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THE WHITE HOUSE
WASHINGTON

June 12, 1975

*Jack C.
your comment -
pls expedite return*

MEMORANDUM FOR: ROBERT HARTMANN ✓
JOHN MARSH
DONALD RUMSFELD

FROM: PHIL BUCHEN *P.W.B.*

Return to

For some time I have felt it desirable to put out a comprehensive memorandum to the Presidential appointees in the Executive Branch who are likely to become involved in political activities in behalf of the President which would guide them in their own conduct and in controlling the conduct of their subordinates.

Attached is a draft proposal on which I would like your comments.

Another issue which ought to be considered is whether there are certain appointees who, as a matter of policy, should abstain from active political involvement even though the law would allow it. The Attorney General, other Justice Department officials, the Secretaries of State and Defense are examples, but consideration should also be given to officials of ERDA and FEA and members of the CEA.



Attachment

no objections or changes.

As to this, I don't think we need bind ourselves, at this stage of the game, any more tightly than the law binds us.

RTJ

*6/15
6/23/75
Note returned orig. of cover memo to Mr. Buchen's office.*

THE WHITE HOUSE

WASHINGTON

June 11, 1975

MEMORANDUM FOR: PHIL BUCHEN
FROM: DUDLEY CHAPMAN *DC*
SUBJECT: Memorandum on Political Activities

As a result of our discussion, and on further reflection, the attached memorandum does not address such subjects as the conduct of political activities on "official" time, or campaign activities carried on within Federal premises, other use of Federal resources, or the desirability of certain officials abstaining from campaign activity. We should be able to rely on people's common sense to avoid using Government funds for political expenses, and precise rules on these subjects do not appear possible to formulate.

I have left the covering memorandum undated, for you to insert.

cc: Ken Lazarus



THE WHITE HOUSE
WASHINGTON

MEMORANDUM

Restrictions on Political Participation
by Executive Branch Officials and Employees

All Federal officials and employees of the Executive Branch of the Government are subject to the criminal sanctions set forth in Title 18, U.S.C., Chapter 29 -- "Elections and Political Activities"(Appendix A). With relatively few exceptions, these employees are also subject to the political activity restrictions contained in relevant civil provisions (5 U.S.C. 7321, et. seq., Appendix B) and implementing regulations (5 CFR Part 333, Appendix C).

The following outline should serve as a checklist of the principal restrictions on political campaign activities of concern to government officers and employees. The attachments supply further details.

These are the bare legal requirements of which you should be aware. We have not attempted to prescribe the good judgment and sense of propriety that must be expected of all persons who participate in the President's election campaign. Should any questions arise on matters of either legality or propriety, concerning your official actions, please contact Mr. Kenneth Lazarus (Ext. 6297) or Mr. Dudley Chapman (Ext. 6725) in the Office of the Counsel to the President. Advice on the conduct of the campaign itself should be sought from counsel to the Republican National Committee or to the President's principal political committee, as appropriate.

Philip W. Buchen
Counsel to the President



1. Restrictions on who may participate (Civil Restrictions):

The Provisions of Title 5, U.S.C. Sec. 7321, et. seq. and implementing regulations (5 CFR Part 733) may be summarized as follows:

- (a) General. Generally, Government employees are prohibited from taking "an active part in political management or political campaigns", or from using their official authority or influence "for the purpose of interfering with or affecting the result of an election" (5 U.S.C. 7324; See also 5 U.S.C. 7322, and Executive Order 11222).
- (b) Types of Employees Covered. With very few exceptions, all Federal employees in the Executive Branch of the Government (including employees of the Postal Service) are subject to the political activity provisions of Federal law. These provisions apply to full-time and part-time employees in both the competitive and excepted service. Those who are employed on an intermittent or occasional basis, such as experts or consultants, are only covered by the restrictions for the entire twenty-four hours of any day of actual employment.

Title 5, U.S.C. Sec. 7324 exempts certain specified officers and employees from the prohibition on taking an active part in political management or in political campaigns. These are:

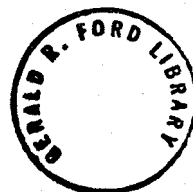
- (i) An employee paid from the appropriation for the office of the President;
- (ii) The head or assistant head of an Executive department or military department; and
- (iii) An employee appointed by the President, by and with the advice and consent of the Senate, who determines policies to be pursued by the United States in its relations with foreign powers or in the nationwide administration of Federal laws.



As to White House personnel, the test is which appropriation is used to pay the employee's salary. While the Civil Service Commission has interpreted this provision to exempt persons paid from appropriations to the White House Office and Special Assistance to the President (Office of the Vice President), it has determined that employees paid from other appropriations for the Executive Office of the President, including those of the Domestic Council, OTP, OMB, and NSC, are subject to the Act. The Executive Director of the Domestic Council is paid from the White House Office appropriations and is exempt; the remainder of the Council's employees are paid from a separate appropriation and are covered. All detailed employees are fully subject to the Act.

Schedule C employees and NEA's, in the departments and agencies and in the Executive Office of the President who are not paid from the appropriations for the Office of the President, are also subject to this prohibition, despite the policy-making nature of their duties.

- (c) Employees on Leave. A Federal employee subject to the political activity laws and regulations continues to be covered while on annual leave, sick leave, leave without pay, administrative leave, or furlough.
- (d) Exemptions. The law exempts all officers and employees from the prohibition on taking an active part in political management or in political campaigns in connection with a non-partisan election. This is an election (and the preceding campaign) in which none of the candidates is to be nominated or elected as representing a political party whose candidates for presidential elector received votes at the last preceding election. Also exempted is activity relating to a question which is not specifically identified with a National or State political party, such as constitutional amendments, referendums, and approval of municipal ordinances (5 U.S.C. 7326).



- (e) Political Management. Membership in a political party, organization, or club is permitted, but the employee may not hold office in the party, organization, or club, or be a member of any of its committees. He may attend meetings open to the general membership and vote on candidates and issues, but he may not take an active part in the management of the club, organization, or party.

Attendance as a spectator at a political convention is permitted. However, the employee is not allowed to take part in the deliberations or proceedings of the convention or any of its committees. He may not be a candidate for, or serve as, a delegate, alternate, or proxy at such a convention.

Volunteer work for a partisan candidate, campaign committee, political party, or nominating convention of a political party is prohibited, whether the work involves contact with the public or not. If, however, an employee engages in a profession or business, such as a musician in a band or orchestra which participates in parades, public events and similar functions, he may perform in that capacity even though the particular event is politically sponsored.

- (f) Political Campaigns; Candidacy. An employee may not be a candidate in a partisan election for any public office.

Primary and run-off elections to nominate candidates of political parties are partisan even though no party designation appears on the ballot.

- (g) Political Campaigns; Campaigning. As noted above, an employee may express his individual opinion on political subjects and candidates (5 U.S.C. 7324). This is frequently done by the employee wearing a badge or button on his person, or displaying a sticker or poster on his car or house.

An employee may not campaign for a candidate in a partisan election by making speeches, writing on behalf of the candidate, or soliciting voters to support or oppose a candidate.



An employee may attend a political meeting or rally which is open to the general membership of an organization or the public, including committee meetings of political organizations. However, he may not serve on a committee that organizes or directs activities at a partisan campaign meeting or rally.

An employee may sign nominating petitions for candidates in a partisan election for public office, but may not originate or circulate such petitions.

- (h) Contributions. An employee may make a financial contribution to a political party or organization. However, he may not solicit or collect political contributions (5 U.S.C. 7323).

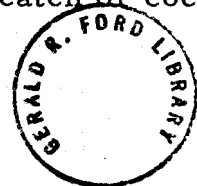
2. Improper use of Government office (Criminal):

It is a Federal crime for a candidate in a Federal election to procure support in his candidacy by directly or indirectly promising to support the appointment of any person to public or private position (18 U.S.C. 599); to directly or indirectly promise any employment, position, compensation, contract, appointment or other benefit made possible in whole or in part by Act of Congress to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in connection with a primary or general election (18 U.S.C. 600); or to directly or indirectly deprive or threaten to deprive any person of any employment, position or other benefit made possible by Act of Congress on account of any political activity, support of, or opposition to any candidate or any political party in any election (18 U.S.C. 601).

3. Interference and Intimidation (Criminal):

It is a Federal crime:

- (a) to interfere with the right of any other person to vote as he may choose for or against any candidate for Federal elective office by intimidation, threats, coercion or attempts to intimidate, threaten or coerce



(18 U.S.C. 594), or to use any part of an appropriation for relief or public works projects or to exercise or administer any authority under any appropriation act for the purpose of interfering with any individual's right to vote in a Federal election (18 U.S.C. 598);

(b) for a person employed in any administrative position by the United States, or by any department or agency thereof, in connection with any activity which is financed in whole or in part by loans or grants made by the United States, or any department or agency thereof, to use his official authority for the purpose of interfering with, or affecting, the nomination or the election of any candidate for Federal elective office (18 U.S.C. 595);

(c) for any member of Congress, officer, employee or consultant of the Federal government to discharge or promote or degrade or in any manner change the official rank or compensation of any other member of Congress, officer, employee or consultant for giving or withholding any contribution of money or other thing of value for any political purposes (18 U.S.C. 606).

4. Proper identification of campaign literature and political agents (Criminal):

It is a Federal crime to distribute written or printed campaign material relating to a candidate which does not identify its source (18 U.S.C. 612); or for a candidate for Federal elective office or an employee or agent of such candidate to participate in any plan to misrepresent an individual as acting on behalf of another candidate which representation is damaging to that candidate (18 U.S.C. 617).

5. Political contributions and Expenditures (Criminal and Civil):

(a) Use of Federal Premises

It is a Federal crime to solicit or receive any contribution of money or other thing of value for any political purpose in any room or building occupied officially by a member of Congress, officer, employee or consultant of the Federal government (18 U.S.C. 613).



(b) Contributions among Government employees

It is a Federal crime for any member of Congress, officer, employee or consultant of the United States or department or agency thereof, to directly or indirectly solicit or receive any political contributions from any other Federal officer, employee, consultant or member of Congress (18 U.S.C. 602) or for any person in the service of the United States or any department or agency thereof, to directly or indirectly give or hand over to any other person in the service of the United States, any money or other valuable thing on account of or to be applied to the promotion of any political object (18 U.S.C. 607).

(c) Proscribed classes of contributors

(1) Corporations and Unions

It is a Federal crime for national banks, corporations and labor organizations (18 U.S.C. 610), Government contractors (18 U.S.C. 611), and for foreign nationals (18 U.S.C. 613) to contribute to the campaigns of candidates for Federal elective office. However, provision is made for corporations, unions and contractors to establish funds to which members and employees may contribute voluntarily.

(2) Government Contractors

It is a crime for individuals as well as corporations having government contracts to make or solicit political contributions (18 U.S.C. 611).

(3) Persons on Relief

It is a Federal crime to solicit or receive any payment for any political purpose from any person who is receiving any work relief funded by an Act of Congress (18 U.S.C. 604); or to furnish or disclose for political purposes any list or names of persons receiving such relief funded by an Act of Congress (18 U.S.C. 605).



(d) Contributions in name of another

It is a Federal crime to make a campaign contribution in the name of another or to permit one's name to be used to effect such a contribution (18 U.S.C. 614).

(e) Limitations on contributions

With certain exceptions, it is a Federal crime for any individual to contribute more than \$1,000 to any single candidate for Federal elective office or more than \$25,000 in aggregate political contributions in any calendar year (18 U.S.C. 608); or to make a contribution in currency (as opposed to check) in excess of \$100 (18 U.S.C. 615).

(f) Mandatory channeling of funds through political committees

Under the new Federal election campaign laws, all contributions must be deposited with an authorized political committee which is obliged to keep records of both contributions and expenditures.

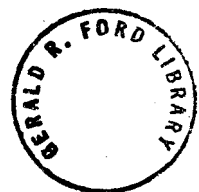
(g) The meaning of "contribution"

The term "contribution" is defined differently for purposes of the various statutes referred to in this memorandum. An original donation of funds for a political purpose is always a contribution; and in some cases a transfer between different political committees may be a contribution by statutory definition. Special care should be taken to avoid any physical handling of political funds in a Federal building or premises. Counsel for the relevant political committee should be consulted before engaging in receipt or solicitation of political funds.



(h) Expenses paid by the Republican National
Committee (RNC) •

RNC funds may be used for political activities of the Presidency which are of benefit to the party. Until the President is formally nominated, political expenses uniquely on his behalf as distinct from the party should be paid from his own campaign funds.



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TITLE 18. CRIMES AND CRIMINAL PROCEDURE

CHAPTER 29—ELECTIONS AND POLITICAL ACTIVITIES

§ 591. Definitions¹

Except as otherwise specifically provided, when used in this section and in sections 597, 599, 600, 602, 608, 610, 611, 614, 615, and 617 of this title—

(a) "election" means—

- (1) a general, special, primary, or runoff election;
- (2) a convention or caucus of a political party held to nominate a candidate;
- (3) a primary election held for the selection of delegates to a national nominating convention of a political party; or
- (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President;

(b) a "candidate" means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, to Federal office, if he has—

- (1) taken the action necessary under the law of a State to qualify himself for nomination for election, or election; or
- (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

(c) "Federal office" means the office of President or Vice President of the United States, or Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States;

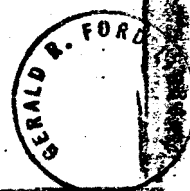
(d) "political committee" means any committee, club, association, or other group of persons which receives contributions or makes expenditures during a calendar year in an aggregate amount exceeding \$1,000;

(e) "contribution"—

- (1) means a gift, subscription, loan, advance, or deposit of money or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, which shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid bal-

¹Effect on State law: The provisions of chapter 29 of Title 18, United States Code, relating to elections and political activities, supersede and preempt any provision of State law with respect to election to Federal office.

The terms "election," "Federal office," and "State," as used in the preceding sentence of this footnote, have the meanings given them by section 591 of Title 18, United States Code.



ance thereof that each endorser or guarantor bears to the total number of endorsers or guarantors), made for the purpose of influencing the nomination for election, or election, of any person to Federal office or for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President of the United States;

(2) means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a contribution for such purposes;

(3) means funds received by a political committee which are transferred to such committee from another political committee or other source;

(4) means the payment, by any person other than a candidate or a political committee, of compensation for the personal services of another person which are rendered to such candidate or political committee without charge for any such purpose; but

(5) does not include—

(A) the value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;

(B) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities;

(C) the sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if such charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor;

(D) any unreimbursed payment for travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate; or

(E) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of three or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply in the case of costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines or other similar types of general public political advertising;

to the extent that the cumulative value of activities by any person on behalf of any candidate under each of clauses (B), (C), and (D) does not exceed \$500 with respect to any election;

(f) "expenditure"—

(1) means a purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business), made for the purpose of influencing the nomination for election, or election, of any person to Federal office or for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party or for the expression of a preference for the nomination of persons for election to the office of President of the United States;

(2) means a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure; and

(3) means the transfer of funds by a political committee to another political committee; but

(4) does not include—

(A) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by any political party, political committee, or candidate;

(B) nonpartisan activity designed to encourage individuals to register to vote or to vote;

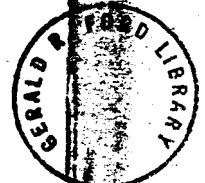
(C) any communication by any membership organization or corporation to its members or stockholders, if such membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any person to Federal office;

(D) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities;

(E) any unreimbursed payment for travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate;

(F) any communication by any person which is not made for the purpose of influencing the nomination for election, or election, of any person to Federal office;

(G) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card or sample ballot, or other printed listing, of three or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply in the case of costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers,



magazines or other similar types of general public political advertising;

(H) any costs incurred by a candidate in connection with the solicitation of contributions by such candidate, except that this clause shall not apply with respect to costs incurred by a candidate in excess of an amount equal to 20 percent of the expenditure limitation applicable to such candidate under section 608(c) of this title; or

(I) any costs incurred by a political committee (as such term is defined by section 608(b)(2) of this title) with respect to the solicitation of contributions to such political committee or to any general political fund controlled by such political committee, except that this clause shall not apply to exempt costs incurred with respect to the solicitation of contributions to any such political committee made through broadcasting stations, newspapers, magazines, outdoor advertising facilities, and other similar types of general public political advertising;

to the extent that the cumulative value of activities by any individual on behalf of any candidate under each of clauses (D) or (E) does not exceed \$500 with respect to any election;

(g) "person" and "whoever" mean an individual, partnership, committee, association, corporation, or any other organization or group of persons;

(h) "State" means each State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

(i) "political party" means any association, committee, or organization which nominates a candidate for election to any Federal office whose name appears on the election ballot as the candidate of such association, committee, or organization;

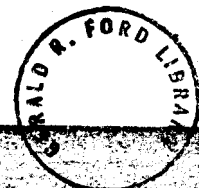
(j) "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level, as determined by the Federal Election Commission;

(k) "national committee" means the organization which, by virtue of the bylaws of the political party, is responsible for the day-to-day operation of such political party at the national level, as determined by the Federal Election Commission established under section 437c(a) of Title 2, United States Code; and

(l) "principal campaign committee" means the principal campaign committee designated by a candidate under section 432 (f)(1) of Title 2, United States Code.

§ 592. Troops at polls

Whoever, being an officer of the Army or Navy, or other person in the civil, military, or naval service of the United States, orders, brings, keeps, or has under his authority or control any troops or armed men at any place where a general or special election is held, unless such force be necessary to repel armed enemies of the United States, shall be fined not more than \$5,000 or imprisoned not more than 5 years, or



both; and be disqualified from holding any office of honor, profit, or trust under the United States.

This section shall not prevent any officer or member of the Armed Forces of the United States from exercising the right of suffrage in any election district to which he may belong, if otherwise qualified according to the laws of the State in which he offers to vote.

§ 593. Interference by Armed Forces

Whoever, being an officer or member of the Armed Forces of the United States, prescribes or fixes or attempts to prescribe or fix, whether by proclamation, order or otherwise, the qualifications of voters at any election in any State;

Whoever, being such officer or member, prevents or attempts to prevent by force, threat, intimidation, advice or otherwise any qualified voter of any State from fully exercising the right of suffrage at any general or special election;

Whoever, being such officer or member, orders or compels or attempts to compel any election officer in any State to receive a vote from a person not legally qualified to vote;

Whoever, being such officer or member, imposes or attempts to impose any regulations for conducting any general or special election in a State, different from those prescribed by law; or

Whoever, being such officer or member, interferes in any manner with an election officer's discharge of his duties, shall be fined not more than \$5,000 or imprisoned not more than 5 years, or both; and disqualified from holding any office of honor, profit or trust under the United States.

This section shall not prevent any officer or member of the Armed Forces from exercising the right of suffrage in any district to which he may belong, if otherwise qualified according to the laws of the State of such district.

§ 594. Intimidation of voters

Whoever intimidates, threatens, coerces, or attempts to intimidate, threaten, or coerce, any other person for the purposes of interfering with the right of such other person to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, Presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, at any election held solely or in part for the purpose of electing such candidate, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

§ 595. Interference by administrative employees of Federal, State, or Territorial Governments

Whoever, being a person employed in any administrative position by the United States, or by any department or agency thereof, or by the District of Columbia or any agency or instrumentality thereof, or by any State, Territory, or Possession of the United States, or any political subdivision, municipality, or agency thereof, or agency of such political subdivision or municipality (including any corporation owned or controlled by any State, Territory, or Possession of the United States or by any such political subdivision, municipality, or

agency), in connection with any activity which is financed in whole or in part by loans or grants made by the United States, or any department or agency thereof, uses his official authority for the purpose of interfering with, or affecting, the nomination or the election of any candidate for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, Delegate from the District of Columbia, or Resident Commissioner, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

This section shall not prohibit or make unlawful any act by any officer or employee of any educational or research institution, establishment, agency, or system which is supported in whole or in part by any state or political subdivision thereof, or by the District of Columbia or by any Territory or Possession of the United States; or by any recognized religious, philanthropic or cultural organization.

§ 596. Polling Armed Forces

Whoever, within or without the Armed Forces of the United States, polls any member of such forces, either within or without the United States, either before or after he executes any ballot under any Federal or State law, with reference to his choice of or his vote for any candidate, or states, publishes, or releases any result of any purported poll taken from or among the members of the Armed Forces of the United States or including within it the statement of choice for such candidate or of such votes cast by any member of the Armed Forces of the United States, shall be fined not more than \$1,000 or imprisoned for not more than 1 year, or both.

The word "poll" means any request for information, verbal or written, which by its language or form of expression requires or implies the necessity of an answer, where the request is made with the intent of compiling the result of the answers obtained, either for the personal use of the person making the request, or for the purpose of reporting the same to any other person, persons, political party, unincorporated association or corporation, or for the purpose of publishing the same orally, by radio, or in written or printed form.

§ 597. Expenditures to influence voting

Whoever makes or offers to make an expenditure to any person, either to vote or withhold his vote, or to vote for or against any candidate; and

Whoever solicits, accepts, or receives any such expenditure in consideration of his vote or the withholding of his vote, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both; and if the violation was willful, shall be fined not more than \$10,000 or imprisoned not more than 2 years, or both.

§ 598. Coercion by means of relief appropriations

Whoever uses any part of any appropriation made by Congress for work relief, relief, or for increasing employment by providing loans and grants for public-works projects, or exercises or administers any authority conferred by any Appropriation Act for the purpose of interfering with, restraining, or coercing any individual in the exercise of his right to vote at any election, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

§ 599. Promise of appointment by candidate

Whoever, being a candidate, directly or indirectly promises or pledges the appointment, or the use of his influence or support for the appointment of any person to any public or private position or employment, for the purpose of procuring support in his candidacy shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both; and if the violation was willful, shall be fined not more than \$10,000 or imprisoned not more than 2 years, or both.

§ 600. Promise of employment or other benefit for political activity

Whoever, directly or indirectly, promises any employment, position, compensation, contract, appointment, or other benefit, provided for or made possible in whole or in part by any Act of Congress, or any special consideration in obtaining any such benefit, to any person as consideration, favor, or reward for any political activity or for the support of or opposition to any candidate or any political party in connection with any general or special election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

§ 601. Deprivation of employment or other benefit for political activity

Whoever, except as required by law, directly or indirectly, deprives, attempts to deprive, or threatens to deprive any person of any employment, position, work, compensation, or other benefit provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes, on account of race, creed, color, or any political activity, support of, or opposition to any candidate or any political party in any election, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

§ 602. Solicitation of political contributions

Whoever, being a Senator or Representative in, or Delegate or Resident Commissioner to, or a candidate for Congress, or individual elected as, Senator, Representative, Delegate, or Resident Commissioner, or an officer or employee of the United States or any department or agency thereof, or a person receiving any salary or compensation for services from money derived from the Treasury of the United States, directly or indirectly solicits, receives, or is in any manner concerned in soliciting or receiving, any assessment, subscription, or contribution for any political purpose whatever, from any other such officer, employee, or person, shall be fined not more than \$5,000 or imprisoned not more than 3 years or both.

§ 603. Place of solicitation

Whoever, in any room or building occupied in the discharge of official duties by any person mentioned in section 602 of this title, or in any navy yard, fort, or arsenal, solicits or receives any contribution of moneys or other thing of value for any political purpose, shall be fined not more than \$5,000 or imprisoned not more than 3 years, or both.

§ 604. Solicitation from persons on relief

Whoever solicits or receives or is in any manner concerned in soliciting or receiving any assessment, subscription, or contribution for any political purpose from any person known by him to be entitled to, or receiving compensation, employment, or other benefit provided for or made possible by any Act of Congress appropriating funds for work relief or relief purposes, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

§ 605. Disclosure of names of persons on relief

Whoever, for political purposes, furnishes or discloses any list or names of persons receiving compensation, employment or benefits provided for or made possible by any Act of Congress appropriating, or authorizing the appropriation of funds for work relief or relief purposes, to a political candidate, committee, campaign manager, or to any person for delivery to a political candidate, committee, or campaign manager; and

Whoever receives any such list or names for political purposes, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

§ 606. Intimidation to secure political contributions

Whoever, being one of the officers or employees of the United States mentioned in section 602 of this title, discharges, or promotes, or degrades, or in any manner changes the official rank or compensation of any other officer or employee, or promises or threatens so to do, for giving or withholding or neglecting to make any contribution of money or other valuable thing for any political purpose, shall be fined not more than \$5,000 or imprisoned not more than 2 years, or both.

§ 607. Making political contributions

Whoever, being an officer, clerk, or other person in the service of the United States or any department or agency thereof, directly or indirectly gives or hands over to any other officer, clerk, or person in the service of the United States, or to any Senator or Member of or Delegate to Congress, or Resident Commissioner, any money or other valuable thing on account of or to be applied to the promotion of any political object, shall be fined not more than \$5,000 or imprisoned not more than 3 years, or both.

§ 608. Limitations on contributions and expenditures²

(a) *Personal funds of candidate and family.*

(1) No candidate may make expenditures from his personal funds, or the personal funds of his immediate family, in connection with his campaigns during any calendar year for nomination for election, or for election, to Federal office in excess of, in the aggregate—

² Notwithstanding section 608(a)(1) of Title 18, United States Code, relating to limitations on expenditures from personal funds, any individual may satisfy or discharge, out of his personal funds or the personal funds of his immediate family, any debt or obligation which is outstanding on the date of the enactment of this Act and which was incurred by him or on his behalf by any political committee in connection with any campaign ending before the close of December 31, 1972, for election to Federal office.

For purposes of the preceding paragraph of this footnote—(1) the terms "election", "Federal office", and "political committee" have the meanings given them by section 591 of Title 18, United States Code; and (2) the term "immediate family" has the meaning given it by section 608(a)(2) of Title 18, United States Code.



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(A) \$50,000, in the case of a candidate for the office of President or Vice President of the United States;

(B) \$35,000, in the case of a candidate for the office of Senator or for the office of Representative from a State which is entitled to only one Representative; or

(C) \$25,000, in the case of a candidate for the office of Representative, or Delegate or Resident Commissioner, in any other State.

For purposes of this paragraph, any expenditure made in a year other than the calendar year in which the election is held with respect to which such expenditure was made, is considered to be made during the calendar year in which such election is held.

(2) For purposes of this subsection, "immediate family" means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.

(3) No candidate or his immediate family may make loans or advances from their personal funds in connection with his campaign for nomination for election, or for election, to Federal office unless such loan or advance is evidenced by a written instrument fully disclosing the terms and conditions of such loan or advance.

(4) For purposes of this subsection, any such loan or advance shall be included in computing the total amount of such expenditures only to the extent of the balance of such loan or advance outstanding and unpaid.

(b) Contributions by persons and committees.

(1) Except as otherwise provided by paragraphs (2) and (3), no person shall make contributions to any candidate with respect to any election for Federal office which, in the aggregate, exceed \$1,000.

(2) No political committee (other than a principal campaign committee) shall make contributions to any candidate with respect to any election for Federal office which, in the aggregate, exceed \$5,000. Contributions by the national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States shall not exceed the limitation imposed by the preceding sentence with respect to any other candidate for Federal office. For purposes of this paragraph, the term "political committee" means an organization registered as a political committee under section 433, Title 2, United States Code, for a period of not less than 6 months which has received contributions from more than 50 persons and, except for any State political party organization, has made contributions to 5 or more candidates for Federal office.

(3) No individual shall make contributions aggregating more than \$25,000 in any calendar year. For purposes of this paragraph, any contribution made in a year other than the calendar year in which the election is held with respect to which such contribution was made, is considered to be made during the calendar year in which such election is held.

(4) For purposes of this subsection—

(A) contributions to a named candidate made to any political committee authorized by such candidate, in writing,

to accept contributions on his behalf shall be considered to be contributions made to such candidate; and

(B) contributions made to or for the benefit of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be contributions made to or for the benefit of the candidate of such party for election to the office of President of the United States.

(5) The limitations imposed by paragraphs (1) and (2) of this subsection shall apply separately with respect to each election, except that all elections held in any calendar year for the office of President of the United States (except a general election for such office) shall be considered to be one election.

(6) For purposes of the limitations imposed by this section, all contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

(c) *Limitations on expenditures.*

(1) No candidate shall make expenditures in excess of—

(A) ten million dollars, in the case of a candidate for nomination for election to the office of President of the United States, except that the aggregate of expenditures under this subparagraph in any one State shall not exceed twice the expenditure limitation applicable in such State to a candidate for nomination for election to the office of Senator, Delegate, or Resident Commissioner, as the case may be;

(B) twenty million dollars, in the case of a candidate for election to the office of President of the United States;

(C) in the case of any campaign for nomination for election by a candidate for the office of Senator or by a candidate for the office of Representative from a State which is entitled to only one Representative, the greater of—

(i) eight cents multiplied by the voting age population of the State (as certified under subsection (g)); or

(ii) one hundred thousand dollars;

(D) in the case of any campaign for election by a candidate for the office of Senator or by a candidate for the office of Representative from a State which is entitled to only one Representative, the greater of—

(i) twelve cents multiplied by the voting age population of the State (as certified under subsection (g)); or

(ii) one hundred fifty thousand dollars;

(E) seventy thousand dollars, in the case of any campaign for nomination for election, or for election, by a candidate for the office of Representative in any other State, Delegate from the District of Columbia, or Resident Commissioner; or

(F) fifteen thousand dollars, in the case of any campaign for nomination for election, or for election, by a candidate for the office of Delegate from Guam or the Virgin Islands.

(2) For purposes of this subsection—

(A) expenditures made by or on behalf of any candidate nominated by a political party for election to the office of Vice President of the United States shall be considered to be expenditures made by or on behalf of the candidate of such party for election to the office of President of the United States; and

(B) an expenditure is made on behalf of a candidate, including a vice presidential candidate, if it is made by—

(i) an authorized committee or any other agent of the candidate for the purposes of making any expenditure; or

(ii) any person authorized or requested by the candidate, an authorized committee of the candidate, or an agent of the candidate, to make the expenditure.

(3) The limitations imposed by subparagraphs (C), (D), (E), and (F) of paragraph (1) of this subsection shall apply separately with respect to each election.

(4) The Commission shall prescribe rules under which any expenditure by a candidate for presidential nomination for use in 2 or more States shall be attributed to such candidate's expenditure limitation in each such State, based on the voting age population in such State which can reasonably be expected to be influenced by such expenditure.

(d) *Adjustment of limitations based on price index.*

(1) At the beginning of each calendar year (commencing in 1976), as there become available necessary data from the Bureau of Labor Statistics of the Department of Labor, the Secretary of Labor shall certify to the Commission and publish in the Federal Register the per centum difference between the price index for the 12 months preceding the beginning of such calendar year and the price index for the base period. Each limitation established by subsection (c) and subsection (f) shall be increased by such per centum difference. Each amount so increased shall be the amount in effect for such calendar year.

(2) For purposes of paragraph (1)—

(A) the term "price index" means the average over a calendar year of the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

(B) the term "base period" means the calendar year 1974.

(e) *Expenditures relative to clearly identified candidate.*

(1) No person may make any expenditure (other than an expenditure made by or on behalf of a candidate within the meaning of subsection (c) (2) (B) relative to a clearly identified candidate during a calendar year which, when added to all other expenditures made by such person during the year advocating the election or defeat of such candidate, exceeds \$1,000.

(2) For purposes of paragraph (1)—

(A) "clearly identified" means—

- (i) the candidate's name appears;
- (ii) a photograph or drawing of the candidate appears; or
- (iii) the identity of the candidate is apparent by unambiguous reference.

(B) "expenditure" does not include any payment made or incurred by a corporation or a labor organization which, under the provisions of the last paragraph of section 610 of this title, would not constitute an expenditure by such corporation or labor organization.

(f) *Exceptions for national and State committees.*

(1) Notwithstanding any other provision of law with respect to limitations on expenditures or limitations on contributions, the national committee of a political party and a State committee of a political party, including any subordinate committee of a State committee, may make expenditures in connection with the general election campaign of candidates for Federal office, subject to the limitations contained in paragraphs (2) and (3) of this subsection.

(2) The national committee of a political party may not make any expenditure in connection with the general election campaign of any candidate for President of the United States who is affiliated with such party which exceeds an amount equal to 2 cents multiplied by the voting age population of the United States (as certified under subsection (g)). Any expenditure under this paragraph shall be in addition to any expenditure by a national committee of a political party serving as the principal campaign committee of a candidate for the office of President of the United States.

(3) The national committee of a political party, or a State committee of a political party, including any subordinate committee of a State committee, may not make any expenditure in connection with the general election campaign of a candidate for Federal office in a State who is affiliated with such party which exceeds—

(A) in the case of a candidate for election to the office of Senator, or of Representative from a State which is entitled to only one Representative, the greater of—

- (i) two cents multiplied by the voting age population of the State (as certified under subsection (g)); or
- (ii) twenty thousand dollars; and

(B) in the case of a candidate for election to the office of Representative, Delegate, or Resident Commissioner in any other State, \$10,000.

(g) *Voting age population estimates.* During the first week of January 1975, and every subsequent year, the Secretary of Commerce shall certify to the Commission and publish in the Federal Register an estimate of the voting age population of the United States, of each State, and of each congressional district as of the first day of July



next preceding the date of certification. The term "voting age population" means resident population, 18 years of age or older.

(h) *Knowing violations.* No candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section. No officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make any expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under this section.

(i) *Penalties.* Any person who violates any provision of this section shall be fined not more than \$25,000 or imprisoned not more than 1 year, or both.

§ 609. [Repealed]

§ 610. Contributions or expenditures by national banks, corporations or labor organizations

It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which presidential and vice presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person to accept or receive any contribution prohibited by this section.

Every corporation or labor organization which makes any contribution or expenditure in violation of this section shall be fined not more than \$25,000; and every officer or director of any corporation, or officer of any labor organization, who consents to any contribution or expenditure by the corporation or labor organization as the case may be, and any person who accepts or receives any contribution, in violation of this section, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both; and if the violation was willful, shall be fined not more than \$50,000 or imprisoned not more than 2 years or both.

For the purposes of this section "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exist for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

As used in this section, the phrase "contribution or expenditure" shall include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary

course of business) to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section; but shall not include communications by a corporation to its stockholders and their families or by a labor organization to its members and their families on any subject; non-partisan registration and get-out-the-vote campaigns by a corporation aimed at its stockholders and their families, or by a labor organization aimed at its members and their families; the establishment, administration, and solicitation of contributions to a separate segregated fund to be utilized for political purposes by a corporation or labor organization: *Provided*, That it shall be unlawful for such a fund to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment, or by monies obtained in any commercial transaction.

§ 611. Contributions by Government contractors

Whoever—

(a) entering into any contract with the United States or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the United States or any department or agency thereof or for selling any land or building to the United States or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of—

(1) the completion of performance under; or

(2) the termination of negotiations for, such contract or furnishing of material, supplies, equipment, land or buildings;

directly or indirectly makes any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution, to any political party, committee, or candidate for public office or to any person for any political purpose or use; or

(b) knowingly solicits any such contribution from any such person for any such purpose during any such period; shall be fined not more than \$25,000 or imprisoned not more than 5 years, or both.

This section does not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any separate segregated fund by any corporation or labor organization for the purpose of influencing the nomination for election, or election, of any person to Federal office, unless the provisions of section 610 of this title prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, such fund.

For purposes of this section, the term "labor organization" has the meaning given it by section 610 of this title.

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§ 612. Publication or distribution of political statements

Whoever willfully publishes or distributes or causes to be published or distributed, or for the purpose of publishing or distributing the same, knowingly deposits for mailing or delivery or causes to be deposited for mailing or delivery, or, except in cases of employees of the Postal Service in the official discharge of their duties, knowingly transports or causes to be transported in interstate commerce any card, pamphlet, circular, poster, dodger, advertisement, writing, or other statement relating to or concerning any person who has publicly declared his intention to seek the office of President, or Vice President of the United States, or Senator or Representative in, or Delegate or Resident Commissioner to Congress, in a primary, general, or special election, or convention of a political party, or has caused or permitted his intention to do so to be publicly declared, which does not contain the names of the persons, associations, committees, or corporations responsible for the publication or distribution of the same, and the names of the officers of each such association, committee, or corporation, shall be fined not more than \$1,000 or imprisoned not more than 1 year, or both.

§ 613. Contributions by foreign nationals

Whoever, being a foreign national, directly or through any other person, knowingly makes any contribution of money or other thing of value, or promises expressly or impliedly to make any such contribution, in connection with an election to any political office or in connection with any primary election, convention, or caucus held to select candidates for any political office; or

Whoever knowingly solicits, accepts, or receives any such contribution from any such foreign national, shall be fined not more than \$25,000 or imprisoned not more than 5 years or both.

As used in this section, the term "foreign national" means

(1) a foreign principal, as such term is defined by section 1(b) of the Foreign Agents Registration Act of 1938 (22 U.S.C. § 611(b)), except that the term "foreign national" shall not include any individual who is a citizen of the United States; or

(2) an individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined by section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. § 1101(a)(20)).

§ 614. Prohibition of contributions in name of another

(a) No person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

(b) Any person who violates this section shall be fined not more than \$25,000 or imprisoned not more than 1 year, or both.

§ 615. Limitation on contributions of currency

(a) No person shall make contributions of currency of the United States or currency of any foreign country to or for the benefit of any candidate which, in the aggregate, exceed \$100, with respect to any

campaign of such candidate for nomination for election, or for election, to Federal office.

(b) Any person who violates this section shall be fined not more than \$25,000 or imprisoned not more than 1 year, or both.

§ 616. Acceptance of excessive honorariums

Whoever, while an elected or appointed officer or employee of any branch of the Federal Government—

(1) accepts any honorarium of more than \$1,000 (excluding amounts accepted for actual travel and subsistence expenses) for any appearance, speech, or article; or

(2) accepts honorariums (not prohibited by paragraph (1) of this section) aggregating more than \$15,000 in any calendar year; shall be fined not less than \$1,000 nor more than \$5,000.

§ 617. Fraudulent misrepresentation of campaign authority

Whoever, being a candidate for Federal office or an employee or agent of such a candidate—

(1) fraudulently misrepresents himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or

(2) willfully and knowingly participates in or conspires to participate in any plan, scheme, or design to violate paragraph (1);

shall, for each such offense, be fined not more than \$25,000 or imprisoned not more than 1 year, or both.

B

TITLE 5. UNITED STATES CODE

CHAPTER 73—SUITABILITY, SECURITY, AND CONDUCT

SUBCHAPTER III—POLITICAL ACTIVITIES

Sec.

- 7321. Political contributions and services.
- 7322. Political use of authority or influence; prohibition.
- 7323. Political contributions; prohibition.
- 7324. Influencing elections; taking part in political campaigns; prohibitions; exceptions.
- 7325. Penalties.
- 7326. Nonpartisan political activity permitted.
- 7327. Political activity permitted; employees residing in certain municipalities.

§ 7321. Political contributions and services

The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, that an employee in an Executive agency or in the competitive service is not obliged, by reason of that employment, to contribute to a political fund or to render political service, and that he may not be removed or otherwise prejudiced for refusal to do so.

§ 7322. Political use of authority or influence; prohibition

The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, that an employee in an Executive agency or in the competitive service may not use his official authority or influence to coerce the political action of a person or body.

§ 7323. Political contributions; prohibition

An employee in an Executive agency (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 thing of value for political purposes. An employee who violates this section shall be removed from the service.

§ 7324. Influencing elections; taking part in political campaigns; prohibitions; exceptions

(a) An employee in any Executive agency or an individual employed by the Government of the District of Columbia may not—

- (1) use his official authority or influence for the purpose of interfering with or affecting the result of an election; or
- (2) take an active part in political management or in political campaigns.

For the purpose of this subsection, the phrase "an active part in political management or in political campaigns" means those acts of political management or political campaigning which were prohibited on the part of employees in the competitive service before July 19, 1940, by determinations of the Civil Service Commission under the rules prescribed by the President.

(b) An employee or individual to whom subsection (a) of this section applies retains the right to vote as he chooses and to express his opinion



on political subjects and candidates.

(c) Subsection (a) of this section does not apply to an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by the District of Columbia or by a recognized religious, philanthropic, or cultural organization.

(d) Subsection (a)(2) of this section does not apply to—

(1) an employee paid from the appropriation for the office of the President;

(2) the head or the assistant head of an Executive department or military department;

(3) an employee appointed by the President, by and with the consent of the Senate, who determines policies to be pursued by the United States in its relations with foreign powers or in the nationwide administration of Federal laws;

(4) the Commissioners of the District of Columbia; or

(5) the Recorder of Deeds of the District of Columbia.

§ 7325. Penalties

An employee or individual who violates section 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 Civil Service Commission 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 Commission.

§ 7326. Nonpartisan political activity permitted

Section 7324 (a)(2) of this title does not prohibit political activity in connection with—

(1) an election and the preceding campaign if none of the candidates is to be nominated or elected at that election as representing a party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected; or

(2) a question which is not specifically identified with a National or State political party or political party of a territory or possession of the United States.

For the purpose of this section, questions relating to constitutional amendments, referendums, approval of municipal ordinances, and others of a similar character, are deemed not specifically identified with a National or State political party or political party of a territory or possession of the United States.

§ 7327. Political activity permitted; employees residing in certain municipalities

(a) Section 7324 (a)(2) of this title does not apply to an employee of The Alaska Railroad who resides in a municipality on the line of the railroad in respect to political activities involving that municipality.

(b) The Civil Service Commission may prescribe regulations permitting employees and individuals to whom section 7324 of this title applies 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 Commission 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 voters are employed by the Government of the United States; and

(2) the Commission 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.

C



Title 5

ADMINISTRATIVE PERSONNEL

PART 733-POLITICAL ACTIVITY OF
FEDERAL EMPLOYEES

Subpart A - The Competitive Service

GENERAL PROVISIONS

§ 733.101 Definitions.

In this subpart:

(a) "Employee" means an individual who occupies a position in the competitive service;

(b) "Agency" means an executive agency and the government of the District of Columbia;

(c) "Political party" means a National political party, a State political party, and an affiliated organization;

(d) "Election" includes a primary, special, and general election;

(e) "Nonpartisan election" means—

(1) An election at 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; and

(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; and

(f) "Partisan" when used as an adjective refers to a political party.

PERMISSIBLE ACTIVITIES

§ 733.111 Permissible activities.

(a) All employees are free to engage in political activity to the widest extent consistent with the restrictions imposed by law and this subpart. Each employee retains the right to—

(1) Register and vote in any election;

(2) Express his opinion as an individual privately and publicly on political subjects and candidates;

(3) Display a political picture, sticker, badge, or button;

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

(5) Be a member of a political party or other political organization and participate in its activities to the extent consistent with law;

(6) Attend a political convention, rally, fund-raising function; or other political gathering;

(7) Sign a political petition as an individual;

(8) Make a financial contribution to a political party or organization;

(9) Take an active part, as an independent candidate, or in support of an independent candidate, in a partisan election covered by § 733.124;

(10) Take an active part, as a candidate or in support of a candidate, in a nonpartisan election;

(11) 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;

(12) Serve as an election judge or clerk, or in a similar position to perform nonpartisan duties as prescribed by State or local law; and

(13) Otherwise participate fully in public affairs, except as prohibited by law, in a manner which does not materially compromise his efficiency or integrity as an employee or the neutrality, efficiency, or integrity of his agency.

(b) Paragraph (a) of this section does not authorize an employee to engage in political activity in violation of law, while on duty, or while in a uniform that identifies him as an employee. The head of an agency may prohibit or limit the participation of an employee or class of employees of his agency in an activity permitted by paragraph (a) of this section, if participation in the activity would interfere with the efficient performance of official duties, or create a conflict or apparent conflict of interests.

PROHIBITED ACTIVITIES

§ 733.121 Use of official authority; prohibition.

An employee may not use his official authority or influence for the purpose of interfering with or affecting the result of an election.

§ 733.122 Political management and political campaigning; prohibitions.

(a) An employee may not take an active part in political management or in a political campaign, except as permitted by this subpart.



(b) Activities prohibited by paragraph (a) of this section include but are not limited to-

(1) Serving as an officer of a political party, a member of a National, State, or local committee of a political party, an officer or member of a committee of a partisan political club, or being a candidate for any of these positions;

(2) Organizing or reorganizing a political party organization or political club;

(3) Directly or indirectly soliciting, receiving, collecting, handling, disbursing, or accounting for assessments, contributions, or other funds for a partisan political purpose;

(4) Organizing, selling tickets to, promoting, or actively participating in a fundraising activity of a partisan candidate, political party, or political club;

(5) Taking an active part in managing the political campaign of a partisan candidate for public office or political party office;

(6) Becoming a partisan candidate for, or campaigning for, an elective public office;

(7) Soliciting votes in support of or in opposition to a partisan candidate for public office or political party office;

(8) Acting as recorder, watcher, challenger, or similar officer at the polls on behalf of a political party or partisan candidate;

(9) Driving voters to the polls on behalf of a political party or partisan candidate;

(10) Endorsing or opposing a partisan candidate for public office or political party office in a political advertisement, a broadcast, campaign literature, or similar material;

(11) Serving as a delegate, alternate, or proxy to a political party convention;

(12) Addressing a convention, caucus, rally or similar gathering of a political party in support of or in opposition to a partisan candidate for public office or political party office; and

(13) Initiating or circulating a partisan nominating petition.

§ 733.123 Prohibited activity; exception of certain employees.

(a) Sections 733.121 and 733.122 do not apply to an employee of an educational or research institution, establishment, agency, or system which is supported in whole or in part by the District of Columbia or by a recognized religious, philanthropic, or cultural organization.

(b) Section 733.122 does not apply to -

(1) An individual exempted under section 7324(d) of title 5, United States Code;

(2) An employee of The Alaska Railroad who resides in a municipality on the line of the

railroad in respect to political activities involving that municipality;

(3) Subject to the conditions of section 733.124, an employee who resides in a municipality or other political subdivision designated by the commission under that section; or

(4) An employee who works on an irregular or occasional basis, on the days that he performs no services.

§ 733.124 Political management and political campaigning; exception of certain elections.

(a) Section 733.122 does not prohibit activity in political management or in a political campaign by an employee in connection with -

(1) A nonpartisan election, or

(2) Subject to the conditions and limitations established by the Commission, an election held in a municipality or political subdivision designated by the Commission under paragraph (b) of this section.

(b) For the purpose of subparagraph (2) of paragraph (a) of this section, the Commission may designate a municipality or political subdivision in Maryland or Virginia in the immediate vicinity of the District of Columbia or a municipality in which the majority of voters are employed by the Government of the United States, when the Commission determines that, because of special or unusual circumstances, it is in the domestic interest of employees to participate in local elections. Information as to the documentation required to support a request for designation is furnished by the Commission on request. The Commission has designated the following municipalities and political subdivisions, effective on the date specified:

IN MARYLAND

Annapolis (May 16, 1941).

Berwyn Heights (June 15, 1944).

Bethesda (Feb. 17, 1943).

Bladensburg (Apr. 20, 1942).

Bowie (Apr. 11, 1952).

Brentwood (Sept. 26, 1940).

Capitol Heights (Nov. 12, 1940).

Cheverly (Dec. 18, 1940).

Chevy Chase, sections 1 and 2 (Mar. 4, 1941).

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

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

Martin's Additions 1, 2, 3, and 4 to Chevy Chase (Feb. 13, 1941).

Chevy Chase View (Feb. 26, 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).
 Garrett Park (Oct. 2, 1940).
 Glenarden (May 21, 1941).
 Glen Echo (Oct. 22, 1940).
 Greenbelt (Oct. 4, 1940).
 Hyattsville (Sept. 20, 1940).
 Kensington (Nov. 8, 1940).
 Landover Hills (May 5, 1945).
 Montgomery County (April 30, 1964).
 Morningside (May 19, 1949).
 Mount Rainier (Nov. 22, 1940).
 North Beach (Sept. 20, 1940).
 North Brentwood (May 6, 1941).
 North Chevy Chase (July 22, 1942).
 Northwest Park (Feb. 17, 1943).
 Prince Georges County (June 19, 1962).
 Riverdale (Sept. 26, 1940).
 Rockville (April 15, 1948).
 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 County (Nov. 10, 1949).
 Town of Fairfax (Feb. 9, 1954).
 Falls Church (June 6, 1941).
 Herndon (April 7, 1945).
 Loudoun County (Oct. 1, 1971).
 Portsmouth (Feb. 27, 1958).
 Prince William County (Feb. 14, 1967).
 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, Indiana (Aug. 3, 1967).
 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).
 Shrewsbury Township, N. J. (July 2, 1968).
 Sierra Vista, Ariz. (Oct. 5, 1955).
 Warner Robins, Ga. (Mar. 19, 1948).

(c) An employee who resides in a municipality or political subdivision listed in paragraph (b) of this section may take an active part in political management and political campaigns in connection with partisan elections for local offices of the municipality or political subdivision, subject to the following limitations:

(1) Participation in politics shall be as an independent candidate or on behalf of, or in opposition to, an independent candidate.

(2) Candidacy for, and service in, an elective 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 interests.

Subpart B—The Excepted Service

§ 733.201 Jurisdiction.

Sections 733.111–733.124 apply to an employee in the excepted service. It is the responsibility of the employing agency to investigate and decide allegations of prohibited political activity on the part of such an employee.

Subpart C—The Job Corps

§ 733.301 Coverage

This subpart applies to each officer, employee, and enrollee of the Job Corps established by the Economic Opportunity Act of 1964, as amended, who is alleged to have engaged in political activity in violation of that act.

Subpart D—The U. S. Postal Service

§ 733.401 Jurisdiction.

Sections 733.111–733.124 apply to an employee of the U. S. Postal Service. By agreement with this agency, the Civil Service Commission investigates and adjudicates an allegation of political activity in violation of these sections by a covered agency employee.

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THE WHITE HOUSE

WASHINGTON

May 7, 1975

MEMORANDUM FOR:

DUDLEY CHAPMAN

FROM:

PHILIP BUCHEN

P.W.B.

SUBJECT:

Participation by Presidential
Appointees in Political
Activities

Frank Zarb, Administrator, FEA, has suggested that our office prepare a memo covering the above subject so that persons concerned may know what restrictions, if any, they should abide by in undertaking political activities.

Attached are pages from the Republican National Committee's recent publication of the Federal Election Law Manual but I think we have to go beyond identifying the employees who are not subject to the restrictions against taking part in political campaigns. We should also go into the question of whether such activities may be conducted through use of Federal facilities or in connection with an employee's official duty or on time when he might ordinarily be expected to perform official duties. Another possible issue is whether certain appointees should avoid political activities because of the nature of their positions such as the Secretary of State and the Secretary of Defense.

After you have some ideas of how to prepare a memo on the subject, please discuss them with me.

Attached also is a copy of a memo dated March 11 prepared by Ken Lazarus for Jim Cannon.

Attachments

THE WHITE HOUSE
WASHINGTON

3/11

EVA:

The attachments were two U. S.
Civil Service pamphlets --

"Federal Employees -- Political
Participation" (GC-46)

"Code of Federal Regulations"
(GC-41)

I only had one copy each.

Dawn



THE WHITE HOUSE

WASHINGTON

March 11, 1975

MEMORANDUM FOR: JIM CANNON

FROM: KEN LAZARUS *KL*

SUBJECT: Hatch Act

a You are correct in your understanding that you are personally exempt from the provisions of the Hatch Act (5 U.S.C. 7321, et seq.) insofar as it relates to active participation in political management and political campaigns. The Act specifically exempts from its ban on partisan political activity by Executive Branch personnel any "employee paid from the appropriation for the office of the President." Thus, the sole test in determining the applicability of the Act is which appropriation is used to pay the employee's salary. While the Civil Service Commission has interpreted this provision to exempt persons paid from appropriations to the White House Office and Special Assistance to the President (Office of the Vice President), it has determined that employees paid from other appropriations for the Executive Office of the President, including those of the Domestic Council, OTP, OMB and NSC, are subject to the Act. Likewise, all detailed employees are fully subject to the Act. *a*

b While you are paid from funds appropriated to the White House Office, I understand that the remainder of the Domestic Council staff is paid from its own appropriation and is, therefore, subject to the Act. In addition, all Executive Branch employees, regardless of how they are paid, are expressly prohibited from using their "official authority or influence for the purpose of interfering with or affecting the result of an election" *b*

The attached materials from the Commission should be of some assistance in determining what conduct is permissible by employees subject to the Act.

Attachment

bcc: Phil Buchen */*



March 6, 1975

TO: Phil Buchen
FROM: Jim Cannon
SUBJECT: Hatch Act

I understand that all members of the Domestic Council staff, with the exception of myself, come under the Hatch Act.

Can you give me your opinion of this? If the staff members do come under the Hatch Act, could you have someone on your staff give me a memorandum telling what they can and cannot do in a political way.

Many thanks.



[IV.H: Use of certain funds for election activities]

employee of the Office of Economic Opportunity who, in his official capacity as such an officer or employee, engages in any such activity.

I. Extension of credit by regulated industries
(2 U.S.C. §451)

The Civil Aeronautics Board, the Federal Communications Commission, and the Interstate Commerce Commission have each promulgated regulations with respect to the extension of credit, without security, by any person regulated by these agencies to any candidate for Federal office or to any person on behalf of such a candidate, for goods furnished or services rendered in connection with the campaign of such candidate for nomination for election, or election, to such office. These regulations may be found in 14 CFR (Code of Federal Regulations) Part 374a (Civil Aeronautics Board), 47 CFR Part 64, Subpart H (Federal Communications Commission) and 49 CFR Part 1325 (Interstate Commerce Commission).

J. Political activity of Federal employees (5 U.S.C. §§7321-7327)

1. Coercion of political contribution or participation

The President has the power to prescribe rules which shall provide that an employee in an Executive agency or in the competitive civil service

- a. is not obliged, by reason of that employment, to contribute to a political fund or to render political service, and that he may not be removed or otherwise prejudiced for refusal to do so; and
- b. may not use his official authority or influence to coerce the political action of a person or body.



[IV.J.2: Political activity of Federal employees (gift for political purpose)]

2. Gift for political purpose

a. Restriction

An employee in an Executive agency (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 thing of value for political purposes.

b. Penalty

An employee who violates this restriction shall be removed from the civil service.

3. Influencing elections; participation in political management or campaigns

a. Restrictions

An employee in an Executive agency or an individual employed by the government of the District of Columbia (other than an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by the District of Columbia or by a recognized religious, philanthropic, or cultural organization and other than an employee whom the Civil Service Commission has by regulation permitted to take an active part in political management and political campaigns involving the locality in which he lives) may not

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



Chapter IV: Miscellaneous Provisions

[IV.J.3.a: Political activity of Federal employees (participation in political management or campaigns)]

(2) take an active part in political management or in political campaigns.

(a) EXCEPTION:

The following individuals may take an active part in political management or in political campaigns:

an employee paid from the appropriation for the office of President;

the head or the assistant head of an Executive department or military department;

an employee appointed by the President, by and with the advice and consent of the Senate, who determines policies to be pursued by the United States in its relations with foreign powers or in the nationwide administration of Federal laws;

the Commissioner of the District of Columbia;

the Recorder of Deeds of the District of Columbia; and

an employee of The Alaska Railroad who resides in a municipality on the line of the railroad with respect to political activities involving that municipality.

(b) EXCEPTION (non-partisan activity):

Section IV.J.3.a.(2) does not prohibit political activity in connection with

an election and the preceding campaign if none of the candidates is to be nominated



[IV.J.3.a: Political activity of Federal employees (restriction on participation in political management or campaigns--excepti

or elected at that election as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected; or

a question which is not specifically identified with a National or State political party or political party of a territory or possession of the United States (including questions relating to constitutional amendments, referendums, approval of municipal ordinances and other questions of a similar character).

b. Right to vote

Nothing in this section IV.J.3 restricts the right of an individual to vote as he chooses and to express his opinion on political subjects and candidates.

c. Penalty

An employee or individual who violates this section IV.J.3 may be removed from his position.

4. Regulations

Regulations relating to restrictions on political activity by Federal employees may be found in 5 CFR (Code of Federal Regulations) Part 733.

K. Political activity of certain State and local officers and employees (5 U.S.C. §§1501-1503)

The 1974 Amendments eliminate the Federal prohibition barring a State or local officer or

