Political Activity
and the Federal Employee



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and the Federal Employee

The Hatch Act
Its Importance to Federal Employees 2
Who Is Covered 3
Permitted and Prohibited Activities for Employees
Who May Engage in Partisan Activity 4
Questions and Answers 5
Permitted and Prohibited Activities for Employees
Subject to Additional Restrictions 7
Questions and Answers 8
Designated Communities 10
Penalties 10
The Office of Special Counsel 11
Title 5, United States Code Sections 7321-7326 12

Important Note

This booklet summarizes the laws, regulations and policies governing the political activities of federal employees and employees of the District of Columbia government. Its intent is to provide a basic overview of permissible and prohibited political activities. Employees should not rely on the opinions of friends or co-workers when they have questions with regard to a specific political activity. Ignorance of the law does not excuse an employee's violation of the Hatch Act. Reliance on incorrect or unofficial information also does not excuse a violation. Employees with additional questions may obtain an advisory opinion by telephoning the Office of the Special Counsel or by submitting their questions, in writing, to the address listed below.

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The Hatch Act
Its Importance to Federal Employees

The political activity of government employees has been a concern of government officials since the earliest days of the Republic. Thomas Jefferson, the nation's third president, was among the first to express concern about this issue.

In response to Jefferson's concern, the heads of the executive departments issued an order which stated that while it is "the right of any officer (federal employee) to give his vote at elections as a qualified citizen…it is expected that he will not attempt to influence the votes of others nor take part in the business of electioneering, that being deemed inconsistent with the spirit of the Constitution…"

However, despite the concerns of Jefferson and other American statesmen, almost a century and a half elapsed before Congress enacted a comprehensive law regarding the political activities of government employees.

In 1939, Congress approved landmark legislation known as the Hatch Act to limit the political activities of federal employees, employees of the District of Columbia and certain employees of state and local governments. In passing the Hatch Act, Congress determined that partisan activity by federal employees, employees of the District of Columbia government and certain employees of state and local governments must be limited for public institutions to function fairly and effectively. The courts have held that the Hatch Act is not an unconstitutional infringement on employees' first amendment right to freedom of speech because it specifically provides that employees retain the right to speak out on political subjects and candidates.

Most federal employees may take an active part in partisan political management and partisan political campaigns.

In October of 1993, legislation which substantially amended the Hatch Act was signed into law. The Hatch Act Reform Amendments of 1993 permit most federal employees to take an active part in partisan political management and partisan political campaigns. While federal employees are still prohibited from seeking public office in partisan elections, most employees are free to work, while off duty, on the partisan campaigns of candidates of their choice.

Who Is Covered?

All civilian employees in the executive branch of the federal government, except the President and the Vice President, are covered by the provisions of the Hatch Act. Employees of the U. S. Postal Service and the District of Columbia are also covered by the Act.

Part-time employees are covered by the Act. However, employees who work on an occasional or irregular basis or who are special government employees, as defined in title 18 U. S. C. 202(a) are subject to the restrictions only when they are engaged in government business.

Special considerations for employees appointed by the President by and with the advice and consent of the Senate and employees paid from an appropriation for the Executive Office of the President.

Employees paid from an appropriation for the Executive Office of the President and employees appointed by the President, by and with the advice and consent of the Senate, whose position is located within the United States, and who determine policies to be pursued by the United States in relations with foreign powers or in the nationwide administration of Federal laws may engage in political activity: while on duty; in any government room or building; while wearing a uniform or official insignia; and while using a government vehicle, if the costs associated with the political activity are not paid for by money derived from the Treasury of the United States.

Employees Subject to Additional Restrictions

Federal employees in the following agencies, divisions or positions are prohibited from engaging in partisan political campaigns or partisan political management:

- Federal Elections Commission
- Federal Bureau of Investigations
- Secret Service
- Central Intelligence Agency
- National Security Counsel
- National Security Agency
- Defense Intelligence Agency
- National Geospatial Intelligence Agency
- Merit Systems Protection Board
- Office of Special Counsel

- Office of Criminal Investigations of the IRS
- Office of Investigative Programs of the U. S. Customs Service
- Office of Law Enforcement of the Bureau of Alcohol, Tobacco, and Firearms
- Criminal Division of the Department of Justice
- Career members of the senior executive service
- Administrative Law Judges
- Administrative Appeals Judges
- Contract appeals board member

See pages 7-9 for a listing of permitted and prohibited activities for these employees.

Permitted and Prohibited Activities for Employees Who May Engage in Partisan Activity

- **May** be candidates for public office in nonpartisan elections
- **May** register and vote as they choose
- **May** assist in voter registration drives
- **May** express opinions about candidates and issues
- **May** contribute money to political organizations
- **May** attend political fundraising functions
- **May** attend and be active at political rallies and meetings
- **May** join and be an active member of a political party or club
- **May** sign nominating petitions
- **May** campaign for or against referendum questions, constitutional amendments, municipal ordinances
- **May** campaign for or against candidates in partisan elections
- **May** make campaign speeches for candidates in partisan elections
- **May** distribute campaign literature in partisan elections
- **May** hold office in political clubs or parties including serving as a delegate to a convention

- **May not** use their official authority or influence to interfere with an election
- **May not** solicit, accept or receive political contributions unless both individuals are members of the same federal labor organization or employee organization and the one solicited is not a subordinate employee
- **May not** knowingly solicit or discourage the political activity of any person who has business before the agency
- **May not** engage in political activity while on duty
- **May not** engage in political activity in any government office
- **May not** engage in political activity while wearing an official uniform
- **May not** engage in political activity while using a government vehicle
- **May not** be candidates for public office in partisan elections partisan elections
- **May not** wear political buttons on duty

Questions and Answers

Employees Who May Be Politically Active in Partisan Campaigns

Permitted Activities:

Q. What types of political activities are permitted under the 1993 Reform Amendments?

A. Most employees are free to participate in the following types of activities: campaigning for or against candidates in partisan elections, distributing campaign material, organizing or managing political rallies or meetings, circulating nominating petitions, working to register voters, and making campaign speeches for candidates.

Q. May an employee hold office in a political party or club?

A. Yes, an employee may hold office in a political party or club, including serving as a delegate to a local, state or national convention. The fact that the election for party office takes place during the primary or general election does not impede the employee's involvement.

Q. May an employee work at the polls on election day?

A. An employee, who is off duty, may work at the polls on election day. The employee may work for the city or county as an election judge, poll watcher or clerical worker. Additionally, employees may work for a candidate or political party by observing the check-in process, holding a sign or distributing campaign literature.

Q. May an employee help organize a fundraiser for a partisan candidate?

A. Yes, an employee may organize a fundraising event as long as he or she does not personally solicit, accept or receive political contributions. The employee may supply names for the invitation list, address invitations or introduce the speaker at the event.

Q. May an employee serve as the treasurer of a campaign?

A. Yes, an employee may serve as treasurer to the extent of preparing and filing campaign finance reports and paying campaign expenses. The employee would be prohibited from personally soliciting, accepting or receiving political contributions.

Q. May an employee who works in a commercial building which is partially leased by a federal agency engage in partisan political activity in the common space of the partially leased building?

A. Employees who work in partially leased buildings may engage in partisan political activity in the nonleased common space of the building, the courtyard, the roof deck, the main lobby.

Q. May employees make financial contributions to political candidates?

A. Yes, employees are permitted to make contributions to candidates, political parties, clubs and organizations.

Q. May employees hold public office?

A. Yes, while the Hatch Act prohibits candidacy for public office in partisan elections, it does not prohibit a federal employee from being appointed to or holding public office. Additionally, when an individual holds elective office at the time that the employee begins federal employment, he or she may continue to serve in the elected position. However, the employee may not be a candidate for re-election if the election is partisan and the employee continues to be employed by a federal agency.

Q. Are employees permitted to be candidates in nonpartisan elections?

A. Yes, employees may be candidates in nonpartisan elections. Additionally, employees are permitted to solicit, accept and receive contributions in nonpartisan elections. A nonpartisan election is an election where none of the candidates are running as representatives of a partisan political party, usually the Democratic and Republican party.

Q. Can a nonpartisan election be transformed into a partisan election?

A. Yes. If state or local law mandates a nonpartisan ballot for a particular local office, there will be a presumption that the election for that office is nonpartisan. If evidence is presented, however, that shows that partisan politics actually enter the campaigns of the candidates, e.g., the employee solicits the endorsement of a partisan group, advertises the endorsement of a political party, or uses the party's resources to further her campaign effort, the nonpartisan election can be transformed into a partisan one in violation of the Hatch Act.

Prohibited Activities:

Q. May employees solicit political contributions for partisan candidates, parties or organizations?

A. No, the amendments prohibit a covered employee from soliciting, accepting or receiving political contributions from any person except in certain instances involving labor organizations and employee organizations. Members of labor organizations and employee organizations may solicit contributions as long as the person who is solicited belongs to the same federal labor organization or federal employee organization as the employee who solicits, accepts or receives the contribution, the person who is solicited is not a subordinate employee, and the request is for a contribution to the multicandidate political committee of a federal labor organization or to the multicandidate political committee of a federal employee organization which was in existence as of October 6,1993.

Q. May employees wear partisan political buttons while on duty?

A. No, the Reform Amendments prohibit employees from engaging in any partisan political activity while on duty. Political activity has been defined as activity directed toward the success or failure of a political party, candidate for a partisan political office or a partisan political group. Employees are restricted from displaying partisan political posters and bumper stickers in their offices.

Q. May employees, who are members of a union, engage in partisan political activity in space designated to the labor organization by the agency?

A. No, all employees, including employees who are members of a union, are prohibited from engaging in partisan political activity in a government building.

Q. May an employee be listed as the sponsor of a partisan fundraising event?

A. No, the Act prohibits employees from soliciting contributions. However, an employee may be listed as the "guest speaker" or "special guest" on a fundraising invitation if the listing does not imply that the employee is soliciting contributions.

Permitted and Prohibited Activities for Employees Subject to Additional Restrictions*

Employees Subject to Additional Restrictions

These employees are prohibited from engaging in partisan political management or partisan political campaigns. Specifically, they may not work on campaigns where any of the candidates are running as representatives of a political party, e.g. the Democratic or Republican parties.

- **May** register and vote as they choose
- **May** assist in voter registration drives
- **May** express opinions about candidates and issues
- **May** participate in campaigns where none of the candidates represent a political party
- **May** contribute money to political organizations or attend political fund raising functions
- **May** attend political rallies and meetings
- **May** join political clubs or parties
- **May** sign nominating petitions
- **May** campaign for or against referendum questions, constitutional amendments, municipal ordinances
- **May** be candidates for public office in nonpartysan elections
- **May not** be candidates for public office in partisan elections
- **May not** campaign for or against a candidate or slate of candidates in partisan elections
- **May not** make campaign speeches or engage in other campaign activities to elect partisan candidates
- **May not** collect contributions or sell tickets to political fund raising functions
- **May not** distribute campaign material in partisan elections
- **May not** organize or manage political rallies or meetings
- **May not** hold office in political clubs or parties
- **May not** circulate nominating petitions
- **May not** work to register voters for one party only
- **May not** wear political buttons at work

*Federal Election Commission, Federal Bureau of Investigation, Secret Service, Central Intelligence Agency, National Security Council, National Security Agency, Defense Intelligence Agency, Merit Systems Protection Board, Office of Special Counsel, Office of Criminal Investigation of the IRS, Office of the Investigative Programs of the Customs Service, Office of Law Enforcement of BATF, Criminal Division of DOJ, National Geospacial Intelligence Agency, career members of the Senior Executive Service, administrative law judges, administrative appeals judges, and contract appeals board members.

Questions and Answers

Employees Subject to Additional Restrictions

Permitted Activities:

Q. To what extent are employees permitted to express opinions on political subjects and candidates?

A. Employees may express their views publicly or privately about a candidate or about political issues. However, they may not engage in active campaigning for partisan candidates.

With regard to political questions and public issues, employees are entitled to express their views as citizens. In addition, employees are free to express their views and take action as individual citizens on such questions as referendum matters, changes in municipal ordinances and constitutional amendments. Issues involving highways, schools, housing and taxes are other examples of questions on which employees are usually free to take action. They can participate in meetings where these issues are discussed and they may join other citizens in presenting their views on such questions.

Q. Are employees entitled to make financial contributions?

A. Employees may make contributions to political organizations. However, employees are prohibited from either soliciting or collecting contributions for political organizations.

Q. May employees attend political rallies and join political clubs?

A. Employees may attend political rallies as spectators. They may not participate in the rallies by carrying banners or placards. They may join partisan political clubs but cannot take an active part in the management of the clubs or be officers or members of any of its committees.

Q. May employees attend political conventions?

A. Yes, covered employees may attend political conventions, but only as spectators. Employees are not allowed to take part in the deliberations or proceedings of the conventions or any of its committees. Covered employees may not be candidates for, or serve as delegates, alternates or proxies at such conventions.

Q. May an employee write a letter to the editor of a local newspaper expressing an opinion on a partisan issue?

A. Yes, but an employee may not write letters in connection with political parties, or partisan groups or candidates.

Q. May a federal employee place a sign on his or her automobile, or in his or her yard, which supports or opposes a political candidate?

A. So long as this activity is an expression of personal opinion, it is permissible under the Hatch Act. The size of any such sign is irrelevant.

Q. May a federal employee who is the spouse of a political candidate appear in campaign photographs with the candidate?

A. Yes, the employee can be included in “family of the candidate” photographs which might appear in newspapers or in campaign literature.

Q. May a covered employee's spouse, if he or she is not covered by the law, engage in political activity?

A. Yes, the law does not restrict the activities of an employees spouse or of other family members in any way.

Q. Are employees allowed to actively assist in voter registration drives?

A. Yes, employees may participate in nonpartisan voter registration drives but they may not attempt to influence voters to register for a particular party.

Q. May employees use cars to take voters to the polls on election day?

A. Yes, employees may assist taking voters to the polls as a gesture of goodwill or as part of an effort by a nonpolitical organization. Employees may not assist voters to the polls as part of an organized effort on behalf of candidates or political parties.

Q. Employees are sometimes asked to serve as registrars on registration day or as election clerks or officers on election day. Are they permitted to do this?

A. Yes, employees may accept appointments to serve as election clerks, officers or in similar positions as prescribed by state or local law. However, they may not work at the polls on behalf of partisan candidates or political parties by acting as checkers, challengers, watchers or in similar partisan positions.

Q. Are employees permitted to be candidates in nonpartisan elections?

A. Yes, employees may be candidates in nonpartisan elections. Additionally, employees are permitted to solicit, accept and receive contributions in nonpartisan elections. A nonpartisan election is an election where none of the candidates are running as representatives of a partisan political party, usually the Democratic or Republican party.

Q. Can nonpartisan election be transformed into a partisan election?

A. Yes. If state or local law mandates a nonpartisan ballot for a particular local office, there will be a presumption that the election for that office is nonpartisan. If evidence is presented, however, that shows that partisan politics actually enter the campaigns of the candidates, e.g., the employee solicits the endorsement of a partisan group, advertises the endorsement of a political party, or uses the party's resources to further her campaign effort, the nonpartisan election can be transformed into a partisan one in violation of the Hatch Act.

Prohibited Activities

Q. What types of the activities are prohibited?

A. Activities such as soliciting or collecting political contributions, or selling fund-raising dinner tickets are prohibited. Distributing campaign material in connection with political parties or partisan groups or candidates is also prohibited.

Q. May employees work as part-time volunteers for partisan candidates if the activity does not involve contact with the public?

A. No, the law prohibits direct action to assist partisan candidates or political parties in campaigns. Thus, covered employees are not permitted to do clerical work at campaign headquarters, write campaign speeches or canvass voters for the purpose of promoting support for candidates or political parties.

The prohibition applies to voluntary campaign work such as addressing and stuffing envelopes, making phone calls on behalf of a candidate or collecting signatures for a nominating petition.

Designated Communities

Q. Are there any instances when a federal employee may be a candidate in a partisan election?

A. Yes. A special rule applies to local elections in certain communities of Maryland and Virginia near Washington, D. C., and in a few designated municipalities in other parts of the country. In communities designated by the U. S. Office of Personnel Management, federal employee residents (including employees subject to additional restrictions) may run as independent candidates in local elections in the communities where they reside.

Q. Can a nonpartisan candidacy, i.e., an independent candidacy, be transformed into a partisan candidacy?

A. Yes. If evidence is presented that shows that partisan politics enters the campaign of the independent candidate in the designated community, e.g., the employee solicits the endorsement of a partisan group, advertises the endorsement of a political party, or uses the party's resources to further her campaign effort, the independent candidacy can be transformed into a partisan one in violation of the Hatch act.

The communities to which the partial exemption applies are listed below:

Maryland: Annapolis, Anne Arundel County, Berwyn Heights, Bethesda, Bladensburg, Bowie, Brentwood, Calvert County, Capitol Heights, Cheverly, Chevy Chase Village, Martin Additions, Chevy Chase sections 3 and 4, Chevy Chase View, College Park, Cottage City, District Heights, Edmonston, Fairmont Heights, Forest Heights, Frederick County, Garrett Park, Glenarden, Glen Echo, Greenbelt, Howard County, Hyattsville, Kensington, Landover Hills, Montgomery County, Morningside, Mount Rainier, New Carrollton, North Beach, North Brentwood, North Chevy Chase, Northwest Park, Prince Georges County, Riverdale, Rockville, Seat Pleasant, Somerset, Takoma Park, University Park, Washington Grove, Saint Mary's County.

Virginia: Alexandria, Arlington County, Clifton, Fairfax County, City of Fairfax, Falls Church, Herndon, Loudon County, Manassas, Manassas Park, Portsmouth, Prince William County, Vienna, Spotsylvania County, Stafford County.

Others: Anchorage, AK; Benecia, CA; Bremerton, WA; Centerville, GA; Crane, IN; Elmer City, WA; Huachuca City, AZ; New Johnsonville, TN; Norris, TN; Port Orchard, WA; Sierra Vista, AZ; Warner Robins, GA.

Q. What is the basis for granting partial exceptions from Hatch Act restrictions to the residents of certain communities?

A. Upon request, the partial exemption is granted by the Office of Personnel Management, under certain conditions, to communities in which large numbers of voters are employed by the federal government. The exemption recognizes that in such communities the interest of the community and the federal employee may allow such direct participation in local government.

Q. How does this special right differ from the general restriction that applies to all federal employees?

A. Under the general restriction, federal employees cannot be candidates for a public office in partisan elections. In an excepted community employees may run as independent candidates against partisan political candidates.

Penalties for Violation

Q. What is the penalty for violating the Hatch Act?

A. For covered federal employees and District of Columbia government employees, the most severe penalty for violation is removal. The minimum penalty is suspension without pay for 30 days.

Q. Where is the law found that restricts political activity of federal and District of Columbia government employees?

A. Title 5 of the United States Code, Sections 7321-7326 and Title 5 of the Code of Federal Regulations parts 733 and 734.

The Office of Special Counsel

Procedures

The Office of Special Counsel (OSC) is responsible for investigating reports or complaints concerning Hatch Act violations committed by covered federal employees and by employees of the District of Columbia government.

If an investigation uncovers evidence of a violation of the law and OSC determines that the violation warrants prosecution, a written complaint for disciplinary action is filed with the U. S. Merit Systems Protection Board (MSPB). A copy of the complaint is served on the charged employee. Full opportunity is provided to contest the charges, including a right to a hearing before the MSPB. The employee may be represented by counsel at all stages of the proceedings.

After consideration of the entire record, the MSPB will notify the employee and the employing agency of its decision. If the MSPB finds that the employee has violated the law, the maximum penalty that can be imposed is removal from government service. The minimum penalty that can be assessed is suspension without pay for 30 days.

Briefings

In an effort to better acquaint federal employees with the provisions regarding political activity, OSC attorneys are available to brief groups of federal employees on the Hatch Act.

Advisories

Additionally, employees may obtain answers to specific questions regarding political activity by calling OSC at 800-85-HATCH (854-2824) or 202-254-3650. Requests for written advisories may be made to:

U. S. Office of Special Counsel
1730 M Street, NW
Suite 218
Washington, DC 20036
E-mail: **hatchact@osc.gov**
Homepage**: http://www.osc.gov**

Title 5. United States Code

SUBCHAPTER III -- POLITICAL ACTIVITIES

§ 7321. Political participation

It is the policy of the Congress that employees should be encouraged to exercise fully, freely and without fear of penalty or reprisal, and to the extent not expressly prohibited by law, their right to participate or to refrain from participating in the political processes of the Nation.

§ 7322. Definitions

For the purposes of this subchapter -

(1) "employee" means any individual, other than the President and the Vice President, employed or holding office in --

(A) an Executive agency other than the General Accounting Office;

(B) a position within the competitive service which is not an executive agency; or

(C) the government of the District of Columbia, other than the Mayor or a member of the City Council or the Recorder of Deeds;

but does not include a member of the uniformed services;

(2) 'partisan political office' means any office 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 shall exclude any office or position within a political party or affiliated organization;

(3) "political contribution" --

(A) means any gift, subscription, loan, advance, or deposit of money or anything of value, made for any political purpose;

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

(C) includes 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

(D) includes the provision of personal services for any political purpose.

§ 7323. Political activity authorized; prohibitions

(a) Subject to the provisions of subsection (b), an employee may take an active part in political management or in political campaigns, except an employee may not --

(1) use his official authority or influence for the purpose of interfering with or affecting the result of an election;

(2) knowingly solicit, accept, or receive a political contribution from any person, unless such person is --

(A) a member of the same Federal labor organization as defined under section 7103(4) of this title or a Federal employee organization which as of the date of enactment of the Hatch Act Reform Amendments of 1993 had a multicandidate political committee (as defined under section 315(a)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(4)));

(B) not a subordinate employee; and

(C) the solicitation is for a contribution to the multicandidate political committee (as defined under section 315(a)(4)of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(4)))of such Federal labor organization as defined under section 7103(4)of this title or a Federal employee organization which as of the date of the enactment of the Hatch Act Reform Amendments of 1993 had a multicandidate political committee (as defined under section 315(a)(4)of the Federal Election Campaign Act of 1971 (2) U.S.C. 441a(a)(4))); or

(3) run for the nomination or as a candidate for election to a partisan political office; or

(4) knowingly solicit or discourage the participation in any political activity of any person who --

(A) has an application for any compensation, grant, contract, ruling, license, permit, or certificate pending before the employing office of such employee; or

(B) is the subject of or a participant in an ongoing audit, investigation, or enforcement action being carried out by the employing office of such employee.

(b)(l) An employee of the Federal Election Commission (except one appointed by the President, by and with the advice and consent of the Senate), may not request or receive from, or give to, an employee, a Member of Congress, or an officer of a uniformed service a political contribution.

(2)(A) No employee described under subparagraph (B) (except one appointed by the President, by and with the advice and consent of the Senate), may take an active part in political management or political campaigns.

(B)The provisions of subparagraph (A) shall apply to --

(i) an employee of --

(I) the Federal Election Commission;

(II) the Federal Bureau of Investigation;

(III) the Secret Service;

(IV) the Central Intelligence Agency;

(V) the National Security Council;

(VI) the National Security Agency;

(VII) the Defense Intelligence Agency;

(VIII) the Merit Systems Protection Board;

(IX) the Office of Special Counsel;

(X) the Office of Criminal Investigation of the Internal Revenue Service;

(XI) the Office of Investigative Programs of the United States Customs Service; or

(XII) the Office of the Law Enforcement of the Bureau of Alcohol, Tobacco, and Firearms; or

(XIII) the National Geospatial Intelligence Agency; or

(ii) a person employed in a position described under section 3132(a)(4) or 5372, 5372a, or 5372b of title 5, United States Code.

(3) No employee of the Criminal Division of the Department of Justice (except one appointed by the President, by and with the advice and consent of the Senate), may take an active part in political management or political campaigns.

(4) For purposes of this subsection, the term 'active part in political management or in a political campaign 'means those acts of political management or political campaigning which were prohibited for employees of the competitive service

before July 19, 1940, by determinations of the Civil Service Commission under the rules prescribed by the President.

(c) An employee retains the right to vote as he chooses and to express his opinion on political subjects and candidates.

§ 7324. Political activities on duty; prohibition

(a) An employee may not engage in political activity --

(1) while the employee is on duty,

(2) in any 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 or instrumentality thereof;

(3) while wearing a uniform or official insignia identifying the office or position of the employee; or

(4) using any vehicle owned or leased by the Government of the United States or any agency or instrumentality thereof.

(b)(l) An employee described in paragraph (2) of this subsection may engage in political activity otherwise prohibited by subsection (a) if the costs associated with that political activity are not paid for by money derived from the Treasury of the United States.

(2) Paragraph (1) applies to an employee --

(A) the duties and responsibilities of whose position continue outside normal duty hours and while away from the normal duty post; and

(B) who is --

(i) an employee paid from an appropriation for the Executive Office of the President; or

(ii) an employee appointed by the President, by and with the advice and consent of the Senate, whose position is located within the United States, who determines policies to be pursued by the United States in relations with foreign powers or in the nationwide administration of Federal laws.

§ 7325. Political activity permitted; employees residing in certain municipalities

The Office of Personnel Management may prescribe regulations permitting employees, without regard to the prohibition in paragraphs (2) and (3) of section 7323(a) and paragraph (2) of section 7323(b) of this title. to take an active part in political management and political campaigns involving the municipality or other political subdivision in which they reside, to the extent the Office considers it to be in their domestic interest, when --

(1) the municipality or political subdivision is in Maryland or Virginia and in the immediate vicinity of the District of Columbia, or is a municipality in which the majority of the voters are employed by the Government of the United States; and

(2) the Office determines that because of special or unusual circumstances which exist in the municipality or political subdivision it is in the domestic interest of the employees and individuals to permit that political participation.

§ 7326. Penalties

An employee or individual who violates section 7323 or 7324 of this title shall be removed from his position, and funds appropriated for the position from which removed thereafter may not be used to pay the employee or individual. However, if the Merit Systems Protection Board finds by unanimous vote that the violation does not warrant removal, a penalty of not less than 30 days ' suspension without pay shall be imposed by direction of the Board.