

MAINE STATE LEGISLATURE

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State Employees Political Activity
5 M.R.S.A. § 679-A-3

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DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

January 20, 1978

Nancy J. Spieczny
Legal Counsel
Maine State Employees Association
65 State Street
Augusta, Maine 04330

Dear Ms. Spieczny:

This responds to your recent letter inquiring about certain political rights of classified Maine State employees. Specifically, you pose the question as to whether classified State employees may be candidates in internal party elections for party officers or the position of delegate to a party convention.

Our review of the statute indicates that Maine law does not prohibit State employees from being candidates in internal party elections for party officers or positions as delegates to party conventions.

The law which restricts State employees from participation in certain partisan elections, 5 M.R.S.A. § 679-A-3, reads as follows:

"No officer or employee in the classified service of this State shall be a candidate for elective office in a partisan public election."

The elections in question for party officers are unquestionably "partisan" elections. However, the key determination is whether they are also "public" elections. In looking for a proper interpretation of the word "public" in the context of this statute, we must be aware of the doctrine of statutory interpretation that statutes which restrict First Amendment

rights must be narrowly construed in favor of exercise of those rights. The normal construction of the word "public" would imply that the elections to which the statute applies are elections in which the public in general can participate. Such is not the case in party elections which are restricted to party members. Accordingly, following the doctrine of strict construction of statutes which restrict First Amendment rights and looking at the normal interpretation of the word "public," it is our view that internal party elections are not "public" elections and that, therefore, State employees may participate as candidates in such elections.

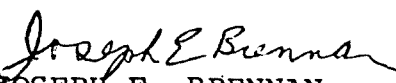
In this connection, we would note further that State employee participation in organized political activity, including partisan political activity, appears to be contemplated by the provisions of 5 M.R.S.A. § 14, 4th ¶, which reads as follows:

"Nothing in this section shall be construed to prohibit any employee of this State, whether or not in the classified service, from donating his or her own funds, or time, or services to a political cause provided such donation of time or services is not made during such employee's state working hours or upon the property or premises of the State or by using the facilities or services of the State."

Thus, the provisions of 5 M.R.S.A. § 679-A-3 are limited in effect to partisan elections for public offices in which the general public is eligible to participate.

I hope this information is helpful.

Sincerely,


JOSEPH E. BRENNAN
Attorney General

JEB/ec



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January 18, 1978

Joseph E. Brennan
Attorney General
State of Maine
State House Complex
Augusta, ME 04333

Dear Attorney General Brennan:

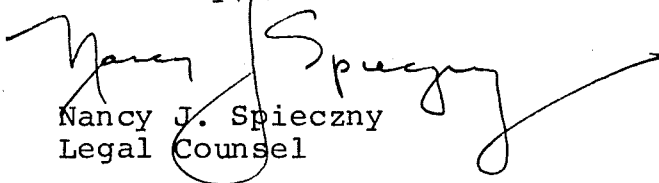
I have been asked to advise our members concerning their rights under Maine law to participate in political activities. One particular question that has arisen is whether classified employees may run for party offices or as delegates to party conventions.

Under 5 M.R.S.A., § 679-A a classified employee is prevented from being a candidate in a "partisan public election". The question I have is whether internal party elections are included within the definition of partisan public elections.

I would appreciate any advice you might be able to offer so that I might be better able to inform state employees of their political rights.

Thank you for your attention to this matter.

Sincerely,



Nancy J. Spieczny
Legal Counsel

NJS/td

