

## **POLITICAL ACTIVITY BY PUBLIC EMPLOYEES**

Public employees -- employees and volunteers -- have most of the same rights as other citizens to engage in private political activity. However, the conflict of interest law, Mass. G.L. c. 268A, restricts some political activity of public employees. In addition, the campaign finance law, Mass.G.L. c. 55, restricts public employees' political fundraising.

### **I. PROHIBITED ACTIVITY**

The following restrictions are imposed by law on public employees and volunteers with respect to their participation in political activity whether on the local, state or federal level.

#### **1. Participation In Political Activity**

"Political activity" includes, but is not limited to, any activity that is in support of or in opposition to a federal, state or local candidate or political party or a state or local ballot question.

In general, a public employee may not use his public position to engage in political activity.

Public employees may not participate in political activity:

- during their usual business hours
- while acting in his official capacity or while in his official uniform
- with the use of other public facilities or property and resources, such as staff time, public office space and facilities, public office equipment such as telephones and other communications equipment, computers, copiers, public websites and links to public websites, or public office supplies such as official stationery.

Partisan political and campaign activity may be conducted by an employee only during non-business hours including usual lunch hour, vacation time, personal time or during a leave of absence without pay.

#### **2. Prohibitions Against Public Employees Soliciting Political Contributions**

**It is a violation of state law for a public employee directly or indirectly to solicit political contributions.**

No person employed for compensation, other than an elected officer, by the commonwealth or any county, city or town shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription, or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever . . . . (Mass. G.L. c. 55, Section 13, emphasis added)

The principles supporting this prohibition -- primarily to insulate public employees from inappropriate political pressures and in turn to ensure that employees do not use their public positions for personal or political gain -- are important and must be strongly protected.

This prohibition includes both direct and indirect solicitation:

- a public employee may not ask any individual for a contribution on behalf of a political candidate or committee.
- a public employee may not encourage an individual to contribute to a candidate for public or political office or to a political committee.
- a public employee may not sponsor or allow the use of his or her name on an invitation to a fundraising event or on a political fundraising request.
- a public employee may not serve as a host or sponsor of a political fundraising event.
- a public employee may not distribute or sell tickets to political fundraising events.

It should be noted that Mass. G.L. c. 55, Section 7A, does permit public employees, as individuals, to make financial contributions to political campaigns.

### 3. Solicitation In A Public Building

**No one may solicit a political contribution in a public building.**

Solicitations include requests for, or receipt of, a contribution and the distribution of fundraising letters or tickets. Any public employee convicted of such solicitation of funds may be removed from employment without a hearing (Mass. G.L. c. 55, Section 14).

### 4. Public Employees Seeking Elective Office

Public employees seeking elective office may not solicit political contributions either directly or indirectly.

Any of the prohibitions against solicitation, which apply to public employees, in general also apply to a public employee who is himself/herself a candidate for political office. Moreover, there are other restrictions, which apply:

- A non-elected committee raising funds for a public employee seeking political office may not solicit individuals who have an interest in any particular matter in which the employee participates in or has participated in through the course of that employment or which is a subject of his/her official responsibility (Mass. G.L. c. 55, Section 13).
- A public employee seeking office may attend an event held on his/her behalf by a non-elected committee, but may not encourage contributions, directly or indirectly.
- A public employee seeking public office may not give permission to have his/her name appear on such invitation as one who encourages contributions by an individual.

## II. **PERMITTED ACTIVITY**

In general, public employees of all types may engage in private political activity, subject to the restrictions on political fundraising imposed by G.L. c. 55. The conflict of interest law does not prohibit a public employee from engaging in political activity on his own time, using his own or other private resources, and when he is acting for himself and not as an agent or representative of anyone else.

## III. **INFORMATION**

Elected and Policy-Making Officials: The restrictions on public employee political activity are not the same for all public positions. Elected officials may engage in more political activity than appointed officials and employees. Public employees who hold policy-making positions have more leeway to make public statements and take official action on political issues than do non-policy-makers. Employees are encouraged to contact the Office of Legal Advisory with questions.

Campaign Finance: Employees seeking information on particular questions are encouraged to call the Office of Campaign and Political Finance.

Conflict of Interest: Employees may refer to State Ethics Commission's Advisory No. 11-1, entitled "Public Employee Political Activity," a copy of which can be obtained by clicking this link:  
<http://www.mass.gov/ethics/adv1101.htm>.

#### IV. ENFORCEMENT

The City Administration intends to ensure that the legal restrictions on political activity by public employees are fully enforced. This bulletin should serve as notice to public employees of the City of such restrictions and their implications.

For more information about this circular, contact:

<b>Name:</b>	Alissa Ocasio
<b>Department:</b>	Office of Legal Advisor
<b>Mailing Address:</b>	26 Court Street, Boston, MA 02108
<b>Phone:</b>	617-635-9320
<b>Fax:</b>	617-635-9327
<b>E-mail:</b>	<a href="mailto:aocasio@boston.k12.ma.us">aocasio@boston.k12.ma.us</a>

Carol R. Johnson, Superintendent