

September 9, 2026

The Honorable Charles N. Baldis
Special Counsel
Office of Special Counsel
1730 M Street NW
Suite 218
Washington, DC 20036-4505

Re: Hatch Act complaint regarding Trump administration officials canceling federal grants based on states' electoral votes going to President Trump's opponent in a partisan election

Dear Special Counsel Baldis:

Citizens for Responsibility and Ethics in Washington ("CREW") respectfully requests that the Office of Special Counsel ("OSC") investigate the conduct of the Office of Management and Budget ("OMB"), Department of Energy ("DOE") and any other government employees involved in the cancellation of federal grants or the denial of any government services to states or members of the public based on the political identity of the recipient or the political voting record of the state in which they reside. After repeated public statements by President Trump articulating a desire to punish "Blue states" or Democrat-led jurisdictions and the stunning admissions by DOE officials that after intervention by OMB staff, DOE grants included in a tranche for rescission were "based solely on the political identity of the grant recipient's state, i.e., whether the recipient's location and/or place of performance was in a Blue State or a non-Blue State," it is clear that administration officials showed partisan bias against supporters of a candidate for partisan political office in the conduct of their government work.¹ As OSC has made clear, the Hatch Act's purposes include "to ensure that federal programs are administered in a nonpartisan fashion [and] to protect federal employees from political coercion in the workplace," among others.² DOE's admissions in court reflect a clear betrayal of the Hatch Act by administration officials and demand immediate investigation and accountability by OSC for all involved in this partisan punishment of American citizens.

¹ See Parties' Stipulations and Agreement to Obviate Discovery as to DoE and DoE's Stipulations of Fact and Agreement to Produce Grants Spreadsheet, *Thakur v. Trump*, (N.D. Cal. Case No. 3:25-cv-04737-RL) (July 15, 2026), <https://storage.courtlistener.com/recap/gov.uscourts.cand.450653/gov.uscourts.cand.450653.211.6.pdf>.

² U.S. Off. of Special Couns., *Hatch Act Overview* (last visited Sept. 2, 2026), <https://www.osc.gov/services/hatch-act/overview/>.

Factual background

Despite serving as president of the United States representing all Americans, Donald Trump has used his time in office to repeatedly threaten or attack Democratic-led cities and states using the powers of the federal government.³ For example, the *New York Times* reported that in President Trump's first term, he "rail[ed] against 'Democrat cities' and 'badly run blue states'" and even "sought to punish them with tax policies and threats to withhold federal funding, while devoting far more time and attention to red states."⁴ According to the Center on Budget and Policy Priorities, during the second Trump term "the Administration attempted to illegally freeze billions of dollars that Congress had provided to support low-income families' child care and other essential needs in five states led by Democratic governors" and "during the government shutdown, the Administration targeted blue states with funding freezes and cuts."⁵

While the president is certainly entitled to express his political views about states that did not support his re-election in 2024 or jurisdictions that are currently run by leaders from the Democratic party, the federal government cannot dole out benefits and burdens based on partisanship. Yet, that is exactly what government agencies and relevant employees have done under the leadership of the Trump administration. In court documents filed in July in *Thakur v. Trump*, litigation challenging the administration's cancellation of \$7.6 billion in grants for hundreds of clean energy projects, DOE admitted that these decisions were made "based solely on the political identity of the grant recipient's state," referring to 16 states whose Electoral College votes were cast for President Trump's Democratic opponent in the 2024 election, Kamala Harris.⁶ DOE noted that OMB identified the 284 specific grants in question "for inclusion in a tranche of termination notices."⁷ Specifically, Jeff Novak, Principal Deputy General Counsel at the Department of Energy signed a stipulation agreement between the parties attesting that:

2. Consistent with its Executive Branch obligation to clear its funding decisions with the Office of Management and Budget ("OMB"), DOE submitted

³ Peter Baker, *For Trump, It's Not the United States, It's Red and Blue States*, N.Y. Times (Sept. 24, 2020), <https://www.nytimes.com/2020/09/17/us/politics/trump-america.html>.

⁴ *Id.*

⁵ Center on Budget and Policy Priorities, *The Trump Administration Is Engaging in Increasingly Blatant Efforts to Misuse Federal Funds to Coerce and Punish*, (Jan. 27, 2026) <https://www.cbpp.org/blog/the-trump-administration-is-engaging-in-increasingly-blatant-efforts-to-misuse-federal-funds>.

⁶ See Parties' Stipulations, *supra* note 1; see also, Alexa St. John, *Energy Department watchdog will audit Trump's cuts of nearly \$8B in clean energy grants*, Associated Press (Dec. 17, 2025) <https://apnews.com/article/climate-department-of-energy-inspector-general-trump-2b25af6cc7bfb0d512e0c44e9253106>.

⁷ *Id.*

to OMB in September 2025 two lists: a list of 77 Office of Clean Energy Demonstrations (“OCED”) projects that OCED had reviewed and proposed to retain, modify, or terminate, and a list of 2,265 financial assistance awards that other program offices had reviewed and proposed to retain, modify, or terminate.

3. 624 grants on these lists were designated either “termination” or “cancel”; these grants are identified in Exhibit A to this stipulation. This 624-grant list included proposals to terminate awards with a recipient location and/or at least one place of performance in States that awarded their electoral votes to Kamala Harris in the 2024 election and has two Democratic-caucusing Senators, and also awards with a recipient location and/or at least one place of performance in a State that awarded its electoral votes to President Trump in the 2024 election or has at least one Republican-caucusing Senator.

4. In October 2025, OMB identified 284 specific grants on the aforementioned lists for inclusion in a tranche of termination notices.

...

6. With one exception, the 284 terminated grants had a recipient location and/or at least one place of performance in a state that awarded its electoral votes to Kamala Harris in the 2024 election and has two Democratic-caucusing Senators (“Blue State” grants).

...

9. DOE accepts that the inclusion of grants in the October notice tranche was based solely on the political identity of the grant recipient’s state, i.e., whether the recipient’s location and/or place of performance was in a Blue State or a non-Blue State. DOE will not contend that it looked beyond the prime grantee(s) to consider the political identity or geographic distribution of downstream beneficiaries of the grant funds.

10. DOE accepts that the differential treatment resulting in the October 2025 termination of Blue State grants and the non-termination of non-Blue State grants was not based on a rational connection between the recipient’s location and/or place of performance and DOE’s past or current agency priorities.

11. Terminating Blue State grants in October 2025 while not terminating similarly situated non-Blue State grants was not part of DOE’s PRP Charter.

Specifically, (1) the political identity of the grant recipient's state was not a factor that DOE's program offices considered in evaluating whether to retain, modify, or terminate grants, and (2) DOE's program offices had proposed to terminate similarly situated Blue State and non-Blue State grants.⁸

Late last year, in another case related to the selection of grants, Trump administration lawyers confirmed in another court filing that the selection of grants "was influenced by whether a grantee's address was located in a State that tends to elect ... Democratic candidates in state and national elections (so-called 'Blue States')." ⁹

In contrast to the administration's biased treatment of "Blue State" grants, Trump officials "left untouched hundreds of additional energy grants in states that were represented by Republicans and had backed Mr. Trump in the last election, even though the Energy Department had recommended canceling them."¹⁰ The *New York Times* reported that "[t]he cancellations coincided with a broader White House effort at the time to pressure Democratic lawmakers to cave in a fight over funding that had shut down the government."¹¹ Despite the Trump administration's objective to deny grants to "Blue" or Democratic jurisdictions, an analysis by the House Appropriations Committee found that several congressional districts in "Blue states" represented by Republican members of Congress were collateral damage, and experienced more than \$3.5 billion of the cuts.¹²

As detailed below, any agency officials involved in making these decisions based on the political identity of the recipient likely violated the Hatch Act, because they are conditioning funding on a recipient's support or opposition to a particular political candidate or party.

Beyond these blatant expressions of partisanship in federal grant funding, President Trump's partisan agenda in administering federal programs has carried through since his first term to the historically bipartisan issue of disaster recovery, leaving Americans dealing with natural disasters at the mercy of whether their state's voting record favored the president's party.¹³ The president's history of conditioning disaster assistance based on

⁸ See Parties' Stipulations, *supra* note 1.

⁹ St. John, *supra* note 6.

¹⁰ Tony Romm & Brad Plumer, *Trump Administration Admits Canceling Grants to States That Did Not Vote for Him*, N.Y. Times (July 24, 2026), <https://www.nytimes.com/2026/07/24/business/trump-state-grants-canceled.html>.

¹¹ *Id.*

¹² Staff of H. Comm. on Appropriations Democrats, 119th Cong., *Republican Shutdown: Trump and Vought Raise Energy Prices* (Oct. 2, 2025), <https://democrats-appropriations.house.gov/sites/evo-subsites/democrats-appropriations.house.gov/files/evo-media-document/doe-project-terminations-oct-2025.pdf>.

¹³ Oliver Milman, 'Vengeful' Trump withheld disaster aid and will do so again, ex-officials warn, *The Guardian* (Oct. 13, 2024), <https://www.theguardian.com/us-news/2024/oct/13/trump-disaster-funding-warning>.

voting preferences has continued in his second term, even in cases when government officials who ultimately carry out delivery of that assistance could certify that the jurisdictions met the federal requirements for aid.¹⁴ Even now, as states across the country face natural disasters like wildfires, on social media last week, President Trump “explicitly tied natural disaster recovery funds to his endorsements of particular candidates and his appreciation for the states that voted for him.”¹⁵

Relevant law

Congress passed the Hatch Act in 1939 to address the “scandalous political manipulations of Federal relief appropriations . . .” for partisan purposes.¹⁶ As OSC has noted in a recent complaint, the United States Supreme Court “has recognized that one of Congress’s goals in passing the Hatch Act was to ensure that government programs are administered in a nonpartisan manner.”¹⁷ In 1973, the Supreme Court affirmed the constitutionality of the Hatch Act, writing that government employees “are expected to enforce the law and execute the programs of the Government without bias or favoritism for or against any political party or group or the members thereof.”¹⁸ OSC has reinforced this point, stating that the Hatch Act’s purposes include “to ensure that federal programs are administered in a nonpartisan fashion [and] to protect federal employees from political coercion in the workplace” among others.¹⁹

To meet these purposes, the Hatch Act not only prohibits any executive branch employee from engaging in partisan political activities while on duty or in the workplace, but also from “us[ing] his official authority or influence for the purpose of interfering with or affecting the result of an election.”²⁰ Activities covered by this prohibition include the official “[u]sing his or her official title while participating in political activity.”²¹ “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.”²²

¹⁴ Thomas Frank, *Trump overrode his own agencies to deny 4 Democratic disaster requests*, Politico (July 29, 2026),

<https://www.politico.com/news/2026/07/29/fema-democratic-disaster-requests-trump-01013938>.

¹⁵ Marilyn Moore & Kyle Clark, *Colorado waits for disaster aid as Trump doles out assistance to political allies*, 9News.com (Sep. 1, 2026),

<https://www.9news.com/article/news/politics/colorado-waits-disaster-aid-as-trump-assistance-political-allies/73-bde71ad6-7c44-46d0-883b-d1746d3dc2ad>.

¹⁶ 84 Cong. Rec. 9598 (July 20, 1939) (statement of Rep. Taylor).

¹⁷ Complaint for Disciplinary Action, *Special Counsel v. Washington*, M.S.P.B. (Feb. 12, 2025), <https://s3.documentcloud.org/documents/25520661/25.pdf>.

¹⁸ *U.S. Civil Serv. Comm’n v. Nat’l Ass’n of Letter Carriers*, 413 U.S. 548, 565 (1973).

¹⁹ U.S. Off. of Special Couns., *supra* note 2.

²⁰ 5 U.S.C. § 7323(a)(1).

²¹ 5 C.F.R. § 734.302(b)(1).

²² 5 C.F.R. § 734.101.

OSC has repeatedly found that federal employees who favor or punish individuals or entities in the performance of their government roles based on partisanship have engaged in prohibited partisan activity in violation of the Hatch Act. For example, in 2020 OSC announced a settlement agreement with a United States Postal Service (“USPS”) sales associate for violating the Hatch Act by engaging in partisan activity.²³ The employee, while in government uniform, “told a customer that it costs \$0.71 to mail a ballot, but ‘five bucks if you’re a Democrat’ and remarked that he would never again vote for Democratic candidates.”²⁴ OSC noted that the Hatch Act “prohibits federal employees from engaging in political activity while on duty, in a federal building, while wearing a uniform, or using a government-owned vehicle.”²⁵ Also relevant, “[o]ther customers overheard the statements and one witness told OSC she decided to mail her ballot from a local library instead of the post office because she was concerned that the USPS employee would tamper with her ballot.”²⁶ The USPS employee involved was suspended from their job without pay for ten days.²⁷ This example reflects the importance of the Hatch Act’s role in preserving partisan neutrality in federal programs, to prevent any person seeking government services from having or even feeling as if their eligibility for those services depends on their political affiliation or preferences.

In 2025, OSC brought a Hatch Act complaint against a Federal Emergency Management Agency (“FEMA”) employee that “instructed subordinate government employees to ‘avoid homes advertising Trump’ when canvassing neighborhoods to assist survivors of Hurricane Milton.”²⁸ The complaint explained that following the employee’s instruction, five members of her team reported that “they did not visit a home due to the presence of Trump 2024 campaign signage” despite the fact that there “were no reports in Highlands County of safety concerns at properties with Trump 2024 campaign signs.”²⁹ Shortly after receiving conclusive evidence that the employee “had instructed her team to ‘avoid homes advertising Trump,’ FEMA demobilized [the employee] on or about November 7, 2024.”³⁰ FEMA terminated the employee on or about November 9, 2024, but OSC continued to pursue formal action.³¹ OSC argued that the employee violated the law because she “showed bias against supporters of a candidate for partisan political office while [the employee] was overseeing federal government personnel performing disaster relief work.”³²

²³ U.S. Off. of Special Couns., *Two Federal Employees Agree to Suspensions Without Pay for Violating the Hatch Act* (June 24, 2020), <https://www.osc.gov/news/2020-06-24/two-federal-employees-agree-to-suspensions-without-pay-for-violating-the-hatch-act/>.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Id.*

²⁸ Complaint for Disciplinary Action, *supra* note 17.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

The complaint concluded, “By directing political activity at her subordinates, [the employee] used her official authority or influence for the purpose of interfering with or affecting the result of an election.”³³

The president (and vice president) are exempt from the Hatch Act, but OSC has consistently found that their exemption does not extend to senior officials in presidential administrations even when they are expressing the opinion or will of the president. For example, OSC has found, including recently in the case of President Biden’s Press Secretary Jen Psaki, that 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.³⁴ As OSC noted in 2021 in response to a CREW complaint, Ms. Psaki’s statement “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 political activity while speaking in her official capacity, in violation of the Hatch Act.³⁵ Likewise, OSC determined that then-Ambassador to the United Nations Nikki Haley had violated the Hatch Act in 2017 when she reposted a partisan message from the president on social media.³⁶

Potential violations

The admissions made by DOE employees make clear that federal employees engaged in partisan political activity by punishing states and localities associated with Democrats and the Democratic party in their assessment of which federal green-energy projects to cancel. OSC has repeatedly found violations of the Hatch Act where a government employee, in the course of their official duties, extends government benefits or imposes government burdens to the public based on their political affiliation—exactly the kind of partisan abuse the Hatch Act was designed to prevent. Although there is no evidence that these actions occurred in close proximity to a partisan election, that fact is not dispositive, especially when the conduct by DOE employees was admittedly designed to harm Democrats because they were Democrats and “not based on a rational connection between the recipient’s location and/or place of performance and DOE’s past or current agency priorities.”³⁷

The Hatch Act’s definition of political activity expressly extends to any activity supporting or opposing “the success or failure of a political party.”³⁸ The administration’s

³³ *Id.*

³⁴ 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>.

³⁵ *Id.*

³⁶ Letter from Erika S. Hamrick, U.S. Off. of Special Couns., to Noah Bookbinder, CREW, Re: OSC File No. HA-17-4341 (Sept. 28, 2017), <https://s3.amazonaws.com/storage.citizensforethics.org/wp-content/uploads/2017/10/03161101/DOC100217-10022017112049-1.pdf>.

³⁷ See Parties’ Stipulations., note 1.

³⁸ 5 C.F.R. § 734.101.

conditioning of funding based on the recipient's affiliation with a political party as identified through a past record of electoral support illustrates an impermissible use of office for partisan purposes.

Furthermore, it would certainly be an absurd result if the Hatch Act prohibited government employees from punishing a candidates' supporters immediately before an election, but permitted retribution against them immediately after an election. Cancelling federal projects because they are located in states that elected Democrats explicitly because those states support Democrats is activity aimed at the success or failure of a political group. Curiously, the partisan conduct engaged in by Trump administration employees adversely impacted jurisdictions that elected both Democrats and Republicans. However, the Hatch Act does not require that the support or opposition to the political party was effective in providing an actual advantage or disadvantage.

Although President Trump is exempt from requirements of the Hatch Act, the law does not absolve subordinate employees from engaging in partisan activity in their official capacity, even if doing so is consistent with the president's view or direction. Indeed, OSC has found numerous appointees in violation of the Hatch Act to senior officials in presidential administrations even when they are expressing the opinion or will of the president.³⁹

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.⁴⁰ Even in instances when an official who violated the Hatch Act has left government service and cannot be subject to disciplinary action, OSC follows its law enforcement process to establish a record of the violation and encourage the president to use its findings "to educate incoming officials to help ensure compliance with the Hatch Act."⁴¹

³⁹ Letter from Erica S. Hamrick, *supra* note 34; *see also*, Jill Colvin, *Probe finds Trump officials repeatedly violated Hatch Act*, Associated Press (Nov. 9, 2021), <https://www.pbs.org/newshour/politics/probe-finds-trump-officials-repeatedly-violated-hatch-act>.

⁴⁰ *See* 5 U.S.C. 1215(b).

⁴¹ *See, e.g.*, Letter from Henry J. Kerner, U.S. Off. of Special Couns., to President Biden, Re: OSC File No. HA-20-000091 (Feb. 12, 2021), <https://osc.gov/Documents/Hatch%20Act/Reports/Report%20of%20Prohibited%20Political%20Activity,%20Carla%20Sands,%20HA-20-000091.pdf> (advising President Biden of a violation of a former appointee under the previous administration); Letter from Charles N. Baldis, Sen. Couns. And Designee of Acting Special Couns. Jamieson Greer, 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> (advising President Trump of a violation of a former appointee under the previous administration).

Conclusion

The Hatch Act is intended to prevent federal employees from engaging in partisan political activity in their official capacity and to ensure that government programs are “administered in a nonpartisan fashion.” DOE officials have admitted in court documents that Trump administration officials explicitly engaged in partisanship in the performance of their government duties by rescinding federal grants in “Blue states” (those that voted for Democrats) without consideration of their merits or agency policy. By using their federal roles to punish states and localities and the people and projects within them based on partisan affiliation, any administration official involved in the rescission process—whether by taking action themselves or directing action by other employees—appears to have violated the statute. As it did in response to a similar series of violations by senior officials related to the 2020 election, OSC should commence an immediate investigation into the conduct described in this letter and take any appropriate disciplinary action or referrals.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Sherman', with a long horizontal flourish extending to the right.

Donald Sherman
President and Chief Executive Officer