

1974 WL 27804 (S.C.A.G.)  
Office of the Attorney General  
State of South Carolina  
June 5, 1974

\*1 Grady A. Decell  
State Director  
S. C. Department of Youth Services  
Post Office Box 3188  
Columbia, South Carolina 29230

Dear Mr. Decell:

You have requested that this Office advise you if an employee of the S. C. Department of Youth Services would be in violation of title 5 §§ 1501, et. seq., the 'Hatch Act' if he offers as a Democratic candidate for the House of Representatives.

This individual is not paid through federal funds, but he does administer programs supported by federal grants.

While this Office cannot render official opinions on matters of federal law, I have attempted to give you our preliminary view of this question, and I have taken the liberty of forwarding your letter of this date to the office of Civil Service Commission, requesting that they advise us accordingly.

Pending a final determination by the Civil Service Commission, our preliminary opinion is as follows.

[Section 1501 of title 5 of the United States Code Annotated](#) defines 'employee' as 'an individual employed by a state or local agency whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a Federal agency . . .'

and Section 1502 of that title states in part,

'(a) state or local officer or employee may not- . .

(3) take an active part in political management or in political campaigns.

As these applicable federal statutes are clear in their meaning it appears that the political activity of this particular employee would come within the meaning of the 'Hatch Act.' The agency involved is supported at least in parts by federal funds, and the employees' candidacy in the Democratic Primary for the House of Representatives clearly comes within Section 1502(a)(3) supra.

The preliminary opinion of this Office is therefore that such political activity does come within the 'Hatch Act', and is prohibited thereby. Again as previously stated, this can only be a preliminary opinion, as the Civil Service Commission is the final arbitrator, and it will be from that source that a conclusive opinion will be rendered.

The danger involved in violating the Hatch Act is that such violation could result in the withholding of a specified portion of federal funds for a period up to two (2) years.

I trust this has been sufficient in answering the question which you posed. If I may be of any further assistance, please do not hesitate to call or write.

Very truly yours,

Timothy G. Quinn  
Senior Assistant Attorney General

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