

# CUI

## Information Paper

SAGC

14 February 2024

SUBJECT: Political Activities Advisory #1 — Bumper Sticker Etiquette During Campaign Season

1. Purpose: To inform HQDA employees of relevant political activity restrictions during the present election year. This first monthly advisory pertains to the display of bumper stickers on Federal property.
2. Scenario: Mr. Hatch, an SES, teleworks two days every week. His permanent duty station is the Pentagon. He drives to the Pentagon in his personal vehicle and parks in the Pentagon's parking lot three days a week. His car still bears a bumper sticker on the passenger-side back bumper from the 2020 presidential election that indicates he supported the current president during the last election. He wants to continue to show his support for the incumbent who recently announced his intent to run for re-election. Mr. Hatch has placed a second bumper-sticker on the driver-side back bumper of his car that indicates his support for the incumbent president in the 2024 election.
3. Question: May Mr. Hatch park his vehicle at the Pentagon? Short Answer: No. He must remove one bumper sticker.
4. Applicable Law and Policy:
  - a. Consistent with the military's long-standing tradition that its members and employees remain apolitical, the political activity of DoD civilians is regulated by several sources: the Hatch Act (5 USC §§ 7321-7326), implementing regulations (5 CFR § 733 and 5 CFR § 734), as well as DoD policy. Political activity is "an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group."
  - b. Regarding bumper stickers, 5 CFR § 734 provides the following guidance, "An employee may place a bumper sticker on his or her privately owned vehicle and park his or her vehicle in a parking lot of an agency or instrumentality of the United States Government or in a non-Federal facility for which the employee receives a subsidy from his or her employing agency or instrumentality." The Department of Justice, Office of Special Counsel (OSC) has provided guidance in a 2008 advisory that "an employee will not violate the Hatch Act if he has one bumper sticker for candidate A and another for candidate B on his car and parks that car in a federal parking lot." However,

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employees must be cautioned against displaying partisan political materials, such as bumper stickers, in such a way that makes the vehicle appear to be a “campaign mobile.”

5. Analysis: The Hatch Act permits an employee to place a partisan political bumper sticker on their personal vehicle and park that vehicle in a federal parking lot or garage. Although the language of the Hatch Act suggests there is a limit to one permitted partisan bumper sticker, based on OSC guidance, the overall intent of the law seems to clearly favor one sticker per candidate. This would be a violation of the Hatch Act’s allowance for “a” bumper sticker because there are multiple stickers for the same candidate. Mr. Hatch can avoid a potential Hatch Act violation by limiting himself to one normal sized political bumper sticker on his personal vehicle. Additional bumper stickers create the potential for a case-by-case determination that the vehicle appears to be a campaign mobile in violation of the Hatch Act.<sup>1</sup>

6. Conclusion: No. Mr. Hatch may not park his vehicle at the Pentagon, unless and until one of the two remaining bumper stickers are removed. Mr. Hatch may have a single partisan bumper sticker on his vehicle.

a. It is also important to remember there are potentially significant penalties for violating the Hatch Act, to include removal, reduction in grade, debarment from employment, suspension, and civil penalties.

b. Remember, it’s always better to ask for guidance in advance than to ask for forgiveness after a violation of federal law. Contact your ethics counsel if you have questions.

c. Please note that your unit or office does not have the authority to dispose of or resolve allegations of Hatch Act violations. Only OSC has authority to investigate and resolve such allegations. See 5 USC § 1216(a).

OGC, Ethics and Fiscal Law Practice Group (E&F) 703-695-4296  
Approved by: Deputy General Counsel, E&F

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<sup>1</sup> Although not a Hatch Act issue, any discriminatory or offensive language towards an elected official on a bumper sticker could be deemed contemptuous speech and the basis for adverse employee action. See 5 USC § 1216(b). So, although you may express your personal opinion in bumper stickers, be mindful it does not cross the line into contemptuous speech.