

appointees, Presidential appointees with Senate confirmation, noncareer SES appointees, and Schedule C appointees.

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### § 7322. Definitions

For the purpose of this subchapter—

(1) “employee” means any individual, other than the President and the Vice President, employed or holding office in—

(A) an Executive agency other than the Government Accountability Office; or

(B) a position within the competitive service which is not in an Executive agency;

but does not include a member of the uniformed services or an individual employed or holding office in the government of the District of Columbia;

(2) “partisan political office” means any office for which any candidate is nominated or elected as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected, but shall exclude any office or position within a political party or affiliated organization; and

(3) “political contribution”—

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

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

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

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

(Added Pub. L. 103-94, §2(a), Oct. 6, 1993, 107 Stat. 1001; amended Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 112-230, §3(e), Dec. 28, 2012, 126 Stat. 1617.)

#### PRIOR PROVISIONS

A prior section 7322, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 525, prohibited employees in Executive agencies or competitive service from using official authority or influence to coerce political actions of persons or bodies, prior to the general revision of this subchapter by Pub. L. 103-94.

#### AMENDMENTS

2012—Par. (1). Pub. L. 112-230, §3(e)(4), substituted “services or an individual employed or holding office in the government of the District of Columbia;” for “services;” in concluding provisions.

Pub. L. 112-230, §3(e)(1)–(3), inserted “or” at end of subpar. (A), struck out “or” at end of subpar. (B), and struck out subpar. (C) which read as follows: “the government of the District of Columbia, other than the Mayor or a member of the City Council or the Recorder of Deeds;”.

2004—Par. (1)(A). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

#### EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-230 effective 30 days after Dec. 28, 2012, see section 5(a) of Pub. L. 112-230, set out as a note under section 1501 of this title.

### § 7323. Political activity authorized; prohibitions

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

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

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

(A) a member of the same Federal labor organization as defined under section 7103(4) of this title or a Federal employee organization which as of the date of enactment of the Hatch Act Reform Amendments of 1993 had a multicandidate political committee (as defined under section 315(a)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(4)));<sup>1</sup>

(B) not a subordinate employee; and

(C) the solicitation is for a contribution to the multicandidate political committee (as defined under section 315(a)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(4)))<sup>1</sup> of such Federal labor organization as defined under section 7103(4) of this title or a Federal employee organization which as of the date of the enactment of the Hatch Act Reform Amendments of 1993 had a multicandidate political committee (as defined under section 315(a)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(4)));<sup>1</sup> or

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

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

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

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

(b)(1) An employee of the Federal Election Commission (except one appointed by the President, by and with the advice and consent of the Senate), may not request or receive from, or give to, an employee, a Member of Congress, or an officer of a uniformed service a political contribution.

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

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

(i) an employee of—

(I) the Federal Election Commission or the Election Assistance Commission;

<sup>1</sup> See References in Text note below.

- (II) the Federal Bureau of Investigation;
- (III) the Secret Service;
- (IV) the Central Intelligence Agency;
- (V) the National Security Council;
- (VI) the National Security Agency;
- (VII) the Defense Intelligence Agency;
- (VIII) the Merit Systems Protection Board;
- (IX) the Office of Special Counsel;
- (X) the Office of Criminal Investigation of the Internal Revenue Service;
- (XI) the Office of Investigative Programs of the United States Customs Service;
- (XII) the Office of Law Enforcement of the Bureau of Alcohol, Tobacco, and Firearms;
- (XIII) the National Geospatial-Intelligence Agency; or
- (XIV) the Office of the Director of National Intelligence; or

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

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

(4) For purposes of this subsection, the term “active part in political management or in a political campaign” means those acts of political management or political campaigning which were prohibited for employees of the competitive service before July 19, 1940, by determinations of the Civil Service Commission under the rules prescribed by the President.

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

(Added Pub. L. 103-94, §2(a), Oct. 6, 1993, 107 Stat. 1002; amended Pub. L. 103-359, title V, §501(k), Oct. 14, 1994, 108 Stat. 3430; Pub. L. 104-201, div. A, title XI, §1122(a)(1), Sept. 23, 1996, 110 Stat. 2687; Pub. L. 106-554, §1(a)(3) [title VI, §645(a)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-170; Pub. L. 107-252, title VIII, §811(a), Oct. 29, 2002, 116 Stat. 1727; Pub. L. 108-458, title I, §1079(a), Dec. 17, 2004, 118 Stat. 3695; Pub. L. 109-177, title V, §506(b)(2), Mar. 9, 2006, 120 Stat. 249; Pub. L. 110-417, [div. A], title IX, §931(a)(1), Oct. 14, 2008, 122 Stat. 4575.)

#### REFERENCES IN TEXT

The date of enactment of the Hatch Act Reform Amendments of 1993, referred to in subsec. (a)(2)(A), (C), is the date of enactment of Pub. L. 103-94, which was approved Oct. 6, 1993.

The Federal Election Campaign Act of 1971, referred to in subsec. (a)(2)(A), (C), is Pub. L. 92-225, Feb. 7, 1972, 86 Stat. 3, which was formerly classified principally to chapter 14 (§431 et seq.) of Title 2, The Congress, prior to editorial reclassification and renumbering in Title 52, Voting and Elections, and is now classified principally to chapter 301 (§30101 et seq.) of Title 52. Section 315 of this Act is now classified to section 30116 of Title 52. For complete classification of this Act to the Code, see Tables.

#### PRIOR PROVISIONS

A prior section 7323, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 525, prohibited employee in Executive agency

from requesting, receiving from, or giving to, an employee, a Member of Congress, or an officer of a uniformed service, a thing of value for political purposes and provided for removal from service of employee for violation, prior to the general revision of this subchapter by Pub. L. 103-94.

#### AMENDMENTS

2008—Subsec. (b)(2)(B)(i)(XIII). Pub. L. 110-417 substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency”.

2006—Subsec. (b)(3). Pub. L. 109-177 inserted “or National Security Division” after “Criminal Division”.

2004—Subsec. (b)(2)(B)(i)(XIV). Pub. L. 108-458 added subcl. (XIV).

2002—Subsec. (b)(2)(B)(i)(I). Pub. L. 107-252 inserted “or the Election Assistance Commission” after “Commission”.

2000—Subsec. (b)(2)(B)(ii). Pub. L. 106-554 substituted “5372a, or 5372b” for “or 5372a”.

1996—Subsec. (b)(2)(B)(i)(XIII). Pub. L. 104-201 substituted “National Imagery and Mapping Agency” for “Central Imagery Office”.

1994—Subsec. (b)(2)(B)(i)(XIII). Pub. L. 103-359 added subcl. (XIII).

#### EFFECTIVE DATE OF 2004 AMENDMENT

For Determination by President that amendment by Pub. L. 108-458 take effect on Apr. 21, 2005, see Memorandum of President of the United States, Apr. 21, 2005, 70 F.R. 23925, set out as a note under section 3001 of Title 50, War and National Defense.

Amendment by Pub. L. 108-458 effective not later than six months after Dec. 17, 2004, except as otherwise expressly provided, see section 1097(a) of Pub. L. 108-458, set out as an Effective Date of 2004 Amendment; Transition Provisions note under section 3001 of Title 50, War and National Defense.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-252 effective upon appointment of all members of the Election Assistance Commission under section 20923 of Title 52, Voting and Elections, see section 21134(a) of Title 52.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-201 effective Oct. 1, 1996, see section 1124 of Pub. L. 104-201, set out as a note under section 193 of Title 10, Armed Forces.

#### TRANSFER OF FUNCTIONS

For transfer of the functions, personnel, assets, and obligations of the United States Secret Service, including the functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 381, 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms, including the related functions of the Secretary of the Treasury, to the Department of Justice, see section 531(c) of Title 6, Domestic Security and section 599A(c)(1) of Title 28, Judiciary and Judicial Procedure.

### § 7324. Political activities on duty; prohibition

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