

ADM-11.07, "Employee Political Activity," July 1, 2004

SCDC POLICY/PROCEDURE

Change 1 to ADM-11.07: 6, 7

NUMBER: ADM-11.07

TITLE: EMPLOYEE POLITICAL ACTIVITY

ISSUE DATE: JULY 1, 2004

RESPONSIBLE AUTHORITY: DIVISION OF HUMAN RESOURCES

OPERATIONS MANUAL: ADMINISTRATION

SUPERSEDES: ADM-11.07 (March 1, 2000)

RELEVANT SCDC FORMS/SUPPLIES: 16-2

ACA/CAC STANDARDS: 3-ACRS-1A-22, 3-4024, 3-4048

STATE/FEDERAL STATUTES: South Carolina Constitution, Article VI, Section 3; Hatch Act

THE LANGUAGE USED IN THIS POLICY/PROCEDURE DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS POLICY/PROCEDURE DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENTS OF THIS POLICY/PROCEDURE, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

PURPOSE: To ensure that employees of the South Carolina Department of Corrections follow proper procedures when filing for public office or engaging in other politically related activities.

POLICY STATEMENT: To uphold the integrity and professionalism of the Agency and to comply with the requirements of the Hatch Act, the South Carolina Department of Corrections will prohibit its employees from using their state position for political gain. (3-ACRS-1A-22, 3-4024, 3-4048)

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SPECIFIC PROCEDURES:

1. **DUAL OFFICE HOLDING:** Pursuant to Article VI, Section 3, of the South Carolina Constitution, "no person may hold two offices of honor or profit at the same time..." Because an Attorney General's Opinion has set forth that a Correctional Officer of the South Carolina Department of Corrections "would serve as a public officer for dual office holding purposes," all employees considering a public office/position should first consult with the Office of the General Counsel to ensure that a successful election would not violate the dual office holding prohibition. Violation of this constitutional provision could cause the employee's employment with the South Carolina Department of Corrections to be terminated.

2. **CANDIDACY FOR NON-PARTISAN ELECTED OFFICES:** A state employee may run for and accept non-partisan elected offices during the employee's personal time and may remain in active employment status during his/her candidacy and/or official appointment to such offices. Employees considering a political campaign should submit to the Agency Director a written notification outlining their intentions before filing. All political activities must be conducted during the employee's personal time. The State Ethics Act prohibits political campaigning or solicitation in state owned buildings as well as use of state-owned equipment or materials.

3. **CANDIDACY FOR PARTISAN ELECTED OFFICES:** Employees may run for and accept partisan elected offices during the employee's personal time without reduction in salary and status, when, in the judgement of the Agency Director, the individual can continue to effectively handle assigned duties, and if they are not otherwise disqualified pursuant to Section 1, above, or as a result of the Hatch Act. (See Section 3.2 for additional information on the Hatch Act.) If the employee's assigned duties cannot be effectively handled, the employee may be required to take annual leave or leave of absence without pay or the employee may be required to resign or be terminated. Any employee who is in a policy-making position, law enforcement officers, or who regularly are trusted with confidential and/or legally privileged information about the Agency must, however, either resign or be terminated from their employment position when they become a candidate for a partisan political office. If the employee concerned is the Agency Director, the Governor shall make the determination of whether s/he can continue to effectively handle his/her assigned duties. All political activities must be conducted during the employee's personal time. The State Ethics Act prohibits political campaigning or solicitation in state owned buildings as well as use of state-owned equipment or materials. The following requirements are applicable to state employees participating in partisan elections:

3.1 Declaration of Intent:

3.1.1 Employees considering a political campaign should submit to the Agency Director a written notification outlining their intentions before filing. Any employee intending to run for political office in a partisan election must submit through his/her supervisor to the Division Director of Human Resources and to the Agency Director a written memorandum outlining his/her intentions to file for office and any other relevant facts (e.g., current employment status with the SCDC, office to which the employee intends to file for candidacy, etc.). The written memorandum must include an analysis of any potential conflict that might occur during the campaign or while holding an elective office, and a statement of whether s/he proposes to continue employment with the SCDC if s/he is elected.

3.1.2 Should any employee declare him/herself as a candidate or file for political office in a partisan election or otherwise indicate an intent to run in such an election without previously notifying the Agency Director by written memorandum, s/he will be considered to have resigned his/her position. (NOTE: Should any employee become a candidate for office as a result of fund raising, citizen petition, commission of a name/recognition poll, or other such conduct which would give the appearance that the employee may run for office, the Division Director of Human Resources may confer with the employee to discuss his/her intent. If the employee intends to run for the office, s/he will be required to abide by the procedures set forth in 3.1.1, above. If the employee denies an intent to run for such office, s/he may be required to sign a statement to that effect, and the Division Director of Human Resources or a designee will serve as a witness and will sign the statement acknowledging such.)

3.1.3 Since the election to or the holding of any public office may create conflicts or the appearance of conflicts, employees are hereby advised that the Agency reserves the right to terminate or require the resignation of any employee who wins a general election.

3.2 Employees Covered Under the Hatch Act: State employees who are paid in whole or in part by federal funds or whose jobs are related to an activity which receives federal funds, may be covered by provisions of the federal Hatch Act which may prohibit political activity. Any employee who is principally employed by SCDC in connection with programs financed in whole or in part by federal loans or grants will be prohibited by law from becoming a candidate for political office in a partisan election. Such employees will be required to abide by the following requirements:

3.2.1 Employees covered under the Hatch Act will be required to resign their employment with SCDC prior to their announcement for election. Resignations must be submitted in writing to the appropriate supervising Warden, Division Director, or other higher authority.

3.2.2 Employees covered under the Hatch Act who do not submit a written resignation as specified in 3.2.1, above, will be terminated effective with the date of their filing for the office for which they intend to offer themselves as a candidate.

3.2.3 In those instances in which an employee becomes a candidate for a partisan election due to a citizens' petition, or by any other means, the employee's termination will become effective on the date that the candidacy is certified by the State Election Commission. The Division Director of Human Resources or designee will be responsible for securing this information. (3-ACRS-1A-22, 3-4024, 3-4048)

3.3 Employees NOT Disqualified by Law or Policy or Covered Under the Hatch Act: Employees who are otherwise not disqualified by law or policy from candidacy for office in a partisan election, and who are not principally employed by SCDC in connection with programs financed in whole or in part by federal loans or grants, may resign their position, may request annual leave (if the employee has accrued sufficient leave time), or may take leave without pay immediately upon their declaration of their candidacy or upon filing for political office in any partisan election, whichever occurs first. If in the judgement of the Agency Director, the employee's duties cannot be effectively handled, the employee may be required to resign or be terminated.

3.4 An employee not covered under the Hatch Act and otherwise eligible may request to use annual leave during the duration of his/her candidacy in a partisan election pursuant to the requirements of SCDC Policy/Procedure ADM-11.08, "Employee Leave," regarding annual leave. SCDC Form 16-2, "Leave and Attendance Report," will be used for this purpose. (3-ACRS-1A-22, 3-4024, 3-4048)

3.5 If an employee uses the maximum allowance of annual leave based on his/her scheduled work hours, and the annual leave is insufficient to cover the duration of his/her candidacy, the employee may request to be placed in leave without pay status. The combination of annual leave and leave without pay cannot exceed 180 calendar days. The employee will be responsible for making a written request to his/her supervisor to be placed on leave without pay status. Upon receipt, the supervisor will forward the request to through the Division Director of Human Resources and then to the Director - Office of Budget and Resource Management for approval and, if necessary, to the Agency Director, pursuant to Agency and State Human Resources Regulations and directives.

3.6 Once the election has concluded, the employee must return to work no later than three (3) working days following the certification of the election results by the State of South Carolina Election Commission. The employee will be required to contact the Division Director of Human Resources and indicate that s/he has returned to duty. Upon return of the employee, the employee may be placed back in active pay status under the following conditions:

3.7 The decision to return the employee to active pay status will rest with the Agency Director.

3.8 If the employee wins the election, s/he may be placed back in active pay status if the position to which the employee was elected will not interfere or create the appearance of conflicts with his/her SCDC job duties, i.e., the elected position is one that the employee can perform during his/her non-duty hours or is one in which the employee has sufficient annual leave available to cover the time needed away from his/her SCDC job duty to perform. Approval to return to active pay status will rest with the Agency Director.

3.9 Any employee who resigns or is terminated as a result of his/her candidacy in a partisan election may request to be rehired by the SCDC and be paid a salary in accordance with SCDC Policy/Procedure ADM-11.28, "Applicant Selection Process."

4. PARTICIPATION IN POLLS, OTHER POLITICAL ACTIVITY, AND LOBBYING: Any employee desiring to work at the polls during an election or desiring to perform lobbying activities during normal duty (working) hours must request and be approved to take annual leave under the current requirements contained in SCDC Policy/Procedure ADM-11.08. SCDC Form 16-2, "Leave and Attendance," will be used for this purpose. An employee who fails to comply with these requirements may be subject to corrective action up to, and including, termination. Employees may participate in other political activity, such as working for the election of another party, during the employee's personal time.

5. VOTING: Consistent with applicable Office of Human Resources regulations, employees who live at such a distance from their assigned work location so as to hamper their ability to vote outside of their scheduled duty hours may be approved by their immediate supervisor for a maximum of two (2) hours time off the job with pay for this purpose. SCDC Form 16-2, "Leave and Attendance," will be used for this approval. (3-ACRS-1A-22, 3-4024, 3-4048)

6. POLITICAL PARAPHERNALIA: Employees are prohibited from wearing or displaying any materials that relate to political opinions or preferences while on duty. This restriction also applies to any political campaign paraphernalia. This restriction does NOT apply to bumper stickers or other items that are affixed to an employee's privately owned vehicle.

7. DEFINITIONS

Employee refers to a person who works for a state agency, regardless of his/her status as full-time, probationary, part-time, temporary, temporary grant, classified, or unclassified.

Funding refers to the source of funds appropriated for payment of wages to an employee. These funds may be state, federal, other, or a combination of two or more.

Hatch Act refers to a federal law which applies to the political activity of certain state and local persons

principally employed by state or local executive agencies in connection with programs financed in whole or in part by federal loans or grants.

Non-Partisan Elections refers to those elections in which any person may offer him/herself as a candidate without declaring a party affiliation.

Partisan Elections refers to those elections in which any person (candidate or opponent) declares affiliation with any political party and/or organization in order to offer him/herself as a candidate.

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s/ Jon E. Ozmint, Director

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