

Interpretation of Election Laws Should Further Aims of Democracy

[By Donald Scarinci](#)

Carmelo Garcia's name will be on the ballot for the June 4 Democratic primary election. The Supreme Court of New Jersey confirmed his eligibility as a candidate for the New Jersey State Assembly last week. What happened in this case, however, is more important than Carmelo Garcia's name.

Five Hoboken residents, obviously orchestrated, filed a lawsuit raising concerns about Garcia's [eligibility under both state and federal election law](#). The suit cited an alleged conflict of interest because Garcia currently serves as the Hoboken Housing Director and therefore a portion of his salary is paid with federal funds. A Hudson County judge agreed and ordered his name to be removed from the ballot.

However, the Appellate Division overturned the lower court and ruled that the trial court erred in preventing Garcia from running for office by enforcing a provision of the New Jersey Administrative Code that is based on an outdated section of the Hatch Act, a federal election law. It ordered Garcia's name be restored to the ballot. The appellate decision became final when the NJ Supreme Court refused to consider the matter last week.

The legal dispute over Garcia's eligibility highlights the complexity of both state and federal election law, particularly in places where the two intersect. While the Hatch Act previously prevented an individual from running for partisan office if his salary was paid *in part* by federal funds, it was amended in 2012 to allow candidates to seek public office so long as their salaries are not *entirely paid* with federal funds. The goal was to reduce the restrictions on local employees' ability to run for office.

New Jersey's Administrative Code contains provisions memorializing the Hatch Act. However, it has not yet been amended to mirror the new, less restrictive limitations. Nonetheless, the Appellate Division held that the New Jersey law should not be interrupted to impose restrictions beyond those imposed federally on federally-funded employees.

As the court explained in its [opinion](#), "The election statutes in New Jersey should be construed liberally to 'allow the greatest scope for public participation in the electoral process' and support 'New Jersey's well settled policy in favor of contested elections . . . and to give voters more choices in a primary election.'"

The right of any American to run for public office, while never considered a fundamental right as a matter of law, is certainly the cornerstone of American democracy. It has been a part of the legacy we inherited from our ancestors beginning with the settlers who established the earliest colonies in North America. The right of the public to choose its leaders in a free and open election is a privilege earned by the blood of history. This case refreshingly embraces who we are and what we believe as a people.

