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OSC's Latest Guidance Regarding Pictures of President Obama in the Federal Workplace Now That He Is Officially a Candidate for Reelection

Question: Now that President Obama is a candidate for reelection, may federal employees display his picture in their offices?

Answer: An employee covered by the Hatch Act may not engage in political activity while on duty, in a government room or building, while wearing an official uniform, or using a government vehicle. 5 U.S.C. § 7324. Political activity is defined as activity directed toward the success or failure of a political party, candidate for a partisan political office or partisan political group. 5 C.F.R. § 734.101.

Thus, the Hatch Act prohibits federal employees from, among other things, displaying pictures of candidates for partisan public office in the federal workplace. *See* 5 C.F.R. § 734.306, Example 16. Because President Obama is a candidate for reelection, the Hatch Act prohibits an employee from displaying his photograph in the federal workplace, unless one of the two exceptions discussed below applies.

The first exception applies to official photographs of the President. The Hatch Act does not prohibit the continued display of official photographs of the President in the federal workplace, to include both public and employee work spaces. Official photographs include the traditional portrait photo of the President displayed in all federal buildings, as well as photographs of the President conducting official business (*e.g.,* President meeting with heads of state). However, these official photographs must be displayed in a traditional size and manner and should not be altered in anyway (*e.g.,* the addition of halos or horns). Pictures that are distributed by the President's campaign or a partisan organization, such as the Democratic National Committee or Organizing for America, are not official, even if they depict the President performing an official act. Similarly, pictures downloaded from the internet or clipped from magazines or newspapers, screens savers and life-size cutouts are not official photographs for purposes of this exception.

The second exception, which applies to all candidate photographs, concerns employee personal photographs. An employee would not be prohibited from having a photograph of any candidate in his or her office, if all of the following apply: the photograph was on display in advance of the election season; the employee is in the photograph with the candidate; and the photograph is a personal one (*i.e.,* the employee has a personal relationship with the candidate and the photograph is taken at some kind of personal event or function, for example, a wedding, and not at a campaign event or some other type of partisan political event). An employee must not have a political purpose for displaying the photograph, namely, promoting or opposing a political party or a candidate for partisan political office.

If you have any questions, please contact our office for additional guidance.