

MEMO

TO: All Elected County Officials, Department Directors and County Employees
FROM: Sim Gill, District Attorney
DATE: February 1, 2018
RE: Laws Pertaining to Political Activities of Public Employees

The 2018 election year is now upon us. As in past election years, the District Attorney's Office would like to remind elected County officials, administrators and employees of the law's requirements and prohibitions pertaining to political activities in the county workplace.

Activities of Officers and Employees

The political activities of County employees – elected, exempt, appointed, and merit – are governed by § 17-33-11 (U.C.A.) – the County Personnel Management Act. The following political activities are permitted under the law: County employees may voluntarily contribute funds to political groups, may engage in other political activities on their own time and may run for public office. Merit employees may take an unpaid leave of absence in order to run for political office. Such a leave is at the employee's discretion and may be for some or all of the time between filing a declaration of candidacy and the end of the campaign. No adverse employment action may be taken against officers or employees who file for office or take a leave of absence for political purposes. There is no requirement that an employee resign merit employment prior to seeking elected office.

The following activities are unlawful and engaging in them will subject a person to criminal prosecution and removal from office. A person cannot be denied the opportunity to apply for County merit employment nor be dismissed from a merit position based on political opinion or affiliation; County elected officers and employees may not “directly or indirectly coerce, command, or advise” any County officer or employee to contribute money or anything else of value to political parties or candidates; and officers and employees may not make another employee's working status dependent on the employee's support or lack of support for a political party or candidate.

In addition, no officer or employee may engage in any activity for political purposes during the county's normal hours of employment, unless the employee is on leave, nor shall any person solicit political support or contributions from County employees during hours when he or she is actively employed. An employee may voluntarily contribute to the party or candidate of the employee's choice.

State statute and county ordinance define what it meant by “political purpose” and “hours of employment.” “Political purpose” includes actions “done with the intent or in a way to influence or tend to influence, directly or indirectly,” someone to support or vote for a candidate or person seeking office at a caucus, convention, or election. Sec. 20A-11-101(40) (U.C.A.). “Hours of employment” for Salt Lake County officers and employees are established by county ordinance as 8 AM to 5 PM, Monday through Friday; that section further provides that all “full-time county employees shall work forty hours per week.” Section 1.06.010.

The foregoing applies to an elected official's use of the services of merit-exempt employees – including secretaries, chief deputies and administrative assistants – in working on re-election campaigns

or other political activities. Several provisions of the Personnel Management Act specifically apply to both merit employees and merit-exempt elected officials, chief deputies, assistants, and other appointees. That is, merit-exempt employees may not directly or indirectly solicit political support, affect an employee's personnel status based on political considerations, solicit political contributions from County employees during hours of employment, nor "engage in any political activity during the hours of employment." § 17-33-11 (U.C.A., 1983).

In summary, a County employee may engage in any political activity, including becoming a candidate, but must do so wholly on his or her own time (off hours or vacation) and without injecting politics into the County workplace.

Hatch Act

The Federal Hatch Act prohibits government employees, including Salt Lake County employees, from becoming candidates for partisan political office if their County salary is derived in whole or substantial part from Federal monies, such as contracts, grants-in-aid or other Federal sources. This is an express exception to the general rule which permits County employees to freely become political candidates. If you have a question regarding the funding source of an employee's salary for purposes of the Hatch Act, please contact our office.

Use of County Equipment and Resources

The County Officers and Employees Disclosure Act makes it unlawful for a public officer or employee to use his or her position to secure special privileges for himself or others. County Ordinance (§2.07.402) prohibits the use of any County property or resources, including time, other county employees, equipment, facilities, materials, the County Seal, or buildings for any political activities. Because of these provisions, it would be unlawful for a County official or employee to use a County employee's time, office equipment, electricity, postage, vehicle, or the courier or email system for political purposes. The sole exception would be the scheduling and use of public meeting rooms in accordance to established County policy. County Ordinance (§ 19.82.120) prohibits signs on publicly owned land, including political signs.

Specifically regarding using employees for political purposes, these provisions make it unlawful for a County official or employee to require, coerce or advise a County employee to engage in political activity or to allow a County employee to engage in political activity during normal business hours, when the employee is not on leave. It is also unlawful to make an employee's employment status dependent on such political engagement. As already mentioned, any employee may voluntarily engage in political activities on his or her own time and using his or her own resources.

County Campaign Finance Disclosure Ordinance

In addition to the requirements of state law, the County has adopted an ordinance which requires candidates for County elected offices to file statements disclosing campaign contributions and disbursements. Section 2.72A.101, *et seq.*, Salt Lake County Code of Ordinances, 2001. In brief summary, this ordinance requires candidates to form a personal campaign committee and file with the County Clerk a written statement setting out the names of the candidate and officers of the committee. All revenues and expenditures of the campaign must be disclosed on forms available from the Election Clerk. The disclosure forms are public information. The ordinance sets significant limits on the receipt of contributions, such as prohibiting cash contributions in excess of \$100.00 from any one individual and prohibiting anonymous contributions. In addition, ordinance

prohibits a candidate from accepting contributions made by current or former County contractors. County Ordinance 2.72A.104.D.

Section 2.72A.202 of the disclosure ordinance requires that every candidate select a personal campaign committee consisting of one or more persons and also requires that – before the committee makes any disbursement in excess of \$250.00 on behalf of the candidate or incurs any obligation to make a disbursement – the candidate file with the County Clerk a signed written statement setting forth that a personal campaign committee has been appointed and giving the names and addresses of the candidate, the committee secretary and other committee officers. Candidates are also required to open a separate campaign fund bank account, are prohibited from comingling campaign funds with business or personal funds and must report all contributions deposited to or expenditures made from the campaign account not already reported. The County Clerk’s Office has forms available for this purpose. Please review the ordinance itself for specific information regarding filing dates, report requirements, contribution limits, penalties, and political action committees.

Sanctions for violation of state statutes and county ordinances may include criminal prosecution up to a Class A misdemeanor, removal from office, and ineligibility for future county employment.

If you have any questions, please contact myself or our Civil Division for assistance. Good luck to all of you who may be seeking election or supporting a candidate for political office.