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Description of document: Each Office of Special Counsel (OSC) report of formal non-public Hatch Act advisory opinions and Hatch Act warning letters, Jan 1-June 11, 2021

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FOIA Officer
U.S. Office of Special Counsel
1730 M St., N.W. (Suite 218)
Washington, DC 20036-4505
[OSC's FOIA Online Submission Website](#)

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U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, DC 20036-4505
(202) 804-7000
September 8, 2021

Re: Freedom of Information Act Request (#FOIA-2021-103)

Please be advised that this is a final response to your request dated June 11, 2021, in which you asked the U.S. Office of Special Counsel (OSC) to provide you with a “copy of each report, close out letter, closing letter, referral letter, determination letter and advisory opinion produced by [OSC] as part of an investigation or inquiry (or equivalent) between January 1, 2021 and June 11, 2021. On June 25, 2021, you clarified/narrowed the scope of your request for formal non-public Hatch Act advisory opinions and Hatch Act warning letters within the date range January 1, 2021 and June 11, 2021. Your request has been processed under the Freedom of Information Act (FOIA), 5 U.S.C. § 552 and the Privacy Act, 5 U.S.C. § 552a.

OSC identified sixty-six (66) responsive pages. We are releasing one (1) page to you in full and sixty-five (65) pages in part pursuant to FOIA Exemptions (b)(6) and (b)(7)(C).

- FOIA Exemption 6 protects information if disclosure would constitute a clearly unwarranted invasion of personal privacy. *See* 5 U.S.C. § 552(b)(6).
- FOIA Exemption 7(C) protects law enforcement information if disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy. *See* 5 U.S.C. § 552(b)(7)(C).

You have the right to appeal this determination under the FOIA. An appeal must be made in writing and sent to OSC’s General Counsel at the address shown at the top of this letter or by email to FOIAappeal@osc.gov. The appeal must be received by the Office of General Counsel within ninety (90) days of the date of this letter.

If you have any questions or you require dispute resolution services, please feel free to contact Mahala Dar, OSC’s Chief FOIA Officer and acting FOIA Public Liaison, at mdar@osc.gov or (202) 804-7000. Please reference the above tracking number when you call or write. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer.¹

Thank you,
/s/
Mahala Dar, Esq.
Clerk

¹ Office of Governmental Information Services (OGIS), National Archives and Records Administration 8601 Adelphi Road, Room 2510, College Park, MD 20740-6001; ogis@nara.gov (Email) 202-741-5770 (Office) 1-877-684-6448 (Toll Free) 202-741-5769 (Fax)



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

March 25, 2021

(b)(6); (b)(7)(C)

VIA EMAIL (b)(6); (b)(7)(C)

Re: OSC File No. AD-20- (b)(6); (b)(7)(C)

Dear (b)(6); (b)(7)(C)

This letter is in response to your request for an advisory opinion regarding the Hatch Act. You asked whether a Federal Reserve Board (FRB) employee may (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) As explained below, the Hatch Act does not prohibit a less restricted employee from (b)(6); (b)(7)(C)

The Hatch Act governs the political activity of federal civilian executive branch employees to protect the federal workforce from partisan political influence.¹ The law prohibits covered employees from, among other things, using their official authority or influence for the purpose of affecting the result of an election and engaging in political activity while on duty, in a government building, while wearing an official uniform or insignia, or using an official vehicle.² 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.³

Since the 1993 amendments to the Hatch Act, most federal employees may take an active part in political management and political campaigns, subject to a few remaining restrictions. But employees in certain agencies and positions, such as career members of the senior executive service, are “further restricted” and prohibited from actively participating in partisan political management and campaigning.⁴ Such employees are prohibited from engaging in any political

¹ 5 U.S.C. §§ 7321-7326.

² 5 U.S.C. §§ 7323(a)(1) and 7324. The Hatch Act also prohibits employees from: knowingly soliciting, accepting, or receiving political contributions from any person; being candidates for public office in partisan elections; and knowingly soliciting or discouraging the political activity of any individual with business before their employing office. 5 U.S.C. § 7323(a)(2)-(4).

³ 5 C.F.R. § 734.101.

⁴ See 5 U.S.C. § 7323(b)(2); 5 C.F.R. § 734.401(a). FRB employees are not further restricted under the Hatch Act by virtue of their employment with FRB. An FRB employee would be further restricted only if he or she occupies one of the following positions: member of the career SES; administrative law judge; contract appeals board member; or administrative appeals judge.

U.S. Office of Special Counsel

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activity that is “in concert” with a political party, partisan group, or candidate for partisan political office.⁵

You explained that, while (b)(6); (b)(7)(C) was a candidate for (b)(6); (b)(7)(C) campaign, (b)(6); (b)(7)(C) approached an (b)(6) employee to request that the employee (b)(6); (b)(7)(C). The campaign requested that this employee (b)(6); (b)(7)(C) in their personal capacity, while off duty and away from the workplace.

During a conversation with an OSC attorney about this matter, you explained that the employee is not further restricted under the Hatch Act but is viewed by the (b)(6) as equivalent to a career member of the senior executive service.⁶ Although (b)(6) may view the employee as equivalent to a career member of the senior executive service, the Hatch Act specifically defines the position as one described at 5 U.S.C. § 3132(a)(4). And the Office of Personnel Management regulations limit the extent to which the political activity of employees can be curtailed beyond the restrictions set forth in the Hatch Act. Specifically:

No further proscriptions or restrictions may be imposed upon employees covered under this regulation except:

- (a) Employees who are appointed by the President by and with the advice and consent of the Senate;
- (b) Employees who are appointed by the President;
- (c) Non-career senior executive service members;
- (d) Schedule C employees, 5 CFR 213.3301, 213.3302; and
- (e) Any other employees who serve at the pleasure of the President.⁷

Accordingly, because the employee is not further restricted and OSC knows of no basis for further proscriptions to be imposed, the Hatch Act would not have prohibited the employee from (b)(6); (b)(7)(C) provided that they did so in their personal capacity, while off duty and away from the workplace. If you have any questions, please contact Hatch Act Unit attorney Jacqueline Yarbrow at (202) 804-(b)(6);

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief, Hatch Act Unit

⁵ See, e.g., *Blaylock v. U.S. Merit Sys. Prot. Bd.*, 851 F.2d 1348, 1354 (11th Cir. 1988) (concluding that the statutory prohibition against taking an “active part in political management or in political campaigns” encompasses only active participation in, on behalf of, or in connection with, the organized efforts of political parties or partisan committees, clubs, and candidates); 5 C.F.R. § 734.402.

⁶ OSC advised that the less restricted employee would not be prohibited from (b)(6); (b)(7)(C)

(b)(6);

⁷ 5 C.F.R. § 734.104.



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 218
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202-804-7000

May 3, 2021

(b)(6); (b)(7)(C)

Via Email: (b)(6); (b)(7)(C)

Re: OSC File No. AD-21 (b)(6); (b)(7)(C)

Dear (b)(6); (b)(7)(C)

This letter is in response to your request for an advisory opinion concerning the Hatch Act.¹ Specifically, you ask whether the Hatch Act prohibits you from running in a nonpartisan election for a local school board while employed as (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) a private nonprofit organization. As explained below, the Hatch Act does not prohibit your candidacy.

The Hatch Act governs the political activity of certain state and local government employees in order to protect the public workforce from partisan political influence and ensure the nonpartisan administration of laws.² State and local employees who perform job duties in connection with a program or activity financed with federal grants or loans are prohibited from: (1) using their official authority or influence to affect the results of an election; and (2) coercing, attempting to coerce, commanding, or advising another employee to engage in political activity.³ The Hatch Act also prohibits state and local government employees whose salaries are paid entirely with federal funds from being candidates for public office in partisan elections.⁴

Further, the Hatch Act applies to employees of private, nonprofit organizations only if the statutes through which these organizations derive their federal funding contain a provision stating that recipient organizations are deemed to be state or local government agencies for purposes of the Hatch Act. To date, the statutes authorizing Head Start and the Community Service Block Grant (CSBG) are the only statutes that contain such a provision.⁵ Accordingly, the Hatch Act would prohibit an employee of a private, nonprofit organization from being a candidate for partisan political office only if (b)(6) salary is entirely funded with one of these grants.

¹ The U.S. Office of Special Counsel (OSC) is authorized to issue opinions interpreting the Hatch Act. 5 U.S.C. § 1212(f).

² See generally 5 U.S.C. §§ 1501-1508.

³ See 5 U.S.C. § 1502(a)(1)-(2); § 1501(4).

⁴ 5 U.S.C. § 1502(a)(3).

⁵ See 42 U.S.C. §§ 9851 and 9918(b).

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You explained that as (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) your salary is funded by (b)(6); (b)(7)(C) (b)(6); (b)(7)(C). Accordingly, because your salary is not entirely funded with either Head Start or CSBG funds, you are not subject to the Hatch Act's candidacy prohibition.

In addition, we understand that the election at issue is a nonpartisan election. While the Hatch Act prohibits covered employees from being candidates for public office in partisan elections, it does not prohibit candidacy in nonpartisan elections. Therefore, even if you were subject to the Hatch Act's candidacy prohibition, the Act would not prohibit you from running in a nonpartisan election for school board.

Please contact me at 202-804-(b)(6) if you have any additional questions.

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief, Hatch Act Unit



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

May 14, 2021

(b)(6); (b)(7)(C)

VIA ELECTRONIC MAIL:

(b)(6); (b)(7)(C)

Re: OSC File No. AD-21- (b)(6); (b)(7)(C)

Dear (b)(6); (b)(7)(C)

This letter is in response to your request for an advisory opinion concerning the Hatch Act.¹ You asked several questions about the law's application to employees and volunteers who work with the private, nonprofit organization (b)(6); (b)(7)(C) as part of (b)(6); (b)(7)(C). The U.S. Office of Special Counsel (OSC) addresses your questions below.

The Hatch Act's Application to (b)(6); Employees

The Hatch Act applies to employees of private, nonprofit organizations only if the statutes through which those organizations derive their federal funding contain a provision stating that recipient organizations are deemed to be state or local government agencies for purposes of the Hatch Act. To date, the statutes authorizing Head Start and the Community Service Block Grant (CSBG) are the only statutes that contain such a provision.² Therefore, employees of a private, nonprofit organization receiving CSBG or Head Start funding are subject to the Hatch Act if their principal employment is in connection with activities funded by either of these two programs.³

You explained that (b)(6); receives funding from a variety of federal and state sources to assist with the preparation and delivery of meals and the program's administrative expenses. (b)(6); receives funding from the federal Older Americans Act, the Supplemental Nutrition Assistant Program, Medicaid, state general funds, and cash matches or donations. In the past, (b)(6); has received CSBG funds from (b)(6); (b)(7)(C). You explained that (b)(6); did not receive CSBG funds in 2020 or 2021 but that it previously used (b)(6); (b)(7)(C) CSBG funding to purchase food for program meals. (b)(6); does not receive Head Start funding.

¹ OSC is authorized pursuant to 5 U.S.C. § 1212(f) to issue opinions interpreting the Hatch Act.

² See 42 U.S.C. §§ 9851 and 9918(b).

³ See 5 U.S.C. § 1501(4).

Because (b)(6); does not currently receive CSBG funding, (b)(6); employees are not subject to the Hatch Act. However, if in the future (b)(6); receives CSBG funding, then employees whose (1) principal employment is with (b)(6); and whose (2) job duties are in connection with activities funded by CSBG will be subject to the law.⁴ For example, OSC could potentially find (b)(6); employees to be covered by the Hatch Act if their duties involve purchasing food for meals with CSBG funds, applying for CSBG funds, complying with CSBG reporting requirements, or overseeing the administration of CSBG funding.⁵ And (b)(6); employees who cook, package, or deliver CSBG-funded meals could also be subject to the Hatch Act.

Permitted and Prohibited Activities Pursuant to the Hatch Act

Assuming that (b)(6); receives CSBG funding in the future and employees exercise duties in connection with those funds, the Hatch Act would prohibit covered employees from: (1) using their official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office; or (2) coercing, attempting to coerce, commanding, or advising another state or local government employee to engage in political activity.⁶ Examples of activities that violate these two prohibitions include advising other employees to volunteer for a political campaign or give a campaign contribution; engaging in political activity while using one's official title; and asking subordinate employees to engage in political activity in support of or opposition to a candidate for partisan political office. The Hatch Act regulations define political activity as an activity directed at the success or failure of a political party, partisan political group, or candidate for partisan political office.⁷

The Hatch Act would not restrict covered (b)(6); employees from engaging in political activity in their personal capacities. And at no point in time would the Hatch Act prohibit (b)(6); employees from communicating with state and federal legislators to ask them to support, assist, or fund (b)(6); activities or to advocate methods and timing of the release of federal funds in possession of the state. Moreover, the Hatch Act would not prohibit (b)(6); employees from working with a lobbyist to influence legislation, regulations, or other government decisions, actions, or policies.⁸

Given the information you have provided, the Hatch Act does not apply to (b)(6); employees because (b)(6); does not receive either Head Start or CSBG funding. But if (b)(6); receives such funding in the future, the Hatch Act will apply as outlined above to employees who

(b)(6); volunteers are not subject to the Hatch Act by virtue of their volunteer positions because they do not have an employment relationship (i.e., receive a salary or have an employment contract) with (b)(6);. Volunteers will not be subject to the Hatch Act even if (b)(6); receives CSBG funding in the future.

⁵ Before determining that an (b)(6); employee is subject to the Hatch Act, OSC would need to conduct a full investigation, to include reviewing documents related to the CSBG funding and that employee's duties. If in the future (b)(6); receives CSBG funds, OSC advises you to seek another advisory opinion to determine which, if any, employees are subject to the law.

⁶ 5 U.S.C. § 1502(a)(1)-(2). Additionally, the Hatch Act would prohibit any employees whose salaries are entirely funded by CSBG from being candidates for partisan political office. 5 U.S.C. § 1502(a)(3).

⁷ 5 C.F.R. § 734.101.

⁸ You also asked whether a (b)(6); employee making in-person contact to influence the actions, policies, or decisions of state and federal legislators is considered lobbying. OSC is only authorized to issue opinions interpreting the Hatch Act and cannot determine whether this activity constitutes lobbying. See 5 U.S.C. § 1212(f).

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work in connection with those funds. Please note that this opinion only addresses the Hatch Act and does not contemplate other laws, rules, or regulations that may govern these activities.

Should you have any questions, please contact Hatch Act Unit attorney Jacqueline Yarbrow at (202) 804-(b)(6);
/b/7/

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief
Hatch Act Unit



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

June 10, 2021

(b)(6); (b)(7)(C)

VIA ELECTRONIC MAIL: (b)(6); (b)(7)(C)

Re: OSC File No. AD-20- (b)(6); (b)(7)(C)

Dear (b)(6); (b)(7)(C)

This letter is in response to your request for an advisory opinion concerning how the Hatch Act applies to Special Government Employees (SGEs) who work more than 130 days in a 365-day period.¹ As explained below, SGEs retain their classification as an SGE even after exceeding 130 days of work in a 365-day period. Accordingly, the U.S. Office of Special Counsel (OSC) has concluded that they continue to be subject to the Hatch Act only when they are on duty.

The Hatch Act restricts the political activities of federal civilian executive branch employees, including USPS employees.² The Hatch Act prohibits employees from: using their official authority or influence for the purpose of affecting the result of an election; knowingly soliciting, accepting, or receiving political contributions from any person; being candidates for public office in partisan elections; and knowingly soliciting or discouraging the political activity of any individual with business before their employing office.³ These four prohibitions apply at all times, even while an employee is not on duty. In addition, the Hatch Act prohibits employees from engaging in political activity while on duty, in a government building, while wearing an official uniform or insignia, or using a government vehicle.⁴

Unlike most federal employees, pursuant to 5 C.F.R. § 734.601, SGEs are subject to the Hatch Act's prohibitions only when they are on duty. You have asked whether this regulation is still applicable to an SGE who has exceeded the statutory limit of 130-days worked per 365-day period or whether that individual is now subject to the Hatch Act as a regular federal employee.

¹ Pursuant to 5 U.S.C. § 1212(f), the U.S. Office of Special Counsel is authorized to issue opinions interpreting the Hatch Act.

² See generally 5 U.S.C. §§ 7321-7326. See also, 39 U.S.C. § 410.

³ 5 U.S.C. § 7323(a)(1)-(4).

⁴ 5 U.S.C. § 7324(a). 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.

U.S. Office of Special Counsel

Page 2

SGEs are defined in 18 U.S.C. § 202(a) as employees who are “retained, designated, appointed, or employed to perform” for not to exceed 130 days during any period of 365 consecutive days.⁵ Congress created the classification in an effort to attract persons with “specialized knowledge or skills” to government service on a part time or intermittent basis, and to do so Congress relaxed some of the ethics restrictions on this classification of employee.⁶ When appointing an SGE, an agency must make a good faith estimate in advance of the appointment that the individual will serve for no more than 130 days in the succeeding 365-day period.⁷ And an SGE designation remains in effect for that entire 365-day period.⁸ Thus, even if an SGE exceeds the 130-day limit on days worked in a 365-day period, the individual retains their classification as an SGE.⁹

Because such an individual retains their status as an SGE, OSC has concluded that 5 C.F.R. § 734.601 still applies to them. Accordingly, an SGE continues to be covered by the Hatch Act only while on duty, even after working more than 130 days in a 365-day period.

Please note that this advisory opinion only relates to the Hatch Act and does not address any other laws, rules, or regulations that may be applicable to SGEs. Please feel free to contact me at (202) 804-(b)(6);(b)(7)(C) if you have any questions regarding this matter.

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief, Hatch Act Unit

⁵ See 18 U.S.C. § 202(a).

⁶ S. Rep. No. 87-2213, 87th Cong., 2d Sess., 4 (1962), *reprinted in* 1962 U.S.C.C.A.N 3852, 3853.

⁷ See *Restrictions on a Federal Appointee’s Continued Employment by a Private Law Firm*, 7 Op. O.L.C. 123, 126 (Aug. 1, 1983).

⁸ See Letter from Marilyn L. Glynn, OGE General Counsel, to an Alternate Designated Agency Ethics Official, at 2-3 (Nov. 1, 2005), *OGE Opinions -- Letter to an Alternate Designated Agency Ethics Official dated November 1, 2005*.

⁹ See Memorandum from Stephen D. Potts, OGE Director, to Designated Agency Ethics Officials, General Counsels and Inspectors General Regarding Summary of Ethical Requirements Applicable to Special Government Employees, at 5 (Feb. 15, 2000), *Opinions--00 x 1--Memorandum dated February 15, 2000, from Stephen D. Potts, Director, to DAEOs, General Counsels and Inspectors General Regarding Summary of Ethical Requirements Applicable to Special Government Employees (oge.gov)*.



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

March 9, 2021

(b)(6); (b)(7)(C)

VIA EMAIL

(b)(6); (b)(7)(C)

Re: OSC File No. AD-21- (b)(6); (b)(7)(C)

Dear (b)(6); (b)(7)(C)

This letter is in response to your request for an advisory opinion.¹ Specifically, you asked whether the Hatch Act would prohibit you, the (b)(6); (b)(7)(C) from being a candidate for Magisterial District Judge. As explained below, the U.S. Office of Special Counsel (OSC) has concluded that you are not covered by the Hatch Act and are not prohibited by the law from being a candidate for the Magisterial District Judge position.²

The Hatch Act governs the political activity of certain state and local government employees to protect the public workforce from partisan political influence and ensure the nonpartisan administration of laws.³ The Hatch Act applies to certain state and local employees who are principally employed by state, county, or municipal executive agencies in connection with programs financed in whole or in part by loans or grants made by the United States or a federal agency.⁴ Such employees may not: (1) use their official authority or influence for the purpose of interfering with or affecting the result of an election; (2) coerce, attempt to coerce, command, or advise another state or local government employee to engage in political activity; or (3) be a candidate for elective office, if the employee's salary is paid completely by loans or grants made by the United States or a federal agency.⁵

An employee, however, is exempt from the Hatch Act's restrictions if (b) has no duties in connection with federally funded activities or if (b) duties in connection with federally funded activities are so inconsequential in comparison with other duties as to make applicable the maxim *de minimis non curat lex*.⁶

¹ The U.S. Office of Special Counsel is authorized pursuant to 5 U.S.C. § 1212(f) to issue opinions interpreting the Hatch Act.

² OSC makes no conclusion as to whether the Magisterial District Judge position is a partisan political office for purposes of the Hatch Act.

³ See generally 5 U.S.C. §§ 1501-1508.

⁴ 5 U.S.C. § 1501(4).

⁵ 5 U.S.C. § 1502(a)(1)-(3).

⁶ *In re Todd*, 2 P.A.R. 49, 51 (1953).

U.S. Office of Special Counsel

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You explained that you were hired as the (b)(6); (b)(7)(C) in (b)(6); (b)(7)(C). In 2019, you (b)(6); (b)(7)(C) (b)(6); (b)(7)(C)

You stated that you (b)(6); (b)(7)(C) You confirmed that the (b)(6); (b)(7)(C) Police Department does not receive any other federal funding and that your salary is not federally funded.

Based on the information described above, OSC has concluded that your duties in connection with federally funded activities are so inconsequential in comparison with your other duties that they are *de minimis*. Therefore, you are not covered by the Hatch Act's restrictions and may be a candidate for Magisterial District Judge, even assuming the election for the position is partisan. If you have any questions, please contact Hatch Act Unit attorney Jacqueline Yarbrow at (202) 804-(b)(6);

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief
Hatch Act Unit



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

March 18, 2021

(b)(6); (b)(7)(C)

VIA EMAIL

(b)(6); (b)(7)(C)

Re: OSC File No. AD-21- (b)(6);

Dear (b)(6);
(b)(7)(C)

This letter is in response to your request for an advisory opinion concerning the Hatch Act.¹ You asked whether the law would prohibit federally employed physicians like yourself, (b)(6); (b)(7)(C) for the Department of Veterans Affairs (VA), from engaging in medicine-related legislative and policy advocacy activities. As explained below, the U.S. Office of Special Counsel (OSC) advises that the Hatch Act generally would not prohibit a federally employed physician from engaging in legislative advocacy, which may be related to (b)(6); experience in the medical field.

The Hatch Act governs the political activity of federal executive branch employees, including VA employees.² Among other things, the Hatch Act prohibits employees from using their official authority or influence for the purpose of affecting the result of an election or engaging in political activity while on duty, in a government building, while wearing an official uniform or insignia, or using an official vehicle.³ Political activity is defined as activity directed toward the success or failure of a political party, partisan political group, or candidate for partisan political office.⁴

You asked whether federally employed physicians may meet with congressional representatives in their civilian or official capacities, co-author legislation, provide medical expertise to guide the development of legislation, or testify in Congress about health-related legislation. You explained that each of these activities would be nonpartisan and dedicated to promoting legislation to help (b)(6); veterans access (b)(6); (b)(7)(C)

¹ The U.S. Office of Special Counsel is authorized pursuant to 5 U.S.C. § 1212(f) to issue opinions interpreting the Hatch Act.

² See 5 U.S.C. §§ 7321-7326.

³ 5 U.S.C. §§ 7323(a)(1) and 7324. The Hatch Act also prohibits employees from: knowingly soliciting, accepting, or receiving political contributions from any person; being candidates for partisan political office; and knowingly soliciting or discouraging the political activity of any individual with business before their employing office. 5 U.S.C. § 7323(a)(2)-(4).

⁴ 5 C.F.R. § 734.101.

U.S. Office of Special Counsel

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A federally employed physician would not violate the Hatch Act by engaging in medicine-related legislative and policy advocacy activities, like meeting with members of Congress about legislative issues, discussing proposed laws and their consequences, authoring legislation, or providing testimony in a congressional hearing about health-related legislation. However, the Hatch Act would prohibit a federal employee, while appearing in (b) official capacity or representing the government, from engaging in political activity, such as showing electoral support for or opposition to political parties or candidates for partisan political office.

Please note that this advisory opinion only addresses the Hatch Act. And there may be other laws, rules, and regulations that restrict a federally employed physician's ability to engage in legislative advocacy. Because OSC is not authorized to advise on matters outside of the Hatch Act, you should contact an agency ethics official for further guidance on your proposed activities. If you have any questions, please contact Hatch Act Unit attorney Jacqueline Yarbro at (202) 804-(b)(6);
(b)(7)(C)

Sincerely,

(b)(6); (b)(7)(C)

Erica Hamrick
Deputy Chief
Hatch Act Unit



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202-804-7000

January 28, 2021

(b)(6); (b)(7)(C)

VIA ELECTRONIC MAIL: (b)(6); (b)(7)(C)

Re: OSC File No. AD-21- (b)(6); (b)(7)(C)

Dear (b)(6); (b)(7)(C)

This letter is in response to your request for an advisory opinion concerning the Hatch Act.¹ You ask whether the Hatch Act prohibits you from being a candidate for city council in (b)(6); (b)(7)(C). OSC understands that you are a (b)(6); (b)(7)(C) with the Internal Revenue Service (IRS). Your question is addressed below.

The Hatch Act governs the political activity of federal civilian executive branch employees, including IRS employees.² Among other things, the Hatch Act prohibits employees from being candidates for partisan political office.³ A partisan political office is an office for which any candidate is nominated, or elected, as representing a party any of whose candidates for Presidential elector received votes in the most recent Presidential election. Examples of parties that meet this definition include the Republican or Democratic Party.

However, OSC understands that you live in (b)(6); (b)(7)(C) which is a designated locality under the Hatch Act.⁴ Employees who live in a designated locality may run as an independent candidate for local office in the designated locality, even if the election for

¹ Pursuant to 5 U.S.C. § 1212(f), the U.S. Office of Special Counsel (OSC) is authorized to issue opinions interpreting the Hatch Act.

² See generally 5 U.S.C. §§ 7321-7326.

³ 5 U.S.C. § 7323(a)(3). The Hatch Act also prohibits employees from: using their official authority or influence for the purpose of affecting the result of an election; knowingly soliciting, accepting, or receiving political contributions from any person; knowingly soliciting or discouraging the political activity of any individual with business before their employing office; and engaging in political activity while on duty, in a government building, while wearing an official uniform or insignia, or using an official vehicle. 5 U.S.C. § 7323(a) and § 7324. Political activity is defined as activity directed toward the success or failure of a political party, partisan political group, or candidate for partisan political office. 5 C.F.R. § 734.101.

⁴ 5 U.S.C. § 7325; 5 C.F.R. § 733.107.

U.S. Office of Special Counsel

Page 2

local office is partisan.⁵ Therefore, as a resident of (b)(6); (b)(7)(C) the Hatch Act does not prohibit you from being an independent candidate in a partisan election for local office in (b)(6); (b)(7)(C)

However, you should know that if you choose to run as an independent candidate in this election, your candidacy must remain independent and free of partisan politics in order to be in compliance with the Hatch Act. If you were to introduce partisan politics into your campaign, you would no longer be an independent candidate, and your candidacy would violate the Hatch Act. The following are examples of activities that could introduce partisan politics into a campaign: participating in and winning a party caucus; holding oneself out as having the party's political support by advertising this in one's speeches, flyers, or mailings; seeking and advertising a party's endorsement; or receiving party support in the form of supplies (e.g., wooden stakes for signs, bulk mail permit), campaign volunteers, campaign publications (e.g., flyers, posters), or use of party headquarters.

In conclusion, while the Hatch Act does not prohibit you from being an independent candidate for (b)(6); (b)(7)(C) city council, you should refrain from engaging in any of the types of activities discussed above. Please contact Hatch Act Unit Attorney Kelley Resendes at (202) 804-(b)(6); if you have any questions.

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief, Hatch Act Unit

⁵ 5 C.F.R. § 733.103(b)(1).



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

January 27, 2021

(b)(6); (b)(7)(C)

VIA EMAIL:

(b)(6); (b)(7)(C)

Re: OSC File No. AD-21- (b)(6); (b)(7)(C)

Dear (b)(6); (b)(7)(C)

This letter is in response to your request for an advisory opinion concerning the Hatch Act.¹ You explained that you are opening a full-service, (b)(6); (b)(7)(C) laboratory in (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) and that the laboratory has received two grants to facilitate its completion. You ask whether receipt of these grants subjects you to coverage under the Hatch Act.

The Hatch Act generally does not apply to employees of private organizations; it governs the political activity of federal and certain state and local government employees.² But the Hatch Act may apply to employees of private, nonprofit organizations if the statutes through which these organizations derive their federal funding contain a provision stating that recipient organizations are deemed to be state or local government agencies for purposes of the Hatch Act. To date, the statutes authorizing Head Start and the Community Service Block Grant (CSBG) are the only statutes that contain such a provision.

Therefore, only if a private, nonprofit organization receives either Head Start or CSBG funding might its employees be covered by the Hatch Act. Even then, though, the Hatch Act would prohibit an employee of a private, nonprofit organization from being a candidate for partisan political office only if (b)(6); (b)(7)(C) salary is entirely funded with one of these grants.³

If you have any questions concerning this matter, please contact me at (202) 804- (b)(6); (b)(7)(C)

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief, Hatch Act Unit

¹ The U.S. Office of Special Counsel is authorized pursuant to 5 U.S.C. § 1212(f) to issue opinions interpreting the Hatch Act.

² 5 U.S.C. §§ 7321-7326; 1501-1508.

³ See 5 U.S.C. § 1502(a)(3).



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

March 18, 2021

(b)(6); (b)(7)(C)

VIA ELECTRONIC MAIL:

(b)(6); (b)(7)(C)

Re: OSC File No. AD-21 (b)(6);

Dear (b)(6); (b)(7)(C)

This letter is in response to your request for an advisory opinion concerning the Hatch Act.¹ You ask several questions concerning your potential candidacy for town council in (b)(6); (b)(7)(C). OSC understands that you are a less restricted employee working for U.S. Customs and Border Protection (CBP). Your questions are addressed below.

The Hatch Act governs the political activity of federal civilian executive branch employees, including CBP employees.² Among other things, the Hatch Act prohibits employees from being candidates for partisan political office.³ A partisan political office is an office for which any candidate is nominated, or elected, as representing a party any of whose candidates for presidential elector received votes in the most recent presidential election. Examples of parties that meet this definition include the Republican and Democratic Party.

You first ask whether the election for (b)(6); Town Council is partisan for purposes of the Hatch Act. According to the (b)(6); County Registrar, the town council election is nonpartisan. While the Hatch Act prohibits candidacy in a partisan election, it does not prohibit candidacy in a nonpartisan election. Therefore, the Hatch Act does not prohibit you from being a candidate in the nonpartisan election for the (b)(6); Town Council.

You also ask what activities could turn a nonpartisan election into a partisan one and what steps an employee should take to avoid violating the Hatch Act if an election becomes partisan. Usually, a nonpartisan election is designated as such by state or local law. The law,

¹ Pursuant to 5 U.S.C. § 1212(f), the U.S. Office of Special Counsel (OSC) is authorized to issue opinions interpreting the Hatch Act.

² See generally 5 U.S.C. §§ 7321-7326.

³ 5 U.S.C. § 7323(a)(3). The Hatch Act also prohibits employees from: using their official authority or influence for the purpose of affecting the result of an election; knowingly soliciting, accepting, or receiving political contributions from any person; knowingly soliciting or discouraging the political activity of any individual with business before their employing office; and engaging in political activity while on duty, in a government building, while wearing an official uniform or insignia, or using an official vehicle. 5 U.S.C. § 7323(a) and § 7324. Political activity is defined as activity directed toward the success or failure of a political party, partisan political group, or candidate for partisan political office. 5 C.F.R. § 734.101.

U.S. Office of Special Counsel

Page 2

however, creates only a rebuttable presumption that an election is nonpartisan.⁴ Evidence showing that partisan politics actually entered a candidate's campaign may rebut this presumption.⁵ But no bright-line rule exists that identifies the type or amount of conduct needed to prove that a nonpartisan election became a partisan one.⁶ The following are examples of activities that could introduce partisan politics into an election: participating in and winning a party caucus; soliciting contributions from a partisan political group or political party; seeking and advertising a political party's endorsement; or receiving party support in the form of supplies (e.g., wooden stakes for signs, bulk mail permit), campaign publications (e.g., flyers, posters) or use of party headquarters.⁷

You specifically ask whether the Hatch Act prohibits an employee who is running in a nonpartisan election from receiving an unsolicited campaign contribution or an unsolicited endorsement from a political party. Merely receiving funds or an unsolicited endorsement from a political party in support of a nonpartisan candidacy would not be sufficient to rebut the election's presumption of nonpartisanship. However, as described above, an employee should not act in concert with a political party to further (b)(6) candidacy in a nonpartisan election. Doing so could rebut the presumption that the election is nonpartisan.⁸

If an employee running in a nonpartisan election learns that other candidates are engaging in any of the above-described activities during the election, the employee should immediately contact OSC for further advice. Please note that this opinion addresses only the Hatch Act, and you should consult your agency ethics officials about any other rules or regulations that could apply.

Please contact OSC Hatch Act Unit Attorney Kelley Resendes at (202) 804-(b)(6) if you have any questions.

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief, Hatch Act Unit

⁴ See *Special Counsel v. Yoho*, 15 M.S.P.R. 409, 413 (1983).

⁵ See *McEntee v. Merit Sys. Prot. Bd.*, 404 F.3d 1320 (Fed. Cir. 2005).

⁶ *McEntee*, 404 F.3d at 1334.

⁷ Please note that this list is illustrative only and is not an exhaustive list of the unique combination of facts that could change a nonpartisan election into a partisan one.

⁸ See *McEntee*, 404 F.3d at 1326, 1332-34 (holding that "once the candidate and the party act in concert with each other, a representative relationship may be established sufficient to rebut the presumption of nonpartisanship").



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

February 8, 2021

(b)(6); (b)(7)(C)

VIA ELECTRONIC MAIL: (b)(6); (b)(7)(C)

Re: OSC File No. AD-21- (b)(6); (b)(7)(C)

Dear (b)(6); (b)(7)(C)

This letter is in response to your request for an advisory opinion concerning the Hatch Act.¹ You ask whether the Hatch Act prohibits you from being a candidate for U.S. Congress. OSC understands that you are (b)(6); (b)(7)(C) working for (b)(6); (b)(7)(C) (b)(6); a private company and contractor with the federal government. As explained below, OSC has concluded that you are not subject to the Hatch Act.

The Hatch Act governs the political activity of individuals, other than the president and vice president, employed by or holding office in a federal executive branch agency.² Among other things, the Hatch Act prohibits employees from being candidates for partisan political office.³ Independent contractors, however, are not covered by the Hatch Act.⁴

Accordingly, because you are an independent contractor working for a private company, OSC has concluded that you are not subject to the provisions of the Hatch Act. Please contact OSC Hatch Act Unit Attorney Kelley Resendes at (202) 804-(b)(6) if you have any questions.

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief, Hatch Act Unit

¹ The U.S. Office of Special Counsel (OSC) is authorized pursuant to 5 U.S.C. § 1212(f) to issue opinions interpreting the Hatch Act.

² See generally 5 U.S.C. §§ 7321-7326.

³ 5 U.S.C. § 7323(a)(3).

⁴ See 5 C.F.R. § 734.205 (Example 5).



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

February 18, 2021

(b)(6); (b)(7)(C)

VIA ELECTRONIC MAIL: (b)(6); (b)(7)(C)

Re: OSC File No. AD-21- (b)(6); (b)(7)(C)

Dear (b)(6); (b)(7)(C)

This letter is in response to your request for an advisory opinion concerning the Hatch Act.¹ You ask several questions about how federal employees may participate in and engage with local political parties. Your questions are addressed below.

The Hatch Act governs the political activity of federal civilian executive branch employees and prohibits them from: using their official authority or influence for the purpose of interfering with or affecting the result of an election; knowingly soliciting, accepting, or receiving political contributions from any person; being candidates for public office in partisan elections; knowingly soliciting or discouraging the political activity of any individual with business before their employing office; and engaging in political activity while on duty, in a government room or building, while wearing an official uniform or insignia, or using an official vehicle.² Political activity is defined as activity directed toward the success or failure of a political party, partisan political group, or candidate for partisan political office.³

In addition, employees in certain agencies and positions are “further restricted” under the Hatch Act and prohibited from actively participating in partisan political management and campaigning.⁴ Such employees are prohibited from engaging in any political activity that is “in concert” with a political party, partisan political group, or candidate for partisan political office.⁵

1. Can a federal employee serve as an officer of a local party committee? If yes, what party activities are prohibited?

The Hatch Act does not prohibit less restricted employees from serving as an officer of a local political party. But because the Hatch Act prohibits further restricted employees from

¹ Pursuant to 5 U.S.C. § 1212(f), the U.S. Office of Special Counsel (OSC) is authorized to issue opinions interpreting the Hatch Act.

² 5 U.S.C. § 7323(a) and § 7324(a).

³ 5 C.F.R. § 734.101.

⁴ See 5 U.S.C. § 7323(b)(2); 5 C.F.R. § 734.401(a).

⁵ See *Blaylock v. U.S. Merit Sys. Prot. Bd.*, 851 F.2d 1348, 1354 (11th Cir. 1988) (concluding that “the statutory prohibition against taking an ‘active part in political management or in political campaigns’ encompasses only active participation in, on behalf of, or in connection with, the organized efforts of political parties or partisan committees, clubs, and candidates”); 5 C.F.R. § 734.402.

taking an active part in partisan political management, they may not hold office in a political party or club.

Less restricted employees who hold office in a political party must abide by the above provisions of the Hatch Act. For example, they may not perform any party tasks, such as sending party emails or posting on the party's social media page, while they are on duty or at work. In addition, under the Hatch Act's use of official authority prohibition, employees may not use their official government titles or positions while performing party tasks or allow their titles to appear on party letterhead, communications, or invitations. Lastly, employees may not solicit, accept, or receive a political contribution at any time by, for example, posting to social media or emailing a request for contributions, hosting a fundraiser, or collecting contribution checks from individuals.

2. *Can a federal employee running for a nonpartisan position seek the party endorsement and receive monies from the party?*

Employees who are candidates in nonpartisan elections may not seek an endorsement from a political party. The Hatch Act prohibits all employees from being candidates for partisan political office.⁶ A partisan political office is any office for which any candidate is nominated, or elected, as representing a party any of whose candidates for Presidential elector received votes in the most recent Presidential election.⁷ Examples of parties that meet this definition include the Republican or Democratic Party.

Employees may, however, be candidates in nonpartisan elections, but they must ensure that their candidacy remains free of partisan politics. If employees introduced partisan politics into their campaigns, the election would no longer be nonpartisan, and their candidacy would violate the Hatch Act. The following are examples of activities that could introduce partisan politics into a campaign: participating in and winning a party caucus; holding oneself out as having the party's political support by advertising this in one's speeches, flyers, or mailings; seeking and advertising a party's endorsement; or receiving party support in the form of supplies (e.g., wooden stakes for signs, bulk mail permit), campaign volunteers, campaign publications (e.g., flyers, posters), or use of party headquarters. Therefore, the Hatch Act prohibits employees who are candidates in nonpartisan elections from seeking and receiving an endorsement from a political party because doing so would introduce partisan politics into their campaigns and turn the election into a partisan one.

In contrast, the Hatch Act does not prohibit employees who are candidates in nonpartisan elections from merely receiving funds from a political party, so long as they do not act in concert with the party by actively soliciting its financial support. Thus, receiving a contribution from a political party, without more, is not enough to conclude that a nonpartisan election became partisan under the Hatch Act.

⁶ See 5 U.S.C. § 7323(a)(3).

⁷ This definition does not include any office or position within a political party or affiliated organization. See 5 C.F.R. § 734.101.

U.S. Office of Special Counsel

Page 3

3. *Can federal employees participate in party activities, such as door knocking, phone banking, and fundraising?*

Because further restricted employees may not engage in any political activity that is “in concert” with a political party, the Hatch Act prohibits them from taking an active part in party activities, such as canvassing or door knocking.

Less restricted employees, however, may take an active part in party activities, provided they abide by the provisions of the Hatch Act. For example, the Hatch Act prohibits all employees from soliciting, accepting, or receiving political contributions. So, while the Hatch Act does not prohibit less restricted employees from canvassing or making calls on behalf of a political party, they may not solicit, accept, or receive political contributions while doing so. The Hatch Act also prohibits employees from engaging in political activity, such as performing work on behalf of the party, while they are on duty, in a government room or building, wearing an official uniform or insignia, or using a government vehicle.

Please note that this opinion addresses only the Hatch Act and not any other rules or regulations that could apply. Please contact OSC Hatch Act Unit Attorney Kelley Resendes at (202) 804-(b)(6) if you have any questions.

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief, Hatch Act Unit



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

February 9, 2021

(b)(6); (b)(7)(C)

Re: OSC File No. HA-21- (b)(6); (b)(7)(C)

Dear (b)(6); (b)(7)(C)

This letter is in response to information the U.S. Office of Special Counsel (OSC) received concerning allegations that you violated the Hatch Act by participating in a get-out-the-vote effort prior to the 2020 (b)(6); election. OSC reviewed this matter, and as explained below, concluded that you violated the Hatch Act. However, we are declining to pursue disciplinary action and instead are issuing you this warning letter.

As an employee of the Central Intelligence Agency (CIA), you are subject to the Hatch Act, which governs the political activity of federal civilian executive branch employees. The Hatch Act prohibits employees from: using their official authority or influence for the purpose of affecting the result of an election; knowingly soliciting, accepting, or receiving political contributions from any person; being candidates for public office in partisan elections; and knowingly soliciting or discouraging the political activity of any individual with business before their employing office.¹ The Hatch Act also prohibits employees from engaging in political activity while on duty, in a government building, while wearing an official uniform or insignia, or using a government vehicle.²

In addition, employees in certain agencies and positions, such as CIA employees, are “further restricted” and prohibited from actively participating in partisan political management and campaigning.³ Such employees are prohibited from engaging in any political activity that is “in concert” with a political party, partisan political group, or candidate for partisan political office.⁴

It is this last prohibition that is at issue here. OSC understands that, prior to the 2020 (b)(6); election, you volunteered with an organization called (b)(6); and, over one or two days, called voters in (b)(6); (b)(7)(C) to give them information about their voting location and hours. During OSC’s review of this matter we learned that (b)(6); is a (b)(6); (b)(6); aligned political action committee, and thus, a partisan political group for purposes of the

¹ 5 U.S.C. § 7323(a)(1)-(4).

² 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.

³ See 5 U.S.C. § 7323(b)(2); 5 C.F.R. § 734.401(a).

⁴ See, e.g., *Blaylock v. U.S. Merit Sys. Prot. Bd.*, 851 F.2d 1348, 1354 (11th Cir. 1988) (concluding that “the statutory prohibition against taking an ‘active part in political management or in political campaigns’ encompasses active participation in, on behalf of, or in connection with, the organized efforts of political parties or partisan committees, clubs, and candidates”); 5 C.F.R. § 734.402.

U.S. Office of Special Counsel

Page 2

Hatch Act.⁵ Accordingly, because you were a volunteer for a partisan political group's get-out-the-vote effort, you violated the Hatch Act's prohibition against taking an active part in partisan political management or campaigning.

Although OSC concluded you violated the Hatch Act, we do not believe that your violation was willful. And we understand that, once you learned [redacted (b)(6);] might be affiliated with a political party or candidate, you immediately self-reported your activity to the CIA. Accordingly, OSC has decided to issue you a warning letter in this instance. But please be advised that if in the future you engage in prohibited political activity while employed in a position covered by the Hatch Act, we will consider such activity to be a willful and knowing violation of the law, which could result in disciplinary action.

Please contact me at (202) 804-[redacted (b)(6);] if you have any questions regarding this matter.

Sincerely,

[redacted (b)(6); (b)(7)(C)]

Erica S. Hamrick
Deputy Chief
Hatch Act Unit

⁵ See 5 C.F.R. § 734.101 (defining partisan political group as “any committee, club, or other organization which is affiliated with a political party or candidate for public office in a partisan election, or organized for a partisan purpose, or which engages in partisan political activity”).



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

February 17, 2021

(b)(6); (b)(7)(C)

VIA EMAIL: (b)(6); (b)(7)(C)

Re: OSC File No. HA-21- (b)(6); (b)(7)(C)

Dear (b)(6); (b)(7)(C)

On (b)(6); (b)(7)(C) 2021, the U.S. Office of Special Counsel issued you a warning letter stating that your announced candidacy in the (b)(6); (b)(7)(C) primary election for mayor of (b)(6); (b)(7)(C) was in violation of the Hatch Act. We advised you that you could come into compliance with the law by ending your candidacy or resigning from your employment with the U.S. Department of Labor.

We have confirmed that you made a public announcement that you are not running for mayor of (b)(6); (b)(7)(C). Because you took this step to come into compliance with the law, we have decided not to pursue disciplinary action in this matter and are closing the above-referenced file. Please be aware that should you again become a candidate for partisan political office in violation of the Hatch Act, we would consider such candidacy to be a willful and knowing violation of the law that could result in disciplinary action.

Please contact me at (202) 804- (b)(6); (b)(7)(C) if you have any questions regarding this matter.

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief
Hatch Act Unit



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

February 4, 2021

(b)(6); (b)(7)(C)

VIA EMAIL: (b)(6); (b)(7)(C)

Re: OSC File No. HA-20- (b)(6); (b)(7)(C)

Dear (b)(6); (b)(7)(C)

This letter is in response to a complaint filed with the U.S. Office of Special Counsel (OSC) alleging that you violated the Hatch Act by wearing a (b)(6); (b)(7)(C) hat into the workplace and displaying the hat in your office at the U.S. Department of Veterans Affairs (VA). Although OSC has concluded that you violated the Hatch Act, as explained below, we have decided not to pursue disciplinary action and instead are issuing you this warning letter.

The Hatch Act governs the political activity of federal civilian executive branch employees, including VA employees.¹ Employees are prohibited from, among other things, engaging in political activity while on duty or in a federal room or building.² Political activity is defined as activity directed toward the success or failure of a political party, partisan political group, or candidate for partisan political office.³ This prohibition includes, for example, wearing partisan political buttons, shirts, or hats or displaying partisan political pictures, signs, or stickers while on duty *or* in the workplace.⁴

OSC investigated whether this prohibition was violated when around (b)(6); or (b)(6); 2020, you allegedly wore a (b)(6); (b)(7)(C) hat into the workplace and (b)(6); (b)(6); in your office. During the investigation, OSC confirmed that you engaged in the alleged activity but after your supervisor explained that the Hatch Act prohibited you from wearing or displaying the hat in a federal building, you removed the hat from the workplace.

As discussed above, wearing or displaying hats for partisan political candidates in a federal building constitutes political activity for purposes of the Hatch Act. Accordingly, we have concluded that you violated the Hatch Act when you wore a campaign hat for (b)(6); (b)(6); candidate (b)(6); (b)(7)(C) into the workplace and displayed it in your office. We

¹ See 5 U.S.C. §§ 7321-7326.

² 5 U.S.C. § 7324. The Hatch Act also prohibits federal employees from: using their official authority or influence to affect the result of an election; soliciting, accepting, or receiving political contributions; soliciting or discouraging the political activity of any person who has business before their employing office; and being a candidate for partisan political office. 5 U.S.C. § 7323.

³ 5 C.F.R. § 734.101.

⁴ See 5 C.F.R. § 734.306, Example 16.

U.S. Office of Special Counsel

Page 2

recognize, however, that you agreed to not wear or display the hat in the workplace again after being counseled by your supervisor.

Although OSC has concluded that you violated the Hatch Act, we have decided to close this matter without further action. Please be advised that if in the future you engage in activity prohibited by the Hatch Act while employed in a Hatch Act-covered position, OSC would consider such activity to be a willful and knowing violation of the law that could result in disciplinary action.

If you have any questions, please contact Hatch Act Unit attorney Sherri Borman at (202) 804-(b)(6);

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief
Hatch Act Unit



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

March 4, 2021

(b)(6); (b)(7)(C)

VIA ELECTRONIC MAIL: (b)(6); (b)(7)(C)

Re: OSC File No. HA-19- (b)(6);

Dear (b)(6); (b)(7)(C)

This letter is in response to a complaint the U.S. Office of Special Counsel (OSC) received alleging that you violated the Hatch Act in 2019 by wearing a (b)(6); (b)(7)(C) (b)(6); sweatshirt and engaging in partisan political conversations while on duty at the National Security Agency (NSA). Although OSC has concluded that you violated the Hatch Act, as explained below, we have decided not to pursue disciplinary action and instead are issuing you this warning letter.

The Hatch Act governs the political activity of federal civilian executive branch employees, including NSA employees.¹ Among other things, the Hatch Act prohibits employees from engaging in political activity while on duty, in a federal room or building, while wearing an official uniform or insignia, or using a government vehicle.² Political activity is defined as activity directed toward the success or failure of a political party, partisan political group, or candidate for partisan political office.³

Because the complaint involved workplace activity, OSC considered whether you violated the Hatch Act's prohibition against engaging in political activity while on duty or in a federal room or building. During our investigation you admitted to wearing a (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) sweatshirt to work in 2019. You explained that because (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) and

¹ See generally 5 U.S.C. §§ 7321-7326.

² 5 U.S.C. § 7324. The Hatch Act also prohibits employees from: using their official authority or influence for the purpose of affecting the result of an election; knowingly soliciting, accepting, or receiving political contributions from any person; being candidates for public office in partisan elections; and knowingly soliciting or discouraging the political activity of any individual with business before their employing office. 5 U.S.C. § 7323(a). Employees in certain agencies and positions, such as NSA employees, are considered "further restricted" under the Hatch Act and are prohibited from actively participating in partisan political management and campaigning. See 5 U.S.C. § 7323(b)(2); 5 C.F.R. § 734.401(a).

³ 5 C.F.R. § 734.101.

U.S. Office of Special Counsel

Page 2

commented that your sweatshirt was problematic. You then removed the sweatshirt for the remainder of the day and did not wear it to work again.

As explained above, the Hatch Act prohibits employees from engaging in political activity while on duty or at work. In 2019, (b)(6); (b)(7)(C) was a candidate for (b)(6); and (b)(6); (b)(7)(C) was a slogan for (b)(6) campaign. Thus, wearing items with this campaign slogan constituted political activity for purposes of the Hatch Act. Because you wore a (b)(6); (b)(7)(C) sweatshirt to work in 2019, OSC has concluded that you violated the Hatch Act.

OSC also received allegations that you engaged in partisan political conversations while at work. However, you denied engaging in this activity, and OSC was unable to corroborate this allegation during our investigation.

Although OSC has concluded that you violated the Hatch Act, we have decided not to pursue disciplinary action and will close this matter without further action. Please be advised that if in the future you engage in activity prohibited by the Hatch Act while employed in a Hatch Act-covered position, OSC would consider such activity to be a willful and knowing violation of the law that could result in disciplinary action. Please contact OSC Hatch Act Unit attorney Kelley Resendes at (202) 804-(b)(6) with any questions.

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief, Hatch Act Unit



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

March 5, 2021

(b)(6); (b)(7)(C)

VIA ELECTRONIC MAIL: (b)(6); (b)(7)(C)

Re: OSC File No. HA-21- (b)(6); (b)(7)(C)

Dear (b)(6); (b)(7)(C)

This letter is in response to a complaint the U.S. Office of Special Counsel (OSC) received alleging that you violated the Hatch Act in (b)(6); 2020 by wearing a face mask that showed support for (b)(6); (b)(7)(C) campaign while you were on duty at the U.S. Department of Veterans Affairs (VA). Although OSC has concluded that you violated the Hatch Act, as explained below, we have decided not to pursue disciplinary action and instead are issuing you this warning letter.

The Hatch Act governs the political activity of federal civilian executive branch employees, including VA employees.¹ Among other things, the Hatch Act prohibits employees from engaging in political activity while on duty, in a federal room or building, while wearing an official uniform or insignia, or using a government vehicle.² Political activity is defined as activity directed toward the success or failure of a political party, partisan political group, or candidate for partisan political office.³

Because the complaint involved workplace activity, OSC considered whether you violated the Hatch Act's prohibition against engaging in political activity while on duty or in a federal room or building. It was alleged that on at least three occasions in (b)(6); 2020 you wore a face mask at work that read, (b)(6); (b)(7)(C) OSC understands that this face mask was (b)(6); (b)(7)(C) (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

¹ See generally 5 U.S.C. §§ 7321-7326.

² 5 U.S.C. § 7324(a). The Hatch Act also prohibits employees from: using their official authority or influence for the purpose of affecting the result of an election; knowingly soliciting, accepting, or receiving political contributions from any person; being candidates for public office in partisan elections; and knowingly soliciting or discouraging the political activity of any individual with business before their employing office. 5 U.S.C. § 7323(a).

³ 5 C.F.R. § 734.101.

U.S. Office of Special Counsel

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During OSC's investigation, you explained that you typically wear the (b)(6); (b)(7)(C) (b)(6); face mask at work because it shows support for (b)(6); (b)(7)(C) but you admitted to wearing (b)(6); (b)(7)(C) the mask on one occasion in (b)(6); 2020. You said that you did not realize (b)(6); (b)(7)(C) until a second-level supervisor confronted you and asked that you (b)(6); (b)(7)(C). You denied wearing this mask on (b)(6); (b)(7)(C) on other occasions or for the purpose of showing support for (b)(6); (b)(7)(C) (b)(6); campaign. Despite your testimony, however, OSC corroborated allegations that you wore the (b)(6); (b)(7)(C) this face mask while at work on at least two other occasions in (b)(6); 2020.

As explained above, the Hatch Act prohibits employees from engaging in political activity while on duty or at work. In (b)(6); 2020, (b)(6); (b)(7)(C) was a candidate for (b)(6); and (b)(6); (b)(7)(C) was a slogan for (b)(6); campaign. Thus, wearing items with this campaign slogan constituted political activity for purposes of the Hatch Act. Because you wore a face mask that said, (b)(6); (b)(7)(C) to work in (b)(6); (b)(7)(C) 2020, OSC has concluded that you violated the Hatch Act.

OSC learned that (b)(6); (b)(7)(C) concerning the (b)(6); (b)(6); (b)(7)(C) (b)(6); (b)(7)(C). So, although OSC has concluded that you violated the Hatch Act, we have decided not to seek further disciplinary action and will close this matter without further action. Please be advised that if in the future you engage in activity prohibited by the Hatch Act while employed in a Hatch Act-covered position, OSC would consider such activity to be a willful and knowing violation of the law that could result in disciplinary action. Please contact OSC Hatch Act Unit Attorney Kelley Resendes at (202) 804-(b)(6); with any questions.

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief, Hatch Act Unit



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

February 8, 2021

(b)(6); (b)(7)(C)

VIA ELECTRONIC MAIL: (b)(6); (b)(7)(C)

Re: OSC File No. HA-20- (b)(6);

Dear (b)(6); (b)(7)(C)

This letter is in response to a complaint the U.S. Office of Special Counsel (OSC) received alleging that you violated the Hatch Act by advocating for (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) while on duty at the Internal Revenue Service (IRS). Although OSC has concluded that you violated the Hatch Act, as explained below, we have decided not to pursue disciplinary action and instead are issuing you this warning letter.

The Hatch Act governs the political activity of federal civilian executive branch employees, including IRS employees.¹ Among other things, the Hatch Act prohibits employees from engaging in political activity while on duty, in a government room or building, while wearing an official uniform or insignia, or using a government vehicle.² Political activity is defined as activity directed toward the success or failure of a political party, partisan political group, or candidate for partisan political office.³

(b)(6); (b)(7)(C)

¹ See generally 5 U.S.C. §§ 7321-7326.

² 5 U.S.C. § 7324 and § 7324(a)(1). The Hatch Act also prohibits employees from: using their official authority or influence for the purpose of affecting the result of an election; knowingly soliciting, accepting, or receiving political contributions from any person; being candidates for public office in partisan elections; and knowingly soliciting or discouraging the political activity of any individual with business before their employing office. 5 U.S.C. § 7323(a)(2)-(4).

³ 5 C.F.R. § 734.101.

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

Because the complaint alleged that you advocated for (b)(6); (b)(7)(C) (b)(6); while at work, OSC considered whether you violated the Hatch Act's prohibition against engaging in political activity while on duty or in the federal workplace. It was alleged that on the morning of (b)(6); 2019, (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) you (b)(6); (b)(7)(C) into work and told coworkers that they (b)(6); (b)(6); (b)(7)(C) During OSC's investigation, you admitted to (b)(6); (b)(7)(C) into work (b)(6); (b)(7)(C) including (b)(6); (b)(7)(C) 2019, but you denied saying that (b)(6); were related to (b)(6); (b)(7)(C) And witness testimony did not corroborate allegations that you made this statement or that your conduct was related to (b)(6); (b)(7)(C).

The complaint also alleged that you violated the Hatch Act by displaying (b)(6); (b)(7)(C) a picture of (b)(6); (b)(7)(C) that read (b)(6); (b)(7)(C) You admitted to displaying this picture at work, and OSC confirmed that you removed it in (b)(6); 2020 after a supervisor asked you to take it down. As explained above, displaying items that advocate for (b)(6); (b)(7)(C) constitutes political activity for purposes of the Hatch Act. Thus, because you displayed (b)(6); (b)(7)(C) a picture advocating for (b)(6); (b)(7)(C) while (b)(6); was a candidate for (b)(6); (b)(7)(C) OSC has concluded that you violated the Hatch Act.

Although OSC has concluded that you violated the Hatch Act, we have decided not to pursue disciplinary action and will close this matter without further action. Please be advised that if in the future you engage in activity prohibited by the Hatch Act while employed in a Hatch Act-covered position, OSC would consider such activity to be a willful and knowing violation of the law that could result in disciplinary action. Please contact OSC Hatch Act Unit attorney Kelley Resendes at (202) 804- (b)(6); (b)(7)(C) with any questions.

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief, Hatch Act Unit



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

January 8, 2021

(b)(6); (b)(7)(C)

VIA EMAIL: (b)(6); (b)(7)(C)

Re: OSC File No. HA-20- (b)(6);

Dear (b)(6); (b)(7)(C)

This letter is in response to complaints the U.S. Office of Special Counsel (OSC) received alleging that you violated the Hatch Act when you used your (b)(6); (b)(7)(C) Twitter account to engage in political activity and solicit political contributions. We understand that you are employed as (b)(6); (b)(7)(C) U.S. Environmental Protection Agency (EPA) (b)(6); (b)(7)(C). Although OSC has concluded that you violated the Hatch Act, as explained in detail below, we have decided not to pursue disciplinary action and instead are issuing you this warning letter.

The Hatch Act governs the political activity of federal civilian executive branch employees, including EPA employees.¹ The law prohibits you from, among other things, knowingly soliciting political contributions and using your official authority or influence for the purpose of interfering with or affecting the result of an election.² For example, under this provision, you may not use your official title while engaging in political activity or your official position to advance or oppose candidates for partisan office. Political activity is defined as activity directed toward the success or failure of a political party, partisan political group, or candidate for partisan political office.³

With respect to social media, OSC has advised that employees may not engage in political activity on a personal social media account if they are using that account for official purposes or posting in their official capacities. OSC has opined that factors indicating a personal social media account is being used in ways that suggest it is an official social media account include, for example: (1) the account contains little to no personal content; (2) the account identifies the individual as a federal employee; (3) the account extensively uses photographs of the employee's official activities; (4) the account often references, retweets, likes, comments, or otherwise shares

¹ See 5 U.S.C. §§ 7321-7326.

² *Id.* § 7323(a)(1), (2).

³ 5 C.F.R. § 734.101.

U.S. Office of Special Counsel

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material related to official activities; or (5) the account is linked to an agency website or other official page. No one factor is dispositive.⁴

It was alleged that you engaged in political activity on your (b)(6); (b)(7)(C) Twitter account, which you use in your official capacity as (b)(6); (b)(7)(C). But OSC reviewed your account and, based on the factors described above, we concluded that your Twitter account is not being used for official purposes. We first reviewed your Twitter biography and determined that you have had the account since (b)(6); (b)(7)(C) which was before you began working for the EPA. Your Twitter biography says that you are (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

We then reviewed your tweets and found that you do not extensively use photographs of your official activities or share materials related to your duties. In fact, OSC found only two photographs of you in your official capacity as (b)(6); (b)(7)(C) between (b)(6); (b)(7)(C) 2020. In one photograph, you are (b)(6); (b)(7)(C) and the other photograph is of you (b)(6); (b)(7)(C). In addition to the few photographs of you in your official capacity, there are only a few tweets related to your official duties as (b)(6); (b)(7)(C). While many of your tweets (b)(6); (b)(7)(C) (b)(6); (b)(7)(C). Additionally, you tweet about (b)(6); (b)(7)(C) (b)(6); (b)(7)(C). Based on the preceding, OSC concluded that the evidence does not support a finding that you use this personal Twitter account for official purposes. As a result, the Hatch Act does not prohibit you from engaging in permissible political activity on the (b)(6); (b)(7)(C) Twitter account.⁵

⁴ See OSC's February 2018 "Hatch Act Guidance on Social Media," pg. 9, available at: <https://osc.gov/Resources/HA%20Social%20Media%20FINAL%20r.pdf>. This guidance also provides the following example:

You are a federal employee and maintain only a personal Twitter account. While you have some personal posts about family vacations and events with friends, most of your posts are retweets of your agency's initiatives and photographs of you at official events. You **may not** use this account to make posts directed at the success or failure of a political party, candidate in a partisan race, or partisan political group.

⁵ It was alleged that you violated the Hatch Act when you tweeted (b)(6); (b)(7)(C) Twitter account. On (b)(6); (b)(7)(C) 2020, you tweeted a video from (b)(6); (b)(7)(C) about (b)(6); (b)(7)(C) candidate (b)(6); (b)(7)(C) and the (b)(6); (b)(7)(C) on the (b)(6); (b)(7)(C). On (b)(6); (b)(7)(C) 2020, you retweeted a post from (b)(6); (b)(7)(C) Twitter account about (b)(6); (b)(7)(C) with a caption by (b)(6); (b)(7)(C) saying (b)(6); (b)(7)(C). Even if these tweets constituted political activity for purposes of the Hatch Act, as explained above, the Act did not prohibit you from engaging in political activity on this personal Twitter account.

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Permissible political activity, however, does not include soliciting political contributions. It was alleged that you solicited political contributions on your Twitter account when you retweeted a (b)(6); (b)(7)(C) 2020 post from (b)(6); (b)(7)(C) a (b)(6); candidate for (b)(6); (b)(6); (b)(7)(C). In the tweet, (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) By retweeting (b)(6); (b)(7)(C) (b)(6); you solicited a political contribution, in violation of the Hatch Act. We understand, though, that once you were made aware that your retweet violated the Hatch Act, you deleted the message.

Although OSC has concluded that you violated the Hatch Act, we have decided to close this matter without further action. Please be advised that if in the future you engage in activity prohibited by the Hatch Act while employed in a Hatch Act-covered position, OSC would consider such activity to be a willful and knowing violation of the law that could result in disciplinary action.

If you have any questions, please contact Hatch Act Unit attorney Sherri Borman at (202) 804- (b)(6); (b)(7)(C)

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief, Hatch Act Unit



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

February 10, 2021

(b)(6); (b)(7)(C)

VIA ELECTRONIC MAIL: (b)(6); (b)(7)(C)

Re: OSC File No. HA-21- (b)(6);

Dear (b)(6); (b)(7)(C)

This letter is in response to a complaint filed with the U.S. Office of Special Counsel (OSC) alleging that you violated the Hatch Act by running in the partisan election for (b)(6); County (b)(6); (b)(7)(C) and engaging in political activity on Facebook while on duty with the U.S. Army Material Command. You have since resigned from federal service. However, OSC investigated the Hatch Act allegations prior to your resignation and our determination is explained below.

As a former U.S. Army Material Command employee, you were subject to the Hatch Act, which governs the political activity of federal executive branch employees.¹ The Hatch Act prohibits employees from, among other things, being candidates for public office in partisan elections—i.e., elections in which any candidate represents the Republican or Democratic Party.² The law also prohibits employees from engaging in political activity while on duty or in a federal room or building.³ Political activity is defined as activity directed toward the success or failure of a political party, partisan political group, or candidate for partisan political office.⁴

OSC investigated whether you violated these prohibitions when you ran for constable as a (b)(6); (b)(7)(C) candidate and posted partisan political messages on Facebook. We determined that your candidacy violated the Hatch Act because you ran for partisan political office while employed as a federal civilian executive branch employee. However, while your

¹ See 5 U.S.C. §§ 7321-7326.

² 5 U.S.C. § 7323(a)(3).

³ 5 U.S.C. § 7324(a). The Hatch Act also prohibits employees from: using their official authority of influence to affect the result of an election; knowingly soliciting, accepting, or receiving political contributions from any person; and knowingly soliciting or discouraging the political activity of any individual with business before their employing office. 5 U.S.C. §§ 7323(a)(1)-(2), (4).

⁴ 5 C.F.R. § 734.101.

U.S. Office of Special Counsel

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Facebook posts constituted political activity for purposes of the Hatch Act,⁵ we have insufficient evidence to determine that you made these Facebook posts while you were on duty.

Although OSC has determined that your candidacy was in violation of the Hatch Act, because you have resigned from federal service, we are closing our file without further action at this time. Please be advised that if in the future you engage in activity prohibited by the Hatch Act while employed in a Hatch Act-covered position, OSC would consider such activity to be a willful and knowing violation of the law that could result in disciplinary action.

Please contact OSC Hatch Act attorney Sherri Borman at (202) 804-(b)(6) if you have any questions.

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief
Hatch Act Unit

⁵ At issue are the campaign posts you made on the Facebook group (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

January 13, 2021

(b)(6); (b)(7)(C)

VIA ELECTRONIC MAIL: (b)(6); (b)(7)(C)

Re: OSC File No. HA-20- (b)(6);

Dear (b)(6); (b)(7)(C)

This letter is in response to a complaint the U.S. Office of Special Counsel (OSC) received alleging that you violated the Hatch Act by promoting a candidate in an (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) OSC understands that you are, and were in (b)(6); 2020, (b)(6); (b)(7)(C) Federal Emergency Management Agency (FEMA). Although OSC has concluded that you violated the Hatch Act, as explained below, we have decided not to pursue disciplinary action and instead are issuing you this warning letter.

The Hatch Act governs the political activity of federal civilian executive branch employees, including FEMA employees.¹ The Hatch Act prohibits employees from, among other things, using their official authority or influence for the purpose of interfering with or affecting the result of an election.² Examples of activities that would violate this prohibition include using one's official title or position while engaging in political activity or to promote a candidate for partisan political office.

OSC understands that FEMA's (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) during the COVID-19 pandemic. The complaint alleged that you violated the Hatch Act by highlighting in an (b)(6); (b)(7)(C) the announcement that (b)(6); (b)(7)(C) was added to a (b)(6); (b)(7)(C) The statement, which was included in the (b)(6); (b)(7)(C) reads:

¹ See generally 5 U.S.C. §§ 7321-7326.

² 5 U.S.C. § 7323(a)(1). The Hatch Act also prohibits employees from: knowingly soliciting or discouraging the political activity of any individual with business before their employing office; knowingly soliciting, accepting, or receiving political contributions from any person; being candidates for public office in partisan elections; and engaging in political activity while on duty, in a government building, while wearing an official uniform or insignia, or using an official vehicle. 5 U.S.C. § 7323(a) and § 7324. Political activity is defined as activity directed toward the success or failure of a political party, partisan political group, or candidate for partisan political office. 5 C.F.R. § 734.101.

U.S. Office of Special Counsel

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(b)(6); (b)(7)(C)

During OSC's investigation, you said that (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) You explained that around the time of (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) and this message, highlighting (b)(6); (b)(7)(C) inclusion on a (b)(6); (b)(7)(C) You said you did not intend for this message to be an endorsement of (b)(6); (b)(7)(C) or a promotion of any candidate in the 2020 (b)(6); (b)(7)(C) election.

Objectively, however, your message about (b)(6); (b)(7)(C) candidacy is problematic. While the statements about (b)(6); (b)(7)(C) follow a reference to (b)(6); (b)(7)(C) like (b)(6); (b)(7)(C) it is a positive message about (b)(6); (b)(6); candidate (b)(6); (b)(7)(C) 2020 (b)(6); election. OSC has therefore concluded that you violated the Hatch Act's use of official authority prohibition by including this message (b)(6); (b)(7)(C)

Although OSC has concluded that you violated the Hatch Act, we do not believe your violation was knowing and willful. Accordingly, we have decided not to pursue disciplinary action and instead will close this matter without further action. Please be advised that if in the future you engage in activity prohibited by the Hatch Act while employed in a Hatch Act-covered position, OSC would consider such activity to be a willful and knowing violation of the law that could result in disciplinary action. Please contact OSC Hatch Act Unit Attorney Kelley Resendes at (202) 804-(b)(6) with any questions.

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief, Hatch Act Unit



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

February 4, 2021

(b)(6);
(b)(7)(C)

VIA ELECTRONIC MAIL: (b)(6); (b)(7)(C)

Re: OSC File No. HA-21- (b)(6);

Dear (b)(6);
(b)(7)(C)

This letter is in response to a complaint the U.S. Office of Special Counsel (OSC) received alleging that you violated the Hatch Act by being a candidate in the 2020 primary election for county commissioner of (b)(6); County, (b)(6); OSC understands that you are, and were in 2020, employed by the State of (b)(6); (b)(7)(C) (b)(6); Although OSC has concluded that you violated the Hatch Act, as explained below, we have decided not to pursue disciplinary action and instead are issuing you this warning letter.

The Hatch Act governs the political activity of certain state and local government employees in order to protect the public workforce from partisan political influence and ensure the nonpartisan administration of laws.¹ Among other things, the Hatch Act prohibits state and local government employees whose salaries are paid entirely with federal funds from being candidates for public office in partisan elections.²

Because we received allegations that you violated the Hatch Act's candidacy prohibition, we evaluated whether your salary was federally funded during your candidacy. OSC understands that you were a (b)(6); candidate for county commissioner (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) OSC confirmed with (b)(6); (b)(7)(C) that in (b)(6) 2020 (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) On (b)(6); 2020, (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) and during that time your salary was entirely paid for by (b)(6); (b)(7)(C) (b)(6) which is funded by the U.S. Department of Labor. On (b)(6); 2020, (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) where your salary was also entirely paid for by funds from the U.S. Department of Labor. Because your salary was entirely federally funded during your candidacy for county commissioner, OSC has concluded that you violated the Hatch Act.

Although OSC has concluded that you violated the Hatch Act, we have decided not to pursue disciplinary action and will close this matter without further action. Please be advised that if you engage in any future prohibited political activity while employed in a Hatch Act-covered position, OSC would consider such activity to be a willful and knowing violation of the law that could result in disciplinary action.

¹ 5 U.S.C. §§ 1501-1508.

² 5 U.S.C. § 1502(a)(3).

U.S. Office of Special Counsel

Page 2

Please contact OSC Attorney Kelley Resendes at (202) 804-(b)(6);
(b)(7) if you have any questions.

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief, Hatch Act Unit



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

April 26, 2021

(b)(6); (b)(7)(C)

VIA EMAIL: (b)(6); (b)(7)(C)

Re: OSC File No. HA-19- (b)(6); (b)(7)(C)

Dear (b)(6); (b)(7)(C)

This letter is in response to a complaint the U.S. Office of Special Counsel (OSC) received alleging that you violated the Hatch Act during the 2018 election for (b)(6); County Sheriff by endorsing a candidate in your official capacity as a (b)(6); (b)(7)(C) with the (b)(6); County Sheriff's Office (b)(6);. As explained below, OSC has concluded that you violated the Hatch Act but is closing the file in this matter without further action.

The Hatch Act governs the political activity of certain state and local government employees in order to protect the public workforce from partisan political influence and ensure the nonpartisan administration of laws. Employees who are covered by the Hatch Act may not: (1) use their official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office; or (2) coerce, attempt to coerce, command, or advise a state or local officer or employee to pay, lend, or contribute anything of value for political purposes.¹ State and local employees are subject to the preceding prohibitions if they are principally employed by state, county, or municipal executive agencies in connection with programs financed in whole or in part by loans or grants made by the United States or a federal agency.² Additionally, the Hatch Act prohibits those employees whose salaries are entirely federally funded from being candidates for partisan political office.³

To establish whether you were covered by the Hatch Act during the relevant time period, OSC gathered evidence regarding the federal funding (b)(6); received. In 2018, (b)(6); received several federal grants, including an (b)(6); (b)(7)(C) grant and a (b)(6); (b)(7)(C) grant. We understand that these federal grants funded activities within the (b)(6); (b)(7)(C). We also understand that you were the (b)(6); (b)(7)(C) grant, which was administered through (b)(6); County, and that you (b)(6); (b)(7)(C) grant and were (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) under the grant. Accordingly, OSC has concluded that you had duties in connection with federally funded activities.

¹ 5 U.S.C. §1502 (a)(1)-(2).

² *Id.* §1501(4). *Special Counsel v. Gallagher*, 44 M.S.P.R. 57, 61 (1990); *In re Hutchins*, 2 P.A.R. 160, 164 (Civil Serv. Comm'n 1944). Coverage is not dependent on the source of an employee's salary, nor is it dependent upon whether the employee actually administers the funds or has policy duties with respect to them. *Special Counsel v. Williams*, 56 M.S.P.R. 277, 283-84 (1993), *aff'd*, 55 F.3d 917 (4th Cir. 1995), *cert. denied*, 516 U.S. 1071 (1996) (unreported decision).

³ *Id.* §1502(a)(3).

U.S. Office of Special Counsel

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At issue is a campaign advertisement for then-sheriff candidate (b)(6); (b)(7)(C) which appeared in the (b)(6); (b)(7)(C) and on (b)(6); (b)(7)(C) campaign Facebook page. The advertisement lists (b)(6); (b)(7)(C) endorsements, and you are included with your title (b)(6); (b)(7)(C). As mentioned above, employees covered by the Hatch Act are prohibited from using their official authority or influence to affect the results of an election. Under this provision, an employee may not, among other things, wear (b)(6); (b)(7)(C) official uniform or use (b)(6); (b)(7)(C) official title and/or position while engaging in political activity, such as appearing in campaign advertisements or endorsing candidates for partisan political office. Accordingly, you violated the Hatch Act when you endorsed (b)(6); (b)(7)(C) candidacy in your official capacity.

Although we have concluded that you violated the Hatch Act, we have decided not to pursue disciplinary action and instead are issuing you this warning letter. Please be advised that should you again engage in prohibited political activity while employed in a Hatch Act covered position, we would consider such activity to be a willful and knowing violation of the law, which could result in your removal from your employment. If you have any questions regarding this matter, please contact me at (202) 804-(b)(6); (b)(7)(C).

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief
Hatch Act Unit



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

April 26, 2021

(b)(6); (b)(7)(C)

VIA EMAIL: (b)(6); (b)(7)(C)

Re: OSC File No. HA-19- (b)(6); (b)(7)(C)

Dear (b)(6); (b)(7)(C)

This letter is in response to a complaint the U.S. Office of Special Counsel (OSC) received alleging that you violated the Hatch Act during the 2018 election for (b)(6); County Sheriff by endorsing a candidate in your official capacity as (b)(6); with the (b)(6); County Sheriff's Office (b)(6);. As explained below, OSC has concluded that you violated the Hatch Act but is closing the file in this matter without further action.

The Hatch Act governs the political activity of certain state and local government employees in order to protect the public workforce from partisan political influence and ensure the nonpartisan administration of laws. Employees who are covered by the Hatch Act may not: (1) use their official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office; or (2) coerce, attempt to coerce, command, or advise a state or local officer or employee to pay, lend, or contribute anything of value for political purposes.¹ State and local employees are subject to the preceding prohibitions if they are principally employed by state, county, or municipal executive agencies in connection with programs financed in whole or in part by loans or grants made by the United States or a federal agency.² Additionally, the Hatch Act prohibits those employees whose salaries are entirely federally funded from being candidates for partisan political office.³

To establish whether you were covered by the Hatch Act during the relevant time period, OSC gathered evidence regarding the federal funding (b)(6); received. In 2018, (b)(6); received (b)(6); (b)(7)(C) Grant that was used to (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) We understand that you were (b)(6); (b)(7)(C) this federal grant and (b)(6); (b)(7)(C) related to the grant. Accordingly, OSC has concluded that you had duties in connection with federally funded activities.

At issue is a campaign advertisement for then-sheriff candidate (b)(6); (b)(7)(C) which appeared in the (b)(6); (b)(7)(C) and on (b)(6); campaign Facebook page. The advertisement lists (b)(6); (b)(7)(C) endorsements, and you are included with your title (b)(6); (b)(7)(C) As mentioned above, employees covered by the Hatch Act are prohibited from using their official

¹ 5 U.S.C. §1502 (a)(1)-(2).

² *Id.* §1501(4). *Special Counsel v. Gallagher*, 44 M.S.P.R. 57, 61 (1990); *In re Hutchins*, 2 P.A.R. 160, 164 (Civil Serv. Comm'n 1944). Coverage is not dependent on the source of an employee's salary, nor is it dependent upon whether the employee actually administers the funds or has policy duties with respect to them. *Special Counsel v. Williams*, 56 M.S.P.R. 277, 283-84 (1993), *aff'd*, 55 F.3d 917 (4th Cir. 1995), *cert. denied*, 516 U.S. 1071 (1996) (unreported decision).

³ *Id.* §1502(a)(3).

U.S. Office of Special Counsel

Page 2

authority or influence to affect the results of an election. Under this provision, an employee may not, among other things, wear (b)(6) official uniform or use (b)(6) official title and/or position while engaging in political activity, such as appearing in campaign advertisements or endorsing candidates for partisan political office. Accordingly, you violated the Hatch Act when you endorsed (b)(6); (b)(7)(C) candidacy in your official capacity.

Although we have concluded that you violated the Hatch Act, we have decided not to pursue disciplinary action and instead are issuing you this warning letter. Please be advised that should you again engage in prohibited political activity while employed in a Hatch Act covered position, we would consider such activity to be a willful and knowing violation of the law, which could result in your removal from your employment. If you have any questions regarding this matter, please contact me at (202) 804- (b)(6); (b)(7)(C)

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief
Hatch Act Unit



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

April 26, 2021

(b)(6); (b)(7)(C)

VIA EMAIL: (b)(6); (b)(7)(C)

Re: OSC File No. HA-19- (b)(6);

Dear (b)(6); (b)(7)(C)

This letter is in response to a complaint the U.S. Office of Special Counsel (OSC) received alleging that you violated the Hatch Act during the 2018 election for (b)(6); County Sheriff by endorsing a candidate in your official capacity as (b)(6); with the (b)(6); County Sheriff's Office (b)(6);. As explained below, OSC has concluded that you violated the Hatch Act but is closing the file in this matter without further action.

The Hatch Act governs the political activity of certain state and local government employees in order to protect the public workforce from partisan political influence and ensure the nonpartisan administration of laws. Employees who are covered by the Hatch Act may not: (1) use their official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office; or (2) coerce, attempt to coerce, command, or advise a state or local officer or employee to pay, lend, or contribute anything of value for political purposes.¹ State and local employees are subject to the preceding prohibitions if they are principally employed by state, county, or municipal executive agencies in connection with programs financed in whole or in part by loans or grants made by the United States or a federal agency.² Additionally, the Hatch Act prohibits those employees whose salaries are entirely federally funded from being candidates for partisan political office.³

To establish whether you were covered by the Hatch Act during the relevant time period, OSC gathered evidence regarding the federal funding (b)(6); received. In 2018, (b)(6); received several federal grants, including a (b)(6); (b)(7)(C) Grant, which was used to (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) We understand that (b)(6); (b)(7)(C) was the (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) grant. You explained that you supervised (b)(6); (b)(7)(C)

¹ 5 U.S.C. §1502 (a)(1)-(2).

² *Id.* §1501(4). *Special Counsel v. Gallagher*, 44 M.S.P.R. 57, 61 (1990); *In re Hutchins*, 2 P.A.R. 160, 164 (Civil Serv. Comm'n 1944). Coverage is not dependent on the source of an employee's salary, nor is it dependent upon whether the employee actually administers the funds or has policy duties with respect to them. *Special Counsel v. Williams*, 56 M.S.P.R. 277, 283-84 (1993), *aff'd*, 55 F.3d 917 (4th Cir. 1995), *cert. denied*, 516 U.S. 1071 (1996) (unreported decision).

³ *Id.* §1502(a)(3).

U.S. Office of Special Counsel

Page 2

(b)(6); (b)(7)(C) Because of your supervisory (b)(6); (b)(7)(C) OSC has concluded that you had duties in connection with federally funded activities.⁴

At issue is a campaign advertisement for then-sheriff candidate (b)(6); (b)(7)(C) which appeared in the (b)(6); (b)(7)(C) and on (b)(6); (b)(7)(C) campaign Facebook page. The advertisement lists (b)(6); (b)(7)(C) endorsements, and you are included with your title (b)(6); (b)(7)(C). As mentioned above, employees covered by the Hatch Act are prohibited from using their official authority or influence to affect the results of an election. Under this provision, an employee may not, among other things, wear (b)(6); (b)(7)(C) official uniform or use (b)(6); (b)(7)(C) official title and/or position while engaging in political activity, such as appearing in campaign advertisements or endorsing candidates for partisan political office. Accordingly, you violated the Hatch Act when you endorsed (b)(6); (b)(7)(C) candidacy in your official capacity.

Although we have concluded that you violated the Hatch Act, we have decided not to pursue disciplinary action and instead are issuing you this warning letter. Please be advised that should you again engage in prohibited political activity while employed in a Hatch Act covered position, we would consider such activity to be a willful and knowing violation of the law, which could result in your removal from your employment. If you have any questions regarding this matter, please contact me at (202) 804- (b)(6); (b)(7)(C).

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief
Hatch Act Unit

⁴ Individuals who supervise employees who work on federally funded programs have been found to be subject to the Hatch Act due to their oversight responsibilities for those activities. *See In re Palmer*, 2 P.A.R. 590, 595-96 (Civil Serv. Comm'n 1959).



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

April 26, 2021

(b)(6); (b)(7)(C)

VIA EMAIL: (b)(6); (b)(7)(C)

Re: OSC File No. HA-19- (b)(6); (b)(7)(C)

Dear (b)(6); (b)(7)(C)

This letter is in response to a complaint the U.S. Office of Special Counsel (OSC) received alleging that you violated the Hatch Act during the 2018 election for (b)(6); County Sheriff by endorsing a candidate in your official capacity as (b)(6); (b)(7)(C) with the (b)(6); County Sheriff's Office (b)(6);. As explained below, OSC has concluded that you violated the Hatch Act but is closing the file in this matter without further action.

The Hatch Act governs the political activity of certain state and local government employees in order to protect the public workforce from partisan political influence and ensure the nonpartisan administration of laws. Employees who are covered by the Hatch Act may not: (1) use their official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office; or (2) coerce, attempt to coerce, command, or advise a state or local officer or employee to pay, lend, or contribute anything of value for political purposes.¹ State and local employees are subject to the preceding prohibitions if they are principally employed by state, county, or municipal executive agencies in connection with programs financed in whole or in part by loans or grants made by the United States or a federal agency.² Additionally, the Hatch Act prohibits those employees whose salaries are entirely federally funded from being candidates for partisan political office.³

To establish whether you were covered by the Hatch Act during the relevant time period, OSC gathered evidence regarding the federal funding (b)(6); received. In 2018, (b)(6); received several federal grants, including a (b)(6); (b)(7)(C) grant, which (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) We understand that you are (b)(6); (b)(7)(C) You explained that you (b)(6); (b)(7)(C) (b)(6); (b)(7)(C)

(b)(6); Based on the preceding, OSC has concluded that you had duties in connection with federally funded activities.

¹ 5 U.S.C. §1502 (a)(1)-(2).

² *Id.* §1501(4). *Special Counsel v. Gallagher*, 44 M.S.P.R. 57, 61 (1990); *In re Hutchins*, 2 P.A.R. 160, 164 (Civil Serv. Comm'n 1944). Coverage is not dependent on the source of an employee's salary, nor is it dependent upon whether the employee actually administers the funds or has policy duties with respect to them. *Special Counsel v. Williams*, 56 M.S.P.R. 277, 283-84 (1993), *aff'd*, 55 F.3d 917 (4th Cir. 1995), *cert. denied*, 516 U.S. 1071 (1996) (unreported decision).

³ *Id.* §1502(a)(3).

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At issue is a radio campaign advertisement for then-sheriff candidate (b)(6); (b)(7)(C) in which you participated and said, (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) As mentioned above, employees covered by the Hatch Act are prohibited from using their official authority or influence to affect the results of an election. Under this provision, an employee may not, among other things, wear (b)(6); (b)(7)(C) official uniform or use (b)(6); (b)(7)(C) official title and/or position while engaging in political activity, such as appearing in campaign advertisements or endorsing candidates for partisan political office. Accordingly, you violated the Hatch Act when you endorsed (b)(6); (b)(7)(C) candidacy in your official capacity.

Although we have concluded that you violated the Hatch Act, we have decided not to pursue disciplinary action and instead are issuing you this warning letter. Please be advised that should you again engage in prohibited political activity while employed in a Hatch Act covered position, we would consider such activity to be a willful and knowing violation of the law, which could result in your removal from your employment. If you have any questions regarding this matter, please contact me at (202) 804- (b)(6); (b)(7)(C)

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief
Hatch Act Unit



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

April 26, 2021

(b)(6); (b)(7)(C)

VIA EMAIL: (b)(6); (b)(7)(C)

Re: OSC File No. HA-19- (b)(6); (b)(7)(C)

Dear (b)(6); (b)(7)(C)

This letter is in response to a complaint the U.S. Office of Special Counsel (OSC) received alleging that you violated the Hatch Act during the 2018 election for (b)(6); County Sheriff by endorsing a candidate in your official capacity as (b)(6); of the (b)(6); County Sheriff's Office (b)(6);. As explained below, OSC has concluded that you violated the Hatch Act but is closing the file in this matter without further action.

The Hatch Act governs the political activity of certain state and local government employees in order to protect the public workforce from partisan political influence and ensure the nonpartisan administration of laws. Employees who are covered by the Hatch Act may not: (1) use their official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office; or (2) coerce, attempt to coerce, command, or advise a state or local officer or employee to pay, lend, or contribute anything of value for political purposes.¹ State and local employees are subject to the preceding prohibitions if they are principally employed by state, county, or municipal executive agencies in connection with programs financed in whole or in part by loans or grants made by the United States or a federal agency.² Additionally, the Hatch Act prohibits those employees whose salaries are entirely federally funded from being candidates for partisan political office.³

To establish whether you were covered by the Hatch Act during the relevant time period, OSC gathered evidence regarding the federal funding (b)(6); received. In 2018, (b)(6); received several federal grants, including a (b)(6); (b)(7)(C) Grant, a (b)(6); (b)(7)(C) Grant, a (b)(6); Grant, a (b)(6); (b)(7)(C) Grant, a (b)(6); (b)(7)(C) Grant, an (b)(6); (b)(7)(C) grant, and a (b)(6); (b)(7)(C) grant. We understand that as the (b)(6); (b)(7)(C) you supervise (b)(6); (b)(7)(C) and as you

¹ 5 U.S.C. §1502 (a)(1)-(2).

² *Id.* §1501(4). *Special Counsel v. Gallagher*, 44 M.S.P.R. 57, 61 (1990); *In re Hutchins*, 2 P.A.R. 160, 164 (Civil Serv. Comm'n 1944). Coverage is not dependent on the source of an employee's salary, nor is it dependent upon whether the employee actually administers the funds or has policy duties with respect to them. *Special Counsel v. Williams*, 56 M.S.P.R. 277, 283-84 (1993), *aff'd*, 55 F.3d 917 (4th Cir. 1995), *cert. denied*, 516 U.S. 1071 (1996) (unreported decision).

³ *Id.* §1502(a)(3).

U.S. Office of Special Counsel

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explained, are [redacted (b)(6); (b)(7)(C)] Accordingly, OSC has concluded that you had duties in connection with federally funded activities.⁴

At issue is a campaign advertisement for then-sheriff candidate [redacted (b)(6); (b)(7)(C)] which appeared in the [redacted (b)(6); (b)(7)(C)] and on [redacted (b)(6); (b)(7)(C)] campaign Facebook page. The advertisement lists [redacted (b)(6); (b)(7)(C)] endorsements, and you are included with your title [redacted (b)(6); (b)(7)(C)] As mentioned above, employees covered by the Hatch Act are prohibited from using their official authority or influence to affect the results of an election. Under this provision, an employee may not, among other things, wear [redacted (b)(6); (b)(7)(C)] official uniform or use [redacted (b)(6); (b)(7)(C)] official title and/or position while engaging in political activity, such as appearing in campaign advertisements or endorsing candidates for partisan political office. Accordingly, you violated the Hatch Act when you endorsed [redacted (b)(6); (b)(7)(C)] candidacy in your official capacity.

Although we have concluded that you violated the Hatch Act, we have decided not to pursue disciplinary action and instead are issuing you this warning letter. Please be advised that should you again engage in prohibited political activity while employed in a Hatch Act covered position, we would consider such activity to be a willful and knowing violation of the law, which could result in your removal from your employment. If you have any questions regarding this matter, please contact me at (202) 804-[redacted (b)(6); (b)(7)(C)]

Sincerely,

[redacted (b)(6); (b)(7)(C)]

Erica S. Hamrick
Deputy Chief
Hatch Act Unit

⁴ Individuals who supervise employees who work on federally funded programs have been found to be subject to the Hatch Act due to their oversight responsibilities for those activities. See *In re Palmer*, 2 P.A.R. 590, 595-96 (Civil Serv. Comm'n 1959).



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

May 4, 2021

(b)(6); (b)(7)(C)

VIA EMAIL

(b)(6); (b)(7)(C)

Re: OSC File No. HA-21- (b)(6); (b)(7)(C)

Dear (b)(6); (b)(7)(C)

This letter is in response to a complaint filed with the U.S. Office of Special Counsel (OSC) alleging that you violated the Hatch Act when you wore a hat featuring (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) campaign slogan, (b)(6); (b)(7)(C) while on an official videoconference meeting. As explained below, OSC has concluded that you violated the Hatch Act, and we are issuing you this warning letter.

The Hatch Act governs the political activity of federal executive branch employees, including Federal Aviation Administration (FAA) employees.¹ The law prohibits employees from engaging in political activity while on duty, in a government building, while wearing an official uniform or insignia, or using a government vehicle.² Political activity is defined as activity directed toward the success or failure of a political party, partisan political group, or candidate for partisan political office.³

OSC analyzed whether you violated this prohibition when on (b)(6); (b)(7)(C) 2020, you wore a hat featuring (b)(6); slogan during an FAA Zoom video conference. OSC conducted an investigation into this matter, to include interviewing you. In your interview, you admitted that you wore the hat, which read, (b)(6); (b)(7)(C) You explained that you did not intend to wear the hat during the meeting and that when you noticed it in your video feed, you removed it.

(b)(6); (b)(7)(C) was the slogan of (b)(6); (b)(7)(C) (b)(6); campaign, and (b)(6); (b)(7)(C) was a candidate for partisan political office on (b)(6); 2020. Therefore, OSC has concluded that you engaged in prohibited political activity when you wore the afore-described hat during the (b)(6); FAA video meeting. Although OSC has determined that you violated the Hatch Act, we are closing this matter without further action because you accidentally wore the hat during the meeting and promptly removed it. Please be advised that if

¹ See 5 U.S.C. §§ 7321-7326.

² 5 U.S.C. § 7324(a). The Hatch Act also prohibits employees from: using their official authority or influence for the purpose of affecting the result of an election; knowingly soliciting, accepting, or receiving political contributions from any person; being candidates for partisan political office; and knowingly soliciting or discouraging the political activity of any individual with business before their employing office. 5 U.S.C. § 7323(a)(1)-(4).

³ 5 C.F.R. § 734.101.

U.S. Office of Special Counsel

Page 2

in the future you engage in prohibited political activity, we will consider such activity to be a willful and knowing violation of the law that could result in disciplinary action.

If you have any questions, please contact Hatch Act Unit attorney Jacqueline Yarbro at (202) 804-(b)(6);

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief
Hatch Act Unit



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

May 13, 2021

(b)(6); (b)(7)(C)

VIA EMAIL (b)(6); (b)(7)(C)

Re: OSC File No. HA-21- (b)(6); (b)(7)(C)

Dear (b)(6); (b)(7)(C)

This letter is in response to a complaint filed with the U.S. Office of Special Counsel (OSC) alleging that during a (b)(6); 2021 (b)(6); (b)(7)(C) you violated the Hatch Act by showing support for the (b)(6); (b)(7)(C) while (b)(6); (b)(7)(C) (b)(6); about the (b)(6); (b)(7)(C) As explained below, OSC has concluded that you violated the Hatch Act. Accordingly, we are issuing you this warning letter.

(b)(6); (b)(7)(C) U.S. Department of Housing and Urban Development (HUD), you are covered by the Hatch Act, a law that governs the political activity of federal executive branch employees.² The Hatch Act prohibits covered employees from, among other things, using their official authority or influence for the purpose of affecting the result of an election.³ For example, employees may not use their official title while engaging in political activity or their official position to advance or oppose candidates for partisan political office. Political activity is defined as activity directed toward the success or failure of a political party, partisan political group, or candidate for partisan political office.⁴ Therefore, at issue here is whether the comments you made during the (b)(6); (b)(7)(C) violated the Hatch Act's use of official authority prohibition.

Our investigation into this matter confirmed that on (b)(6); 2021, you participated in a (b)(6); (b)(7)(C) to discuss the (b)(6); (b)(7)(C) OSC reviewed (b)(6); (b)(7)(C) and learned that you (b)(6); in your official capacity at (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

² See 5 U.S.C. §§ 7321-7326.
³ 5 U.S.C. § 7323(a)(1). The Hatch Act also prohibits covered employees from: knowingly soliciting, accepting, or receiving political contributions from any person; being candidates for partisan political office; knowingly soliciting or discouraging the political activity of any individual with business before their employing office; and engaging in political activity while on duty, in a government building, while wearing an official uniform or insignia, or using an official vehicle. 5 U.S.C. §§ 7323(a)(2)-(4) and 7324(a). However, (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

⁴ 5 C.F.R. § 734.101.

U.S. Office of Special Counsel

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and (b)(6); (b)(7)(C) about HUD-related topics. You discussed, among other things, the

(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C) As part of its investigation, OSC also spoke with HUD ethics officials and learned that in the days following (b)(6); (b)(7)(C) you were counseled about the Hatch Act's restrictions.

By stating, for example, that (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) you showed support for the (b)(6); (b)(7)(C) with respect to the (b)(6); (b)(7)(C) while speaking in your official capacity. Accordingly, OSC has concluded that you violated the Hatch Act during your official (b)(6); (b)(7)(C) But considering that shortly after the incident you expressed remorse about your statement and that HUD ethics officials counseled you about the Hatch Act, we are closing this matter by issuing you this warning letter. Please be advised that if in the future you engage in prohibited political activity, we will consider such activity to be a willful and knowing violation of the law that could result in further action.

If you have any questions, please contact Hatch Act Unit attorney Jacqueline Yarbro at (202) 804-(b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)

Sincerely,

(b)(6); (b)(7)(C)

Ana Galindo-Marrone
Chief, Hatch Act Unit



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

May 20, 2021

(b)(6); (b)(7)(C)

VIA ELECTRONIC MAIL:

(b)(6); (b)(7)(C)

Re: OSC File No. HA-21- (b)(6);

Dear (b)(6); (b)(7)(C)

On (b)(6); 2021, the U.S. Office of Special Counsel issued you a letter stating that your candidacy in the election for (b)(6); County (b)(6); (b)(7)(C) District Board of Supervisors was in violation of the Hatch Act. We advised you that you could come into compliance with the law by withdrawing your candidacy or resigning from your employment with the U.S. Department of Defense. We have confirmed that you have withdrawn your candidacy for the Board of Supervisors position by publicly announcing your withdrawal and filing a form stating such with the appropriate (b)(6); County (b)(6); (b)(7)(C) elections office.

Because you promptly took steps to come into compliance with the Hatch Act, we have decided not to pursue disciplinary action and are closing this matter. Please be aware that should you again become a candidate for partisan political office in violation of the Hatch Act, we would consider such candidacy to be a willful and knowing violation of the law that could result in disciplinary action. If you have any questions, please contact Hatch Act Unit attorney Jacqueline Yarbrow at (202) 804- (b)(6); (b)(7)(C)

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief
Hatch Act Unit



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

March 2, 2021

(b)(6); (b)(7)(C)

VIA EMAIL

(b)(6); (b)(7)(C)

Re: OSC File No. HA-20- (b)(6); (b)(7)(C)

Dear (b)(6); (b)(7)(C)

This letter is in response to a complaint filed with the U.S. Office of Special Counsel (OSC) alleging that you violated the Hatch Act by displaying in your office for several months in 2019 photographs of (b)(6); (b)(7)(C). As explained below, OSC has concluded that you violated the Hatch Act, and we are issuing you this warning letter.

The Hatch Act governs the political activity of federal civilian executive branch employees, including Internal Revenue Service (IRS) employees.¹ The law prohibits employees from engaging in political activity while on duty, in a government building, while wearing an official uniform or insignia, or using a government vehicle.² Political activity is defined as activity directed toward the success or failure of a political party, partisan political group, or candidate for partisan political office.³

The complaint alleged that, in (b)(6); (b)(7)(C) 2019, you displayed several (b)(6); (b)(7)(C) photographs of (b)(6); (b)(7)(C) in your office. After these photographs were reported to management and you were counseled about the images, they were removed. But in (b)(6); (b)(7)(C) 2019, the (b)(6); (b)(7)(C) photographs and a calendar about (b)(6); (b)(7)(C) were again displayed in your office. Shortly after the complaint was filed with our office, the photographs and calendar were removed once more.

During OSC's investigation of this matter, we reviewed images of the photographs and calendar displayed in your office. The two (b)(6); (b)(7)(C) images were pictures of (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) and the calendar appeared to be one distributed by the (b)(6); (b)(7)(C) that showed (b)(6); (b)(7)(C). As part of our investigation, OSC contacted you for an interview, and you indicated that you may hire legal counsel. After this initial communication, OSC periodically attempted to contact you to schedule the interview, but you did not respond. Finally, OSC informed you that we intended to

¹ See 5 U.S.C. §§ 7321-7326.

² 5 U.S.C. § 7324. The Hatch Act also prohibits employees from: using their official authority or influence for the purpose of affecting the result of an election; knowingly soliciting, accepting, or receiving political contributions from any person; being candidates for partisan political office; and knowingly soliciting or discouraging the political activity of any individual with business before their employing office. 5 U.S.C. § 7323(a)(1)-(4).

³ 5 C.F.R. § 734.101.

U.S. Office of Special Counsel

Page 2

conclude our investigation without your interview if you did not respond by (b)(6); (b)(7)(C) 2021. You did not respond to this final communication.

The Hatch Act prohibits federal employees from displaying pictures of candidates for partisan political office in the federal workplace.⁴ Because (b)(6); (b)(7)(C) was a candidate for (b)(6); at the time you displayed the photographs and calendar in your office, OSC has concluded that you violated the Hatch Act, and we are issuing you this warning letter. Please note that if in the future you engage in prohibited political activity, we will consider such activity to be a willful and knowing violation of the law that could result in disciplinary action.

If you have any questions, please contact Hatch Act Unit attorney Jacqueline Yarbro at (202) 804-(b)(6); (b)(7)(C)

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief
Hatch Act Unit

⁴ 5 C.F.R. § 734.306, (b)(6); (b)(7)(C)

(b)(6); (b)(7)(C)



U.S. OFFICE OF SPECIAL COUNSEL

1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

January 14, 2021

(b)(6); (b)(7)(C)

VIA EMAIL: (b)(6); (b)(7)(C)

Re: OSC File No. HA-20 (b)(6); (b)(7)(C)

Dear (b)(6); (b)(7)(C)

This letter is in response to a complaint filed with the U.S. Office of Special Counsel (OSC) alleging that you violated the Hatch Act while you were on duty at the U.S. Nuclear Regulatory Commission (NRC) by sending an email to (b)(6); (b)(7)(C) with links to view (b)(6); (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) As explained below, OSC has concluded that you violated the Hatch Act, and we are issuing you this warning letter.

The Hatch Act governs the political activity of federal civilian executive branch employees, including NRC employees.¹ The law prohibits employees from, among other things, engaging in political activity while on duty or in a federal room or building.² Political activity is defined as activity directed toward the success or failure of a political party, partisan political group, or candidate for partisan political office.³

OSC analyzed whether you violated this prohibition when, on (b)(6); (b)(7)(C) 2020, you sent an email to (b)(6); (b)(7)(C) with the subject, (b)(6); (b)(7)(C) You wrote that the email was sent on (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) and you included links to (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) Additionally, you wrote that the (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) and that the (b)(6); (b)(7)(C) were included in the email to (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) You signed the email, (b)(6); (b)(7)(C) (b)(6); (b)(7)(C)

¹ See 5 U.S.C. §§ 7321-7326.

² 5 U.S.C. § 7324(a). The Hatch Act also prohibits employees from: using their official authority or influence for the purpose of affecting the result of an election; knowingly soliciting, accepting, or receiving political contributions from any person; being candidates for partisan political office; and knowingly soliciting or discouraging the political activity of any individual with business before their employing office. 5 U.S.C. § 7323(a)(1)-(4).

³ 5 C.F.R. § 734.101.

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You explained that the purpose of your email was to [REDACTED] (b)(6); (b)(7)(C)
[REDACTED] (b)(6); (b)(7)(C) However, OSC determined that the [REDACTED] (b)(6); (b)(7)(C) referenced
in the email include [REDACTED] (b)(6); (b)(7)(C)
[REDACTED] (b)(6); (b)(7)(C)

Accordingly including these [REDACTED] (b)(6); (b)(7)(C) in your email constituted political activity for purposes of the Hatch Act, and because you were on duty when you engaged in this political activity, you violated the Hatch Act.

Although OSC has concluded that you violated the Hatch Act, we are closing this matter without further action. Please be advised that if in the future you engage in activity prohibited by the Hatch Act while employed in a Hatch Act-covered position, OSC would consider such activity to be a willful and knowing violation of the law that could result in disciplinary action.

If you have any questions, please contact OSC attorney Sherri Borman at (202) 804-

[REDACTED] (b)(6); (b)(7)(C)

Sincerely,

[REDACTED] (b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief, Hatch Act Unit



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

April 20, 2021

(b)(6); (b)(7)(C)

VIA ELECTRONIC MAIL: (b)(6); (b)(7)(C)

Re: OSC File No. HA-20- (b)(6);

Dear (b)(6);

This letter is in response to a complaint the U.S. Office of Special Counsel (OSC) received alleging that you violated the Hatch Act by engaging in political activity on Facebook while you were on duty at the Defense Finance and Accounting Service (DFAS). Although OSC has concluded that you violated the Hatch Act, as explained below, we have decided not to pursue disciplinary action and instead are issuing you this warning letter.

The Hatch Act governs the political activity of federal civilian executive branch employees, including DFAS employees.¹ Among other things, the Hatch Act prohibits employees from engaging in political activity while on duty, in a federal room or building, while wearing an official uniform or insignia, or using a government vehicle.² Political activity is defined as activity directed toward the success or failure of a political party, partisan political group, or candidate for partisan political office.³

Because the complaint involved on-duty activity, OSC considered whether you violated this prohibition of the Hatch Act. OSC understands that on (b)(6); 2020, you were contacted by a DFAS attorney and warned that your social media activity could violate the Hatch Act. The attorney advised you on the Hatch Act's prohibition against engaging in political activity while on duty. It was alleged that after you received this warning, you continued to engage in political activity on Facebook during work hours.

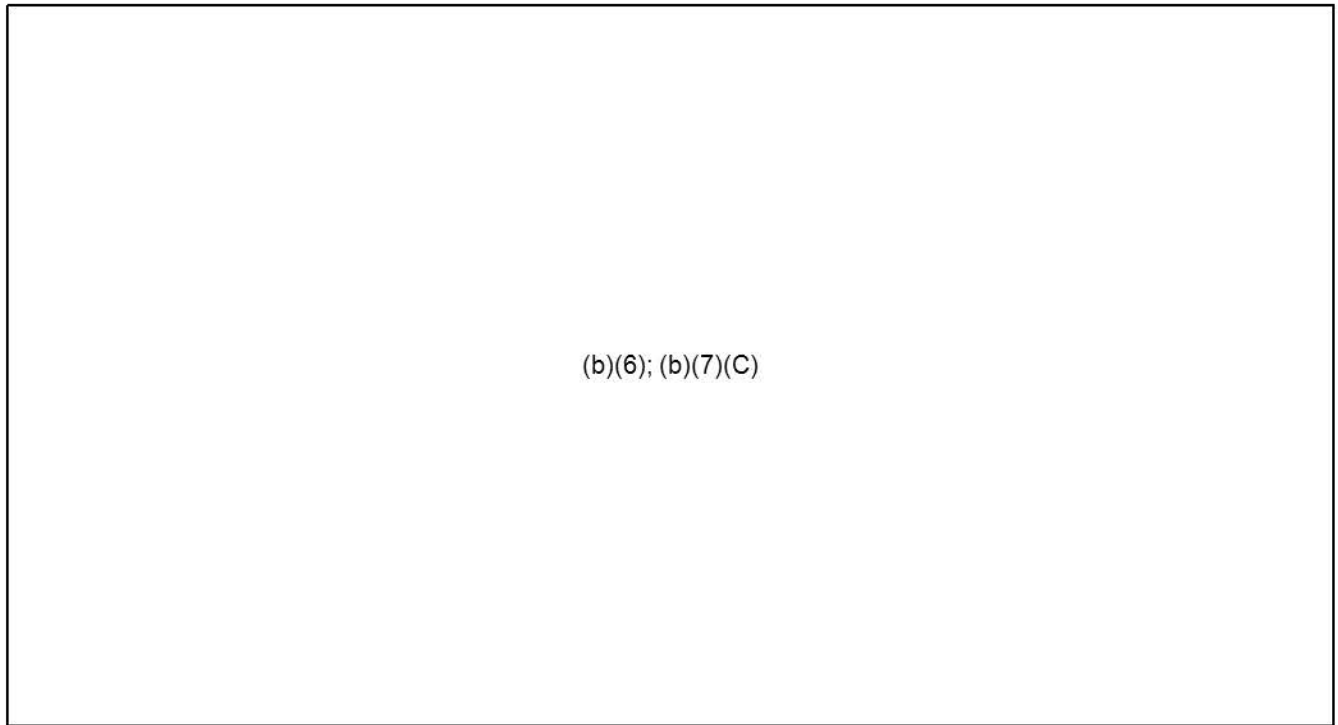
OSC's investigation corroborated allegations that prior to being warned and counseled on (b)(6); 2020, you posted at least 19 messages on Facebook about candidates and political parties. During an

¹ See generally 5 U.S.C. §§ 7321-7326.

² 5 U.S.C. § 7324(a). The Hatch Act also prohibits employees from: using their official authority or influence for the purpose of affecting the result of an election; knowingly soliciting, accepting, or receiving political contributions from any person; being candidates for public office in partisan elections; and knowingly soliciting or discouraging the political activity of any individual with business before their employing office. 5 U.S.C. § 7323(a).

³ 5 C.F.R. § 734.101.

interview with OSC, you admitted to posting these messages while you were on duty. The following are examples of messages you posted on Facebook:



At the time you posted these messages, (b)(6); (b)(7)(C) and (b)(6); (b)(7)(C) were candidates in the 2020 (b)(6); election. Accordingly, posting messages that showed support for or opposition to these candidates or to political parties constituted political activity for purposes of the Hatch Act. Thus, because you admitted to posting these messages, and other ones about candidates and political parties, while you were on duty, OSC has concluded that you violated the Hatch Act.

However, although OSC confirmed that you engaged in prohibited political activity, we could not corroborate allegations that you continued to do so after being warned and counseled by a DFAS attorney on (b)(6); 2020. Therefore, while OSC has concluded that you violated the Hatch Act, we have decided not to pursue disciplinary action and will close this matter without further action. Please be advised that if in the future you engage in activity prohibited by the Hatch Act while employed in a Hatch Act-covered position, OSC would consider such activity to be a willful and knowing violation of the law that could result in disciplinary action. Please contact OSC Hatch Act Unit Attorney Kelley Resendes at (202) 804-(b)(6); (b)(7)(C) with any questions.

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief, Hatch Act Unit



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-804-7000

March 23, 2021

(b)(6); (b)(7)(C)

VIA ELECTRONIC MAIL: (b)(6); (b)(7)(C)

Re: OSC File No. HA-19 (b)(6); (b)(7)(C)

Dear (b)(6); (b)(7)(C)

This letter is in response to a complaint the U.S. Office of Special Counsel (OSC) received alleging that you violated the Hatch Act in (b)(6); 2018 by telling subordinate employees that (b)(6); (b)(7)(C) OSC understands that you are, and were in (b)(6); 2018, a (b)(6); working for the Internal Revenue Service (IRS). Although OSC has concluded that you violated the Hatch Act, as explained below, we have decided not to pursue disciplinary action and instead are issuing you this warning letter.

The Hatch Act governs the political activity of federal civilian executive branch employees, including IRS employees.¹ The Hatch Act prohibits employees from, among other things, engaging in political activity while on duty, in a federal room or building, while wearing an official uniform or insignia, or using a government vehicle.² Political activity is defined as activity directed toward the success or failure of a political party, partisan political group, or candidate for partisan political office.³

The Hatch Act also prohibits employees from using their official authority or influence for the purpose of interfering with or affecting the result of an election.⁴ An employee would violate this prohibition by, for example, using one's official title or position while engaged in political activity or coercing others into engaging in political activity.⁵ Hatch Act cases that involve the use of official authority prohibition and subordinate employees are particularly

¹ See generally 5 U.S.C. §§ 7321-7326.

² 5 U.S.C. § 7324. The Hatch Act also prohibits employees from: knowingly soliciting or discouraging the political activity of any individual with business before their employing office; knowingly soliciting, accepting, or receiving political contributions from any person; and being candidates for public office in partisan elections. 5 U.S.C. § 7323(a).

³ 5 C.F.R. § 734.101.

⁴ 5 U.S.C. § 7323(a)(1).

⁵ 5 C.F.R. § 734.302(b).

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serious because the Merit Systems Protection Board, which adjudicates Hatch Act cases, has deemed the supervisor-subordinate relationship to be inherently coercive.⁶

Because this complaint involved workplace activity and statements made to subordinate employees, OSC considered whether the alleged conduct violated the above provisions of the Hatch Act. OSC understands that on (b)(6); 2018, (b)(6); (b)(7)(C) (b)(6); (b)(7)(C) It was alleged that on the day of this (b)(6) you announced to subordinate employees that they would (b)(6); (b)(7)(C) Although you denied making this statement or any announcement about the (b)(6); (b)(7)(C) several witnesses corroborated these allegations.

Specifically, witnesses testified that on the afternoon of (b)(6); 2018, you came out of your office, which faced your subordinate employees, made an announcement about (b)(6); (b)(6) and then said that (b)(6); (b)(7)(C) Witnesses claimed that you made this statement unprompted and that afterwards you went back into your office for the rest of the day. Although this activity occurred over two years before the 2020 (b)(6); (b)(7)(C) election, in (b)(6); 2018 (b)(6); (b)(7)(C) was a candidate for (b)(6); (b)(7)(C) Therefore, arguably, by making this gratuitous statement about (b)(6); (b)(7)(C) to your subordinate employees, you engaged in prohibited political activity in violation of the Hatch Act.

Because OSC's determination in this case was a close call, we have decided not to pursue disciplinary action and will close this matter without further action. Please be advised that if in the future you engage in activity prohibited by the Hatch Act while employed in a Hatch Act-covered position, OSC would consider such activity to be a willful and knowing violation of the law that could result in disciplinary action. Please contact OSC Attorney Kelley Resendes with any questions at (202) 804-(b)(6);

Sincerely,

(b)(6); (b)(7)(C)

Erica S. Hamrick
Deputy Chief, Hatch Act Unit

⁶ See *Special Counsel v. Purnell*, 37 M.S.P.R. 184, 185 (1995), *aff'd sub nom.*, *Fela v. Merit Sys. Prot. Bd.*, 730 F. Supp. 779 (N.D. Ohio 1989) (reaffirming Civil Service Commission rule stating that it is inherently coercive for a supervisor to ask an employee to contribute to a political cause, absent exculpatory circumstances).