

Board of Ethics and Government Accountability

ETHICS TRAINING



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Goals of this Course



- Describe ethics standards, including updates
- Identify where to:
 - **Report** unethical conduct
 - Find **ethics** standards
 - Obtain **Advice**
- Discuss financial disclosure obligations
 - Public filers
 - Confidential filers
- Describe the local Hatch Act

BEGA



- **BEGA Statute:**

- ✦ **Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 (“Ethics Act”), effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 (2013 Supp.)).**

- **BEGA Structure:**

- ✦ **Three-member Board**
- ✦ **Director of Government Ethics**
- ✦ **Office of Government Ethics**
 - **Investigators and attorneys**

What we do



- **Training**
 - General Ethics training
 - Specialized training - - FDS, Hatch Act, Topic Specific
- **Advice**
 - Informal Advice - - oral & email, Ethics Manual
 - Formal Advice - - written Advisory Opinions
 - Role of Ethics Counselors
- **Investigations**
 - Initiation – complaints or any other source.
 - Preliminary Investigations - Confidential
 - Formal Investigations – Subpoena authority.

What we do



- **Enforcement Proceedings**
 - Open and adversarial hearings
 - Standard of Proof: Substantial Evidence
 - Fifth Amendment rights and representation
- **Financial Disclosure Filings**
- **Lobbyist Registration and Activity Reports**
- **Ethics Manual**
- **Annual Best Practices Report**

Time Period



- **Statute of Limitations**
 - 5 years

- **Imposition of Sanctions**
 - For conduct that occurred January 29, 2012, or later (enactment of emergency legislation)

Penalties



- **Penalties**

- Director may impose:

- ✦ Ministerial fines (appealable to the Board)
- ✦ Non-public informal admonition, period of probation (with possibility to expunge) (appealable to the Board).

- Board may impose:

- ✦ Fines of up to \$5,000 per violation
- ✦ Fines of up to 3 times the amount of unlawful contribution, expenditure, gift, honorarium, or receipt of outside income for each violation
- ✦ Remedial action
- ✦ Public Censure
- ✦ Period of Probation (with possibility to expunge)
- ✦ Negotiated Disposition, offered by Director with approval by Board

Penalties Cont'd



- Although this is not yet in place, it is anticipated that at some point in the future, for violations of the Code of Conduct that substantially threaten the public trust, the Board will be authorized to impose:
 - ✦ A fine of up to \$25,000, **or** imprisonment of up to one year (but not both)
 - ✦ Public censure for elected officials + recommendations for removal

REMEMBER MANY OF OUR ETHICS PROVISIONS HAVE FEDERAL COUNTERPARTS APPLICABLE TO DISTRICT EMPLOYEES AND THEY CARRY CRIMINAL PENALTIES

Remedial Action



- Penalties imposed by BEGA are separate and apart from any corrective or disciplinary action taken by the employing agency.

■ 6B DCMR §1802.3■

Code of Conduct



- “Code of Conduct” means those provisions contained in the following:
 - (A) The Code of Official Conduct of the Council of the District of Columbia, as adopted by the Council;
 - (B) Sections 1801 through 1802 of the Merit Personnel Act;
 - (C) Section 2 of the Official Correspondence Regulations, effective April 7, 1977 (D.C. Law 1-118; D.C. Official Code § 2-701 *et seq.*);
 - (D) Section 415 of the Procurement Practices Reform Act of 2010, effective April 8, 2011 (D.C. Law 18-371; D.C. Official Code § 2-354.16);
 - (E) Chapter 18 of Title 6B of the District of Columbia Municipal Regulations (Responsibilities of Employees);
 - (E) Conflict of Interest Provisions of the Ethics Act; and
 - (F) Local Hatch Act.

Update



- Chapter 18 of Title 6B of the District of Columbia Municipal Regulations (Responsibilities of Employees)
 - ✦ Also known as the District Personnel Manual or DPM
 - ✦ Revised
 - ✦ Published in the D.C. Register on April 11, 2014
 - ✦ Effective for all conduct that occurred on or after April 11, 2014

Role of Agency Ethics Counselors



- **The D.C. Ethics Counselor and Agency Ethics Counselors can:**
 - Provide non-binding advice
 - Provide advice on settled principles of government ethics law
- **They often touch base with BEGA to discuss issues**
- **If the issue is not well-settled, they should:**
 - Refer questions re: possible violations to BEGA if:
 - ✦ Question cannot be answered simply by reciting applicable rule/regulation or referral to Ethics Manual
 - ✦ Question has not been answered by prior written opinion
 - ✦ Question and issues involve interpretation of ethics statute or regulation

Basic Employee Obligations



- **Employees shall:**
 - Respect & adhere to the principles of ethical conduct
 - Understand that government service is a public trust
 - Put forth honest effort
 - Report credible violations to appropriate authorities
 - Satisfy lawful obligations to government
 - Adhere to all federal, state, and local laws and regulations

Basic Employee Obligations



- **Employees shall not:**
 - Hold financial interests that conflict with performance of duty
 - Use nonpublic information improperly
 - Make unauthorized commitments
 - Use public office for private gain
 - Act impartially or give preferential treatment
 - Use government property for other than authorized activities
 - Engage in outside activities that conflict with official duties
 - Seek or negotiate for employment that conflicts with official duties
 - Take actions creating appearance they are violating the law or these ethical standards
 - ✦ **Standard:** viewed from perspective of a reasonable person with knowledge of the relevant facts

Employee Cooperation



- **Reporting**

- Employees shall immediately and directly report credible violations of the District Code of Conduct to the District of Columbia Office of Government Ethics, the District of Columbia Office of the Inspector General, or both.

- **Interference**

- An employee shall not interfere with or obstruct any investigation conducted by a District or federal agency.

- **Cooperation**

- An employee shall fully cooperate with any investigation, enforcement action, or other official function of the Office of Government Ethics.

- **Retaliation**

- Coercive, harassing, or retaliatory action shall not be taken against any employee acting in good faith under this section.

■ 6B DCMR §1801 ■

Gifts From Outside Sources



- Gift means any:
 - Gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value.
 - Services and gifts of training, transportation, local travel, lodgings, meals.
 - This includes gifts provided:
 - ✦ In-kind;
 - ✦ By purchase of a ticket;
 - ✦ Payment in advance; or
 - ✦ Reimbursement after the expense has been incurred.

Gifts From Outside Sources



- Gift does NOT include:
 - Modest items of food and refreshments offered other than as part of a meal (i.e., coffee and donuts);
 - Greeting cards;
 - Items with little intrinsic value, such as plaques, certificates, and trophies, which are intended solely for presentation;
 - Unsolicited advertising or promotional items of nominal value (i.e., pens and notepads);
 - Food and beverages, of nominal value, consumed at hosted receptions where attendance is related to the employee's official duties;
 - Admission to and the cost of food and beverages, of nominal value, consumed at civic, charitable, government, or community organizations;
 - Discounts available to Government Employees;
 - Rewards or contest prizes open to the public;
 - Anything for which market value is paid by the employee.

Gifts From Outside Sources



- **Employees shall not, directly or indirectly, solicit or accept a gift:**
 - From a prohibited source
- **A Prohibited Source is any person or entity who:**
 - Is seeking official action by the employee's agency
 - Does business or seeks to do business with the employee's agency
 - Conducts activities regulated by the employee's agency
 - Has interests that may be substantially affected by performance or nonperformance of the employee's official duties; or
 - Is an organization in which the majority of its members are described in the items above.

Test Your Knowledge



- **Question:** A not-for-profit organization I dealt with previously when it had grants from my agency, recently contacted me and offered me free tickets to an event they are having. The tickets are expensive and I'd really like to go. By the way, the person who called mentioned that they are in the process of putting together their application for a grant in the up-coming year. Can I accept the tickets?
- **Answer:** No. The not-for-profit organization is a prohibited source because it seeks to do business with your agency. Therefore, you cannot accept the tickets.

Gifts From Outside Sources



- **Employees shall not, directly or indirectly, solicit or accept a gift:**
 - Given because of the employee's official position or duties.
 - ✦ A gift is accepted or solicited because of the employee's position if it is from a person other than an employee and would not have been solicited, offered, or given had the employee held the status, authority or duties associated with his position.
- **This includes gifts accepted or solicited indirectly:**
 - With the employee's knowledge or acquiescence to a family member because of that person's relationship to the employee
 - To another person or entity, such as a charity, on the basis of designation, recommendation, or other specification by the employee.

■ 6B DCMR §§ 1803.2 and 1803.4(c) and (d) ■

Gifts From Outside Sources



- **Employees may accept:**
 - Unsolicited gifts, \$10 or less (\$20 aggregate in calendar year) except when the offer of a gift would appear to a reasonable person to be intended to influence the employee in his or her official duties.
 - Gifts clearly motivated by family or personal relationships.
 - Meals, lodgings, & transportation (*when clearly not because of the employee's official position*):
 - ✦ Spouse - Resulting from the business or employment activities of a spouse or domestic partner (i.e., annual conference or business related, not special leisure trip just for employee).
 - ✦ Outside Business - Resulting from the employee's authorized outside business or employment activities.

Gifts From Outside Sources



- **Employees may accept – Free Attendance at Events:**
 - **Speaker at Event**
 - ✦ When the employee is a speaker or panel participant, on behalf of the agency.
 - ✦ Assignment must be made in writing by employee's agency head or other designee

 - **Widely Attended Events (50 persons or more)**
 - ✦ **By Sponsor of Event (official capacity only)**
 - Attendance is in the interest of the agency – further agency programs and operations;
 - As determined in writing by the Mayor or his designee.
 - ✦ **By someone other than Sponsor of Event (personal or official capacity)**
 - \$350 or less admission fee;
 - Attendees must share a diversity of views or interests
 - Event must be open to members from throughout an interested industry or profession.
 - If personal capacity, employee must take annual leave;
 - If authorized by the agency (in writing), no charge to employee's leave account.

 - For the above-listed, the agency shall maintain records for two years.

Gifts From Outside Sources



- **What to do if you are offered or receive a gift that cannot be accepted:**
 - Inform the person offering the gift; and
 - Return the gift, donate the gift to a non profit charity, or reimburse the donor the market value of the gift;
 - If the gift is perishable and returning it would be impractical:
 - ✦ share it with office staff;
 - ✦ Donate to charity or
 - ✦ destroy it.

- **Note: These actions may be taken one time only with respect to any donor.**

■ 6B DCMR §§ 1803.7 and 1803.8■

Gifts Between Employees



- **General Rule:**
 - Supervisor/Employee – an employee may NOT:
 - Give a gift or make a donation toward a gift for an official superior; or
 - Solicit a contribution from another employee for a gift to their official superior.
 - Higher/lower salary
 - ✦ An employee may not, directly or indirectly, accept a gift from an employee receiving less pay than themselves unless:
 - The two employee are not in a subordinate-official superior relationship;
 - There is a personal relationship between the two employees that would justify the gift; and
 - The gift was not given or solicited to gain or induce any professional advantage.
- An official superior shall not coerce a subordinate to make or contribute to a gift.

Gifts Between Employees



- **Exceptions:**

- **Holidays and Birthdays** - On an occasional basis, including *any occasion on which gifts are traditionally given or exchanged*, the following may be given to an official superior or accepted from a subordinate or other employee receiving less pay:
 - ✦ Items, other than cash, with an aggregate market value of \$10 or less per occasion;
 - ✦ Items such as food and refreshments to be shared in the office among several employees;
 - ✦ Personal hospitality provided at a residence which is of a type and value customarily provided by the employee to personal friends; and
 - ✦ Items given in connection with the receipt of personal hospitality if of a type and value customarily given on such occasions.

Gifts Between Employees



- **Exceptions cont'd – Very Infrequent Occasions**
 - **Direct Gift** - A gift **appropriate to the occasion** may be given to & accepted by an official superior from a subordinate or other employee receiving less pay:
 - ✦ In recognition of infrequently occurring occasions of personal significance such as marriage, illness, or the birth or adoption of a child; or
 - ✦ Upon occasions that terminate a subordinate-official superior relationship, such as retirement, resignation, or transfer.
 - **Soliciting** - An employee may solicit voluntary contributions of nominal amounts (up to \$10.00) from fellow employees for an appropriate gift to an official superior and an employee may make a voluntary contribution up to that amount:
 - ✦ On a special, very infrequent occasion (see above); or
 - ✦ On an occasional basis, for items such as food or refreshments to be shared in the office among several employees.

Test Your Knowledge



- **Question:** Several co-workers want to chip in and buy their supervisor a 50th birthday gift. Is this permissible?
- **Answer:** Yes, it is permissible if:
 - The contributions toward the gift are voluntary
 - The amount of each contribution is nominal (up to \$10)
- **Reasons:** A 50th birthday is a special, infrequent occasion. This is now permissible under the DPM. The previous restriction, limiting gifts to non-recurring events, was eliminated.

Nepotism



- **Restrictions on the employment of relatives:**
 - A public official may not directly or indirectly make a hiring decision regarding a position within his or her own agency with respect to a relative.
 - ✦ Hiring decision means selecting, appointing, employing, promoting, reassigning, advancing, or advocating a personnel action.
 - ✦ The public official also may not evaluate, interview, or advance or advocate for such actions, any individual who is a relative in an agency in which the public official serves or exercises jurisdiction or control.
- **When an agency contemplates making a hiring decision concerning a relative of a public official within the same agency, the public official must file a written recusal, which shall be included in the relative's official personnel file.**

Nepotism



- **Violations**

- Shall subject the public official to disciplinary action, up to, and including removal.
- The hiring decision will be rescinded immediately.
- Shall subject the public official to penalties by the Office of Government Ethics.
- Shall subject the public official to paying restitution to the District of Columbia for any gains received by a relative.

Test Your Knowledge



- **Question:** I am a public official for the District government. My niece just graduated from college and I sent her a copy of my agency's posting for a position. She applied for the position in the usual way, was interviewed, and listed me as a reference. No one called me to ask about her, but she was hired and now works in a different department in my agency. Have I violated the nepotism restrictions?
- **Answer:** Yes. Although there was nothing wrong with you sending your niece a copy of your agency's posting for a position (because that was public information), you should have filed a written recusal with your agency, to be placed in your niece's personnel file.

Outside Employment & Private Representations



- A District government employee shall not engage in any outside employment or other activity incompatible with the full and proper discharge of his or her duties and responsibilities, such as:
 - Those that are reasonably likely to interfere with the employee's ability to perform his or her job;
 - Those which may impair the efficient operation of the District government.
 - Using government time or resources for other than official business, or government approved or sponsored activities.
 - Maintaining a financial or economic interest in or serving (with or without compensation) as an officer or director of an outside entity if there is any likelihood that such entity might be involved in an official government action or decision taken or recommended by the employee.
 - Capitalizing on the employee's official title or position.
 - Divulging official government information to any unauthorized person.
 - Serving in a representative capacity as an agent or attorney for any outside entity involving any matter before the District (except acting without compensation as an agent or attorney for another District employee who is the subject of a personnel action, if not inconsistent with the employee's duties; and representing a parent, spouse, child, etc., in accordance with D.C. Rules of Professional Conduct & if not a matter in which the employee participated personally and substantially as a government employee).
 - Engaging in any outside employment, private business activity, or other interest which is in violation of federal or District law.

Outside Employment & Private Representations



- A District government employee may receive compensation for engaging in teaching activities, writing for publication, consultative activities, and speaking engagements that are not prohibited by law, regulation, or agency standards, only if such activities are conducted outside of regular working hours, or while the employee is on annual leave, compensatory leave, exempt time off, or leave without pay.
 - The information used shall not draw on official data or ideas which have not become part of the body of public information
 - ✦ Unless the nonpublic information has been made available upon request for use in such capacity; or
 - ✦ Unless the agency head gives written authorization for use on the basis that its use is in the public interest.
 - If the employee receives compensation, the subject matter shall not be devoted substantially to the responsibilities, programs, or operations of his or her agency, to his or her official duties or responsibilities, or to information obtained from his or her government employment.

Teaching, Writing & Speaking



- Generally permitted if outside regular working hours or while on leave
- Waivable ban on using nonpublic information
- If paid, then can't be devoted substantially to:
 - Your job
 - Your agency
 - Information obtained from your government employment

Government Property



- An employee has a duty to protect and conserve government property and shall not use such property, or allow its use, for other than authorized purposes.
 - Government property includes
 - ✦ Any form of real or personal property in which a federal, District, state, or local government agency or entity has an ownership, leasehold, or other property interest as well as any right or other intangible interest that is purchased with government funds, including the services of contractor personnel.
 - ✦ Government property includes office supplies, telephone and other telecommunications equipment and services, the government mails, automated data processing capabilities, printing and reproduction facilities, government records, and government vehicles.
 - Authorized purposes are those purposes for which government property is made available to members of the public or those purposes authorized by an agency head in accordance with law or regulation.

Additional Standards



- Each agency may prescribe additional standards of ethical conduct and reporting requirements that are appropriate to the particular functions and activities of the agency, which are not inconsistent with law or this chapter.
- Additional standards of ethical conduct must be approved prior to implementation as follows:
 - Proposed standards shall be submitted to the Director of Government Ethics in writing for comment, if any;
 - Following receipt of any comments from the Director of Government Ethics, or the expiration of no fewer than 15 business days, the proposed standards shall be submitted to the Department of Human Resources electronically for approval;
 - Once approved, the proposed standards shall be transmitted to any implicated labor organization for review; and
 - Following approval by the Department of Human Resources and any appropriate review by a labor organization, the standards shall be published to the impacted employees.

Test Your Knowledge



- My agency has a Code of Conduct that is unique to my agency. I don't believe it conflicts with the District Code of Conduct, although it may be more restrictive in some areas. What, if anything, does my agency have to do?
- Answer: Follow the requirements on the previous screen - - start by reviewing them to be sure that it does not conflict with the District Code of Conduct and then send it on to BEGA for review and comments.

Post-Employment Conflicts of Interest



- **Permanent Prohibition**

- A former government employee who participated personally and substantially in a particular government *matter* involving a specific *party*:
 - Shall be **permanently prohibited** from knowingly acting as an attorney, agent, or representative in any formal or informal appearance before an agency.
 - Shall be permanently prohibited from making any oral or written communication to an agency with the intent to influence that agency on behalf of another person.
 - Shall be prohibited for **two years** from engaging in behind-the-scenes assistance in representing another person before an agency (the two-year period is measured from the date of termination of employment).

Post-Employment Conflicts of Interest



- **Two (2) Year Prohibition**
- A former government employee who previously had *official responsibility* for a matter:
 - Shall be prohibited for **two years** from knowingly acting as an attorney, agent, or representative in any formal or informal matter before an agency.
 - ✦ A matter for which the former government employee had official responsibility is any matter that was actually pending under the former employee's responsibility within a period of one (1) year before the termination of such responsibility.
 - ✦ The two-year period shall be measured from the date when the former employee's responsibility for a particular matter ends.

Post-Employment Conflicts of Interest



- **One (1) Year Prohibition (cooling off period)**
- A former government employee shall be prohibited for **one (1) year** from having any transactions with the former agency intended to influence the agency, in connection with any particular government matter pending before the agency as to a particular matter pending before the agency or in which it has a direct and substantial interest, whether or not such matter involves a specific party.
 - This restriction is intended to prohibit the possible use of personal influence based on past governmental affiliations to facilitate the transaction of business.
 - Therefore, the restriction shall apply without regard to whether the former employee had participated in, or had responsibility for, the particular matter, and shall include matters which first arise after the employee leaves government service.
 - This restriction shall apply whether the former employee is representing another or representing him or herself, either by appearance before an agency or through communications with that agency.

Test Your Knowledge



- **Question:** I left the District government approximately two months ago and went into business for myself. One of my clients has a payment issue with my former agency and wants me to see if I can work with the agency to get the payment approved. My client assures me that he did not have any dealings with my former agency during the time that I worked there. Can I contact my former co-workers for assistance?
- **Answer:** No. Because you left your former agency less than one year ago, you are prohibited from having any transactions, appearances, or communications with your former agency with the intent to influence the agency in a matter in which it has a direct and substantial interest. It doesn't matter that the issue did not arise until after you left the agency.
- **Reason:** This restriction is intended to prohibit the possible use of personal influence based on past governmental affiliations to facilitate the transaction of business.

Hatch Act/Political Activities



- Effective January 28, 2013, the federal law (“federal Hatch Act”) was amended substantially, reducing the application and impact of the federal Hatch Act on District government employees.
 - Public Law No. 112-230, “Hatch Act Modernization Act of 2012.” ■
- On February 19, 2013, the D.C. Council enacted an amendment to the 2010 “Local Hatch Act,” which became effective on March 7, 2013. The Local Hatch Act now governs the political activities of D.C. government employees.
 - “Prohibition on Government Employee Engagement in Political Activity Act of 2010”, effective March 31, 2011 (D.C. Law 18-335; 58 DCR 599), as amended by the “Prohibition on Government Employee Engagement in Political Activity Temporary Amendment Act of 2013” (D.C. Law 20-4, effective May 18, 2013) (the “Local Hatch Act”).

Local Hatch Act



- The Local Hatch Act became effective on March 7, 2013 and came under BEGA's jurisdiction.
- The Local Hatch Act establishes restrictions on the ***political activity*** of D.C. government ***employees*** similar to those previously provided by the federal Hatch Act.

Definition of “Employee”



- The Local Hatch Act defines a D.C. government “employee” as:
 - any individual paid by the D.C. government from grant or appropriated funds for his or her services or holding office in D.C.;
 - a member of a board or commission who is nominated for a position pursuant to § 2(e) of the Confirmation Act of 1978; (D.C. Official Code § 1-523.01(2)(e))
 - a member of a board or commission who is nominated pursuant to § 2(f) of the Confirmation Act of 1978 when the member is engaged in political activity that relates to the subject matter that the member’s board or commission regulates. (D.C. Official Code § 1-523.01(2)(f))

Not an “Employee”



- If not otherwise employed by the District, the Local Hatch Act does not include the following as D.C. government employees:
 - Employees of the courts of the District of Columbia;
 - The Mayor;
 - The members of the Council;
 - Advisory Neighborhood Commissioners;
 - Members of the State Board of Education;
 - Members of the District of Columbia Statehood Delegation;
and
 - The Attorney General (after January 1, 2018).

Definition of “Political Activity”



- The Local Hatch Act defines “political activity” as:
 - Any activity that is ***regulated by the District*** and directed toward the success or failure of a political party, candidate for partisan political office, partisan political group, ballot initiative, or referendum.
 - Regulated by the District means, any election, ballot initiative, or referendum regulated by the D.C. Board of Elections

■ D.C. Law 18-355, Sec. 2. (8)(A) ■

Political Activity Prohibitions



- When engaging in “political activity” that is **regulated by the District**, D.C. government employees cannot:
 - Knowingly solicit, accept, or receive a political contribution from any person (**except** if the employee has filed as a candidate for political office);
 - File as a candidate for election to a **partisan** political office.
 - Knowingly direct, or authorize anyone else to direct, that any subordinate employee participate in an election campaign or request a subordinate to make a political contribution.
- When engaging in **ANY** “political activity,” D.C. government employees cannot:
 - Use their official authority or influence for the purpose of interfering with or affecting the result of an election.

“Partisan Political Office”



- The Local Hatch Act defines “partisan political office” as:
 - *Any office in the District government for which any candidate is nominated or elected as representing a party, any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected, but shall exclude an office or position within a political party or affiliated organization.*
 - In the 2012 Presidential election, the parties were: Democrat, Republican, Libertarian, and Statehood Green.

■D.C. Law 18-355, Sec. 2. (7) ■

“Political Activity *not* Regulated by the District



- When engaging in “political activity” that is ***not*** regulated by the District:
 - A D.C. government employees who ***is not*** a District resident may file as a candidate to a partisan political office in their local, non-District elections without restriction by the Local Hatch Act.
 - A D.C. government employee engaged in political activity that is ***not*** regulated by the District is permitted to solicit, accept, or receive political contributions from any person.

■D.C. Law 18-355, Sec. 3. (a)(2-3) ■

Test Your Knowledge



- Question: I am a District government employee paid entirely with District funds. I reside in the District, but my childhood friend is running for office in Maryland, on a partisan ticket. Am I permitted to campaign for my friend?
- Answer: Yes
- Question: Am I permitted to solicit campaign funds for my friend's campaign?
- Answer: Yes

Fundraising as “Political Activity”



- The Local Hatch Act permits D.C. government employees to take an active part in political management or in political campaigns.
 - This means that, if you are D.C. government employee:
 - ✦ you can work on and manage the District-regulated partisan or non-partisan political campaign of another;
 - ✦ you can work on, manage, and fund-raise for your own District regulated non-partisan campaign;
 - ✦ you can work on, manage, and fund-raise for a non-District regulated campaign of another or yourself, regardless of whether it is a partisan or non-partisan campaign.
 - **BUT**
 - ✦ you **CANNOT** fund-raise for the District-regulated campaign of another, even if it is a non-partisan campaign.

“Meet and Greet” Events



- A “**Meet & Greet**” event is an event where attendees can meet and greet a candidate.
 - Organizing a “Meet and Greet” event is a permissible “Political Activity” because the Local Hatch Act permits District employees to take an active part in political management & campaigns.
 - **BUT -**
 - District employees are **prohibited** from fundraising for the District regulated campaign of another person.
 - **THEREFORE –**
 - If the Meet & Greet is for fundraising purposes, District employees are prohibited from taking an active part in the event (other than attending).
 - If the Meet & Greet has a cost to attend, District employees are prohibited from taking an active part in the event (other than attending) because the cost to attend the event (which is being held to promote a candidate) constitutes fundraising.
 - ✦ The purpose of the event is to promote a candidate. Contributions made to cover the costs of the event constitute political contributions. Therefore, if the Meet & Greet event has a cost, it is a fundraising event and District employees are prohibited from taking an active part in the event, other than attending.

Non-Partisan Political Office



- D.C. government employees who ***are*** District residents may file as candidates for ***non-partisan*** District office.

■D.C. Law 18-355, Sec. 3. (a)■
- D.C. government employees who ***are not*** District residents may participate in their local, non-District elections ***without restriction*** by the Local Hatch Act.

Designated Employees



- The Mayor and each member of the Council may designate **one** D.C. government employee **while on unpaid leave** to knowingly solicit, accept, or receive political contributions.
- The designated D.C. government employee may not perform this function while on duty or in any room or building occupied in the discharge of official duties in the District government, including any agency or instrumentality thereof.
- The designation must be made in writing and filed with the Board of Ethics and Government Accountability.

■D.C. Law 18-355, Sec. 3. (b) ■

Prohibited Political Activity for All



- **ALL D.C. government employees are prohibited from engaging in ALL political activity, regardless of whether it is regulated by the District, while:**
 - On duty;
 - In any room or building occupied in the discharge of official duties in the D.C. government, including any agency or instrumentality thereof;
 - Wearing a uniform or official insignia identifying the office or position of the employee;
 - Using any vehicle owned or leased by the District, including an agency or instrumentality thereof.

■D.C. Law 18-355, Sec. 4. (a)(1-4) ■

- **In addition, a D.C. government employee may not coerce, explicitly or implicitly, any subordinate employee to engage in political activity.**

■D.C. Law 18-355, Sec. 4. (b) ■

 - or
- **Use their official authority or influence for the purpose of interfering with or affecting the result of an election.**

■D.C. Law 18-355, Sec. 3. (a)(1) ■

Test Your Knowledge



- Question: I received an email from a partisan political candidate in my District government email inbox. Have I violated the Local Hatch Act?
- Answer: No
- Question: I forwarded the email to my coworkers. Have I now violated the Local Hatch Act?
- Answer: Yes

The Federal Hatch Act



- Although all D.C. government employees are now covered by the Local Hatch Act, those employees whose salaries are paid ***in whole or in part*** with federal funds (“covered District employees”) are also covered by specific provisions in the federal Hatch Act.
- Your agency head is required to inform you if you are a covered District employee.
- Covered District employees must comply with the federal Hatch Act, the Local Hatch Act, and the Ethics Act.

■ 5 U.S.C. § 1501(4) (defining who is covered) ■

To Sum Up



- **ALL D.C. government employees are prohibited from engaging in ALL political activity, regardless of whether it is regulated by the District, while:**
 - On duty;
 - In any room or building occupied in the discharge of official duties in the D.C. government, including any agency or instrumentality thereof;
 - Wearing a uniform or official insignia identifying the office or position of the employee;
 - Using any vehicle owned or leased by the District, including an agency or instrumentality thereof.

■D.C. Law 18-355, Sec. 4. (a)(1-4) ■

- **In addition, a D.C. government employee may not coerce, explicitly or implicitly, any subordinate employee to engage in political activity.**

■D.C. Law 18-355, Sec. 4. (b) ■

 - or

- **Use their official authority or influence for the purpose of interfering with or affecting the result of an election;**

■D.C. Law 18-355, Sec. 3. (a)(1) ■

The Federal Hatch Act



- The federal Hatch Act is enforced by a federal agency: the U.S. Office of Special Counsel (OSC).
- If you have questions about the federal Hatch Act specifically, you may contact the OSC in writing or by telephone.

Hatch Act Unit

U.S. Office of Special Counsel

1730 M Street, N.W., Suite 218

Washington, D.C. 20036-4505

Tel: (800) 85-HATCH or (800) 854-2824

(202) 254-3650

Fax: (202) 254-3700

Requests for federal Hatch Act advisory opinions (only) may be made by e-mail to: hatchact@osc.gov

Questions about the Local Hatch Act?



- If you have questions about the Local Hatch Act, you may contact BEGA.
- Inquiries may be made by telephone or by email to:

Yancey Burns

Attorney Advisor, BEGA

Phone: (202) 481-3405

Email: yancey.burns@dc.gov

Financial Conflicts of Interest



- **District Law**
 - Shall not
 - ✦ Use official title or position
 - ✦ Or personally and substantially participate
 - ✦ Through decision, approval, recommendation, etc.
 - ✦ Or attempt to influence the outcome
 - ✦ Of a particular matter
 - ✦ That the employee knows is likely to have a direct & predictable effect
 - ✦ On the financial interests of the employee or a person closely affiliated with the employee

■ Ethics Act, Sec. 223, D.C. Official Code § 1-1162.23 ■

Financial Conflicts of Interest



- **Federal Law**

- District of Columbia employees, including Special Government employees, **shall not**:
 - ✦ Participate personally and substantially
 - ✦ Through decision, approval, recommendation, etc., or other particular matter
 - ✦ In which the employee knows he, his spouse, minor child, general partner, or organization in which he is serving as an officer, director, trustee, general partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest

Financial Conflicts of Interest



- Penalties for violations include:
 - Civil penalties pursuant to the Ethics Act
 - ✦ \$5,000 per violation
 - Criminal Penalties pursuant to 18 U.S.C. § 216:
 - ✦ If not willful, 1 year in prison and fines of \$50,000 per violation or the amount of compensation the person received or was offered, whichever is greater.
 - ✦ If willful, 5 years in prison and fines of \$50,000 per violation or the amount of compensation the person received or was offered, whichever is greater.

Financial Disclosure Filings



- Public Financial Disclosure Statements
- Confidential Financial Disclosure Statements
- Public Financial Disclosure Certifications
- Due Date
 - **May 15th**

Who files a Public Financial Disclosure Statement?



- **Statutory Authority:**
 - ▶ D.C. Official Code § 1-1162.24(a)(1) “Public officials, except Advisory Neighborhood Commissioners, shall file annually with the Ethics Board a public report...”

- **Who is a “public official?”:**
 - A candidate for public office
 - The Mayor, Chairman, & each Member of the District Council
 - The Attorney General
 - A Representative or Senator elected pursuant to § 1-123
 - A Member of the State Board of Education
 - A Member of the Boards & Commissions found in § 1-523.01(e)
 - A subordinate Agency Head in an Excepted Service Position
 - Any employee who makes \$95,481 or above (for 2013) and performs the duties listed in D.C. Official Code § 1-1161.01(47)(I)

Who files a Confidential Financial Disclosure Statement?



- **Statutory Authority:**

- ▶ D.C. Official Code § 1-1162.25(a) “Any employee, other than a public official, who advises, makes decisions or participates substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, policy-making, regulating, or auditing, or acts in areas of responsibility that may create a conflict of interest or appearance of a conflict of interest, **as determined by the appropriate agency head**, shall file... with that agency head a report containing a full and complete statement of the information required by § 1-1162.24.”
- ▶ Agency heads must notify **designated employees** who are required to file Confidential Financial Disclosure Statements on or before April 15th of every year.

■D.C. Official Code § 1-1162.25(c) ■

Who files a Financial Disclosure Certification?



- Statutory Authority:
 - ▶ D.C. Official Code § 1-1162.25(a-1)(2) “Effective January 1, 2014, an **Advisory Neighborhood Commissioner** in office for at least 30 days shall be required to file a certification required by section 224(a)(1)(G) for the preceding year. The certification required by this section shall be due May 15th of each year and shall be filed publicly with the Ethics Board.”
 - ▶ **ANC Commissioners** are **required** to file a **Public Financial Disclosure Certification** with BEGA.
 - ✦ In the previous year, ANC Commissioners were required to file a Confidential Financial Disclosure Statement.

Test Your Knowledge



- **Question:** I am a District government employee, who is a confidential filer. I also am an Advisory Neighborhood Commissioner. Am I required to file both a confidential financial disclosure statement and a public financial disclosure certification?
- **Answer:** Yes. Your confidential financial disclosure statement will be filed with your agency. The ANC financial disclosure certification will be filed publicly on the BEGA website. Therefore, you must file both.

Where & How to File Publicly



- **Electronically at www.bega-dc.gov**
 - Follow the “File a Financial Disclosure Statement” button to the FDS e-filing system

- **In late April, every Public filer will receive a letter from BEGA. The letter will:**
 - *Explain the process for filing*
 - *Include the necessary log-in information for those who wish to file electronically*

- **In person or via mail**
 - **The Board of Ethics and Government Accountability**
441 4th Street NW
Suite 830 South
Washington, D.C. 20001

Questions about Financial Disclosure?



- Contact:

- ✦ Cristina Patzelt

- Attorney Advisor, BEGA

- (202) 741-2130

- Email - - Cristina.Patzelt@dc.gov

Questions



Q

&

A

Where to go for ethics advice



- BEGA
 - ✦ Darrin P. Sobin
 - Director of Government Ethics
 - (202) 481-3411
 - BEGA Hotline - - (202) 535-1002
 - Email - - bega@dc.gov

- Agency Ethics Counselor

- D.C. Ethics Counselor
 - Irvin Nathan
 - Attorney General
 - David Hyden
 - (202) 724-5386