



U.S. OFFICE OF SPECIAL COUNSEL

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October 12, 2017

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1700 G Street, N.W.
Washington, DC 20552

VIA EMAIL: RC@cfpb.gov

Re: OSC File No. HA-17-4842

Dear Mr. Cordray:

The U.S. Office of Special Counsel (OSC) completed its investigation into allegations that you violated the Hatch Act by being a candidate in the 2018 Ohio gubernatorial election while employed as the Director of the Consumer Financial Protection Bureau (CFPB). As explained below, OSC found no evidence that you have violated the Hatch Act.

As CFPB Director, you are subject to the provisions of the Hatch Act, which governs the political activity of federal civilian executive branch employees. Therefore, the Hatch Act prohibits you from, among other things, running for the nomination or as a candidate for election to a partisan political office. 5 U.S.C. § 7323(a)(3). The Hatch Act's prohibition against candidacy "extends not merely to the formal announcement of candidacy but also to the preliminaries leading to such announcement and to canvassing or soliciting support or doing or permitting to be done any act in furtherance of candidacy." 86 Cong. Rec. 2938-2940 (September 1939), *quoting* Civil Service Commission Form 1236 "Political Activity and Assessments" (explanation of Hatch Act prohibitions by bill sponsor Senator Carl Hatch); *Civil Serv. Comm'n v. Letter Carriers*, 413 U.S. 548, 573, 581 (1973) (Supreme Court adopting and appending Civil Service Commission Form 1236 to its decision and explaining that Congress intended this form to serve as its definition of the general proscriptions against partisan activities).

Because the statute has been interpreted to prohibit preliminary activities regarding candidacy, any action that can reasonably be construed as evidence that the individual is seeking support for or undertaking an initial "campaign" to secure nomination or election to office would be viewed as candidacy for purposes of the Hatch Act. The following are examples of preliminary activities directed toward candidacy that would violate the Hatch Act: taking the action necessary under the law of a state to qualify for nomination for election; soliciting or receiving contributions or making expenditures; giving consent to or acquiescing in such activity by others on the employee's behalf; meeting with individuals to plan the logistics and strategy of a campaign; circulating nominating petitions; or holding a press conference concerning one's candidacy. However, merely discussing with family or close friends the possibility of running;

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fact-finding to learn what would be required to run; or making inquiries to understand the current political landscape would not violate the candidacy prohibition of the Hatch Act.

The complaints OSC received alleged that you violated the Hatch Act by engaging in preliminary activities regarding a candidacy for Governor of Ohio. OSC's investigation, however, found no evidence that you have engaged in any of the types of preliminary activities directed toward candidacy that would violate the Hatch Act. Accordingly, we are closing our file without further action.

You may contact me at (202) 804-7054 if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink that reads "Erica S. Hamrick". The signature is written in a cursive style with a large initial "E".

Erica S. Hamrick
Deputy Chief
Hatch Act Unit