



Keeping track of the rules relating to election and campaign activity for public 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.

## Public CAAs are limited in their ability to engage in political campaign activity

Because public CAAs are subject to local laws and ordinances, the political activity restrictions applicable to them will vary. A public CAA should consult with an attorney for its local government to determine what requirements may apply.

With respect to the federal grant funds they receive, public CAAs 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.<sup>1</sup> Public 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.

## The Hatch Act applies to employees of public CAAs

Although the Hatch Act applies to certain public CAA employees, it is not nearly as broad as many people believe. The restrictions may not apply to all CAA employees, 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.

A public CAA employee who is principally employed by a state or local executive agency and who works in connection with activities financed in whole or in part by any federal grant or loan is subject to the Hatch Act<sup>2</sup> and may not: (1) use their official authority to influence or interfere with or affect the results of an election or nomination for office; or (2) directly or indirectly coerce, attempt to coerce, command, or advise another employee covered under the Hatch Act to make political contributions to candidates, PACs, or political parties.<sup>3</sup> 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.<sup>4</sup>



In addition, a public CAA employee whose salary is paid completely (100%), directly or indirectly, by federal loans or grants may not be a candidate for public office in a **partisan** election, including primaries.<sup>5</sup> Generally speaking, “partisan” elections are those in which at least one candidate is nominated by, represents, is supported by, or associates himself or herself with a party whose Presidential candidate received votes in last election, or if any of the candidates are identified on the ballot with a political party.<sup>6</sup> Elections are also deemed to be “partisan” for the purposes of Hatch Act if state or local laws designate them as such.

For example, a communications director of a public CAA would be considered “Hatched” if she works in connection with activities financed in whole or in part by any federal grant or loan (e.g., she prepares outreach materials relating to the CAA’s CSBG-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:

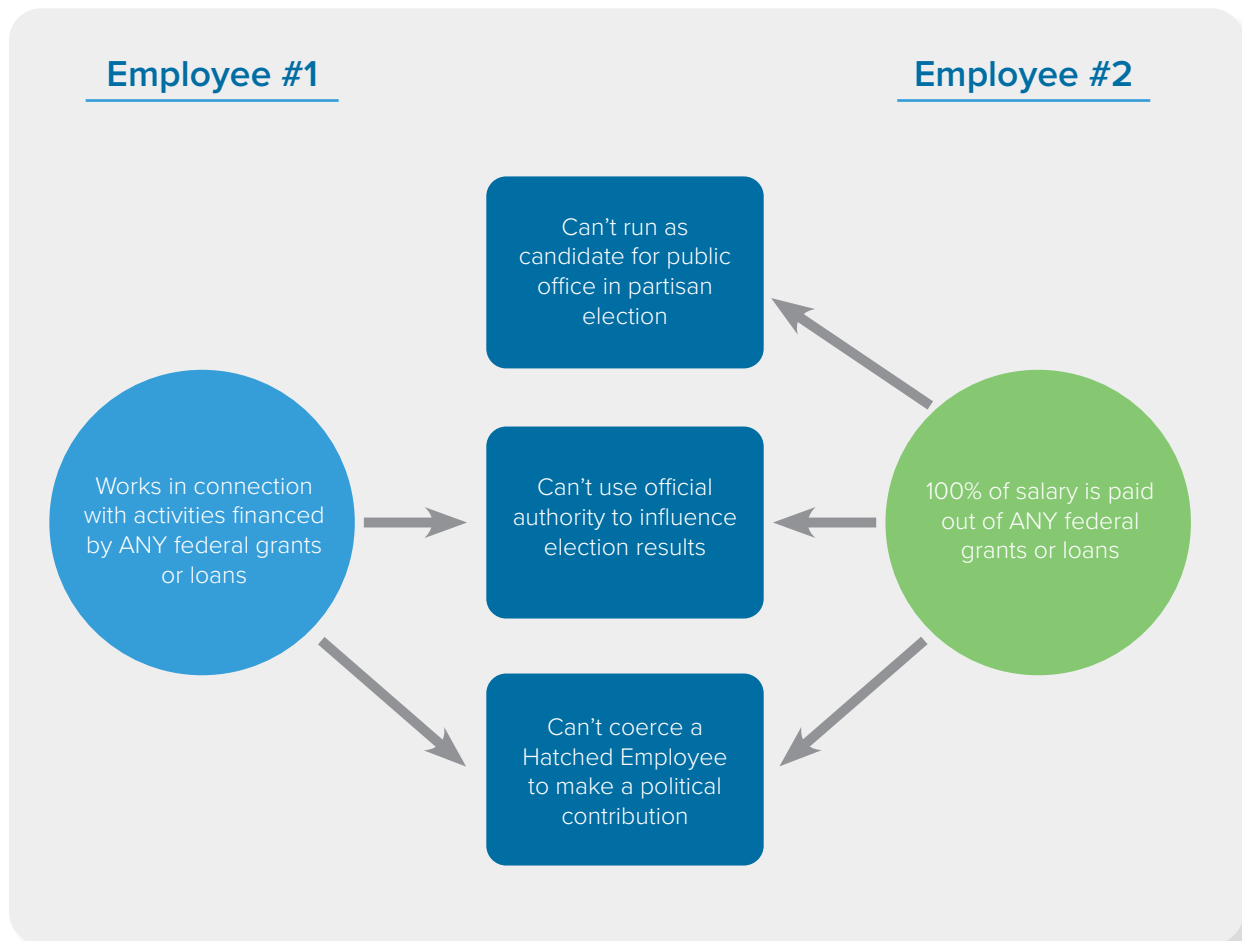
- Managing or volunteering in others’ campaigns for elected office;
- Voting as she chooses;
- Expressing her own political opinions (and not referring to her position as communications director for the CAA when doing so); and
- Holding a political party office.

Further, if the communications director receives a salary that is 100% paid for with federal 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

## Public CAAs Hatch Act Restrictions



To recap, public 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;<sup>7</sup> (2) continue to serve in the offices to which they were elected prior to becoming subject to Hatch Act restrictions;<sup>8</sup> (3) run for and hold office in a political party;<sup>9</sup> and (4) participate in political campaigns, party organizations, and make and solicit contributions.<sup>10</sup>



## Voter education, voter registration, and transportation to the polls

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.<sup>11</sup> 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 activities at Head Start-funded facilities during hours of operation.<sup>12</sup>

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 any federal grants or loans, 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 federal grants or loans, 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).



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

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## ENDNOTES

<sup>1</sup> 2 CFR § 200.450(c)

<sup>2</sup> 5 U.S.C. § 1501(4)

<sup>3</sup> 5 U.S.C. § 1502(a)(1), (2); 5 C.F.R. §151.121(a), (b)

<sup>4</sup> See *Special Counsel v. Gallagher*, 44 M.S.P.R. 57, 76 (1990).

<sup>5</sup> 5 U.S.C. § 1502(a)(3); 5 C.F.R. §151.121(c)

<sup>6</sup> 5 U.S.C. § 1503; 5 C.F.R. § 151.101(h)

<sup>7</sup> 5 U.S.C. § 1503

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

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

<sup>10</sup> 5 C.F.R. §§ 734.205, 734.208

<sup>11</sup> 42 U.S.C. § 9918(b)(2) (CSBG Act) and 42 U.S.C. § 9851(b) (Head Start Act)

<sup>12</sup> 42 U.S.C. § 9851(b)(2)

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