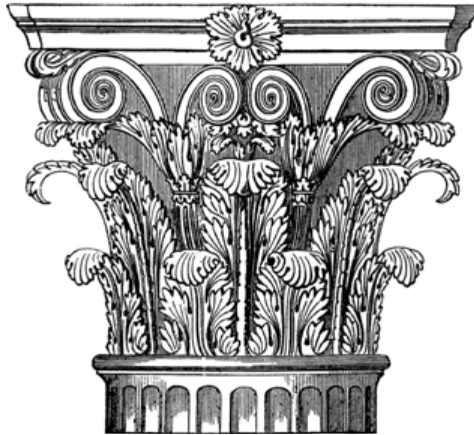




## SDOC Employees, Political Activities, and the Law



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***Every Child ... Every Chance ... Every Day***

**District Mission Statement:** *"Inspiring all learners to reach their highest potential as responsible, productive citizens"*

**District Vision Statement:** *"The School District of Osceola County will work in partnership with families and the community to ensure all learners develop the essential knowledge and skills to strengthen our thriving community."*

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## Essential Questions

**SDOC employees are public employees, and specific laws and policies apply to their participation in political activities.**

### What are political activities?

Political activities may include, but are not limited to, the following:

- Voting,
- Being a poll worker,
- Attending political rallies or meetings,
- Participating in the campaign of a political candidate or for a referendum,
- Fundraising for a political candidate or organization, or
- Lobbying for a political candidate or issue.

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### What political activities does the law permit for public employees?

As individuals, public employees may exercise all rights and obligations of citizenship provided in the Florida Constitution and state laws and the United States Constitution and federal laws.

During off-duty, non-work hours only, public education employees may:

- Vote.
- Be a poll worker.
- Run for public office in partisan or nonpartisan elections.
- Campaign for and hold office in political clubs and organizations.
- Actively campaign for candidates for public office in partisan and nonpartisan elections.
- Contribute money to political organizations.
- Attend political fundraising functions.

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### What political activities does the law prohibit for public employees?

Public employees may NOT:

- Hold, or be a candidate for, public office while on duty or during work hours.
- Take any active part in a political campaign while on duty or during work hours.
- Use official authority or influence to interfere with or affect the results of an election or nomination.
- Directly or indirectly coerce contributions from subordinates in support of a political party or candidate.
- Involve students in national, state, or local political activities during the instructional day.
- Use school buildings, grounds, or equipment for personal political activities.
- Use the data network for political advertisements or political activities.
- Post personal views on social, political, religious, or other non-business related matters on the School District network.

**Note:** In addition to the above, an Osceola County School District employee is not authorized, and should not authorize a candidate for political office, to use the employee's name and official School District job title which identifies the employee's School District worksite or location, in any political campaign literature, on any political candidate's website, or for any other election purposes. No School District employee is authorized to use their position with the School District to endorse a political candidate or for political campaign purposes.

**Does the federal Hatch Act apply to all public education employees?**

No, employees who work for educational or research institutions or agencies which are supported in whole or in part by a state or political subdivision of the state are not covered by the provisions of the Hatch Act.

The Hatch Act applies to executive branch state and local employees who are principally employed in connection with programs financed in whole or in part by loans or grants made by the United States or a federal agency.

**However, an employee’s conduct is also subject to the laws of the state and the regulations of the employing agency.** Additionally, employees should be aware that state or local laws do not affect the prohibitions of the Hatch Act.

See: <https://osc.gov/Services/Pages/HatchAct.aspx>

**What do Florida Statutes say about public employees and political activities?**

**104.31 Political activities of state, county, and municipal officers and employees. --**

(1) No officer or employee of the state, or of any county or municipality thereof, except as hereinafter exempted from provisions hereof, shall:

- (a) Use his or her official authority or influence for the purpose of interfering with an election or a nomination of office or coercing or influencing another person’s vote or affecting the result thereof.
- (b) Directly or indirectly coerce or attempt to coerce, command, or advise any other officer or employee to pay, lend, or contribute any part of his or her salary, or any money, or anything else of value to any party, committee, organization, agency, or person for political purposes. Nothing in this paragraph or in any county or municipal charter or ordinance shall prohibit an employee from suggesting to another employee in a noncoercive manner that he or she may voluntarily contribute to a fund which is administered by a party, committee, organization, agency, person, labor union or other employee organization for political purposes.
- (c) Directly or indirectly coerce or attempt to coerce, command, and advise any such officer or employee as to where he or she might purchase commodities or to interfere in any other way with the personal right of said officer or employee.

The provisions of this section shall not be construed so as to prevent any person from becoming a candidate for and actively campaigning for any elective office in this state. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates. The provisions of paragraph (a) shall not be construed so as to limit the political activity in a general, special, primary, bond, referendum, or other election of any kind or nature, of elected officials or candidates for public office in the state or of any county or municipality thereof; and the provisions of paragraph (a) shall not be construed so as to limit the political activity in general or special elections of the officials appointed as the heads or directors of state administrative agencies, boards, commissions, or committees or of the members of state boards, commissions, or committees, whether they be salaried, nonsalaried, or reimbursed for expense. In the event of a dual capacity of any member of a state board, commission, or committee, any restrictive provisions applicable to either capacity shall apply. The provisions of paragraph (a) shall not be construed so as to limit the political activity in a general, special, primary, bond, referendum, or other election of any kind or nature of the

Governor, the elected members of the Governor’s Cabinet, or the members of the Legislature. The provisions of paragraphs (b) and (c) shall apply to all officers and employees of the state or of any county or municipality thereof, whether elected, appointed, or otherwise employed, or whether the activity shall be in connection with a primary, general, special, bond, referendum, or other election of any kind or nature.

- (2) An employee of the state or any political subdivision may not participate in any political campaign for an elective office while on duty.
- (3) Any person violating the provisions of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.
- (4) Nothing contained in this section or in any county or municipal charter shall be deemed to prohibit any public employee from expressing his or her opinions on any candidate or issue or from participating in any political campaign during the employee’s off-duty hours, so long as such activities are not in conflict with the provisions of subsection (1) or s. 110.233.

History.—s. 8, ch. 26870, 1951; s. 7, ch. 29615, 1955; s. 5, ch. 29936, 1955; s. 1, ch. 59-208; s. 18, ch. 65-379; s. 53, ch. 71-136; ss. 1, 2, ch. 74-13; s. 1, ch. 75-261; s. 30, ch. 79-190; s. 1, ch. 80-207; s. 628, ch. 95-147; s. 1, ch. 2006-275.

**106.15 Certain acts prohibited.—**

- (1) No person shall pay money or give anything of value for the privilege of speaking at a political meeting in the furtherance of his or her candidacy, nor shall anyone speaking for such a person pay money or give anything of value for such privilege.
- (2) No candidate, in the furtherance of his or her candidacy for nomination or election to public office in any election, shall use any state-owned aircraft or motor vehicle, as provided in chapter 287, solely for the purpose of furthering his or her candidacy. However, in the event a candidate uses any state-owned aircraft or motor vehicle to conduct official state business and while on such trip performs any function in the furtherance of his or her candidacy for nomination or election to public office in any election, the candidate shall prorate the expenses incurred and reimburse the appropriate agency for any trip not exclusively for state business and shall pay either a prorated share of all fixed and variable expenses related to the ownership, operation, and use of such aircraft or one-half of the total fixed and variable expenses related to the ownership, operation, and use of such aircraft, whichever is greater. The reimbursement shall be made from the campaign account of the candidate.
- (3) A candidate may not, in the furtherance of his or her candidacy for nomination or election to public office in any election, use the services of any state, county, municipal, or district officer or employee during working hours.
- (4) No person shall make and no person shall solicit or knowingly accept any political contribution in a building owned by a governmental entity. For purposes of this subsection, “accept” means to receive a contribution by personal hand delivery from a contributor or the contributor’s agent. This subsection shall not apply when a government-owned building or any portion thereof is rented for the specific purpose of holding a campaign fund-raiser.
- (5) Any person violating the provisions of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 15, ch. 73-128; s. 9, ch. 74-200; s. 1, ch. 77-174; s. 54, ch. 77-175; s. 61, ch. 79-400; s. 31, ch. 81-304; s. 28, ch. 83-217; s. 2, ch. 83-304; s. 16, ch. 91-45; s. 17, ch. 91-107; s. 648, ch. 95-147; s. 2, ch. 97-223; s. 7, ch. 2002-197.

**110.233 Political activities and unlawful acts prohibited. —**

- (1) No person shall be appointed to, demoted, or dismissed from any position in the career service, or in any way favored or discriminated against with respect to employment in the career service, because of race, color, national origin, sex, handicap, religious creed, or political opinion or affiliation.
- (2) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the career service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person or for any consideration; however, letters of inquiry, recommendations, and references by public employees or public officials shall not be considered political pressure unless any such letter contains a threat, intimidation, or irrelevant, derogatory, or false information. For the purposes of this section, the term “political pressure,” in addition to any appropriate meaning which may be ascribed thereto by lawful authority, includes the use of official authority or influence in any manner prohibited by this chapter.
- (3) No person shall, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration for or on account of any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in, a position in the career service. The provisions of this subsection do not apply to a private employment agency licensed pursuant to the provisions of chapter 449 when the services of such private employment agency are requested by a state agency, board, department, or commission and neither the state nor any political subdivision pays the private employment agency for such services.
- (4) As an individual, each employee retains all rights and obligations of citizenship provided in the Constitution and laws of the state and the Constitution and laws of the United States. However, no employee in the career service shall:
  - (a) Hold, or be a candidate for, public office while in the employment of the state or take any active part in a political campaign while on duty or within any period of time during which the employee is expected to perform services for which he or she receives compensation from the state. However, when authorized by his or her agency head and approved by the department as involving no interest which conflicts or activity which interferes with his or her state employment, an employee in the career service may be a candidate for or hold local public office. The department shall prepare and make available to all affected personnel who make such request a definite set of rules and procedures consistent with the provisions herein.
  - (b) Use the authority of his or her position to secure support for, or oppose, any candidate, party, or issue in a partisan election or affect the results thereof.
- (5) No state employee or official shall use any promise of reward or threat of loss to encourage or coerce any employee to support or contribute to any political issue, candidate, or party.
- (6) The department shall adopt by rule procedures for Career Service System employees that require disclosure to the agency head of any application for or offer of employment, gift, contractual relationship, or financial interest with any individual, partnership, association, corporation, utility, or

other organization, whether public or private, doing business with or subject to regulation by the agency.

History.—s. 21, ch. 79-190; s. 2, ch. 80-207; s. 1, ch. 84-125; s. 5, ch. 89-277; s. 1, ch. 91-164; s. 21, ch. 91-431; s. 34, ch. 92-279; s. 55, ch. 92-326; s. 668, ch. 95-147; s. 23, ch. 2001-43.

<sup>1</sup>Note.—The provisions comprising chapter 449 were repealed by ch. 81-170.



**“Freedom of Speech” by Norman Rockwell**

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**What do Florida’s State Board of Education Rules say about School District employees and political activities?**

**Florida’s State Board of Education Board Rules**

**• 6A-10.081 – Principles of Professional Conduct for the Education Profession in Florida.**

- “(2) Florida educators shall comply with the following disciplinary principles. Violation of any of these principles shall subject the individual to revocation or suspension of the individual educator’s certificate, or the other penalties as provided by law.

**(a) Obligation to the student requires that the individual: ...**

6. Shall not intentionally violate or deny a student’s legal rights.

7. Shall not harass or discriminate against any student on the basis of race, color, religion, sex, age, national or ethnic origin, political beliefs, marital status, handicapping condition, sexual orientation, or social and family background and shall make reasonable effort to assure that each student is protected from harassment or discrimination. ...

**(b) Obligation to the public requires that the individual:**

1. Shall take reasonable precautions to distinguish between personal views and those of any educational institution or organization with which the individual is affiliated. ...

**(c) Obligation to the profession of education requires that the individual: ...**

2. Shall not on the basis of race, color, religion, sex, age, national or ethnic origin, political beliefs, marital status, handicapping condition if otherwise qualified, or social and family background deny to a colleague professional benefits or advantages or participation in any professional organization.

3. Shall not interfere with a colleague’s exercise of political or civil rights and responsibilities.

4. Shall not engage in harassment or discriminatory conduct which unreasonably interferes with an individual’s performance of professional or work responsibilities or with the orderly processes of education or which creates a hostile, intimidating, abusive, offensive, or oppressive environment; and, further, shall make reasonable effort to assure that each individual is protected from such harassment or discrimination. ...

Rulemaking Authority 1001.02, 1012.795(1)(j) FS. Law Implemented 1012.795 FS. History– New 7-6-82, Amended 12-20-83, Formerly 6B-1.06, Amended 8-10-92, 12-29-98, Formerly 6B-1.006, Amended 3-23-16.”

**What do Osceola County School Board Rules say about School District employees and political activities?**

**Osceola County School Board Rules**

**• 2.70 – Prohibiting Discrimination, Including Sexual and Other Forms of Harassment**

- “No person shall, on the basis of race, color, religion, gender, age, marital status, disability, political or religious beliefs, national or ethnic origin, genetic information, sexual orientation, gender identity, or pregnancy be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity, or in any employment conditions or practices conducted by this School District, except as provided by law. ...”

**• 4.10 – The Curriculum**

- “... When dealing with political issues, the positions of all parties will be presented on a nonpartisan basis. Partisan political literature will not be distributed in schools. However, schools may give out information relating to School District taxes or the need for construction bonds. ...”

**• 4.42 – Public Appearance of School Groups**

- “... School groups may participate in or perform for a political function by parading or playing instruments provided it is a community function. ...”

**• 4.45 – Speaker Guidelines**

- “... While factual information on politics, a religion, a culture, or ethnic group may be presented, proselytizing for or defamation of a particular political, religious, gender, or cultural viewpoint or an alternative lifestyle is not permitted. ...”

**• 5.321 – Prohibiting Bullying and Harassment**

- “It is the policy of the Osceola County School District that all of its students and school employees have an educational setting that is safe, secure, and free from harassment and bullying of any kind, including but not limited to cyberbullying. The District shall not tolerate bullying and harassment of any type. Conduct that constitutes bullying and harassment, as defined herein, is prohibited. ...”



• **6.34 – Political Activities of Employees**

- “I. School district employees shall not solicit support for any political candidate, partisan or non-partisan, during regular work hours.
- II. A School district employee who offers himself/herself as a candidate for public office shall notify the Superintendent immediately upon qualifying for election. He/she shall conduct his/her campaign so as not to interfere with his/her responsibilities.
  - A. Such candidate shall adhere strictly to Florida Statutes governing political activity on the part of public officials and public employees.
  - B. A successful candidate for an office requiring a part-time responsibility shall report immediately to the Superintendent after the election and thereafter, when deemed necessary by the Superintendent or School Board, to evaluate the compatibility of the dual responsibility and the need for personal leave without pay. “

• **8.60 – Network Acceptable Use**

- “... Examples of unacceptable uses of the network include, but are not limited to: ...
  - 6. Using the network for political advertisement or political activity; ...
  - 11. Posting personal views on social, political, religious or other nonbusiness related matters; ...”

• **8.601 – Social Media**

- “III. Employees’ Use of Social Media Sites
  - A. The District cannot prohibit the use of personal social media sites. However, employees are encouraged to block personal sites from students. Employees shall not use the District’s seal, school logos, or any other District representation or images on any personal sites. Employees may identify themselves as a District employee, but must include a disclaimer stating that the views expressed or information posted do not reflect the views of the Osceola County School Board or School District staff. Employees are informed in this rule that conduct on personal social media sites may affect his or her professional reputation and employment with the District and that all employees are bound by the Code of Ethics and Principles of Professional Conduct for the State of Florida. ...”

• **9.30 – Community Use of Facilities**

- “I. Use of Building and Grounds ...
  - B. Organizations or persons may lease facilities as allowed in subparagraph E(2), for political purposes. Subparagraph E(2) allows theaters, auditoriums, and other facilities approved by the Superintendent to be rented, pursuant to the Standard Facilities Use Agreement, to for-profit organizations and persons acting for profit or private gain, and to nonprofit organizations that are not recognized as 501(c)(3) exempt by the Internal Revenue Service. However, whenever an organization rents for private or personal gain or for political activity, the organization or persons renting the facility must make it clear that the School Board is not endorsing, sponsoring, or participating in any manner in the event, nor is the School Board

endorsing any product, service, viewpoint, or political position that may be expressed or promoted during the period of such rental of a District facility. ...

E. Exceptions to the general prohibition against the use of School District facilities for private or personal gain or profit: No individual, including an employee of the School Board, group, or organization may use buildings for private profit or personal gain. However, there are two general exceptions: ...

2. Theaters, auditoriums, and other facilities approved by the Superintendent may be rented to any person or organization, regardless of whether or not the person or organization is renting the facility to use for private or personal gain, the conduct of profit making business activity, political activity or any other type of lawful activity that the Superintendent determines is not inconsistent with the standards of K-12 public education in Osceola County. ...”

• **9.40 – Advertising and Commercial Activities**

o “III. The Board may authorize and/ or contract for advertising in District facilities, including schools, or on District property and delegate that authority to school principals in the following categories or forums in accordance with the guidelines set forth herein. All advertising shall comply with the general advertising guidelines set forth below. ...

D. General Advertising Guidelines ...

2. The Board’s name, students, staff members, or facilities shall not be used for any commercial advertising or for promotion of the interests of any commercial, political, nonprofit, or other non-school agency or organization, public or private, without the approval of the Board or its designee and as permitted by this policy. ...

6. An advertisement shall not promote any political candidate or ballot issue. ...

15. Facilities owned or leased by the School Board and school district or school publications shall not be used for advertising or otherwise promoting the interests of religious, political, or other non-district agency or organization. ...

E. Business Partner Sponsorship/ Advertising

3. Such signage must be designed in such a way as to represent and be consistent with the philosophy of the Board and the standards of the community, and must be nonpolitical or nonsectarian in nature. ...”

• **9.50 – Distribution of Literature and Materials**

o “Literature or materials which originate from out-of-school sources shall be approved by the Superintendent or designee prior to distribution to student.”