



United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
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October 2, 1996
DO-96-037

MEMORANDUM

TO: Designated Agency Ethics Officials

FROM: Stephen D. Potts
Director

SUBJECT: Interim Rule Amending 5 C.F.R. Part 2635 to Conform with the Hatch Act Reform Amendments

The Office of Government Ethics (OGE) recently published an interim rule with request for comments, amending various sections of the Standards of Ethical Conduct for Employees of the Executive Branch (the Standards), 5 C.F.R. part 2635, to conform with the Hatch Act Reform Amendments of 1993 (HARA), Pub. L. 103-94. The interim rule was published on September 27, 1996, at 61 Fed. Reg. 50689-50691, and went into effect immediately. Any comments must be received by OGE on or before November 26, 1996.

Under the HARA, all executive branch employees, with the exception of employees in certain agencies and positions listed at 5 U.S.C. § 7323(b) and 5 C.F.R. § 734.401, and members of the uniformed services, may take an active part in political management or political campaigns. Previously, the Hatch Act had restricted the political activities of all but a relatively small class of higher level employees.

Accordingly, the gift exception at 5 C.F.R. § 2635.204(f) has been amended to reflect the redefined class of executive branch employees who, pursuant to the HARA, may take an active part in political management or political campaigns. Under this exception, those employees may accept from a political organization, as described in 26 U.S.C. § 527(e), meals, lodgings, transportation and other benefits, including free attendance at events, when provided in connection with their active participation in political management or political campaigns. The exception and the example following it also have been reworded to reflect the thrust of the HARA to permit political activities rather than prohibit them.

The reference to the Hatch Act at 5 C.F.R. § 2635.801(d)(7), among other statutes and regulations applicable to employees' outside employment and other outside activities, has been replaced with a reference to the HARA. Similarly, a note in the fundraising section of the Standards, following 5 C.F.R. § 2635.808(a)(2), has been reworded to refer employees to the restrictions in the HARA, at 5 U.S.C. § 7323(a)(2), on the solicitation, acceptance, or receipt of

political contributions, and to reflect changes made by the HARA to the restrictions on political solicitations at 18 U.S.C. §§ 602 and 607.

These changes to the Standards are primarily technical in nature, and do not purport to provide substantive guidance as to the HARA. Interim and final regulations regarding the political activities of Federal employees under the HARA have been issued by the Office of Personnel Management. See 59 Fed. Reg. 48765-48777 (September 23, 1994) and 61 Fed. Reg. 35088-35102 (July 5, 1996) [interim rule codified in part 734 of the 1995 and 1996 editions of title 5, Code of Federal Regulations]. Advice concerning political activities under the HARA may be requested from the Office of Special Counsel by letter addressed to that agency at 1730 M Street, NW., Washington, DC 20036, or by telephone on 202- 653-7188 or 1-800-872-9855.