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734.702 Related statutes and Executive orders.

AUTHORITY: 5 U.S.C. 1103, 1104, 7325; Reorganization Plan No. 2 of 1978, 92 Stat. 3783, 3 CFR 1978 Comp. p. 323; and E.O. 12107, 3 CFR 1978 Comp. p. 264.

SOURCE: 59 FR 48769, Sept. 23, 1994, unless otherwise noted.

Subpart A—General Provisions

§ 734.101 Definitions.

For the purposes of this part:

Accept means to come into possession of something from a person officially on behalf of a candidate, a campaign, a political party, or a partisan political group, but does not include ministerial activities which precede or follow this official act.

Candidate means an individual who seeks nomination or election to any elective office whether or not the person is elected. An individual is deemed to be a candidate if the individual has received political contributions or made expenditures or has consented to another person receiving contributions or making expenditures with a view to bringing about the individual's nomination or election.

Campaign means all acts done by a candidate and his or her adherents to obtain a majority or plurality of the votes to be cast toward a nomination or in an election.

Election includes a primary, special, runoff, or general election.

Employee means any individual (other than the President, Vice President, or a member of the uniformed services) employed or holding office in—

(1) An Executive agency other than the General Accounting Office;

(2) A position within the competitive service which is not in an Executive agency;

(3) The Government of the District of Columbia, other than the Mayor or a member of the City Council or the Recorder of Deeds; or

(4) The United States Postal Service or the Postal Rate Commission.

Employing office shall have the meaning given by the head of each agency or instrumentality of the United States Government or District of Columbia Government covered by this part. Each agency or instrumentality shall provide notice identifying the appropriate employing offices within it through internal agency notice procedures.

Federal employee organization means any lawful nonprofit organization, association, society, or club composed of Federal employees.

Federal labor organization means an organization defined in 5 U.S.C. 7103(a)(4).

Multicandidate political committee means an organization defined in 2 U.S.C. 441a(a)(4).

Nonpartisan election means—

(1) An election in which none of the candidates is to be nominated or elected as representing a political party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected; or

(2) An election involving a question or issue which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance, or any question or issue of a similar character.

Occasional means occurring infrequently, at irregular intervals, and according to no fixed or certain scheme; acting or serving for the occasion or only on particular occasions.

Office means the U.S. Office of Personnel Management.

On Duty means the time period when an employee is:

(1) In a pay status other than paid leave, compensatory time off, credit hours, time off as an incentive award, or excused or authorized absence (including leave without pay); or

(2) Representing any agency or instrumentality of the United States Government or any agency or instrumentality of the District of Columbia Government in an official capacity.

Partisan when used as an adjective means related to a political party.

Partisan political group means any committee, club, or other organization which is affiliated with a political party or candidate for public office in a partisan election, or organized for a partisan purpose, or which engages in partisan political activity.

Partisan political office means any office for which any candidate is nominated or elected as representing a

party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected, but does not include any office or position within a political party or affiliated organization.

Person means an individual; a State, local, or foreign government; or a corporation and subsidiaries it controls, company, association, firm, partnership, society, joint stock company, or any other organization or institution, including any officer, employee, or agent of such person or entity.

Political Action Committee means any committee, association, or organization (whether or not incorporated) which accepts contributions or makes expenditures for the purpose of influencing, or attempting to influence, the nomination or election of one or more individuals to Federal, State, or local elective public office.

Political activity means an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.

Political contribution means any gift, subscription, loan, advance, or deposit of money or anything of value, made for any political purpose.

(a) A political contribution includes:

(1) Any contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for any political purpose;

(2) Any payment by any person, other than a candidate or a political party or affiliated organization, of compensation for the personal services of another person which are rendered to any candidate or political party or affiliated organization without charge for any political purpose; and

(3) The provision of personal services, paid or unpaid, for any political purpose.

(b) A political contribution does not include the value of services provided without compensation by any individual who volunteers on behalf of any candidate, campaign, political party, or partisan political group.

Political management means the direction or supervision of a partisan political group or campaign for partisan political office.

Political party means a national political party, a State political party, or an affiliated organization.

Political purpose means an objective of promoting or opposing a political party, candidate for partisan political office, or partisan political group.

Receive means to come into possession of something from a person officially on behalf of a candidate, a campaign, a political party, or a partisan political group, but does not include ministerial activities which precede or follow this official act.

Recurrent means occurring frequently, or periodically on a regular basis.

Room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency thereof includes, but is not limited to:

(1) Any Federally owned space (including, but not limited to, ''public buildings'' as defined in 40 U.S.C. 612(1)) or Federally leased space in which Federal employees perform official duties on a regular basis;

(2) Public areas as defined in 40 U.S.C. 490(a)(17) and 41 CFR 101–20.003 of buildings under the custody and control of the General Services Administration.

(3) A room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency thereof does not include rooms in the White House, or in the residence of the Vice President, which are part of the Residence area or which are not regularly used solely in the discharge of official duties.

Solicit means to request expressly of another person that he or she contribute something to a candidate, a campaign, a political party, or partisan political group.

Subordinate refers to the relationship between two employees when one employee is under the supervisory authority, control or administrative direction of the other employee.

Uniformed services means uniformed services as defined in 5 U.S.C. 2101(3).

[59 FR 48769, Sept. 23, 1994, as amended at 61 FR 35099, July 5, 1996]

§ 734.102 Jurisdiction.

(a) The United States Office of Special Counsel has exclusive authority to investigate allegations of political activity prohibited by the Hatch Act Reform Amendments of 1993, as implemented by 5 CFR part 734, prosecute alleged violations before the United States Merit Systems Protection Board, and render advisory opinions concerning the applicability of 5 CFR part 734 to the political activity of Federal employees and employees of the District of Columbia government. (5 U.S.C. 1212 and 1216. Advice concerning the Hatch Act Reform Amendments may be requested from the Office of Special Counsel:

(1) By letter addressed to the Office of Special Counsel at 1730 M Street NW., Suite 300, Washington, DC 20036, or

(2) By telephone on (202) 653–7188, or (1–800) 854–2824.

(b) The Merit Systems Protection Board has exclusive authority to determine whether a violation of the Hatch Act Reform Amendments of 1993, as implemented by 5 CFR part 734, has occurred and to impose a minimum penalty of suspension for 30 days and a maximum penalty of removal for violation of the political activity restrictions regulated by this part. (5 U.S.C. 1204 and 7326).

(c) The Office of Personnel Management is authorized to issue regulations describing the political activities which are permitted and prohibited under the Hatch Act Reform Amendments of 1993. (5 U.S.C. 1103, 1104, 7325; Reorganization Plan No. 2 of 1978, 92 Stat. 3783, 3 CFR 1978 Comp. p. 323; and E.O. 12107, 3 CFR 1978 Comp. p. 264.)

[59 FR 48769, Sept. 23, 1994, as amended at 61 FR 35100, July 5, 1996]

§ 734.103 Multicandidate political committees of Federal labor organizations and Federal employee organizations.

(a) In order to qualify under this part, each multicandidate political committee of a Federal labor organization must provide to the Office the following:

(1) Information verifying that the multicandidate political committee is a multicandidate political committee as defined by 2 U.S.C. 441a(a)(4);

(2) Information identifying the Federal labor organization to which the multicandidate political committee is connected; and

(3) Information that identifies the Federal labor organization as a labor organization defined at 5 U.S.C. 7103(4).

(b) In order to qualify under this part, each multicandidate political committee of a Federal employee organization must provide to the Office the following:

(1) Information verifying that the multicandidate political committee is a multicandidate political committee as defined in 2 U.S.C. 441a(a)(4);

(2) Information identifying the Federal employee organization to which the multicandidate political committee is connected; and

(3) Information indicating that the multicandidate political committee was in existence as of October 6, 1993.

§ 734.104 Restriction of political activity.

No further proscriptions or restrictions may be imposed upon employees covered under this regulation except:

(a) Employees who are appointed by the President by and with the advice and consent of the Senate;

(b) Employees who are appointed by the President;

(c) Non-career senior executive service members;

(d) Schedule C employees, 5 CFR 213.3301, 213.3302; and

(e) Any other employees who serve at the pleasure of the President.

Subpart B—Permitted Activities

§ 734.201 Exclusion from coverage.

This subpart does not apply to employees in the agencies and positions described in subpart D of this part.

§ 734.202 Permitted activities.

Employees may take an active part in political activities, including political management and political campaigns, to the extent not expressly prohibited by law and this part.