

THE WHITE HOUSE

WASHINGTON

June 15, 2004

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: ALBERTO R. GONZALES
COUNSEL TO THE PRESIDENT' 

SUBJECT: 2004 Presidential Nominating Conventions

In response to questions we have received from a number of you, this memorandum outlines pertinent guidelines governing Presidential Nominating Convention-related political activity by the Administration's political appointees.

As always, I urge you also to consult with your General Counsel regarding other, more specific, rules governing political activity that might apply. For example, officials at certain agencies (including the Central Intelligence Agency, U.S. Secret Service, Internal Revenue Service, Federal Bureau of Investigation and Criminal Division of the Justice Department) are prohibited by law or policy from taking an active part in political management or political campaigns, and four Cabinet Departments (State, Justice, Defense and Homeland Security) have agency-specific policies that otherwise restrict political appointees' involvement in political activity.

I. General Political Activity Rules in Brief

In addition to performing their official duties, Senate-confirmed officials may engage in political activity (subject to the prohibitions noted below and any agency-specific policies) during business hours and in a federal building, provided that non-incident costs of such activity are not borne by the government. (Note that under the Hatch Act regulations, costs associated with political activity are not considered to be borne by the government provided the U.S. Treasury is reimbursed within a reasonable period of time. 5 C.F.R. § 734.503.) All other agency employees (non-career SES, Schedule C, and career) may engage in political activity, if at all, only outside agency business hours and outside of federal buildings.

There are several activities that are prohibited for all federal employees. No federal employee may personally solicit, accept, or receive a political contribution. (A very limited exception applies for certain federal labor organizations and federal employee organizations. All employees should consult their agency ethics official prior to any solicitation.) Likewise, no federal employee may use his or her official authority or influence for the purpose of interfering with or affecting the results of an election. For example, a federal employee may not intimidate, threaten, command, or coerce any other federal employee to engage or not to engage in any political activity. Thus, a political appointee may not direct or encourage staff members or

subordinates to attend or participate in a Convention. In addition, no federal employee may use or make reference to his official title while engaging in political activity.

II. Vacation Time & Leaves of Absence

All political appointees who attend or participate in a Convention must do so on their own time. The only exception to this policy is for appointees whose official duties require them to attend a Convention (typically, Secret Service or security personnel).

Political appointees, provided they are otherwise permitted to take an active part in political management and political campaigning, must use vacation or compensatory time to attend or participate in a Convention. Political appointees may also take up to five days of leave without pay to attend or participate in a Convention.

As with all leave requests, agency officials should approve or disapprove leave based upon agency work-load and other agency policies that may apply to such requests. Thus, a political appointee's ability to take leave without pay to attend a Convention is a matter of agency discretion. Agencies must, of course, ensure that they have sufficient personnel to accomplish the work of the government during the Conventions. To ensure that appropriate care is exercised in approving leave, Chief of Staff Andrew Card has asked that you establish a review process that includes sign off by you or your agency's Chief of Staff for all Convention-related leave requests by political appointees.

III. Convention Positions

Under the law, federal employees who are not further restricted by the Hatch Act or agency-specific policy, may hold formal Convention offices, positions or titles. Thus, most political appointees may, for example, be a delegate, a Convention speaker, or a member of any of the standing committees. As always, a political appointee may not use his or her government position or resources for activities related to his or her Convention duties.

IV. Official Events During a Convention

During the Conventions, local groups, community organizations, and businesses may ask Cabinet and sub-Cabinet officials and other agency heads to engage in non-Convention activities in the Convention area. Although some of these activities might meet the standard for an official event, these events generally should be considered political for the purpose of using appropriated funds. Therefore, for example, political appointees and agency staff should generally avoid traveling to New York City or Boston at government expense during the Convention periods in connection with official events. This guidance does not extend to employees of the Department of Homeland Security and other federal employees who may need to travel to New York City or Boston in connection with Convention-related security matters.

V. Ethics Guidance

Finally, the President expects all political appointees to continue to adhere to the highest ethical standards while attending or participating in Conventions. To that end, attached is a memorandum explaining certain gift and Hatch Act rules that apply to Convention activities, and the limited circumstances under which you may accept travel and hotel accommodations, dinners, receptions, and sporting or entertainment events. Please review the memorandum carefully.

If, after consulting with your agency General Counsel, you have any further questions regarding these guidelines, please call Reginald Brown or Nanette Everson in my office at (202) 456-7900.

cc: Agency General Counsels
Designated Agency Ethics Officials