



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

June 1, 2026

Ms. Ana Galindo-Marrone
Chief, Hatch Act Unit
Office of Special Counsel
1730 M Street, NW
Suite 218
Washington, DC 20036-4505

Re: Hatch Act Violation by White House Deputy Chief of Staff for Policy and
Homeland Security Advisor Stephen Miller regarding U.S. Senate candidates

Dear Ms. Galindo-Marrone:

Citizens for Responsibility and Ethics in Washington (“CREW”) respectfully requests that the Office of Special Counsel (“OSC”) investigate statements made by White House Deputy Chief of Staff for Policy and Homeland Security Advisor¹ Stephen Miller in his official capacity related to the success or failure of candidates for partisan office in an interview on Fox News. Mr. Miller’s comments are a clear violation of the Hatch Act. As detailed below, Mr. Miller expressed partisan political views related to candidates in an election for federal office while appearing in a television interview in his official government capacity, which is political activity prohibited by law. We therefore request that OSC investigate, and report its findings publicly and to the president for any further action.

Factual Background

On May 28, 2026, White House Deputy Chief of Staff for Policy and Homeland Security Advisor Miller appeared on Fox News and conducted an interview with host Jesse Watters where he discussed Trump administration policy including whether the United States has yet entered a deal to end President Trump’s war in Iran.² During the segment, Miller was featured with a chyron identifying him by his government title, “Deputy Chief of Staff for Policy” as he touted the Trump administration’s military campaign in Iran and discussed President Trump’s divergence from President Obama’s Iran policy.³ Seconds later, the host transitioned from Iran to discussing partisan politics, stating, “It was a historical

¹ U.S. Off. of Gov’t Ethics, Public Financial Disclosure Report (OGE Form 278(e)), Miller, Stephen, N (Mar. 14, 2025), <https://www.whitehouse.gov/wp-content/uploads/2025/06/Miller-Stephen.pdf>.

² *Stephen Miller: President Trump has been clear about this*, Fox News (May 28, 2026), <https://www.foxnews.com/video/6396903479112>.

³ *Id.*

defeat militarily and could we see another historical defeat in Texas because the Democrats have nominated James Talarico who to me just screams Texas.”⁴ Talarico is the Democratic party’s nominee for United States Senate in Texas and faces Republican nominee Ken Paxton in the November general election.⁵



Despite the host’s abrupt transition from official business to electoral politics, Miller responded immediately with partisan comments directed towards Talarico’s candidacy.⁶ Miller started with jokes questioning Talarico’s sexuality. He stated, “I think it is very bold, one could even say brave, courageous that the Democratic Party would choose Texas of all places to nominate their first transgender senate candidate who is clearly transitioning into a female.”⁷ He added, “When Talarico goes in for a blood test when he gets a physical, blood doesn’t come out. Instead, soy milk comes out. This man has less testosterone than [Democratic primary opponent] Jasmine Crockett.”⁸ He continued the attacks, stating, “It is a mind boggling choice that they would choose a person to run for that office who looks like he doesn’t belong in the Senate but in a cabaret show.”⁹ Miller closed his bigoted partisan remarks by saying, “At the end of the day, I have a hard time believing that the people of Texas ... are gonna choose somebody with that much soy to be a U.S. Senator compared to a real conservative patriotic, god-fearing and truly beloved state-wide figure in Ken Paxton.”¹⁰

⁴ *Id.*

⁵ Kayla Guo, *Tala-freak-o vs. Ken the Criminal: Texas candidates sharpen attacks as U.S. Senate race locks in*, Tex. Tribune (May 27, 2026)

<https://www.texastribune.org/2026/05/27/james-talarico-ken-paxton-launch-attack-ads-in-texas-u-s-senate-race/>.

⁶ *Supra* note 1, *Stephen Miller*.

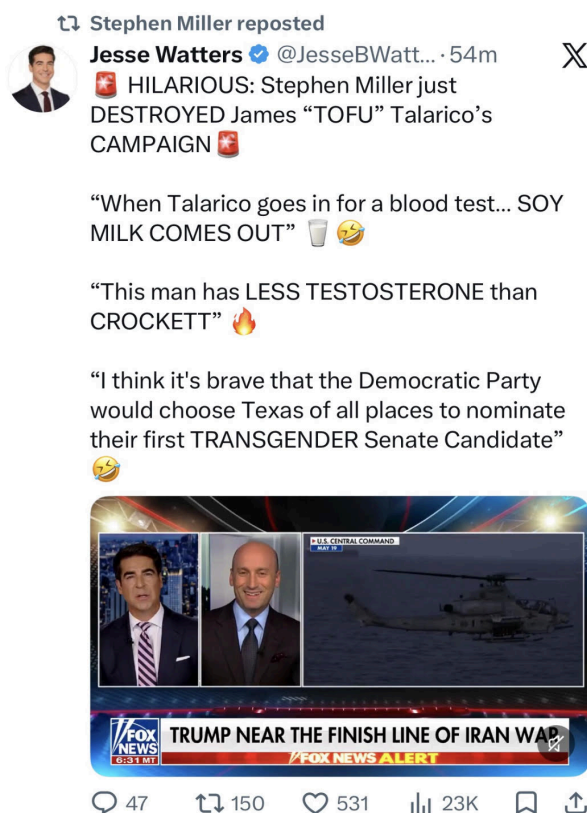
⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

Fox News posted the Miller segment on its website, referencing the official nature of the interview with the description: “White House deputy chief of staff for policy Stephen Miller discusses next steps in the Iran conflict on 'Jesse Watters Primetime.’”¹¹ Following the segment, host Jesse Watters confirmed the partisan nature of Miller’s remarks, quickly posted a portion of the interview to his social media account on the X platform, stating: “HILARIOUS: Stephen Miller just DESTROYED James “TOFU” Talarico’s CAMPAIGN” in a post full of capital letters and emojis.¹²



Miller reposted the message from his personal X account, though the header includes his White House affiliation as “@WhiteHouse Deputy Chief of Staff for Policy and Homeland Security Advisor | 45 & 47.”¹³

As detailed below, Miller’s partisan statements in his official capacity likely violate the Hatch Act.

¹¹ *Id.*

¹² Jesse Watters (@JesseBWatters), X (May 28, 2026, at 9:02 PM), <https://x.com/JesseBWatters/status/2060164930473480305>.

¹³ *Id.*; see also Stephen Miller (@StephenM), X, <https://x.com/StephenM>.

Potential Violations

The Hatch Act prohibits any executive branch employee from “us[ing] his official authority or influence for the purpose of interfering with or affecting the result of an election.”¹⁴ Activities covered by this prohibition include the official “[u]sing his or her official title while participating in political activity.”¹⁵ “Political activity” is defined as “an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.”¹⁶ The Hatch Act’s prohibitions related to political activity apply regardless of whether an official is advocating for or against a particular outcome of an election. The critical elements of a violation require that the official uses their official authority such as their title and position and that the official engage in political activity, including remarks that advocate for a particular outcome in a partisan political election.

Miller’s statements were made in an interview where he appeared on behalf of the Trump administration, discussed official government business including whether and how the war in Iran might end and where he was referred to by his official government title. In the same interview, Miller’s comments specifically questioned Talarico’s selection as Democratic nominee for a partisan office, attacked his candidacy in the general election, and praised his opponent Ken Paxton as “a real conservative patriotic, god-fearing and truly beloved state-wide figure” that Texas voters should prefer by comparison.

The Office of Special Counsel has previously found that a senior government employee has violated the Hatch Act under similar circumstances to Miller’s interview, where an official pivots from official government business to positive or negative statements about a candidate for partisan office during an official interview or press conference. OSC has consistently enforced the Hatch Act in this way against senior officials in presidential administrations of both parties, issuing reports and letters directly to the president where appropriate.¹⁷ For example, in 2016, OSC found that President Obama’s HUD

¹⁴ 5 U.S.C. § 7323(a)(1).

¹⁵ 5 C.F.R. § 734.302(b)(1).

¹⁶ 5 C.F.R. § 734.101.

¹⁷ See U.S. Off. of Special Couns., *Report of Prohibited Political Activity under the Hatch Act OSC File No. HA-18-0966 (Kellyanne Conway)* (Mar. 6, 2018),

<https://www.osc.gov/~assets/docs/report-of-prohibited-political-activity-kellyanne-conway-ha-18-0966.pdf>;

U.S. Off. of Special Couns., *Investigation of Political Activities by Senior Trump Administration Officials During the 2020 Presidential Election* (Nov. 9, 2021),

<https://www.osc.gov/~assets/docs/investigation-of-political-activities-by-senior-trump-administratio-136ab295.pdf> (highlighting eleven administration officials who violated the Hatch Act during official interviews or media appearances); Letter from Erica S. Hamrick, U.S. Off. of Special Couns., to Noah Bookbinder, CREW, Re: OSC File

Nos. HA-22-000004 (Dec. 1, 2021),

<https://www.citizensforethics.org/wp-content/uploads/2021/12/HA-22-000004.pdf> (confirming OSC’s conclusion and actions taken regarding a Hatch Act violation by Press Secretary Jen Psaki); Letter from Charles N. Baldis, U.S. Off. of Special Couns., to President Trump, Re: OSC File No. HA-25-000080 (May 16, 2025),

<https://www.osc.gov/~assets/docs/250516-report-of-prohibited-political-activity-omalley.pdf> (confirming OSC’s conclusion regarding a Hatch Act violation by Social Security Commissioner Martin O’Malley).

Secretary violated the law when during an interview at agency headquarters, he stated, “Now, taking off my HUD hat for a second and just speaking individually, it is very clear that Hillary Clinton is the most experienced, thoughtful, and prepared candidate for President that we have this year.”¹⁸ In a letter to President Obama informing him of the violation, then-Special Counsel Carolyn Lerner noted that “she hoped her [office’s] findings would encourage other federal employees to abide by their obligations not to engage in political activities while engaged in official duties.”¹⁹ It is notable that in Miller’s interview he made no attempt to draw any distinction between official and unofficial statements at all.²⁰

Conclusion

OSC historically and consistently has carried out its duty to investigate and identify violations faithfully, regardless of which president or party is in the White House. In the case of senior administration officials, OSC refers its determinations of violation to the president to take appropriate action, rather than enforce the violation itself.²¹ The partisan political statements made by Miller regarding current candidates for election in the upcoming Texas Senate race were clearly political activity under the Hatch Act, issued in the speaker’s official capacity, and therefore constitute a violation that OSC should address to prevent continued noncompliance with the law. Thank you for your prompt attention to this matter.

Sincerely,



Donald Sherman
President and Chief Executive Officer

¹⁸ Josh Gerstein, *Ethics agency says HUD Chief Castro violated Hatch Act*, Politico (July 18, 2016), <https://www.politico.com/story/2016/07/julian-castro-ethics-hud-hatch-225732>; see also Letter from Erica S. Hamrick, U.S. Off. of Special Couns., to Noah Bookbinder, CREW, Re: OSC File Nos. HA-22-000004 (Dec. 1, 2021), <https://www.citizensforethics.org/wp-content/uploads/2021/12/HA-22-000004.pdf>. Although the president is exempt from the Hatch Act, a spokesperson can violate the Hatch Act, even when expressing the president’s views about a race for partisan office. As OSC noted in 2021 in response to a CREW complaint, a statement by President Biden’s press secretary, Jen Psaki “that the president wanted former Governor McAuliffe to be the next governor of Virginia and they were going to do everything to help him, was directed at Mr. McAuliffe’s success in the 2021 Virginia gubernatorial election” and she was found in violation of the Hatch Act.

¹⁹ *Id.*

²⁰ *Supra* note 11, Watters.

²¹ See 5 U.S.C. 1215(b).