

fairness to the individual in any determination.

(b) Comply with all applicable administrative due process requirements, as provided by law, rule, or regulation.

(c) At a minimum, provide the individual concerned:

(1) Notice of the specific reason(s) for the decision; and

(2) An opportunity to respond; and

(3) Notice of appeal rights, if any.

(d) Consider all available information in reaching its final decision.

(e) Keep any record of the agency action required by OPM as published in its issuances.

[56 FR 18654, Apr. 23, 1991, as amended at 66 FR 66711, Dec. 27, 2001]

§ 732.302 Reporting to OPM.

(a) In accordance with section 9(a) of E.O. 10450, each agency conducting an investigation under E.O. 10450 is required to notify OPM when the investigation is initiated.

(b) In accordance with section 14(c) of E.O. 10450, agencies shall report to OPM the action taken with respect to individuals investigated pursuant to E.O. 10450 as soon as possible and in no event later than 90 days after receipt of the final report of investigation.

Subpart D—Security and Related Determinations

§ 732.401 Reemployment eligibility of certain former Federal employees.

(a) *Request.* A former employee who was terminated, or who resigned while charges were pending, from a department or agency of the Government under a statute or executive order authorizing termination in the interest of national security or on grounds relating to loyalty, and authorizing OPM to determine the eligibility for employment in another department or agency of the Government, may request OPM in writing to determine whether the individual is eligible for employment in another department or agency of the Government.

(b) *Action by OPM.* (1) OPM shall determine, and will notify the former employee, after appropriate consideration of the case, including such investigation as it considers necessary, whether the individual may be employed in an

other department or agency of the Government.

(2) If a former Federal employee found ineligible under this section has had an opportunity to comment on the reasons for the action, or has furnished them to OPM or to the former employing agency, OPM may cancel the reinstatement eligibility if the eligibility resulted from the last Federal employment and was obtained through fraud, and OPM may prescribe a period of debarment not to exceed 3 years.

PART 733—POLITICAL ACTIVITY— FEDERAL EMPLOYEES RESIDING IN DESIGNATED LOCALITIES

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733.107 Designated localities.

AUTHORITY: 5 U.S.C. 7325.d.

SOURCE: 63 FR 4558, Jan. 30, 1998, unless otherwise noted.

§ 733.101 Definitions.

In 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

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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, the 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; or

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

On Duty means the 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 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 the 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 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.

(1) A political contribution includes:

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

(ii) 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

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

(2) 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.

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))

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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).

[63 FR 4558, Jan. 30, 1998, as amended at 79 FR 25485, May 5, 2014]

§ 733.102 Exclusion of employees in the Criminal Division and National Security Division of the United States Department of Justice.

Employees in the Criminal Division and National Security Division in the Department of Justice (except employees appointed by the President by and with the advice and consent of the Senate) specifically are excluded from coverage under the provisions of this part.

[79 FR 25485, May 5, 2014]

§ 733.103 Permitted political activities—employees who reside in designated localities.

(a) This section does not apply to an individual who is employed in an agency or position described in § 733.105(a), unless that individual has been appointed by the President, by and with the advice and consent of the Senate.

(b) Employees who reside in a municipality or political subdivision designated by OPM under § 733.107 may:

(1) Run as independent candidates for election to partisan political office in elections for local office in the municipality or political subdivision;

(2) Solicit, accept, or receive a political contribution as, or on behalf of, an independent candidate for partisan political office in elections for local office in the municipality or political subdivision;

(3) Accept or receive a political contribution on behalf of an individual who is a candidate for local partisan political office and who represents a political party;

(4) Solicit, accept, or receive uncompensated volunteer services as an independent candidate, or on behalf of an independent candidate, for local partisan political office, in connection with the local elections of the municipality or subdivision; and

(5) Solicit, accept, or receive uncompensated volunteer services on behalf of an individual who is a candidate for local partisan political office and who represents a political party.

§ 733.104 Prohibited political activities—employees who reside in designated localities.

(a) This section does not apply to an individual who is employed in an agency or position described in § 733.105(a), unless that individual has been appointed by the President, by and with the advice and consent of the Senate.

(b) Employees who reside in a municipality or political subdivision designated by OPM under § 733.107 may not:

(1) Run as the representative of a political party for local partisan political office;

(2) Solicit a political contribution on behalf of an individual who is a candidate for local partisan political office and who represents a political party;

(3) Knowingly solicit a political contribution from any Federal employee, except as permitted under 5 U.S.C. 7323(a)(2)(A)-(C).

(4) Accept or receive a political contribution from a subordinate; or

(5) Solicit, accept, or receive uncompensated volunteer services from a subordinate for any political purpose.

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(c) An employee covered under this section may not participate in political activities:

(1) While he or she is on duty;

(2) While he or she is wearing a uniform, badge, or insignia that identifies the employing agency or instrumentality or the position of the employee;

(3) While he or she is 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; or

(4) While using a Government-owned or leased vehicle or while using a privately owned vehicle in the discharge of official duties.

(d) An employee described in 5 U.S.C. 7324(b)(2) may participate in political activity otherwise prohibited by § 733.104(c) if the costs associated with that political activity are not paid for by money derived from the Treasury of the United States.

(e) Candidacy for, and service in, a partisan political office shall not result in neglect of, or interference with, the performance of the duties of the employee or create a conflict, or apparent conflict, of interest.

§ 733.105 Permitted political activities—employees who reside in designated localities and are employed in certain agencies and positions.

(a) This section applied to employees who reside in designated localities and are employed in the following agencies or positions:

(1) The Federal Election Commission;

(2) The Election Assistance Commission;

(3) The Federal Bureau of Investigation;

(4) The Secret Service;

(5) The Central Intelligence Agency;

(6) The National Security Council;

(7) The National Security Agency;

(8) The Defense Intelligence Agency;

(9) The Merit Systems Protection Board;

(10) The Office of Special Counsel;

(11) The Office of Criminal Investigation of the Internal Revenue Service.

(12) The Office of Investigative Programs of the United States Customs Service;

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(13) The Office of Law Enforcement of the Bureau of Alcohol, Tobacco, and Firearms;

(14) The National Geospatial-Intelligence Agency;

(15) The Office of the Director of National Intelligence;

(16) Career Senior Executive Service positions described in 5 U.S.C. 3132(a)(4);

(17) Administrative Law Judge positions described in 5 U.S.C. 5372;

(18) Contract Appeals Board Member positions described in 5 U.S.C. 5372a; or

(19) Administrative Appeals Judge positions described in 5 U.S.C. 5732b.

(b) This section does not apply to individuals who have been appointed by the President by and with the advice and consent of the Senate, even though they are employed in the agencies and positions described in paragraph (a) of this section.

(c) Employees who are covered under this section and who reside in a municipality or political subdivision designated by OPM under § 733.107 may:

(1) Run as independent candidates for election to partisan political office in elections for local office in the municipality or political subdivision;

(2) Solicit, accept, or receive a political contribution as, or on behalf of, an independent candidate for partisan political office in elections for local office in the municipality or political subdivision;

(3) Solicit, accept, or receive uncompensated volunteer services as, or on behalf of, an independent candidate for partisan political office in elections for office in the municipality or subdivision; and

(4) Take an active part in other political activities associated with elections for local partisan political office and in managing the campaigns of candidates for election to local partisan political office in the municipality or political subdivision, but only as an independent candidate or on behalf of, or in opposition to, an independent candidate.

[63 FR 4558, Jan. 30, 1998, as amended at 79 FR 25485, May 5, 2014]

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§ 733.106 Prohibited political activities—employees who reside designated localities and are employed in certain agencies and positions.

(a) This section does not apply to individuals who have been appointed by the President, by and with the advice and consent of the Senate, even though they are employed in the agencies and positions described in § 733.105(a).

(b) Employees who are employed in the agencies and positions described in § 733.105(a), and who reside in a municipality or political subdivision designated by OPM under § 733.107, may not:

(1) Run as the representative of a political party for local partisan political office;

(2) Solicit, accept, or receive a political contribution on behalf of an individual who is a candidate for local partisan political office and who represents a political party;

(3) Knowingly solicit a political contribution from any Federal employee;

(4) Accept or receive a political contribution from a subordinate;

(5) Solicit, accept, or receive uncompensated volunteer services on behalf of an individual who is a candidate for local partisan political office and who represents a political party;

(6) Solicit, accept, or receive uncompensated volunteer services from a subordinate for any political purpose; or

(7) Take an active part in other political activities associated with elections for local partisan political office, when such participation occurs on behalf of a political party, partisan political group, or a candidate for local partisan political office who represents a political party.

(c) An employee covered under this section may not participate in political activities:

(1) While he or she is on duty;

(2) While he or she is wearing a uniform, badge, or insignia that identifies the employing agency or instrumentality or the position of the employee;

(3) While he or she is 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; or

(4) While using a Government-owned or leased vehicle or while using a privately owned vehicle in the discharge of official duties.

(d) Candidacy for, and service in, or partisan political office shall not result in neglect of, or interference with, the performance of the duties of the employee or create a conflict, or apparent conflict, of interest.

§ 733.107 Designated localities.

(a) When OPM determines that, because of special or unusual circumstances, it is in the domestic interest of employees to participate in local elections, OPM may specify as a designated locality:

(1) The District of Columbia,

(2) A municipality or political subdivision in Maryland or Virginia and in the immediate vicinity of the District of Columbia, or

(3) A municipality in which the majority of voters are employed by the Government of the United States.

(b) Information as to the documentation required to support a request for designation is furnished by the General Counsel of OPM on request.

(c) The following municipalities and political subdivisions have been designated, effective on the day specified:

IN MARYLAND

Annapolis (May 16, 1941).

Anne Arundel County (March 14, 1973).

Berwyn Heights (June 15, 1944).

Bethesda (Feb. 17, 1943).

Bladensburg (April 20, 1942).

Bowie (April 11, 1952).

Brentwood (Sept. 26, 1940).

Calvert County (June 18, 1992).

Capitol Heights (Nov. 12, 1940).

Cheverly (Dec. 18, 1940).

Chevy Chase, section 3 (Oct. 8, 1940).

Chevy Chase, section 4 (Oct. 2, 1940).

Chevy Chase View (Feb. 26, 1941).

Chevy Chase Village, Town of (March 4, 1941).

College Park (June 13, 1945).

Cottage City (Jan. 15, 1941).

District Heights (Nov. 2, 1940).

Edmonston (Oct. 24, 1940).

Fairmont Heights (Oct. 24, 1940).

Forest Heights (April 22, 1949).

Frederick County (May 31, 1991).

Garrett Park (Oct. 2, 1940).

Glenarden (May 21, 1941).

Glen Echo (Oct. 22, 1940).

Greenbelt (Oct. 4, 1940).

Howard County (April 25, 1974).

Hyattsville (Sept. 20, 1940).

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Kensington (Nov. 8, 1940).
Landover Hills (May 5, 1945).
Martin's Additions, Village of (Feb. 13, 1941).
Montgomery County (April 30, 1964).
Morningside (May 19, 1949).
Mount Rainier (Nov. 22, 1940).
New Carrollton (July 7, 1981).
North Beach (Sept. 20, 1940).
North Brentwood (May 6, 1941).
North Chevy Chase (July 22, 1942).
Northwest Park (Feb. 17, 1943).
Prince George's County (June 19, 1962).
Riverdale (Sept. 26, 1940).
Rockville (April 15, 1948).
St. Mary's County (March 2, 1998).
Seat Pleasant (Aug. 31, 1942).
Somerset (Nov. 22, 1940).
Takoma Park (Oct. 22, 1940).
University Park (Jan. 18, 1941).
Washington Grove (April 5, 1941).

IN VIRGINIA

Alexandria (April 15, 1941).
Arlington County (Sept. 9, 1940).
Clifton (July 14, 1941).
Fairfax, City of (Feb. 9, 1954).
Fairfax County (Nov. 10, 1949).
Falls Church (June 6, 1941).
Fauquier County
Herndon (April 7, 1945).
King George County (June 6, 2012).
Loudoun County (Oct. 1, 1971).
Manassas (Jan. 8, 1980).
Manassas Park (March 4, 1980).
Portsmouth (Feb. 27, 1958).
Prince William County (Feb. 14, 1967).
Spotsylvania County (March 2, 1998).
Stafford County (Nov. 2, 1979).
Vienna (March 18, 1946).

OTHER MUNICIPALITIES

Anchorage, Alaska (Dec. 29, 1947).
Benicia, Calif. (Feb. 20, 1948).
Bremerton, Wash. (Feb. 27, 1946).
Centerville, Ga. (Sept. 16, 1971).
Crane, Ind. (Aug. 3, 1967).
District of Columbia
Elmer City, Wash. (Oct. 28, 1947).
Huachuca City, Ariz. (April 9, 1959).
New Johnsonville, Tenn. (April 26, 1956).
Norris, Tenn. (May 6, 1959).
Port Orchard, Wash. (Feb. 27, 1946).
Sierra Vista, Ariz. (Oct. 5, 1955).
Warner Robins, Ga. (March 19, 1948).

[63 FR 4558, Jan. 30, 1998, as amended at 73 FR 28026, May 15, 2008; 77 FR 26660, May 7, 2012; 78 FR 66826, Nov. 7, 2013; 79 FR 25485, May 5, 2014]

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