



OFFICE OF PERSONNEL MANAGEMENT

RIN 3206-AM44

5 CFR PART 733

**Political Activity – Federal Employees Residing
in Designated Localities**

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: OPM is amending its regulations to grant Federal employees residing in King George County, Virginia, a partial exemption from the political activity restrictions in the Hatch Act, and to add King George County to its regulatory list of designated localities . The amendment reflects OPM's determination that King George County meets the criteria in the Hatch Act and OPM regulations for a partial exemption to issue.

DATES: This rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Jo-Ann Chabot, Office of the General Counsel, United States Office of Personnel Management, (202) 606-1700.

SUPPLEMENTARY INFORMATION: The Hatch Act, at 5 U.S.C. 7323(a)(2) and (3), prohibits Federal employees from becoming candidates for partisan political office and from soliciting, accepting, or receiving political contributions. However, 5 U.S.C. 7325, authorizes OPM to prescribe regulations permitting employees in certain communities to participate in local elections for partisan political office without regard to the prohibitions in 5 U.S.C. 7323(a)(2) and (3) only if the requirements described in section 7325 are met. The first requirement is that

the community or political subdivision must be located in Maryland or Virginia, and in the immediate vicinity of the District of Columbia. Alternatively, the majority of the community's registered voters must be employed by the United States Government. The second requirement is that OPM must determine that it is in the domestic interest of the employees to permit that political participation because of special or unusual circumstances existing in the community or political subdivision. These statutory requirements are reflected in 5 CFR 733.107(a). Under 5 CFR part 733, the exemption from the prohibitions in 5 U.S.C. 7323(a)(2) and (3) is a partial exemption because in 5 CFR §§ 733.103-733.106, OPM has established limitations on political participation by most Federal employees residing in these designated municipalities and subdivisions.

On August 22, 2011, OPM issued a proposed rule at 72 FR 39582 to add King George County, Virginia, to this regulatory list of designated localities at 5 CFR 733.107(c). In its notice of proposed rulemaking, OPM noted that King George County, Virginia, had fulfilled the statutory requirements for a partial exemption to issue and proposed the addition of King George County to the regulatory list of designated localities. 76 FR 52287 (August 22, 2011). OPM also placed a legal notice in the print edition of *The Free Lance Star* on September 9, 2011. OPM did not receive any comments on the proposed rule during the 60-day notice and comment period.

Therefore, OPM is adding King George County to its list of designated localities at 5 CFR 733.107(c). When this rule becomes effective, Federally employed residents of King George County will be permitted under 5 CFR 733.103 to participate in the following activities:

- (1) Run as independent candidates for election to partisan political office in elections for local county office in King George County;
- (2) Solicit, accept, or receive a political contribution as, or on behalf of, an independent candidate for partisan political office in elections for local office in King George County;

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

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

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

Under 5 CFR 733.104 of title 5, however, Federally employed residents of King George County may not:

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

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

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

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

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

(6) Participate in political activities:

- While they are on duty:
- While they are wearing a uniform, badge, or insignia that identifies the employing agency or instrumentality or the position of the employee;
- While they are in any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency or instrumentality thereof; or
- While using a Government-owned or leased vehicle or while using a privately owned vehicle in the discharge of official duties.

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

Sections 733.103 and 733.104 of Title 5, Code of Federal Regulations, do not apply to individuals, such as career senior executives and employees of the Federal Bureau of Investigation, who are employed in the agencies or positions listed in 5 CFR 733.105(a). These individuals are subject to the more stringent limitations described in 5 CFR 733.105 and 733.106.

Individuals who require advice concerning specific political activities, and whether an activity is permitted or prohibited under 5 CFR 733.103-733.106, should contact the United States Office of Special Counsel at (800) 854-2824 or (202) 254-3650. Requests for Hatch Act advisory opinions may be made by e-mail to: hatchact@osc.gov.

King George County will be listed after Herndon, Virginia, and before Loudoun County, Virginia, at 5 C.F.R. § 733.107(c).

E.O. 12866, Regulatory Review

This regulation has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the changes will affect only employees of the Federal Government.

List of Subjects in 5 CFR Part 733

Political activities (Government employees)

John Berry,
Director.

Accordingly, the Office of Personnel Management amends 5 CFR Part 733 as follows:

PART 733 – POLITICAL ACTIVITY -- FEDERAL EMPLOYEES RESIDING IN
DESIGNATED LOCALITIES

1. The authority citation for part 733 continues to read as follows:

Authority: 5 U.S.C. § 7325; sec. 308 of Pub. L. 104-93, 109 Stat. 961, 966 (Jan. 6, 1996)

2. Section 733.107(c) is amended by adding King George County, Virginia, alphabetically to the list of designated Virginia municipalities and political subdivisions as set forth below.

§ 733.107 Designated localities.

(c) ***

In Virginia

King George County (Insert Date 30 days after date of publication in the Federal Register)
