

§ 734.102

5 CFR Ch. I (1-1-04 Edition)

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 Fed-

eral 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

## Office of Personnel Management

## § 734.203

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.

### **§ 734.203 Participation in nonpartisan activities.**

An employee may:

(a) Express his or her opinion privately and publicly on political subjects;

(b) Be politically active in connection with a question which is not specifically identified with a political party, such as a constitutional amendment, referendum, approval of a municipal ordinance or any other question or issue of a similar character;

(c) Participate in the nonpartisan activities of a civic, community, social, labor, or professional organization, or of a similar organization; and

(d) Participate fully in public affairs, except as prohibited by other Federal law, in a manner which does not compromise his or her efficiency or integrity as an employee or the neutrality, efficiency, or integrity of the agency or instrumentality of the United States Government or the District of Columbia Government in which he or she is employed.