national office, and "contribution" includes an act done for that purpose.
- f) This section does not apply to response by a legal custodian or subordinate of the custodian to a request to locate, reproduce or inspect a record under s. 19.35, if the request is processed in the same manner as the custodian or subordinate responds to other requests to locate, reproduce or inspect a record under s. 19.35.

5. Also refer to WI Statute 13.625 for further prohibitions.

B. Accepted activities for officers.

- 1. Officers may only engage in the activities listed below while acting in their civilian capacities, meaning they must be off-duty and must be out of uniform. This also means the officer may not present him or herself as a law enforcement officer while engaging in these activities.
- 2. However, while following the above parameters, officers may engage in the following:
 - a) Running as a candidate for public office in nonpartisan elections, that is, elections where candidates are running with no party affiliation;
 - b) Holding elective office in political parties, clubs, and organizations;
 - c) Campaigning for candidates for public office in partisan and nonpartisan elections;
 - d) Contributing money to political organizations;
 - e) Attending and giving a speech at a political fundraiser, rally, or meeting;⁵

- f) To vote as he chooses and to express his opinions on political subjects and candidates;
- g) Assist in voter registration drives;
- h) Sign and circulate nominating petitions;
- i) Campaign for or against referendum questions, constitutional amendments and/or municipal ordinances;
- j) Distribute campaign literature in partisan elections;
- k) Volunteer to work on a partisan political campaign; and
- l) Participate in any activity not specifically prohibited by law or regulation.

C. Violations/Penalties

1. Should a complaint be received and investigated and the federal Merit Systems Protection Board finds that an employee violated the Hatch Act and that the violation warrants dismissal from employment, the employing agency must either remove the employee or forfeit a portion of its federal assistance equal to two years of the employee's salary.
2. If within eighteen months of his or her removal, the employee becomes employed by a state, D.C., or local agency within the same state, then that agency, or the agency from which the employee was removed may lose some of its federal funding.

Keith J. Klafke
Chief of Police

This Policy & Procedure cancels and supersedes any and all previous written directives relative to the subject matter contained herein.

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