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THE WHITE HOUSE

WASHINGTON

November 27, 1991

MEMORANDUM FOR ALL WHITE HOUSE STAFF

FROM: C. BOYDEN GRAY *cmg*
COUNSEL TO THE PRESIDENT

SUBJECT: Political Activity

On October 11, the President authorized the formation of a campaign committee to work on behalf of his re-election. The purpose of this memorandum is to advise you of the legal and policy limitations on your individual political activity on behalf of Bush-Quayle '92.

First, only those employees in the White House who are paid from the appropriations for the White House Office or the Office of the Vice President may engage in political activity. You should check with your supervising officer to ascertain whether you are paid from appropriations of the White House Office or the Office of the Vice President; do not assume that because you have a White House pass you are paid from White House Office appropriations. If you are not paid from appropriations for the White House Office, or the Office of the Vice President, you are subject to the provisions of the Hatch Act and may not engage in any partisan political activities. A general list of permissible and impermissible activities for "hatched" employees is attached to this memorandum. You will be expected to adhere strictly to these guidelines.

Second, you should be aware that Federal law (18 U.S.C. § 603) prohibits any employee of the White House from contributing to the authorized campaign committee of the President, i.e., Bush/Quayle '92.

Finally, the following pages set forth, of necessity, general guidance. The simplest rule to follow, however, is the common-sense instruction that anything that is obviously campaign-related should not be done here, whether or not one could "legally" justify doing it here.

I. HATCH ACT

All Hatch Act prohibitions, discussed below and found at 5 U.S.C. §§ 7321-7327, cover all EOP employees, with exceptions principally for employees:

employees may not write or prepare any materials that will be used only for political purposes (e.g., materials for the platform of the Republican Party), nor may they prepare any materials that contain statements of political advocacy.

Administration officials should be particularly sensitive to the limitations on "hatched" employees in instances of mixed political and official travel. Where a "hatched" employee accompanies an exempted official on a trip, it remains essential that no political activities be performed by the employee.² The "hatched" support staff of an exempted Administration official may perform their normal clerical and ministerial functions in connection with the political travel and appearances or activities of their principal, provided that the functions they perform are related to their official responsibilities.

"Hatched" employees, however, may not perform tasks that are purely political in nature or which relate solely to their principal's political activities. Logistical arrangements for an exempted official's purely political travel or appearances should be made where possible by the appropriate political organization, but a "hatched" employee customarily involved in such ministerial activities may make limited scheduling arrangements for his or her principal's political travel or appearances. Under no circumstances may a "hatched" employee engage in any of the "management" activities of a political event or work on the activities of a committee (such as the Platform or Rules Committees of a political convention).

For reference purposes, we have attached a practical guide to permissible and impermissible activities under the Hatch Act. However, if you have any questions with respect to these matters, please call the White House Counsel's Office before you act. In addition, you should be aware that the White House Office of Political Affairs (OPA) serves as the official liaison to the political community, including party officials, candidates, and campaign officials and staff. White House staff members exempt from the Hatch Act who desire (as an entirely voluntary matter) to participate in political activities should coordinate their activities with OPA.

II. LIMITS ON POLITICAL ACTIVITIES OF EXEMPT PERSONNEL

Even staff members who are exempted from the Hatch Act's prohibitions on partisan political activities are subject to certain restrictions. For example, the Hatch Act prohibits all Federal employees from using their official authority or

² Because the discharge of official duties is the only basis for a "hatched" employee to be accompanying his or her principal on a political trip, the travel expenses of such an employee must be paid from appropriated funds.

worked during that week. In other words, it is not permissible for a staff member to put in 40 hours of official duty in the first three days of the week and then take the remaining two weekdays off for campaigning without using annual leave or leave without pay.

(4) Sick leave may not be used to cover an absence from official duty for the purpose of engaging in political activity.

(5) Any White House staff member not subject to the Hatch Act is permitted to take leave without pay to cover absence from official duties for the purpose of engaging in political activity.

(6) When annual leave, compensatory leave or leave without pay is used for political purposes:

(a) Staff members must submit a request for leave, in advance of the leave period, to their White House unit supervisor. Following approval by the supervisor, the request should be forwarded to the White House Personnel Office.

(b) Supervisors must forward to the White House Personnel Office, in advance of a leave period, a report of their intended use of leave for political purposes.

(7) Staff members may only use eight hours of compensatory leave for political activity during any 7-day period without approval of the White House Personnel Office.

USE OF VEHICLES AND MESSENGERS

White House vehicles may not be used for political purposes. This means that White House cars may not be used to transport staff members or materials to or from any political committee office or event. Nor may White House vehicles be used to transport staff members or political materials to airports or any other location if the purpose of the trip is primarily political.

Because of the special requirements surrounding departures and arrivals from Andrews Air Force Base, White House vehicles may be used to transport White House staff members there when they are accompanying the President, Vice President or First Lady on a political trip. Additionally, where the President is participating in a political event in the Washington, D.C. area or other location where White House cars are available for official purposes, White House cars may be used for the Presidential motorcade to the extent essential to the security and support of the President.

TRAVEL

Government funds must not be used for the political travel of staff members. Principles governing the allocation of travel expenses are set forth elsewhere.

Any political or "mixed" official and political travel by White House staff must be approved in advance by the Deputy Assistant to the President and Director of White House Operations, by the Office of Political Affairs and by the appropriate political committee. No reimbursements will be made for non-approved travel expenses.

MEETINGS IN GOVERNMENT BUILDINGS

(1) Government buildings, including White House offices and meeting rooms, should not be used for meetings or events organized by a campaign or political committee. Informal meetings involving small numbers of campaign or political officials and White House staff members may occasionally be held in a White House staff member's office or, if it is a luncheon or breakfast meeting, in the White House Mess, provided that such meetings do not interfere with the conduct of Government business.

(2) Campaign fundraising activities of any kind are prohibited in or from Government buildings.

(3) Campaign-sponsored or other political activities (receptions, dinners, meetings, but not fundraisers) may be held in the Executive Residence at the White House, provided that either the President, Mrs. Bush, or some other family member attends the event. Campaign or other political events (other than fundraisers) may also be held at the Vice President's Residence so long as the Vice President, Mrs. Quayle, or some other family member attends the event. The cost of campaign or political events at either residence must be paid for by the proper campaign or political committee in accordance with the guidelines that have been established for the use of these residences for nonofficial purposes.

USE OF PHOTOGRAPHS

(1) White House photographers may continue to photograph all Presidential, First Lady, and Vice Presidential activities for the purpose of creating an archival record of this Administration. However, as a general rule, photographs taken by White House photographers at political events may not be used for distribution to individuals attending those events or for any other political or campaign purpose.

imprisonment and/or the payment of a substantial fine. Certain staff members may also be subject to investigation and possible prosecution by an Independent Counsel in connection with alleged violations of these statutes.

Solicitation of Campaign Contributions: Solicitation of campaign contributions from Federal employees is prohibited, as is the solicitation or receipt of contributions in Federal buildings or on Federal property. Unless specifically approved by the White House Counsel's Office and the Office of Political Affairs, no White House staff member shall sign a fundraising letter on behalf of any Federal candidate.

Use of Official Authority: Criminal statutes prohibit any Federal employee, whether or not "hatched," from using his or her "official authority for the purpose of interfering with, or affecting, the nomination or the election of any candidate." While there is no definitive statement by a court or other body of what activities constitute such improper interference with election results, the following types of activities are clearly prohibited:

-- One Federal employee directly or indirectly soliciting money from another Federal employee for a campaign contribution, or making a contribution to the official responsible for his or her employment.

-- Soliciting or receiving campaign contributions on Federal property or in Federal buildings. This means that fundraising events may not be held in the White House; that no fundraising phone calls or mail may emanate from the White House or any other Federal buildings; and that no campaign contributions may be received at the White House or any other Federal building.

-- Soliciting or accepting a campaign contribution or campaign support in exchange for a promise to appoint someone to a Federal job.

-- Promising or withholding Federal benefits (jobs, grants, contracts, etc.) based on political support or nonsupport.

-- Favoring or penalizing employees or withholding employment in order to induce someone to make a political contribution or otherwise participate in political activity.

Violations of these statutes can of course have serious consequences. If you have any questions about the legality or propriety of a proposed action, I urge you to consult the White House Counsel's Office.

You may attend a political convention (but not as a delegate).

You may join a political club or party.

You may sign petitions, including nominating petitions, but may not initiate them or canvass for signatures, if they are nominating petitions for candidates in partisan elections.

You may campaign for or against referendum questions, constitutional amendments, municipal ordinances, etc., including writing your Representatives and Senators to Say how you think they should vote on a particular issue.

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Legal

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