

UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD
OFFICE OF THE CLERK OF THE BOARD

SPECIAL COUNSEL,
[Hatch Act Unit]

DOCKET NUMBER
CB-1216-16-0017-T-1

Petitioner,

V.

KEITH L. ARNOLD,

Respondent.

RESPONSE TO COMPLAINT: MOTION TO DISMISS

I, respondent, request this complaint be dismissed. This is Hatch Act Unit OVERREACH [HAUO]. I previously had to complain to the U.S. Department of Commerce Office of Inspector General (DOC OIG) [HAUO was cc'd in original 7-29-14 email in email string] about both OSC (HAUO) and the U.S. Department of Commerce Office of General Counsel (OGC) both abusing their offices against me [Exhibits A and B].

I ran for Congress in the 8th District of Washington in 2006, 2008, 2010, and 2012. I started working at NOAA in March 2010. After the 2010 Primary in an auditorium session OGC indicated we couldn't run for a political party nomination and could only run as an independent with a document it gave the audience and called "ETHICS CONTEST 2010" [Exhibit C]. Some of the marks on Exhibit C are my answers and others are OGC answers (I didn't note which were which at the time). I have never sought a party's nomination. Also, Washington State had and still has a top 2 Primary and no longer allowed its election to be used to select a political party nominee nor guarantee a space on the general election ballot for a political party which is what a partisan election does. Since all the primary elections just picked the top 2 vote getters like its nonpartisan elections always had and didn't select a nominee for each political party, this made all government elections in Washington state nonpartisan and government partisan elections no longer existed in the state (except, possibly, for the President).

After (or near the end of) the 2012 primary election I got the attached email from Ruben [Exhibit D]. Then emails from and to HAUO followed. I interviewed with HAUO in 2012. I told HAUO the General Counsel said we couldn't seek a party's nomination and I never

had. I, also, told HAUO Washington was a top 2 primary state so there were no partisan elections in Washington state any more (only nonpartisan).

If I couldn't do both I would resign from the federal government and run for Congress, but having to make that choice is TOTALLY RIDICULOUS AND WRONGFUL. I worked for the Internal Revenue Service 1999 to 2004 and as I remember then federal employees participating in elections was not only allowed but encouraged and I think they offered time off before an election specifically to participate in the elections.

In 2014 the week before the candidate registration week I asked Ethics about running for Congress. It was awhile before Ethics answered [Exhibits E and F]. First Ethics stalled until the end of candidate registration week to respond to this simple question. so I had to register. Then suspiciously I got a 5-15-14 email from Jeffrey Harrington of Ethics after I registered as a candidate. However, that response barred running in partisan elections not running for Congress. Each state determines if their elections including Congress elections are partisan (biased in favor of political parties) or nonpartisan (such as top 2 primary). So Harrington's response agreed with my view. Apparently, Harrington saw his response agreed with me and he wanted to create the rule that I just can't run for Congress so he sent me another email saying I can't run for Congress specifically. The candidate registration is placed online so anyone can check it any time.

On July 17, 2014 I received my voters guide in the mail which contains my candidate statement which is usually online sooner, even if few people look for it online. In that statement I state the Hatch Act creates a double standard for nonCongress federal employees versus Congress incumbent federal employees and is election rigging. This publicly blew the whistle on the double standard and election rigging of the Hatch Act and those who depend on it.

The next day I got the 7-18-14 emails from Harrington [Exhibits E and F] and the following weeks I got emails (and a phone message) [Exhibits G and H] from HAUO which indicates they are conspiring together to retaliate against me for whistle blowing on their Hatch Act election rigging in my candidate statement. In the 7-18-14 email Harrington cc's my branch chief Angela Hunter, and Harrington tells me I must withdraw from the election which looks like he is trying to make it falsely look like management speaking and not OGC. I complained to DOC OIG about HAUO, Harrington, and Ruben.

I complied with what the lawyers said in 2010 about not running in a partisan election for a taxpayer financed party nomination (truly not ethical). But when the lawyers saw the top 2 primary complied with the law they stated in 2010 they tried to change the law and falsely claim federal employees just can't run for Congress. Then in 2014 Harrington repeated this changing from one answer to a false answer with his emails.

In 2013 I received Exhibit I. This email is about "mandatory Ethics training" by OGC "every three years". This email was sent by a NOAA non-OGC employee, but I believe it

was really from HAUO and OGC who had other NOAA employees send it out to us as an abusive, deceitful, coverup. "Every three years" is a suspiciously odd time frame for regular training. I started at NOAA in 2010, so I believe this training was targeting me both times, wasn't done before I started in 2010 and the "every three years" was another HAUO and OGC coverup. My branch had a meeting that "training" day in 2013 and management made it clear not everyone "had" to go. I wasn't one management told to go, so I didn't but stayed in the meeting with management instead.

Also, on Thursday, July 24, 2014 at about 7:00 am when I got to work in the morning on my desk there was a regular mail envelope (stamped received by my office 2014 JUL 23 PM 3:43) with no postage on it from HAUO with a copy of the letter HAUO attached to their 7-22-14 email. Then at 1:47 pm I got a call from a man who said he was Don and he asked if I got my UPS from the "Dept. of Justice". I was sure he was talking about this HAUO envelope so I said yes. Our last regular mail usually comes before 3:15 pm and this day I wasn't scheduled to leave until 3:30 pm and did leave on the 3:42 pm bus. Special deliver mail has only come before noon (not after noon) probably for years. Don from the mail room usually throws his clipboard on my desk when he comes and asks me to sign for something for my office but he comes so far in between I forget when he comes. Except last time he came (before I got this HAUO envelope) and I was at my desk it wasn't that long since he'd been there so I watched to see if he threw his clipboard on my desk so I could say something but he didn't throw it. It looks like HAUO used our mailroom to deliberately deliver something for me after I left the office so they would have an excuse to give it to a coworker and try to humiliate me in retaliation. So at least one person probably Don in our mailroom was in on this retaliation conspiracy.

Also, on Monday, July 28, 2014 about 6:33 am when I got off the back door of bus #75 at Sand Point Way and walked to NOAA's gate, a White male I've never seen before especially on this bus got off the front door of my bus and walked ahead of me all the way to NOAA's gate. Once he got into NOAA's gate he went over to Building 8 which is by the gate and our mailroom location and there was a Black male at a UPS van with a package waiting in the parking lot near the gate. These Black and White males spoke to each other like they knew each other and the UPS Black male got the White male to sign for a package. This seems very strange having a UPS delivery waiting for you at 6:33 am in the morning. It looks like this was staged to show UPS is in on this conspiracy to target me for retaliation and the conspiracy reaches outside the federal government.

In 2015 HAUO contacted my NOAA branch chief and got (or tricked) her to tell me HAUO wanted me to call them. I called them and left a voice message that I was calling because of a message from my branch chief and they sent emails [Exhibits J and K]. HAUO interviewed me in 2012 but only as cover to falsely claim they had found a violation. HAUO tried to trick me into agreeing to a "reprimand" after that interview and I responded no [Exhibit L]. Then HAUO tried another trick and scare email [Exhibit M]. In 2014 HAUO wanted to interview me again, apparently to try to set up a new lie, but I said no Exhibits N, O, and P]. I believe HAUO needlessly used my branch chief as a

"messenger" to try to fool me into believing that NOAA management was telling me to interview with HAUO. My branch chief and NOAA management gave no indication that they were telling me to interview with HAUO or had anything to do with it.

This year there is a partisan primary for President in May 2016, but it is separate from the top 2 primary in August 2016 for Congress and others. The May 2016 primary picks political party nominees. The August 2016 primary does not pick nominees. This difference emphasizes that the May 2016 primary is PARTISAN but the August 2016 primary for Congress and others is NONPARTISAN despite false claims (whether these false claims are by officeholders or others). I don't recall this separate Presidential primary since 2010 when I started at NOAA.

HAUO is trying to overstep its authority and change the meaning of Partisan elections and Nonpartisan elections. Elections (which use taxpayer money) that give its winners the label party nominee and a place in the General Election are Partisan elections. Elections that do not give its winners the label party nominee but still a place in the General Election are Nonpartisan elections like the Congressional Elections in the state of Washington. This is determined by the states and state by state.

In conclusion, the Hatch Act bars running for a party's nomination, not running for Congress. Only crossing a rightful legal line is wrong. I have not crossed this line and therefore should never have been contacted by HAUO. HAUO has crossed this line. Therefore, HAUO (along with those who conspired with them or "happened to act as HAUO did and when HAUO did") has overreached and committed the only wrongdoing here.

Therefore, this complaint was baseless, never should have been filed, and should be dismissed.

Date: May 18, 2016

by:



Keith L. Arnold

Respondent



Keith Arnold - NOAA Federal <keith.l.arnold@noaa.gov>

RE: Complaint About Ruben, Harrington, and OSC

1 message

DOC OIG Hotline <doc-oig-hotline@inquisitllc.com>
To: "keith.l.arnold@noaa.gov" <keith.l.arnold@noaa.gov>

Wed, Jul 30, 2014 at 12:07 PM

RE: DOCOIG-14-07-30-0003

We are in receipt of your complaint provided on 07/30/2014. Thank you for providing this information. Your complaint will be handled appropriately under our established procedures.

Thank you,

Operator #112, Communication Specialist

FOR OFFICIAL USE ONLY - This transmission contains material covered by the Privacy Act of 1974 and should be viewed only by personnel having an official "need to know". PRIVACY SENSITIVE - Any misuse or unauthorized disclosure may result in both civil or criminal penalties.



Keith Arnold - NOAA Federal <keith.l.arnold@noaa.gov>

RE: Complaint About Ruben, Harrington, and OSC

1 message

Rogalski, Caitlin <CRogalski@oig.doc.gov>
To: Keith Arnold - NOAA Federal <keith.l.arnold@noaa.gov>
Cc: OIG Hotline <hotline@oig.doc.gov>

Wed, Jul 30, 2014 at 9:47 AM

Mr. Arnold,

The Whistleblower Protection Ombudsman does not take complaints, the OIG Hotline is the correct avenue for complaints regarding DOC operations and programs. I will forward this information to them. For future reference, OIG Hotline contact information can be found here: <http://www.oig.doc.gov/Pages/Hotline.aspx>. Hotline@oig.doc.gov is the correct email address, I am sorry that it did not work for you.

Regards

From: Keith Arnold - NOAA Federal [mailto:keith.l.arnold@noaa.gov]
Sent: Wednesday, July 30, 2014 10:58 AM
To: Whistleblower Protection Ombudsman
Cc: oigwpo@oig.doc.gov
Subject: Fwd: Complaint About Ruben, Harrington, and OSC

Hello OIG:

I got a message delivery failure email for my Complaint below even though the Hotline@oig.doc.gov email address was in two DOC Broadcast emails I received. However, those DOC Broadcast emails had different email addresses for the Ombudsman, so I am resending my complaint to you with that 2nd DOC Broadcast email Ombudsman email address and Ccing the first DOC Broadcast email Ombudsman email address.

Thank you,

Keith Arnold

----- Forwarded message -----

From: Keith Arnold - NOAA Federal <keith.l.arnold@noaa.gov>
Date: Tue, Jul 29, 2014 at 3:12 PM
Subject: Complaint About Ruben, Harrington, and OSC
To: Hotline@oig.doc.gov

Cc: cmartorana@osc.gov

Hello OIG:

I ran for Congress in the 8th District of Washington in 2006, 2008, 2010, and 2012. I started working at NOAA in March 2010. After the 2010 Primary in an auditorium session the General Counsel indicated we couldn't run for a political party nomination and could only run as an independent. I have never sought a party's nomination. Also, Washington State had and still has a top 2 Primary and no longer allowed it's election to be used to select a political party nominee nor guarantee a space on the general election ballot for a political party which is what a partisan election does. Since all the primary elections just picked the top 2 vote getters like its nonpartisan elections always had and didn't select a nominee for each political party, this made all government elections in Washington state nonpartisan and government partisan elections no longer existed in the state.

After the 2012 election I got the attached email from Ruben. Then the emails from and to the OSC followed. I told OSC the General Counsel said we couldn't seek a party's nomination and I never had. I, also, told OSC Washington was a top 2 primary state so there were no partisan elections in Washington state any more (only nonpartisan).

If I couldn't do both I would resign from the federal government and run for Congress, but having to make that choice is TOTALLY RIDICULOUS AND WRONGFUL. I worked for the Internal Revenue Service 1999 to 2004 and as I remember then federal employees participating in elections was not only allowed but encouraged and I think they offered time off before an election specifically to participate in the elections.

In 2014 the week before the candidate registration week I asked Ethics about running for Congress. Then emails from them followed. First Ethics stalled until the end of candidate registration week to respond to this simple question. so I had to register. Then suspiciously I got a response from Jeffrey Harrington of Ethics after I registered as a candidate. However, that response barred running in partisan elections not running for Congress. Each state determines if their elections including Congress elections are partisan (biased in favor of political parties) or nonpartisan (such as top 2 primary). So Harrington's response agreed with my view. Apparently, Harrington saw his response agreed with me and he wanted to create the rule that I just can't run for Congress so he sent me another email saying I can't run for Congress specifically. The candidate registration is placed online so any one can check it any time.

On July 17, 2014 I received my voters guide in the mail which contains my candidate statement which is usually online sooner, even if few people look for it online. In that statement I state the Hatch Act creates a double standard for nonCongress federal employees versus Congress incumbent federal employees and is election rigging. This publicly blew the whistle on the double standard and election rigging of the Hatch Act and those who depend on it.

The next day I got the 7-18-14 emails from Harrington and the following week I got emails (and a phone message) from OSC which indicates they are conspiring together to retaliate against me for whistle blowing on their Hatch Act election rigging in my candidate statement and this is a complaint about them and Ruben.

I complied with what the lawyers said in 2010 about not running in a partisan election for a taxpayer financed

party nomination. But when the lawyers saw the top 2 primary complied with the law they stated in 2010 they tried to change the law and falsely claim federal employees just can't run for Congress. Then in 2014 Harrington repeated this changing from one answer to a false answer with his emails.

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Thank you,

Keith Arnold

Accounting Technician, USDOC-NOAA-AOD, Western Operations Branch, 7600 Sand Point Way NE, Building 1, Seattle, WA 98115 ph: 206-526-6007 fax: 206-527-7518



Serving Those Who Serve Our Planet

ETHICS CONTEST 2010



CROSSWORD PUZZLE - ESSAY QUESTION - FILL-IN-THE-BLANK - MATCH-UP - MULTIPLE CHOICE - **TRUE/FALSE** - CROSSWORD PUZZLE - FILL-IN-THE-BLANK - MULTIPLE CHOICE - ESSAY QUESTION - MATCH-UP - TRUE/FALSE - ESSAY QUESTION - MULTIPLE CHOICE - **FILL-IN-THE-BLANK** - TRUE/FALSE - CROSSWORD PUZZLE - MATCH-UP - TRUE/FALSE - MULTIPLE CHOICE - MATCH-UP - FILL-IN-THE-BLANK - ESSAY QUESTION - **CROSSWORD PUZZLE** - CROSSWORD PUZZLE - ESSAY QUESTION - FILL-IN-THE-BLANK - MATCH-UP - MULTIPLE CHOICE - TRUE/FALSE - CROSSWORD PUZZLE - FILL-IN-THE-BLANK - MULTIPLE CHOICE - ESSAY QUESTION - MATCH-UP - TRUE/FALSE - ESSAY QUESTION - **MULTIPLE CHOICE** - FILL-IN-THE-BLANK - TRUE/FALSE - CROSSWORD PUZZLE - MATCH-UP - TRUE/FALSE - MULTIPLE CHOICE - MATCH-UP - FILL-IN-THE-BLANK - ESSAY QUESTION - CROSSWORD PUZZLE - CROSSWORD PUZZLE - ESSAY QUESTION - FILL-IN-THE-BLANK - MATCH-UP - MULTIPLE CHOICE - TRUE/FALSE - CROSSWORD PUZZLE - FILL-IN-THE-BLANK - MULTIPLE CHOICE - **ESSAY QUESTION** - MATCH-UP - TRUE/FALSE - ESSAY QUESTION - MULTIPLE CHOICE - FILL-IN-THE-BLANK - TRUE/FALSE - CROSS

ETHICS LAW AND PROGRAMS
DIVISION
OFFICE OF THE ASSISTANT
GENERAL COUNSEL FOR
ADMINISTRATION
UNITED STATES DEPARTMENT
OF COMMERCE
202-482-5384
ethicsdivision@doc.gov
www.ogc.doc.gov/ethics.html

ETHICS CONTEST

This ethics contest is a means for you to check your knowledge of ethics rules. It is a learning tool designed to focus your attention on the types of issues that may arise and, with the explanations of the correct answers that are contained in a separate handout, help you learn some of the basic rules and the more commonly-used exceptions to the basic rules. The contest is in six sections: true-false; multiple-choice, match-up, fill-in-the-blank, crossword puzzle, and essay. Each section covers a spectrum of different rules.

The key to passing a real-life “ethics contest,” however, is knowing when to ask for advice and who to ask.

For advice about ethics rules, contact the Ethics Law and Programs Division of the Office of the Assistant General Counsel for Administration, U.S. Department of Commerce, at 202-482-5384 or ethicsdivision@doc.gov.

The underlying principle behind all the ethics rules is that public service is a public trust. You should never be placed in a situation where you will need to weigh your personal interests against your responsibilities as a Government employee. Sometimes this situation is avoided by having you decline certain personal benefits or opportunities that may improperly influence, or appear to improperly influence, your actions as a public servant. Other times, your Government duties will be limited in order to permit you to engage in personal investments or outside activities.

Designated Agency Ethics Official:
Cameron F. Kerry, General Counsel

Alternate Designated Agency Ethics Official:
Barbara S. Fredericks, Assistant General Counsel for Administration

Prepared by the Ethics Law and Programs Division, Office of the Assistant General Counsel for Administration, United States Department of Commerce – January 4, 2010



ETHICS CONTEST - TRUE/FALSE QUESTIONS



Mark each statement true or false.

FINANCIAL CONFLICTS OF INTEREST

1. An employee with more than \$15,000 of stock in a company cannot work on an agency assignment affecting that company.
☒ True ☐ False

 2. The financial interests of an employee's spouse are considered the same as the employee's personal interests.
☒ True ☐ False

 3. The financial interests of an employee's outside (non-Federal) employer are considered the same as the employee's personal interests.
☒ True ☐ False

 4. Interests held in a broadly diversified mutual fund never present a conflict of interest.
☒ True ☐ False

 5. Interests held in an IRA never present a conflict of interest.
☐ True ☒ False
-

APPEARANCES OF BIAS

6. An employee is barred from working as an agency employee on a matter in which someone with whom the employee has a "covered relationship" is before the agency as a party.
- ☒ True ☐ False
-
7. An employee has a "covered relationship" (which requires disqualification) with close family members.
- ☒ True ☐ False
-
8. An employee has a "covered relationship" (which requires disqualification) with a close friend.
- ☐ True ☒ False
-
9. An employee has a "covered relationship" (which requires disqualification) with any private organization in which the employee is a member.
- ☐ True ☒ False
-
10. Permission to work on a matter creating a non-financial conflict of interest (a conflict based on a personal relationship) may be granted based on the needs of the agency.
- ☒ True ☐ False
-

GIFTS

11. A career employee may accept a gift of less than \$20 from a grantee.
☒ True ☐ False
-
12. An employee may accept \$15 cash for cab fare from an organization hosting a luncheon at which the employee is speaking.
☐ True ☒ False
-
13. A career employee may accept an invitation to a holiday party hosted by an organization with which the employee has had dealings during the past year.
☒ True ☐ False
-
14. Federal employees may take advantage of a "Government rate" for hotel accommodations, even when on a personal vacation.
☒ True ☐ False
-
15. An employee may give a \$50 wedding shower gift to a supervisor.
☒ True ☐ False
-
16. An employee may give a \$20 birthday gift to a supervisor who is a personal friend.
☐ True ☒ False
-
17. The total value of a gift to a supervisor (not just the individual contribution) must be \$10 or less (unless it is for a major life event).
☒ True ☐ False
-

18. A retiring supervisor may be given a gift worth more than \$10.

☒

True

☐

False

19. Travel payments may be accepted from agency contractors or grantees.

☐

True

☒

False

20. Travel gifts may be in the form of funds or in-kind donations, such as an airline ticket or use of a hotel room.

☒

True

☐

False

21. When on a personal vacation, an employee may take advantage of frequent flyer benefits earned during Government travel.

☒

True

☐

False



ETHICS CONTEST - MULTIPLE CHOICE QUESTIONS



For multiple choice questions, mark one answer for each question.

OUTSIDE ACTIVITIES

22. In which of the following positions may an employee serve with a non-Federal organization as part of his or her agency duties?

- ☐ A as an officer
 - ☐ B as a member of the board of directors
 - ☒ C as a member of an advisory committee
 - ☐ D all of the above
-

23. In which of the following situations is outside employment not allowed?

- ☐ A the outside employer is a contractor with the employee's agency
 - ☐ B the work performed is similar to the employee's work for the Federal Government
 - ☒ C the employee's Federal work requires dealing with the outside employer
 - ☐ D the outside employer is a grantee of the employee's agency
-

24. When does outside teaching (for pay) present an ethics problem?

- ☐ A the teaching position is with a state university
 - ☐ B the teaching position also requires writing and publishing
 - ☐ C the teaching entails a semester-long course that deals with programs and operations of the employee's agency
 - ☒ D the teaching position is with a university with which the employee has agency work assignments
-

25. When may an employee use his or her Government title when engaged in an activity in a personal capacity?

- ☐ A in a listing of organization officers if it is the custom for employers to be listed
- ☐ B when writing a letter to a newspaper to express personal views
- ☒ C in connection with a scientific paper written for a technical journal, if it includes a disclaimer that the views expressed are not those of the Government
- ☐ D when sending out an e-mail from a Government computer

POLITICAL ACTIVITIES

26. Which political activity is permitted?

- ☒ A displaying a political bumper sticker on a car parked in a Government lot
 - ☐ B fund-raising for a political party
 - ☐ C sending an e-mail from your Government computer notifying friends of a campaign rally
 - ☐ D running for office as a candidate of a political party
-

27. Which employees are allowed to engage in political activities while on Government premises?

- ☐ A career employees
 - ☐ B Schedule C employees (political appointees)
 - ☐ C NOAA Corps officers
 - ☒ D none of the above
-

28. Which of the following may an employee do on his or her own time?

- ☒ A attend a fund-raiser for a candidate in a partisan election
 - ☐ B host a fund-raiser for a candidate in a partisan election
 - ☐ C run for office in a partisan election (an election in which candidates are identified by political party)
 - ☐ D hand out flyers for a political party's fund-raiser
-



ETHICS CONTEST - FILL-IN-THE-BLANK



Fill in the blanks where indicated in the questions below.

MISUSE OF RESOURCES

29. Non-public information is the same as other Government property and may not be used for personal purposes.
-
30. Although Department employees may access the internet for personal purposes using a Government computer, they may not use an agency computer to visit porn web sites.
-
31. A Government credit cards may only be used to pay for official business expenses.
-
32. When writing a letter to the editor expressing personal views, an employee may not sign the letter using his or her title.
-
33. An employee may buy items on E-Bay® from the employee's agency computer.
-
34. A contract worker may be barred from hanging a picture of a political candidate in a Federal office.
-

SEEKING EMPLOYMENT AND POST-EMPLOYMENT RESTRICTIONS

35. When in a job search an employee may not work on any matter affecting the financial interests of someone to whom he or she has sent a _____.
36. After leaving Federal employment a former employee is barred from contacting _____ on behalf of someone else regarding a matter involving specific parties on which the employee worked.
37. After leaving the Government an employee may not use or disclose _____ information.
38. Former career senior employees (employees earning more than \$155,440) are barred from contacting their former agency on behalf of someone else for a period of _____.

FINANCIAL DISCLOSURE

39. On a financial disclosure report, an employee should not list reimbursements for _____ travel.
40. On a financial disclosure report, in addition to listing his or her own financial holdings, an employee must also list the holdings of the employee's _____ and dependant children.



ETHICS CONTEST – MATCH-UP



Match the item in the left column with the applicable value listed in the right column.

Example:

I. Ethics office telephone number

α. ethicsdivision@doc.gov

II. Ethics Office e-mail address

β. 202-482-5384

- | | |
|--|---------------------|
| 1. exemption for publicly-traded stock | a. \$20 or less |
| 2. exemption for sector-specific mutual funds | b. \$15,000 or less |
| 3. acceptable gift from someone with interests before the Department (if not to a political appointee from a lobbyist) | c. \$335 or less |
| 4. acceptable gift to a supervisor from a subordinate (if not a special event) | d. \$35,000 |
| 5. acceptable personal gift to an employee from a foreign government | e. \$1,001 or more |
| 6. total value of personal gifts per year an employee may accept from someone with interests before the Department | f. \$50 |
| 7. value of a gift to the Department that requires approval from the Secretary | g. \$201 or more |
| 8. amount of income that must be reported on a financial disclosure report | h. \$250 or more |
| 9. amount of a travel gift that must be reported on a semi-annual report | i. \$50,000 or less |
| 10. value of an asset that must be reported on a financial disclosure report | j. \$10 or less |



ETHICS CONTEST – CROSSWORD PUZZLE



CROSSWORD PUZZLE CLUES

– ACROSS –

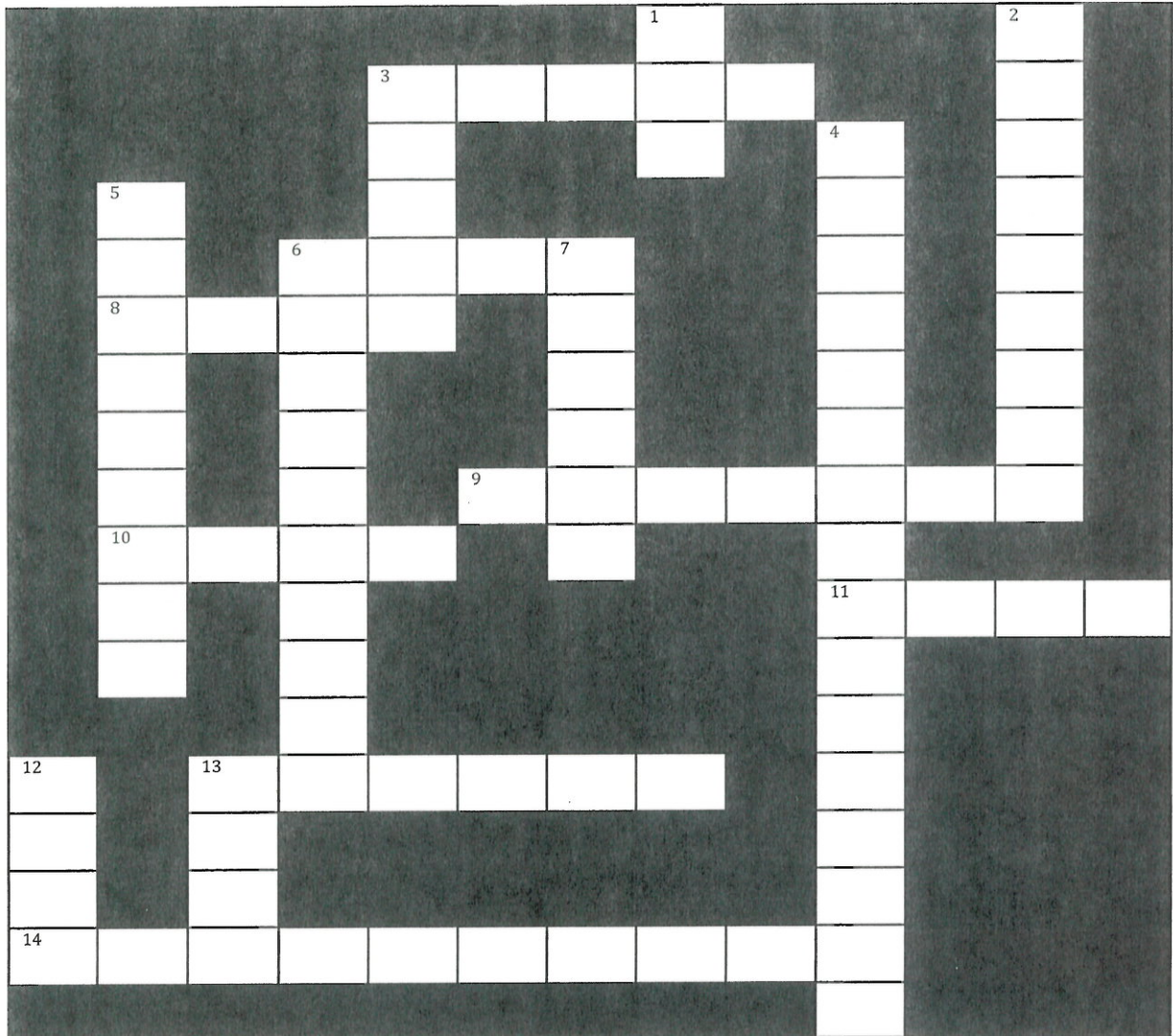
3. Cannot serve as this on someone's behalf before a Federal agency or Federal court.
6. Cannot accept this if given because of the employee's Government position (unless an exception to the rule applies).
8. Can accept this if part of a widely-attended event and supervisor approves.
9. Means the same as "disqualification."
10. Number of exceptions to the bribery statute.
11. Must report this type of income on a financial disclosure report, even if no profits are made.
13. Usual cause for financial conflicts of interest.
14. Person who can authorize an employee's participation in a matter if there is a non-financial conflict of interest.

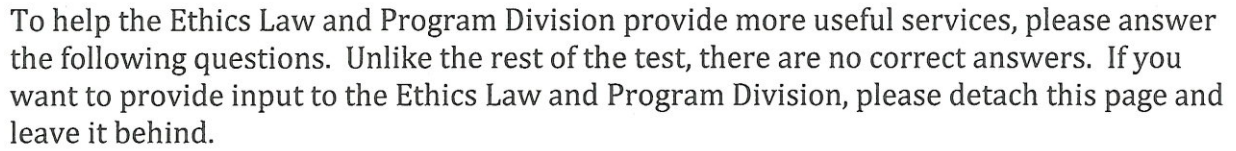
– DOWN –

1. Number of times per year one must attend ethics training.
2. Type of activity that cannot be conducted on Government premises (if one is not a Senate-confirmed Presidential appointee).
3. Best way to handle a conflict of interest.
4. Filed once per year. (two words)
5. Date in May annual public financial disclosure reports (SF 278s) are due.
6. Cannot work for this type of foreign entity.
7. Type of gift that may not be solicited.
12. Their financial interests can create a conflict of interest.
13. What to do regarding work on a pending assignment if one gets a job contact from an interested party.

ETHICS CROSSWORD PUZZLE

Fill in the crossword puzzle using the clues provided.





1. In your view, what is the most common conduct problem in your office or among employees with whom you have had contact?
2. What changes should the Ethics Law and Program Division make in the services it provides (advisory services, ethics training, financial disclosure review) to better meet your needs and the needs of other employees?

Thank you for your responses, which will help us improve the services we provide to you and other employees.



Keith Arnold - NOAA Federal <keith.l.arnold@noaa.gov>

Hatch Act Ethics Question

1 message

Ruben, Francisco <FRuben@doc.gov>
To: "Arnold, Keith" <Keith.L.Arnold@noaa.gov>

Mon, Aug 6, 2012 at 12:05 PM

Information was brought to our attention indicating that you are running for office in an election for the U.S. House of Representatives for the 8th District in Washington. As you are aware, Federal employees are subject to certain restrictions with regard to engaging in political activity under Federal laws—the Hatch Act. Under these restrictions, Federal employees cannot be a candidate in a partisan political election. An election for office in the U.S. House of Representatives is a partisan political election. Therefore, your candidacy presents a problem under the Hatch Act. Investigations of alleged Hatch Act Violations fall within the jurisdiction of the Office of Special Counsel, an independent agency. We have forwarded this matter to OSC for further action.

Francisco J. Ruben

Francisco J. Ruben, Senior Attorney
[Ethics Law and Programs Division](#)

Office of the General Counsel
U.S. Department of Commerce
14th Street & Constitution Avenue, NW
Washington, DC 20230
Telephone: [\(202\) 482-1596](tel:(202)482-1596)
Facsimile: [\(202\) 482-0993](tel:(202)482-0993)
Email: FRuben@doc.gov

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Keith Arnold - NOAA Federal <keith.l.arnold@noaa.gov>

FW: Participating in Political Activities

1 message

Harrington, Jeffrey <jHarrington@doc.gov>
To: "Hunter, Angela" <Angela.Hunter@noaa.gov>
Cc: "Arnold, Keith" <Keith.L.Arnold@noaa.gov>

Fri, Jul 18, 2014 at 6:24 AM

Jeffrey Harrington

Senior Attorney

Ethics Law and Programs Division

Office of the General Counsel

202-482-8040

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From: Harrington, Jeffrey
Sent: Thursday, June 05, 2014 4:50 PM
To: Arnold, Keith
Subject: RE: Participating in Political Activities

Hello Mr. Arnold,

I am writing to clarify guidance that I provided below. The provision that permit Federal employees to run as independent candidates in partisan elections in Bremerton, Elmer City and Port Orchard only applies to local elections in those localities. See 5 CFR 733.107. The exception does not allow Federal employees to run for Congress.

I apologize for any misunderstanding and please contact me with any questions.

Jeffrey Harrington

Senior Attorney

Ethics Law and Programs Division

Office of the General Counsel

202-482-8040

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From: Harrington, Jeffrey
Sent: Thursday, May 15, 2014 6:48 PM
To: Arnold, Keith
Subject: RE: Participating in Political Activities

Hello Mr. Arnold,

The political activity rules bar a Federal employee from running for office in a partisan election, whether or not he runs as an independent. However, Congress has designated certain localities (generally areas where many Federal employees live, such as Washington D.C. and a number of suburbs) where a Federal employee may run as an independent in a partisan election. In Washington, if you reside in Bremerton, Elmer City, or Port Orchard, you may run as an independent candidate in a partisan election. Otherwise, you running for Congress would be prohibited.

Please let me know if you have any questions.

Jeffrey Harrington

Senior Attorney

Ethics Law and Programs Division

Office of the General Counsel

202-482-8040

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From : Keith Arnold - NOAA Federal [<mailto:keith.l.arnold@noaa.gov>]

Sent: Thursday, May 08, 2014 1:50 PM

To: Division, Ethics

Subject: Fwd: Participating in Political Activities

Can I run for Congress in Washington state which has a top 2 primary (not regarding nor divided among any political parties) if I don't seek a political party's nomination or endorsement?

Thank you,

Keith Arnold

Accounting Technician, USDOC-NOAA-AOD, Western Operations Branch, 7600
Sand Point Way NE, Building 1, Seattle, WA 98115 ph: 206-526-6007 fax:
206-527-7518



Serving Those Who Serve Our Planet

----- Forwarded message -----

From: Broadcast, DOC <broadcast@doc.gov>

Date: Wed, Apr 9, 2014 at 4:52 AM

Subject: Participating in Political Activities

To:

With mid-term elections scheduled to take place this year, please keep in mind the rules that apply to the political activities of Government employees. The most significant limitations restrict you from:

- engaging in political activities during duty time;
- engaging in political activities on Government property;
- using Government equipment or services for political activities (such as by using your Government e-mail account for political purposes or your Government-provided computer or mobile device to access a private e-mail account or the web for political activity);
- fundraising for a political party or a partisan candidate (whether on duty or off duty); and

- running for office in a partisan election (except in very limited circumstances); and also,
- if you are a career SES employee or a NOAA Corps officer, actively assisting a political campaign, or holding office in a party organization.

More detailed information on the political activity rules is available on the Ethics web page at www.commerce.gov/ethics.

An ethics attorney will be on hand to answer questions regarding participation in political activities by Department employees. If you have questions about the political activity rules or how they apply to a specific activity, please contact a Department ethics attorney at [202-482-5384](tel:202-482-5384) or ethicsdivision@doc.gov.

This message has been authorized by OGC.

Please do not reply to this message. The broadcast email account is not monitored for incoming mail.



Keith Arnold - NOAA Federal <keith.l.arnold@noaa.gov>

FW: Participating in Political Activities

1 message

Harrington, Jeffrey <jHarrington@doc.gov>

Fri, Jul 18, 2014 at 9:33 AM

To: "Arnold, Keith" <Keith.L.Arnold@noaa.gov>

Cc: "Hunter, Angela" <Angela.Hunter@noaa.gov>, "Maggi, David" <dMaggi@doc.gov>

Hello Mr. Arnold,

It has come to our attention that you are running for Congress in the 8th Congressional District of Washington. Your website (www.votekeitharnold.com) indicates that you are running as a write-in candidate for Congress, which is a partisan political activity.

As I explained in my prior guidance to you, this activity is prohibited by a Federal statute, the Hatch Act, while you are a Federal employee. Specifically, all Federal employees are barred from being a candidate for public office in a partisan election. 5 U.S.C. § 7323(a)(3); See also 5 C.F.R. §§ 733.104(b)(1) and 734.304. As I advised you in my e-mail on June 5, 2014, no exceptions allow for a Federal employee to run for Congress. Consistent with this law, you must immediately withdraw from the election.

If you have any questions, please contact me.

Jeffrey Harrington

Senior Attorney

Ethics Law and Programs Division

Office of the General Counsel

202-482-8040

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I apologize for any misunderstanding and please contact me with any questions.

Jeffrey Harrington

Senior Attorney

Ethics Law and Programs Division

Office of the General Counsel

202-482-8040

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Please let me know if you have any questions.

Jeffrey Harrington

Senior Attorney

Ethics Law and Programs Division

Office of the General Counsel

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Sent: Thursday, May 08, 2014 1:50 PM

To: Division, Ethics

Subject: Fwd: Participating in Political Activities

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Thank you,
Keith Arnold

Accounting Technician, USDOC-NOAA-AOD, Western Operations Branch, 7600
Sand Point Way NE, Building 1, Seattle, WA 98115 ph: 206-526-6007 fax:
206-527-7518



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----- Forwarded message -----

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Subject: Participating in Political Activities

To:

With mid-term elections scheduled to take place this year, please keep in mind the rules that apply to the political activities of Government employees. The most significant limitations restrict you from:

- engaging in political activities during duty time;
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- fundraising for a political party or a partisan candidate (whether on duty or off duty); and
- running for office in a partisan election (except in very limited circumstances); and also,
- if you are a career SES employee or a NOAA Corps officer, actively assisting a political campaign, or holding office in a party organization.

More detailed information on the political activity rules is available on the Ethics web page at www.commerce.gov/ethics.

An ethics attorney will be on hand to answer questions regarding participation in political activities by Department employees. If you have questions about the

political activity rules or how they apply to a specific activity, please contact a Department ethics attorney at [202-482-5384](tel:202-482-5384) or ethicsdivision@doc.gov.

This message has been authorized by OGC.

Please do not reply to this message. The broadcast email account is not monitored for incoming mail.



Keith Arnold - NOAA Federal <keith.l.arnold@noaa.gov>

Hatch Act Matter

1 message

Martorana, Carolyn <cmartorana@osc.gov>

Tue, Jul 22, 2014 at 1:39 PM

To: "keith.l.arnold@noaa.gov" <keith.l.arnold@noaa.gov>

Mr. Arnold,

Per my voice message yesterday, please read the attached letter and let me know if you have any questions.

Sincerely,

Carolyn S. Martorana

Attorney, Hatch Act Unit

U.S. Office of Special Counsel

1730 M Street, NW, Suite 218

Washington, DC 20036

(202) 254-3642 – Telephone

(202) 254-3700 – Facsimile



SKMBT_75114072216320.pdf
78K



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-254-3600

July 22, 2014

Mr. Keith Arnold
7600 Sand Point Way, NE
Seattle, WA 98115

Via UPS and E-mail to: keith.l.arnold@noaa.gov

Re: OSC File No. HA-14-4058

Dear Mr. Arnold:

The U.S. Office of Special Counsel (OSC) has confirmed that you are currently a candidate in the partisan election for U.S. Representative from Washington's 8th District and that you are employed by the National Oceanic and Atmospheric Administration (NOAA). In a letter dated December 18, 2013, OSC advised you that you violated the Hatch Act when you sought the same office in 2012 while employed at NOAA. As explained below, the Hatch Act still prohibits you from being a candidate in a partisan election, and this letter serves as notice that your current candidacy violates the law.

All federal executive branch employees, including NOAA employees, are subject to the restrictions of the Hatch Act, 5 U.S.C. §§ 7321-7326. The Act generally permits most federal employees to actively participate in partisan political management and partisan political campaigns. 5 U.S.C. § 7323(a). However, a covered employee may not be a candidate for partisan political office, *i.e.*, one in which any candidate is to be nominated or elected as representing a political party a candidate for which appeared on the ballot in the last Presidential election. See 5 U.S.C. § 7322(2); 5 C.F.R. § 734.101. Elections for U.S. House of Representatives are partisan elections, and in fact, your name will appear on the August 5, 2014, primary election ballot indicating that you prefer the Democratic Party, which fielded candidates in the 2012 Presidential election.

Pursuant to my telephone message on July 21, 2014, this letter serves as notice that your current candidacy in the partisan election for U.S. House of Representatives is in violation of the Hatch Act. We advise you to immediately come into compliance with the law. To do so, you may either officially withdraw your candidacy or you may resign, effective immediately, from your employment with NOAA.

If you decide to withdraw your candidacy, you must inform the appropriate election official that you are withdrawing from the election and follow his or her instructions as to what actions are necessary to effectuate your withdrawal.¹ If you are unable to have your name removed from the ballot, you must publicly announce your withdrawal (*e.g.*, press

¹ Typically, this would be the office where you filed paperwork to become a candidate.

U.S. Office of Special Counsel

Mr. Keith Arnold

Page 2

release, letter to the editor, etc.) and provide supporting documentation to OSC. Lastly, you must stop all campaign activities, including organizing or encouraging a write-in candidacy, and no longer hold yourself out as a candidate.

If you choose to withdraw from the August 5, 2014, primary election and despite your best effort to do so you are nominated because your name remained on the ballot, be advised that you would have been nominated in violation of the law. Under these circumstances, if you win the primary election and you accept the nomination, the Hatch Act Unit will consider your acceptance a significant aggravating factor that would affect the extent of disciplinary action to which you may be subject. See Special Counsel v. Bradford, 69 M.S.P.R. 247, 250 (1995) (finding that the accepting and holding of a seat obtained in violation of the law is relevant in the context of imposing an appropriate penalty). Further, pursuing your candidacy to through the general election would constitute an additional violation of the Hatch Act.

Please advise us in writing of your decision, and provide documentation reflecting the action you choose to take in order to come into compliance with the Hatch Act, no later than **Tuesday, July 29, 2014**. Please contact me at (202) 254-3642 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'CSM', with a long horizontal flourish extending to the right.

Carolyn S. Martorana
Attorney, Hatch Act Unit



Keith Arnold - NOAA Federal <keith.l.arnold@noaa.gov>

Hatch Act Matter

1 message

Martorana, Carolyn <cmartorana@osc.gov>

Tue, Jul 29, 2014 at 7:34 AM

To: "keith.l.arnold@noaa.gov" <keith.l.arnold@noaa.gov>

Mr. Arnold,

I am following up on my letter to you dated July 22, 2014, in which I informed you that your current candidacy for U.S. House of Representatives is a violation of the Hatch Act. In that correspondence, I provided you with information regarding how you can come into compliance with the law and asked you to notify me of what action you plan to take by no later than today, July 29. To date, I have received no response or inquiry from you regarding this serious matter. Please contact me by close of business (Pacific Time) today.

Sincerely,

[Carolyn S. Martorana](#)

Attorney, Hatch Act Unit

U.S. Office of Special Counsel

1730 M Street, NW, Suite 218

Washington, DC 20036

[\(202\) 254-3642](#) – Telephone

[\(202\) 254-3700](#) – Facsimile



Keith Arnold - NOAA Federal <keith.l.arnold@noaa.gov>

ETHICS TRAINING in Seattle, August 20, 2013

1 message

Kristen Chung - NOAA Federal

Mon, Aug 5, 2013 at 2:54

<kristen.chung@noaa.gov>

PM

To: _OFA WASC WRC Occupants <allwrc.sandpoint@noaa.gov>

Cc: RHermanowicz@doc.gov, Jim Herkelrath - NOAA Federal

<jim.herkelrath@noaa.gov>

If you have any questions or concerns please contact Rebecca Hermanowicz at either rhermanowicz@doc.gov or [202-482-0640](tel:202-482-0640).

Ethics Training at WRC Seattle, WA

August 20, 2013

This notice is to inform you that the Department of Commerce Office of General Counsel (OGC) will conduct Ethics training for Seattle area NOAA employees on Tuesday, August 20, 2013.

Ethics training is required for

- everyone who files a financial disclosure report (OGE Form 450 or SF 278), or
- who is a General Schedule (or equivalent) employee at the GS-11 level or ZP/ZA Band 3 or ZT Band 4 and above.

This training, which is given only once every three years at the NOAA Western

Regional Center, at 7600 Sand Point Way NE, satisfies that requirement. It is mandatory. All supervisors should ensure that every member of his or her staff in the above categories attends training. Sign-in sheets will be reviewed for compliance. Although not required, offices are encouraged to send all employees to training even if they do not have to attend.

(Please note that employees who are absent or not available due to illness, travel, or another valid reason can be excused by their supervisor. Those employees should review the [NOAA summary of ethics rules](#) and may contact the Ethics Division at [202-482-5384](tel:202-482-5384) or ethicsdivision@doc.gov with any questions.)

In order to accommodate your busy work schedules, non-managers can choose from one of two 1-hour sessions. Managers should plan to attend the session at 2:00pm. The sessions will be in the NOAA, Western Regional Center Auditorium, Building 9 at 7600 Sand Point Way NE Seattle, WA 98115 on::

Tuesday, August 20 at 9:00 am

Tuesday, August 20 at 11:00 am

Tuesday, August 20 at 2:00 pm (managers only)

A summary of the ethics rules for NOAA employees can be found at http://www.commerce.gov/sites/default/files/documents/2013/february/noaa_summary_of_ethics_rules-2013-e.pdf. This handout will not be distributed at the training sessions, but you are encouraged to bring it with you. All required training materials will be provided at each session.

This message approved by the Chief, BMB Seattle.



Keith Arnold - NOAA Federal <keith.l.arnold@noaa.gov>

FW: Hatch Act Matter (OSC File No. HA-14-4058)

1 message

Martorana, Carolyn <cmartorana@osc.gov> Tue, Oct 6, 2015 at 1:11 PM
To: "keith.l.arnold@noaa.gov" <keith.l.arnold@noaa.gov>
Cc: "angela.hunter@noaa.gov" <angela.hunter@noaa.gov>,
"chris.mcnulty@noaa.gov" <chris.mcnulty@noaa.gov>

Mr. Arnold,

I am following up again regarding my September 29 e-mail to you in which I advised you of your obligation to provide testimony to OSC. I have not received any response from you. Please provide dates and times when you are available for an interview. In addition to the information I provided below regarding my schedule, I will be at training and therefore unavailable October 26-30.

Regards,

Carolyn Martorana

Carolyn Martorana | Attorney, U.S. Office of Special Counsel | T: (202) 254-3642 | F: (202) 254-3711 | cmartorana@osc.gov

From: Martorana, Carolyn
Sent: Friday, October 02, 2015 1:34 PM
To: keith.l.arnold@noaa.gov
Subject: Hatch Act Matter (OSC File No. HA-14-4058)

Mr. Arnold,

I have not received a response to my e-mail below. Please provide three potential interview times.

Thank you,

Carolyn Martorana

Carolyn Martorana | Attorney, U.S. Office of Special Counsel | T: (202) 254-3642 | F: (202) 254-3711 | cmartorana@osc.gov

From: Martorana, Carolyn
Sent: Tuesday, September 29, 2015 3:31 PM
To: keith.l.arnold@noaa.gov
Subject: Hatch Act Matter (OSC File No. HA-14-4058)

Mr. Arnold,

Thank you for your voice message. As you know, OSC received a Hatch Act complaint concerning your 2014 candidacy for U.S. House of Representatives. To complete OSC's investigation, I need to interview you. As a competitive service employee, federal regulation requires you to provide information to OSC. 5 C.F.R. § 5.4 (pasted below). Accordingly, OSC is now compelling you to submit to an investigative interview.

Like your 2012 interview, I will place you under oath and make an audio recording for our file. You are authorized to have a personal legal representative with you. If you choose to retain a representative, please complete the attached designation form and return it to me.

I am generally available Monday-Friday, 8:30 a.m. to 4:30 p.m. (Eastern). I am unavailable after 1:00 p.m. Eastern on October 15 and all day October 16.

Please provide three dates during the next two weeks that you are available for a telephone interview. I expect the interview to take about 90 minutes. As stated in 5 C.F.R. § 5.4, participation in an OSC investigation is part of your official duties, so you do not need to take leave.

Sincerely,

Carolyn Martorana

Civil Service Rule 5.4 (5 C.F.R. § 5.4) provides as follows:

“When required by the Office [of Personnel Management], the Merit Systems Protection Board, or the Special Counsel . . . or by authorized representatives of these bodies, agencies shall make available to them, or their authorized representatives, employees to testify in regard to matters inquired of under the civil service laws, rules, and regulations, and records pertinent to these matters. All such employees, and all applicants and eligibles for positions covered by these rules, shall give to the Office, the Merit Systems Protection Board, the Special Counsel, or to their authorized representatives, all information, testimony, documents, and material in regard to the above matters, the disclosure of which is not otherwise prohibited by law or regulation. These employees, applicants, and eligibles shall sign testimony given under oath or affirmation before an officer authorized by law to administer oaths. Employees are performing official duty when testifying or providing evidence pursuant to this section.”

Carolyn Martorana | Attorney, U.S. Office of Special Counsel | T: (202) 254-3642 | F: (202) 254-3700 | cmartorana@osc.gov

2 attachments



Designation of Legal Representative.pdf
92K



Your Role in an OSC Investigation.pdf
104K



Keith Arnold - NOAA Federal <keith.l.arnold@noaa.gov>

Hatch Act Matter

1 message

Martorana, Carolyn <cmartorana@osc.gov>

Mon, Jan 11, 2016 at 8:42 AM

To: "keith.l.arnold@noaa.gov" <keith.l.arnold@noaa.gov>

Cc: "kla@bus.illinois.edu" <kla@bus.illinois.edu>

Mr. Arnold,

As you know, OSC investigated allegations that you were a candidate in the 2014 primary election for U.S. Representative from Washington's 8th Congressional district despite being warned that doing so was a Hatch Act violation. OSC contacted you several times in 2014 and 2015, but you refused to come into compliance with the law or be interviewed.

With this e-mail, OSC is attempting one last time to speak to you regarding this matter and give you an opportunity to discuss a possible resolution before we file the attached draft complaint with the Merit Systems Protection Board. As OSC has advised you in the past, Hatch Act violations can result in a range of penalties up to and including removal from employment.

Please contact me no later than 5:00 p.m. Eastern Friday, January 22, 2016, to discuss this matter. If you do not contact me to discuss or otherwise resolve this matter by that time, OSC intends to file a complaint for disciplinary action with the MSPB.

Sincerely,

Carolyn Martorana

Carolyn Martorana | Attorney, U.S. Office of Special Counsel | T: (202) 254-3642 | F: (202) 254-3711 |
cmartorana@osc.gov



SKMBT_75116011111551.pdf
1236K



Keith Arnold - NOAA Federal <keith.l.arnold@noaa.gov>

Re: FW: U.S. Office of Special Counsel

1 message

Keith Arnold - NOAA Federal

<keith.l.arnold@noaa.gov>

To: "Larsen, Mary" <mlarsen@osc.gov>

Fri, Nov 22, 2013 at 4:34

PM

My Final, Original, and Only Ever Position:

My candidacy included ZERO violations and/or wrong doing, so there is NOTHING to reprimand.

On Mon, Oct 21, 2013 at 7:07 AM, Larsen, Mary <mlarsen@osc.gov> wrote:

Dear Mr. Arnold:

Please respond to the email below at your earliest opportunity.

Regards,

Mary K. Larsen

From: Larsen, Mary

Sent: Tuesday, October 01, 2013 8:07 AM

To: 'Keith.L.Arnold@noaa.gov'

Subject: U.S. Office of Special Counsel

Importance: High

Dear Mr. Arnold:

As a follow up to our conversation yesterday, I write to clarify your position with respect to resolving this matter through informal settlement. As you know, you are covered by the provisions of the Hatch Act by virtue of your employment with NOAA. Accordingly, you are prohibited from running as a candidate in a partisan election, i.e., an election in which any candidate runs as a representative or nominee of a political party. We believe that the evidence strongly supports that your candidacy violated this provision of the Act. Were OSC to proceed with litigation, and the Board finds your candidacy in violation of the Hatch Act, the Board may order disciplinary action ranging from a

minimum penalty of a letter of reprimand up to removal from federal employment. As previously discussed, OSC is willing to resolve this matter for the minimum penalty of a letter of reprimand.

At this time, we want to be sure you fully understand the offer of informal settlement. Please let us know if you are opposed to any settlement of this matter, or if your recent opposition is primarily concerned with admissions of wrongdoing. Please reply at your earliest opportunity.

Regards,

Mary K. Larsen

Mary K. Larsen

Attorney, Hatch Act Unit

U.S. Office of Special Counsel

1730 M St., NW, Suite 218

Washington, DC 20036

E-mail: mlarsen@osc.gov

Phone: (202) 254-3662

Fax: (202) 254-3700

-Caution-

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Keith Arnold - NOAA Federal <keith.l.arnold@noaa.gov>

U.S. Office of Special Counsel

1 message

Larsen, Mary <mlarsen@osc.gov>

Wed, Dec 18, 2013 at 5:36 AM

To: Keith.L.Arnold@noaa.gov

Dear Mr. Arnold:

Attached below, please find final correspondence from the U.S. Office of Special Counsel concerning your recent candidacy and the Hatch Act. Please call me at [202-254-3662](tel:202-254-3662) if you have any questions.

<<SKMBT_75113121809300.pdf>>

Kind regards,

Mary Larsen

Mary K. Larsen

Attorney, Hatch Act Unit

U.S. Office of Special Counsel

1730 M St., NW, Suite 218

Washington, DC 20036

E-mail: mlarsen@osc.gov

Phone: (202) 254-3662

Fax: (202) 254-3700

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U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-254-3600

December 18, 2013

Mr. Keith Arnold
Via E-mail: keith.l.arnold@noaa.gov

Re: OSC File No. HA-12-4284

Dear Mr. Arnold:

This letter is in response to information the U.S. Office of Special Counsel (OSC) received concerning allegations that your recent candidacy for the U.S. House of Representatives, Washington State 8th District violated the Hatch Act. At the time of your candidacy you were, and continue to be, employed by the National Oceanic and Atmospheric Administration (NOAA). After investigating this matter, we have concluded that your candidacy violated the Hatch Act. As explained below, we are declining prosecution at this time and instead issuing you this warning letter.

By virtue of your employment with NOAA, you are covered by the provisions of the Hatch Act, which governs the political activities of federal civilian employees. *See* 5 U.S.C. §§ 7321-7326. The Act permits most covered employees to actively participate in partisan political management and partisan political campaigns. A covered employee, however, is prohibited from, among other things, being a candidate for public office in a partisan election, i.e., an election in which any candidate represents, for example, the Republican or Democratic Party. 5 U.S.C. § 7323(a)(3).

We understand that you declared your candidacy for U.S. House of Representatives, Washington State 8th District in May 2012, and indicated that you preferred the Democratic Party with the understanding that this preference would appear next to your name on the ballot. In addition, you told OSC that you knew other candidates had been endorsed by the local Democratic and Republican Parties. As stated above, a partisan election, is an election in which any candidate represents, for example, the Republican or Democratic Party. 5 U.S.C. § 7323(a)(3). Accordingly, because candidates in this election represented the Democratic and/or Republican parties, we find that this was a partisan election and, thus, your candidacy violated the Hatch Act.

After speaking with you about this matter, we understand that your candidacy was somewhat passive in nature. You did not seek or accept a party nomination or endorsement, solicit political contributions for your campaign, purchase or circulate campaign literature, hold campaign rallies or events, nor did you promote your campaign to friends or family. In addition, the campaign website that you constructed yourself did not identify you as a party candidate, and OSC did not find any evidence that would suggest you used your official

U.S. Office of Special Counsel
Mr. Keith Arnold
Page 2

authority to further your campaign or that you engaged in political activity while on duty or in the federal workplace. You explained that you believed you were able to run as an independent candidate and that your candidacy was permissible provided you did not use government resources or seek a party endorsement. While your understanding of the Hatch Act was incorrect, and OSC has concluded that you engaged in prohibited political activity, we find that your violation was not willful and we are declining prosecution at this time. However, please be advised that if in the future you engage in Hatch Act prohibited activity while employed in a federal executive agency, we would consider such activity to be a willful and knowing violation of the law that could warrant prosecution before the Merit Systems Protection Board. The penalties for violating the Hatch Act include removal from employment, unpaid suspension, a letter of reprimand, or a civil fine. 5 U.S.C. § 7326.

Please contact me at (202) 254-3662 should you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, reading "Mary K. Larsen", with a long, sweeping horizontal line extending to the right.

Mary K. Larsen
Attorney, Hatch Act Unit



Keith Arnold - NOAA Federal <keith.l.arnold@noaa.gov>

FW: Hatch Act Matter (OSC File No. HA-14-4058)

1 message

Martorana, Carolyn <cmartorana@osc.gov>

Fri, Aug 8, 2014 at 7:06 AM

To: "keith.l.arnold@noaa.gov" <keith.l.arnold@noaa.gov>

Mr. Arnold,

You have not responded to my requests to schedule an interview. Please advise whether you are declining the opportunity to be interviewed by OSC.

Sincerely,

-----Original Message-----

From: Martorana, Carolyn

Sent: Tuesday, August 05, 2014 11:27 AM

To: 'keith.l.arnold@noaa.gov'

Subject: FW: Hatch Act Matter (OSC File No. HA-14-4058)

Importance: High

Mr. Arnold,

I have not heard from you regarding my email below. Please provide some dates and times at which we can schedule an interview. I will be out of the office August 11-13, but otherwise I am generally available between 8:30 a.m. and 4:00 p.m. Eastern.

Thank you,

Carolyn Martorana

-----Original Message-----

From: Martorana, Carolyn

Sent: Thursday, July 31, 2014 4:00 PM

To: 'keith.l.arnold@noaa.gov'

Subject: Hatch Act Matter (OSC File No. HA-14-4058)

Mr. Arnold,

As part of OSC's investigation into allegations that you are violating the Hatch Act, I need to interview you. Consistent with OSC policy, you will be placed under oath and I will make an audio recording of the interview. If possible, I would like to conduct the interview via video teleconference; otherwise, it will take place via telephone. I expect the interview to take no more than two hours. Participating in an OSC investigation is part of your official duties, so you do not have to take leave to attend the interview.

You are permitted to have legal counsel present with you during the interview. If you elect to retain an attorney, please complete the attached designation form and return it to me.

Please advise what dates and times during the next two weeks that you are available to participate in the interview. I am generally available between 8:30 a.m. and 4:00 p.m. Eastern Time. If you have any questions about the process, please let me know.

Sincerely,

Carolyn S. Martorana

Attorney, Hatch Act Unit

U.S. Office of Special Counsel

1730 M Street, NW, Suite 218

Washington, DC 20036

(202) 254-3642 - Telephone

(202) 254-3700 - Facsimile



Designation of Representative.pdf
30K



Keith Arnold - NOAA Federal <keith.l.arnold@noaa.gov>

Re: Hatch Act Matter (OSC File No. HA-14-4058)

1 message

Keith Arnold - NOAA Federal

Fri, Aug 8, 2014 at 3:26 PM

<keith.l.arnold@noaa.gov>

To: "Martorana, Carolyn" <cmartorana@osc.gov>

I interviewed with you in or about November 2012 and do NOT want to talk to you again.

----- Forwarded message -----

From: Martorana, Carolyn <cmartorana@osc.gov>

Date: Thu, Jul 31, 2014 at 1:00 PM

Subject: Hatch Act Matter (OSC File No. HA-14-4058)

To: "keith.l.arnold@noaa.gov" <keith.l.arnold@noaa.gov>

Mr. Arnold,

As part of OSC's investigation into allegations that you are violating the Hatch Act, I need to interview you. Consistent with OSC policy, you will be placed under oath and I will make an audio recording of the interview. If possible, I would like to conduct the interview via video teleconference; otherwise, it will take place via telephone. I expect the interview to take no more than two hours. Participating in an OSC investigation is part of your official duties, so you do not have to take leave to attend the interview.

You are permitted to have legal counsel present with you during the interview. If you elect to retain an attorney, please complete the attached designation form and return it to me.

Please advise what dates and times during the next two weeks that you are available to participate in the interview. I am generally available between 8:30 a.m.

and 4:00 p.m. Eastern Time. If you have any questions about the process, please let me know.

Sincerely,

[Carolyn S. Martorana](#)

Attorney, Hatch Act Unit

U.S. Office of Special Counsel

1730 M Street, NW, Suite 218

Washington, DC 20036

[\(202\) 254-3642](#) – Telephone

[\(202\) 254-3700](#) – Facsimile



Designation of Representative.pdf
30K



Keith Arnold - NOAA Federal <keith.l.arnold@noaa.gov>

Re: FW: Hatch Act Matter (OSC File No. HA-14-4058)

1 message

Keith Arnold - NOAA Federal

Tue, Oct 6, 2015 at 3:29

<keith.l.arnold@noaa.gov>

PM

To: "Martorana, Carolyn" <cmartorana@osc.gov>

AS I TOLD YOU LAST YEAR:

I interviewed with you in or about November 2012 and do NOT want to talk to you again.

----- Forwarded message -----

From: Martorana, Carolyn <cmartorana@osc.gov>

Date: Tue, Oct 6, 2015 at 1:11 PM

Subject: FW: Hatch Act Matter (OSC File No. HA-14-4058)

To: "keith.l.arnold@noaa.gov" <keith.l.arnold@noaa.gov>

Cc: "angela.hunter@noaa.gov" <angela.hunter@noaa.gov>,

"chris.mcNulty@noaa.gov" <chris.mcNulty@noaa.gov>

Mr. Arnold,

I am following up again regarding my September 29 e-mail to you in which I advised you of your obligation to provide testimony to OSC. I have not received any response from you. Please provide dates and times when you are available for an interview. In addition to the information I provided below regarding my schedule, I will be at training and therefore unavailable October 26-30.

Regards,

Carolyn Martorana

Carolyn Martorana | Attorney, U.S. Office of Special Counsel | T: (202) 254-3642 | F: (202) 254-3711 | cmartorana@osc.gov

From: Martorana, Carolyn
Sent: Friday, October 02, 2015 1:34 PM
To: keith.l.arnold@noaa.gov
Subject: Hatch Act Matter (OSC File No. HA-14-4058)

Mr. Arnold,

I have not received a response to my e-mail below. Please provide three potential interview times.

Thank you,

Carolyn Martorana

Carolyn Martorana | Attorney, U.S. Office of Special Counsel | T: (202) 254-3642 | F: (202) 254-3711 | cmartorana@osc.gov

From: Martorana, Carolyn
Sent: Tuesday, September 29, 2015 3:31 PM
To: keith.l.arnold@noaa.gov
Subject: Hatch Act Matter (OSC File No. HA-14-4058)

Mr. Arnold,

Thank you for your voice message. As you know, OSC received a Hatch Act complaint concerning your 2014 candidacy for U.S. House of Representatives. To complete OSC's investigation, I need to interview you. As a competitive service employee, federal regulation requires you to provide information to OSC. 5 C.F.R. § 5.4 (pasted below). Accordingly, OSC is now compelling you to submit to an investigative interview.

Like your 2012 interview, I will place you under oath and make an audio recording for our file. You are authorized to have a personal legal representative with you. If you choose to retain a representative, please complete the attached designation form and return it to me.

I am generally available Monday-Friday, 8:30 a.m. to 4:30 p.m. (Eastern). I am unavailable after 1:00 p.m. Eastern on October 15 and all day October 16.

Please provide three dates during the next two weeks that you are available for a telephone interview. I expect the interview to take about 90 minutes. As stated in 5 C.F.R. § 5.4, participation in an OSC investigation is part of your official duties, so you do not need to take leave.

Sincerely,

Carolyn Martorana

Civil Service Rule 5.4 (5 C.F.R. § 5.4) provides as follows:

"When required by the Office [of Personnel Management], the Merit Systems Protection Board, or the Special Counsel . . . or by authorized representatives of these bodies, agencies shall make available to them, or their authorized representatives, employees to testify in regard to matters inquired of under the civil service laws, rules, and regulations, and records pertinent to these matters. All such employees, and all applicants and eligibles for positions covered by these rules, shall give to the Office, the Merit Systems Protection Board, the Special Counsel, or to their authorized representatives, all information, testimony, documents, and material in

regard to the above matters, the disclosure of which is not otherwise prohibited by law or regulation. These employees, applicants, and eligibles shall sign testimony given under oath or affirmation before an officer authorized by law to administer oaths. Employees are performing official duty when testifying or providing evidence pursuant to this section."

Carolyn Martorana | Attorney, U.S. Office of Special Counsel | T: (202) 254-3642 | F: (202) 254-3700 | cmartorana@osc.gov

2 attachments



Designation of Legal Representative.pdf
92K



Your Role in an OSC Investigation.pdf
104K

UNITED STATES OF AMERICA
MERIT SYSTEMS PROTECTION BOARD
OFFICE OF THE CLERK OF THE BOARD

SPECIAL COUNSEL,

DOCKET NUMBER

[Hatch Act Unit]

CB-1216-16-0017-T-1

Petitioner,

V.

KEITH L. ARNOLD,

Respondent.

CERTIFICATE OF SERVICE

I certify that this RESPONSE TO COMPLAINT: MOTION TO DISMISS was sent by electronic mail on May 18, 2016 to:

Martorana, Carolyn cmartorana@osc.gov

Carolyn S Martorana, Office of Special Counsel, Hatch Act Unit, 1730 M Street, N.W., Suite 218,
Washington, Dc 20036

Date: May 18, 2016

by: 

Keith L. Arnold

Respondent