A Question of Ethics
Congressional Offices Off-Limits for Members' Campaigns

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Q: As chief of staff for a Member of the House, I read with interest a recent article in The New York Times Magazine regarding David Axelrod, Sen. Barack Obama's (D-Ill.) chief political and media adviser for his presidential campaign. What particularly caught my eye, and what Roll Call noted, was the photograph accompanying the article, which depicted Sen. Obama meeting in his Senate office with Mr. Axelrod. My own role as chief of staff for a Member often requires me to meet with campaign staff. In order to comply with the ethics rules, we are generally careful not to conduct campaign meetings in House offices, and I never attend the meetings while on official House time. In fact, we generally discourage employees who work exclusively on campaign matters from even being present at the House office. However, the photo of Sen. Obama and his campaign adviser in his Senate office makes me wonder whether the ethics rules really require all of the precautions we take. Given our schedules, it certainly would be easier for us to host campaign meetings in our official House offices, particularly in our district. Do the House ethics rules allow campaign meetings in House offices?

A: Although the House ethics rules do not explicitly prohibit campaign meetings in House offices, the chamber's ethics manual makes clear that the Committee on Standards of Official Conduct considers such meetings to be prohibited. As a general rule, the manual states, House offices "may not be used for the conduct of campaign or political activities." More to the point, House offices "are not to be used for ... a meeting on campaign strategy." This is true of Members' official offices in their districts, as well as their offices in D.C.

The ethics manual bases this prohibition on the general principle that official resources, which are funded by taxpayer money, must be used only for the performance of the official business of the House. Such resources therefore may not be used for campaign purposes. The manual cites a 1982 federal court decision stating: "government funds should not be spent to help incumbents gain reelection." Because House offices are official resources, they generally are off-limits for campaign activities.

Therefore, to conduct a campaign meeting in a House office is to invite an ethics investigation. This is true not only of meetings involving campaign employees like Axelrod but also of campaign meetings involving only Congressional staff. A 2006 advisory memorandum states: "Any campaign work by staff members must be done outside the congressional office, on their own time, and without using any congressional office resources."

In fact, conducting certain types of campaign activities in Congressional offices could lead not only to an investigation by the ethics committee but to criminal liability as well. Specifically, with a few narrow exceptions, it is a federal crime to solicit or receive a contribution to a federal election while in a Congressional office.

As for Obama, his conduct is governed not by the House's ethics committee but by the Senate's. Yet, as with many ethics issues, the Senate analysis is little different from the House. Like the House, the Senate does not have an ethics rule explicitly prohibiting campaign meetings in House offices. However, the Senate ethics manual does include language similar to the language in the House manual mandating that Senate resources be used only for official purposes. The Senate manual states that "general campaign or campaign fund activities should be conducted outside of the official space provided Members of Congress, and should generally be conducted with equipment, supplies or other facilities which are secured by private funds or contributions and not official congressional allowances or appropriations."

It is possible, of course, that the meeting in Obama's office with Axelrod did not qualify as a "campaign activity," a term that the ethics manual does not define. For all we know, Obama and Axelrod could have been talking about anything, from the Washington Nationals' poor start to whether Sanjaya Malakar should be voted off "American Idol."

Yet, our inability to discern the subject matter of Obama's meeting with Axelrod is precisely the reason it is generally a bad idea for campaign aides to meet in Congressional offices in the first place. Even if the purpose of the meeting is entirely innocent, the presence of a senior campaign adviser in a Congressional office creates the appearance that official resources are being used for campaign purposes. If the ethics committee were to learn of the meeting, it might suspect a violation and therefore conduct an investigation to determine the meeting's subject matter. It often is the mere appearance of impropriety that leads to an ethics investigation.

To avoid an ethics investigation, then, the safest course is to stick with your current approach: Continue to take the precautions you are taking to minimize the appearance of impropriety. This does not mean that House staff may never work on campaigns. To the contrary, there are circumstances under which it is permissible for House staff to do so, although describing those circumstances would take up far more space than there is room for in this column. To address the question you raise, however, this does mean that official resources, including office space, should not be used for campaign activities. As inconvenient as your precautions might be, the "inconvenience" of an ethics investigation could be much greater.

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