



U.S. OFFICE OF SPECIAL COUNSEL

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September 12, 1997

This letter is in response to your request for an advisory opinion concerning the Hatch Act. Specifically, you ask whether the Act would prohibit you, as an employee of the District of Columbia, from running for the County Council in Montgomery County, Maryland.

The Hatch Act Reform Amendments of 1993 (5 U.S.C. §§ 7321-7326) generally permit most federal employees to actively participate in partisan political management and partisan political campaigns. However, covered employees may not be candidates for public office in partisan elections, i.e., elections in which any of the candidates represent, for example, the Democratic or Republican party. Implementing regulations at 5 C.F.R. §733.102 permit covered employees who reside in designated communities listed at 5 C.F.R. §733.102(d) to run as independent candidates for election to local office in partisan elections. For Hatch Act purposes an independent candidacy is one where the candidate is not running as a representative of any political party whose presidential candidate received votes in the last presidential election where electoral votes were cast.

Inasmuch as Montgomery County, Maryland, is a designated community listed in Section 733.102(d), residents of the county who are executive branch employees of either the federal government or the government of the District of Columbia may run as independent candidates in local partisan elections. Additionally, such candidates would be permitted to solicit, accept or receive political contributions for their independent candidacies. Therefore, as a District of Columbia employee, residing in Montgomery County, you would not be prohibited by the Hatch Act from running for Montgomery County Council as an independent candidate. Please call me at (202) 653-7143 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Dalheim".

Karen Dalheim
Attorney