




STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

ANDREW M. CUOMO
GOVERNOR

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COUNSEL TO THE GOVERNOR

TO: General Counsels
FROM: Kumiki Gibson 
DATE: August 25, 2020
RE: Updated Ethics Guidance on Political Activities

With the elections fast approaching, I write to remind you of the rules that govern State employees engaging in political activities, including, specifically, volunteering for a political campaign (which they may do during off-work hours and without using State resources). This guidance is drawn from New York State law, Executive Orders, opinions from the Joint Commission on Public Ethics, and analogous Federal and State guidelines.

As a general matter, in this and all other areas, State employees must pursue a course of conduct that will not raise concerns among the public that they are engaged in acts that may violate the public's trust or that may involve the misuse of State resources. Set forth below are the rules that apply specifically to political activities.

SPECIFIC CONDUCT

I. Certain Types of Political Activity Are Permissible. State employees may engage in political activity subject to certain restrictions arising from their obligation to avoid a conflict of interest or the appearance of a conflict under Public Officers Law § 74. Accordingly, while State employees may participate in political activity, they cannot do so on State time or using State resources. For example, any campaign volunteering must be performed on the employee's own time, using only personal or campaign resources. Employees may also fundraise for a candidate (except for the Governor), so long as they do not do so on State time or with State resources and do not solicit contributions from co-workers. Essentially, whatever political activities employees engage in must be in accordance with the following rules.

A. Political Activity Must Be Performed on the Employee's Own Time. Any campaign-related activity must be performed on an employee's own time.

1. An employee's "own time" includes lunchtime, before or after the end of the business day, weekends, and annual or personal leave.

2. Campaign activities may not be conducted during State business hours unless leave is taken. Accordingly, in the event an employee engages in campaign activity during work hours, s/he must take leave for the time expended on that activity.

B. Employees Must Use Personal or Campaign Resources for Political Activity.

Employees must use personal or campaign resources -- such as mobile devices, e-mails, and computers -- for all campaign-related activity. Examples of State resources that cannot be used for political activity include the following State-issued items: (1) mobile devices and telephones; (2) office supplies; (3) office printers and copiers; (4) support staff; (5) computers; and (6) e-mail accounts.

II. Certain Types of Political Activity Are Strictly Prohibited. The following political activities are strictly prohibited:

- A. Soliciting co-workers or subordinates for political contributions or requiring that they engage in political activity as a condition of their State employment.
- B. Questioning, directly or indirectly, State employees about their political affiliation as a condition of employment.
- C. Basing hiring, promotion, and salary decisions on an individual's political party affiliation, whether or not they made any political contributions, and/or how they voted.
- D. Using one's official State position to coerce, intimidate, or influence other State employees for any political purpose, action, or contributions.
- E. Using State offices or resources for soliciting or collecting any political contributions.
- F. Corruptly using or promising to use any official authority or influence in exchange for political action on another's part.
- G. For employees who are policy makers: Serving as an officer, director, or board member of any party or political organization. (A political organization does not include campaign or fundraising committees.)
- H. For employees who are policy makers: Serving as a member, officer, director, board member, or district leader of any party committee.
- I. Circulating a candidate's nominating or designating petition in a State office or using State resources.
- J. Using a work computer (desktop or laptop) to produce a brochure or other materials to support or to oppose a candidate or a ballot question.
- K. Using the State's Internet connections or accounts to forward e-mail messages received from an electoral campaign or someone supporting or opposing a candidate or a ballot initiative.
- L. Making, offering, or soliciting any monetary contribution to the Governor's campaign for reelection or to any political campaign committee organized by or for the specific benefit of the Governor, or requesting or demanding that any other person do so.

PRIOR APPROVAL

The law does not require State employees to obtain prior approval before engaging in political activity, but you can certainly mandate it, if you want. Alternatively, you can ask your employees to consult with your Agency's ethics officer before engaging in any political activity. For your information, the Executive Chamber does not require prior approval, but we find that most of our staff members will consult with our ethics officer before engaging in any political activity.

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Please feel free to provide this memo directly to your employees or to use it to craft your own guidance for your Agency. You should also ask your employees to consult with your Agency's ethics officer if they have any questions regarding political activity, generally, or any of these rules, specifically.

If you have any questions for me, please call (212/681-7634) or e-mail me. I stand ready to assist you in any way possible.

Thank you.