



Keeping track of the rules relating to election and campaign activity for nonprofit, 501(c)(3) tax-exempt Community Action Agencies (CAAs) is never easy! But understanding them is critical. As the election season enters its final stretch, here's a quick review of some of the most significant rules.

The CAA, as an organization, may not participate in political campaign activities

The Internal Revenue Code prohibits 501(c)(3) tax-exempt organizations, including nonprofit CAAs, from “participat[ing] or interven[ing] in (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for election to a public office.”¹ This type of prohibited conduct is often referred to as “electioneering.” Therefore, 501(c)(3)s may not use their funds (from any source, whether government or private), organizational name, or other assets, including staff time and facilities, to support, endorse, or oppose political candidates. Nor may 501(c)(3)s create, support, or contribute to political action committees (PACs). *IRS Revenue Ruling 2007-41* provides a few examples of permissible nonpartisan political activities that 501(c)(3) tax-exempt organizations may engage in.

501(c)(3) nonprofit organizations that receive federal grant funding are prohibited by the cost principles contained in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (the Uniform Guidance) from using federal funds to engage in partisan political activities.² Nonprofit CAAs are also subject to the restrictions in the CSBG and Head Start Acts prohibiting them from using CSBG and Head Start funding on **nonpartisan** as well as **partisan** political activities.

CAA employees, board members, and volunteers may participate in election campaigns as **private citizens**, on their own time and without using CAA resources. Such participation may include contributing to political campaigns, participating in campaign activities, serving on political party committees, and endorsing candidates. The employee, volunteer, or board member must clearly separate their personal political campaign activity from the activities or statements of the CAA, and ensure that any such personal political activity is done on non-work time and without using CAA resources. This distinction does not mean that just because an individual is well known in the community as a CAA employee, volunteer, or board member, they may not engage in political campaign activity. It means only that in doing so, the individual should carefully distinguish their personal views from those of the CAA.



The Hatch Act applies to certain employees of nonprofit CAAs

Although the Hatch Act applies to certain nonprofit CAA employees, it is not nearly as broad as many people believe. The restrictions don't apply to all CAA employees,³ and those covered are only prohibited from engaging in a few, specific political activities. However, once an employee is deemed covered by the Hatch Act, the applicable restrictions apply at all times, during and outside of work, including when the employee is on paid or unpaid leave.

The Hatch Act applies to an employee of a nonprofit CAA who (1) is principally employed by the CAA or earns the majority of their income from a CAA and (2) works (for any portion of their time) in connection with CSBG- or Head Start-funded activities.

These employees are often referred to as “Hatched” and are specifically prohibited from: (1) using their official authority or influence to affect the result of an election or nomination for office; and (2) advising, commanding, or coercing other Hatched employees, either directly or indirectly, to make political campaign contributions (cash or anything of value) or loans.⁴ The federal Office of Special Counsel, which enforces the Hatch Act, has interpreted the latter provision to prohibit covered individuals from asking subordinate employees to make a political contribution or volunteer for a political campaign due to the inherently coercive nature of such a request.⁵

For example, a communications director of a nonprofit CAA would be considered “Hatched” if she works full-time for a CAA and spends any portion of her work time in connection with CSBG and/or Head Start- funded activities (e.g., she prepares outreach materials relating to CSBG and/or Head Start funded programs). Thus, during and outside of work, the communications director may not use her authority as the communications director of the CAA to influence others to vote for a political candidate. She should also exercise caution in soliciting political campaign contributions: she may not advise, command, or coerce any other Hatched employee to donate to any political campaign and she may not even ask any employee she supervises to do so. However, she may engage in most other political campaign activities, on her own time and using non-CAA resources, including, but not limited to:

- Managing or volunteering in others’ campaigns for elected office;
- Voting as she chooses;
- Expressing her own political opinions (and not referring to her position as communications director for the CAA when doing so); and
- Holding a political party office.

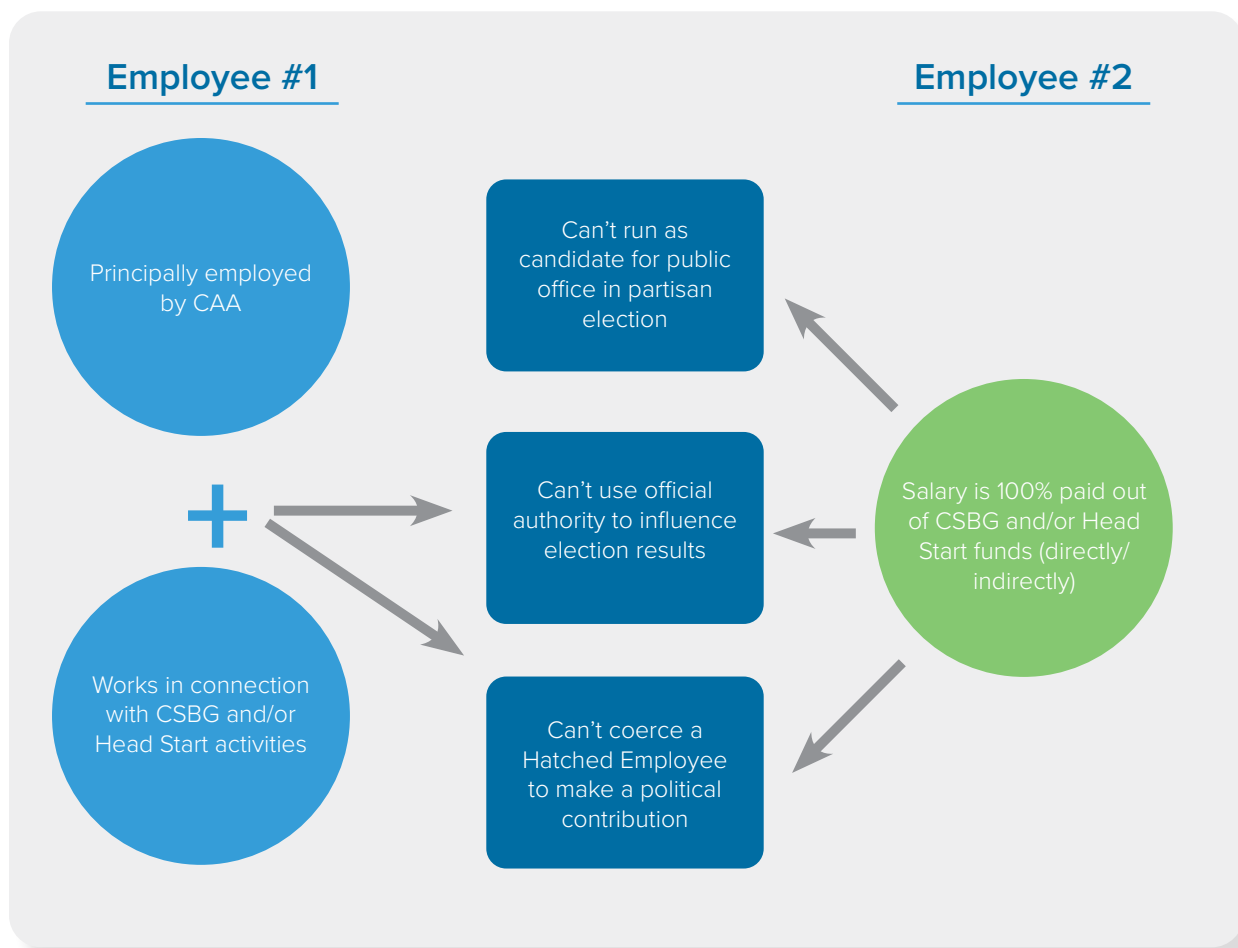
In addition, if the salary of the “Hatched” employee discussed above is completely (100%) paid for with CSBG and/or Head Start funds, that employee is further prohibited from being a candidate in a **partisan** election, including primaries.⁶ However, such an employee may still run for office in a **nonpartisan** election or continue to hold a public office obtained prior to being paid completely with CSBG and/or Head Start funds. Although the issue of whether an election is “partisan” is often decided by state or local law, typically an election will be considered partisan if any of the candidates represent, are supported by, or their names are identified on the ballot with, a political party.



For example, if the communications director discussed above receives a salary that is 100% paid for with CSBG and/or Head Start funds, then she may not run for a vacant seat in the state legislature if the candidates in that election are representing, supported by, or identified with political parties.

This graphic helps to illustrate application of the Hatch Act restrictions

Private/Nonprofit CAAs Hatch Act Restrictions



To recap, nonprofit CAA employees subject to the Hatch Act may, on their own time and outside of the workplace: (1) run for office in a nonpartisan election,⁷ (2) continue to serve in the offices to which they were elected prior to becoming subject to Hatch Act restrictions,⁸ (3) run for and hold office in a political party,⁹ and (4) participate in political campaigns, party organizations, and make and solicit contributions.¹⁰



Voter education, voter registration, and transportation to the polls

If conducted in a neutral and balanced manner, 501(c)(3) nonprofit CAAs may engage in these activities, but need to be careful about how they pay for time spent on these activities. Further, the activities cannot exhibit any bias for or against a particular candidate or political party. The CSBG and Head Start Acts expressly prohibit the use of CSBG and Head Start funds, and CSBG- or Head Start-funded employees or services, for voter registration activities and transportation to the polls.¹¹ Both Acts also prohibit using CSBG and Head Start funds and resources for partisan or nonpartisan political activity or any political activity associated with a candidate, or contending faction or group, in an election for public or party office. The Head Start Act, however, permits a nonpartisan organization (the League of Women Voters, for example) to conduct nonpartisan voter registration in Head Start-funded facilities during hours of operation.¹²

NOTE: The CSBG Act also states that programs funded with CSBG must not be conducted in a manner that could result in their identification with any nonpartisan or partisan political activities, with activities providing voters with transportation to the polls, or with any voter registration activity. For more information about conducting voter registration activities with CSBG funds, see [Information Memorandum 81](#) from the federal Office of Community Services and CAPLAW's resource, [Do's and Don'ts of Voter Registration](#).

Let's get practical

Here's a list of **CANS** and **CAN'TS** to steer you through the rules:

- Individual employees **CAN** run for office in a nonpartisan political election, so long as any campaign activity is conducted on their own time, off CAA premises, and without using CAA resources.
- Individual employees **CAN** run for office in a partisan election as long as they do not receive 100% of their salary from CSBG and/or Head Start funds, and so long as any campaign activity is conducted on their own time, off CAA premises, and without using CAA resources (if an employee receives 100% of their salary from either or both CSBG and Head Start funds, then the employee must resign from their CAA position to run as a candidate in a partisan election).
- Individual employees **CAN** participate as a private citizen in political campaigns, including using personal funds to make campaign contributions, but must do so on their own time and without using CAA resources such as computers, phones, copiers, or office supplies.
- Individual employees **CAN'T** speak on behalf of the CAA, or use the name of the CAA, when supporting or opposing any political candidate.
- CAAs **CAN'T** say in their communications or at its events: "The President doesn't represent your interests – we need a change!" or "Vote Democratic! Register to vote today: Jane Smith needs your vote!"



- CAAs **CAN** conduct voter education activities, including voter registration, get-out-the-vote, and transportation to the polls, with appropriate funds and in a nonpartisan manner, so long as the activities do not result in identification with CSBG-funded programs.
- CAAs **CAN'T** use CSBG or Head Start funds or personnel, facilities or supplies funded by those programs, for voter registration activities (except Head Start facilities may be used by nonpartisan groups during hours of operation).
- CAAs **CAN** get more practical information about engaging in issue advocacy communications and other nonpartisan political activities by reading [IRS Revenue Ruling 2007-41](#).

Note that this article applies to nonprofit CAAs. For more information about election year activity for public CAAs (i.e. those that are part of local government), see [CAPLAW's Election Year Refresher for Public CAAs](#).

ENDNOTES

¹ 26 U.S.C. § 501(c)(3)

² 2 C.F.R. § 200.450(c)

³ 42 U.S.C. § 9918(b)(1) (CSBG Act); 42 U.S.C. § 9851(a) (Head Start Act)

⁴ 5 U.S.C. § 1502(a)(1) and (2)

⁵ See *Special Counsel v. Gallagher*, 44 M.S.P.R. 57, 76 (1990).

⁶ 5 U.S.C. § 1502(a)(3)

⁷ 5 U.S.C. § 1503

⁸ 5 U.S.C. § 1502(c)(4); 5 C.F.R. § 151.122

⁹ 5 C.F.R. § 151.111(a); U.S. Office of Special Counsel Advisory Opinion 2002-06-04

¹⁰ 5 C.F.R. §§ 734.205, 734.208

¹¹ 42 U.S.C. § 9918(b)(2) and 42 U.S.C. § 9851(b)

¹² 42 U.S.C. § 9851(b)(2)

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