

OSC Seeks Smaller Clubs to Beat Hatch Act Violators

By Neil A.G. McPhie

The federal agency charged with cracking down on government employees who unlawfully mix work and politics is asking Congress to cut federal employees a break.

With the 2012 presidential election a little more than a year away, the U.S. Office of Special Counsel (OSC) recently submitted to Congress draft legislation

proposing to ease the penalties for violators of the 72-year-old Hatch Act. The agency wants Congress to reform the law's draconian penalties for government employees who engage in prohibited political activities. It also wants to loosen the prohibitions against what state and local employees cannot run for elected office.

These Hatch Act reforms are decades overdue. Even Special Counsel Carolyn Lerner said the Hatch Act's penalties are "inflexible and sometimes unfair." What makes the penalties so draconian is their one-size-fit-all structure.

Currently, the default penalty for Hatch Act violations is removal. Federal employee prohibitions include using one's official authority to influence the results of elections; knowingly soliciting, accepting or receiving political contributions, except under certain circumstance; running for office in a partisan election; or soliciting or dissuading people from running in such elections. There are also prohibitions for when and where federal employees cannot engage in political activities, such as during work hours or while in official uniform or on government property.

The current law is not entirely unforgiving. It authorizes the U.S. Merit Systems Protection Board (MSPB)

to reduce a penalty to at least 30 days without pay when a violation does not merit removal. A unanimous board vote is required for such penalty reductions. OSC's proposed reforms would smash the one-size-fit-all penalty structure. Its proposed penalties include:

Removal;

reduction in grade;

up to a five-year debarment from federal employment;

suspension;

reprimand; or

up to \$1,000 fine.

Federal employees need to know they are playing with fire when involving themselves in political campaign fundraising initiatives. Soliciting campaign funds while on the job is one of the most egregious Hatch Act offenses federal employees can commit. Many employees who violate this prohibition often do so by sending or forwarding e-mails from their office computers.

Between the 2005 and 2010 fiscal years, the number of new Hatch Act complaints the OSC received more than doubled, from 245 to 526, according to agency annual reports. OSC, which is responsible for investigating Hatch Act complaints and enforcing the law, filed seven disciplinary action complaints with the MSPB

in the 2010 fiscal year and obtained 10 disciplinary actions against federal employees.

In the current political climate, a growing number of federal employees are allowing their passion and allegiance to particular social issues and candidates to cloud their better judgment. While their passion may be admirable, their engagement in such activities could cost them their jobs. Government employees accused of violating the Hatch Act should immediately contact a federal employment lawyer.

Neil McPhie

is the Virginia managing partner for Tully Rinckey PLLC and concentrates his practice in federal sector employment and labor law

. He can be reached at

“Great Customer Service” – C.R.

"Great customer service, thoroughly explained all aspects of my case. Thank you." - C.R.

“Cannot Thank You Enough” – R.S. and C.S.

"I cannot thank you enough for all that you did for us." - R.S. and C.S.

“Great Service”; E.S.

I want to thank you all for the great service rendered [to] myself and family. - E.S. on Client Relations Attorney Derrick Hogan

Legal Disclaimer

The results of all client matters depend on a variety of factors unique to each matter. past successes do not predict or guarantee future successes.

“High Regard” – R.E.M.

“Your firm held my best interests with high regard... I thank you for your efforts.” - R.E.M.

“Prompt and Efficient” – K.B.

“Prompt and efficient in processing claim, all correspondence handled in prompt and efficient manner.” – K.B.

“Impressed” – W.W.

“As a retired heavy user of attorneys, I’m impressed with your concerns and your efforts to stay in touch with your clients. Its damned good management aligned with top notch expertise.” – W.W.

“Excellent Service” – J.R.

“Excellent service, very professional, and understanding and considerate of clients needs. Attorney was very approachable and there was a very good comfort level.” – J.R.

“Professional & Informative” – J.H.

“Professional & informative... I was pleased with the handling of the case. I was treated as a person, and kept abreast of all aspects of the case. Thank you all.” – J.H.

“Thanks So Much” – J.D.

“Without your Firm, I would not have known of my claim. Thanks so much!” – J.D.

“Gets Results” – F.P.

“Most certainly – The firm gets results!” – F.P.

“Quite Satisfied” – R.W.

“I am quite satisfied with the services your office has provided.” – R.W.

“Exceptional Legal Services” – A.S.

“Your firm, Tully Rinckey, has provided and continues to provide me with prompt, keen, exceptional legal services. After the initial consult, I felt relieved that I had the representation from Tully Rinckey... I have found a new found hope with Tully Rinckey...” – A.S.

“Absolute Best” – R.H.

“My attorney was the absolute best I could ever have hoped for. A pure professional in every sense of the word. She was very mindful of my financial expenditure and still was able to represent me very well in my court case.” – R.H.

“Outstanding Service” – A.R.

“Outstanding service, true professional.” – A.R.

“Top Notch” – V.W.

“My attorney was top notch. Very pleasant and helpful.” – V.W.

“Ideal Choice” – D.H.

“My attorney knew exactly the approach to take and was the ideal choice. She was extremely responsive. She was clear, balanced, and open to our views and feelings. She made it clear she was there for us and ready to answer questions.” – D.H.

“Very Satisfied” – D.D.

“I was very satisfied with the services provided which were completed in a very timely and professional manner.” – D.D.

“Excellent” – B.M.

“Your Firm provides excellent & free service to federal workers and NG/USAR members.” – B.M.