

United States Senate

WASHINGTON, DC 20510-0803


July 18, 2018

The Honorable Henry Kerner
Special Counsel
U.S. Office of Special Counsel
1730 M Street, NW
Washington, DC 20036

Dear Special Counsel Kerner:

As you know, the Hatch Act generally prohibits certain categories of political activities for all covered employees.¹ I write today to request your assistance with a review of a tweet by Stephanie Grisham, Deputy Assistant to the President and Director of Communications for the First Lady.

On July 11, 2018, Ms. Grisham sent the following tweet from her official White House Twitter account that raised serious concerns:

Three years ago today I listened to my gut & joined the Trump team in #PHX...& life has never been the same. So proud to work for both @POTUS @realDonaldTrump & @FLOTUS  #MAGA

Ms. Grisham's tweet may have also violated other Hatch Act regulations that prohibit certain categories of political activities. Specifically, the Office of Personnel Management's regulations state:

An employee covered under this subpart may not participate in political activities: while he or she is on duty...while he or she is any room or building occupied in the discharge of official duties by an individual employed or holding office in the Government of the United States or any agency or instrumentality thereof....²

In this case, it is unclear whether Ms. Grisham was on official duty or federal property when she sent this tweet from her official White House Twitter account.

As I have stated in my previous letters, the Trump Administration has demonstrated a clear disregard for the Hatch Act. Pursuant to my referral, the Office of Special Counsel (OSC) found that White House Director of Social Media Dan Scavino Jr. violated the Hatch Act in using his official position to oppose the election of Representative Justin Amash.³ OSC also

¹ 5 U.S.C. § 7321 *et seq.* (2015).

² 5 C.F.R. § 734.406(a) (2016).

³ Letter from Ana Galindo-Marrone to Senator Tom Carper re OSC File No. HA-17-2986 (June 5, 2017).

concluded that U.S. Ambassador to the United Nations Nikki Haley violated the Hatch Act in using her official position to retweet President Trump's endorsement of Ralph Norman in a special election.⁴ OSC also concluded that Senior Counselor to the President Kellyanne Conway violated the Hatch Act by weighing in on the Alabama special U.S. Senate election during multiple television segments in November 2017.⁵ On February 27, 2018, a press release announcing the appointment of President Donald Trump's re-election campaign manager initially included Jared Kushner's official title as Senior Advisor to the President.⁶ According to your office, Mr. Kushner did not even authorize the campaign to use his official title.⁷ Taken together, this is a clear pattern of flouting and abusing the law designed to prohibit government officials from using their office to influence political matters.

As the Special Counsel, you have authority to review potential Hatch Act violations. I request that you use the authority Congress granted you under the Hatch Act of 1939, as amended, to "receive any allegation of a prohibited personnel practice and shall investigate the allegation to the extent necessary to determine whether there are reasonable grounds to believe that a prohibited personnel practice has occurred, exists, or is to be taken."⁸

I request that you review this letter and act promptly on the basis of your findings. I also ask you to report back to my staff with any recommendation for disciplinary action, if warranted. If you or members of your staff have any questions about this request, please do not hesitate to ask your staff to contact [REDACTED] 202-224-2441.

With best personal regards, I am

Sincerely yours,



Tom Carper
U.S. Senator

cc: The Honorable Dr. Jeff T.H. Pon
Director
U.S. Office of Personnel Management

Don McGahn
White House Counsel
Office of the White House Counsel

⁴ *Nikki Haley Hit for Hatch Act Violation Over Trump Retweet*, POLITICO (Oct. 3, 2017).

⁵ Letter from Special Counsel Henry Kerner to President Donald Trump re: OSC File No. HA-18-0966 (Mar. 6, 2018).

⁶ *President Trump Announces 2020 Campaign Manager*, DONALD J. TRUMP (Feb. 27, 2018), available at <https://www.donaldjtrump.com/media/president-trump-announces-2020-campaign-manager>.

⁷ Letter from Ana Galindo-Marrone to Senator Tom Carper re Jared Kushner Hatch Act Investigation (Apr. 25, 2018).

⁸ 5 U.S.C. § 1214 (2015).