CREW

CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

November 10, 2026

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

**RE: Enforcement of the Hatch Act Against Chief of Staff Stephen Miller Based on Repeated Violations**

Dear Mr. Baldis:

Citizens for Responsibility and Ethics in Washington ("CREW") respectfully requests that the Office of Special Counsel ("OSC") find that White House Chief of Staff Stephen Miller repeatedly and egregiously violated the Hatch Act by advocating for and against partisan candidates in the 2026 midterm election both in media interviews conducted in his official capacity and on social media that he uses for official government business in the months leading up to the election. During that time, he was serving as the White House Deputy Chief of Staff for Policy and Homeland Security Advisor. By mixing official government business with political activity, Miller impermissibly used his official authority or influence for the purpose of interfering with or affecting the result of an election in violation of the Hatch Act.

Miller's engagement in partisan activities in his official capacity has carried over from his service during President Trump's first term, despite multiple complaints and an OSC determination that his behavior constituted a violation of the Hatch Act.[1] Miller's ongoing conduct demonstrates his disregard for the law and signals no intention to comply going forward. Despite his almost certain knowledge of Hatch Act restrictions through training, guidance and OSC's public actions against White House officials, Miller has repeatedly violated the law, escalating the frequency of the use of his official position to engage in partisan political activity leading up to Election Day. In light of this behavior, OSC should recommend to the president that he be removed from federal service. If President Trump refuses to follow this recommendation, OSC must refer and prosecute the case for disciplining Miller before the Merit Systems Protection Board ("MSPB").

[1] U.S. Off. of Special Couns., *Investigation of Political Activities by Senior Trump Administration Officials During the 2020 Presidential Election* 1, 17 (Nov. 9, 2021), https://www.osc.gov/~assets/docs/investigation-of-political-activities-by-senior-trump-administratio-136ab295.pdf.

## Factual Background

During President Trump's first term, Stephen Miller served as Senior Adviser to the President and Chief Speechwriter.[2] When President Trump began his second term, Miller served as Deputy Chief of Staff for Policy and Homeland Security Advisor, before transitioning into his current role as Chief of Staff.[3] Throughout his tenure, he frequently has appeared in interviews on behalf of the White House and posted official communications on his social media to promote President Trump's agenda, particularly with regard to national security and immigration.

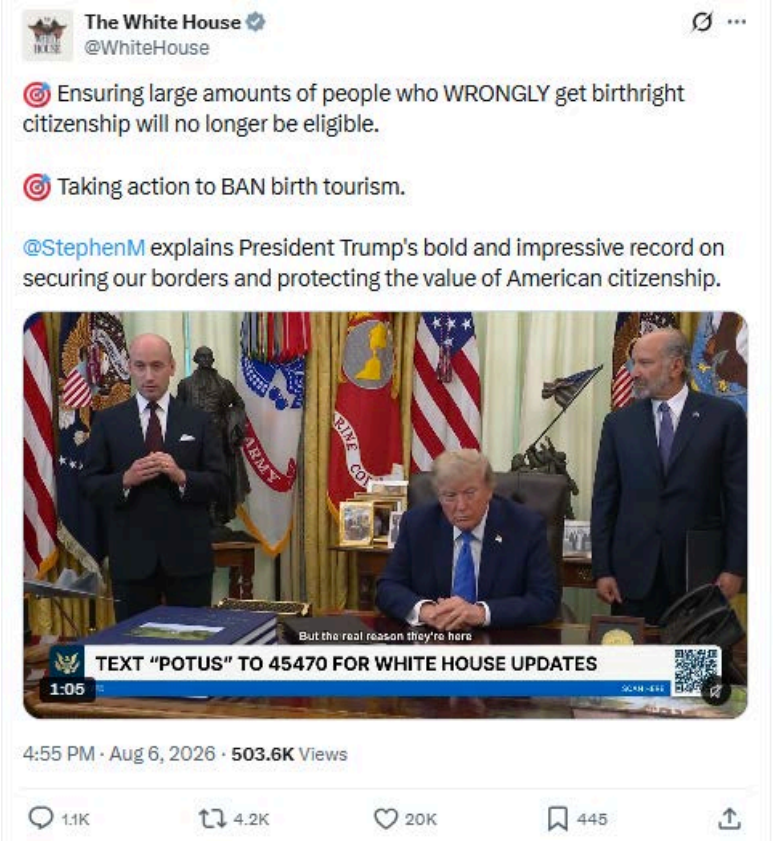
Miller used his X account (@StephenM) to post about his official duties at the time as a senior advisor on policy and homeland security, including immigration enforcement.[4] OSC has previously concluded that when an official uses a social media account "to execute [their] official duties," it is subject to Hatch Act restrictions.[5] His profile includes a banner photo of him shaking hands with Chinese President Xi with President Trump watching, links to the official White House X account, and includes only his former official position (which was the position he held at the time) as his profile, "@WhiteHouse Deputy Chief of Staff for Policy and Homeland Security Advisor | 45 & 47."[6]

---

[2] *Stephen Miller*, LegiStorm, https://www.legistorm.com/person/bio/56466/Stephen_N_Miller.html (last visited Nov. 2, 2026).
[3] U.S. Off. of Gov't Ethics, *Executive Branch Personnel Public Financial Disclosure Report (OGE Form 278e) for Stephen N. Miller* (Mar. 14, 2025), https://www.documentcloud.org/documents/28834328-stephen-miller-2025-278nedraft/.
[4] *See, e.g.,* Stephen Miller (@StephenM), X (Oct. 29, 2026, at 2:36 PM), https://x.com/StephenM/status/2115875318129119304; Stephen Miller (@StephenM), X (Oct. 12, 2026, at 4:19 PM), https://x.com/StephenM/status/2109740670885785633; Stephen Miller (@StephenM), X (Sept. 6, 2026, at 10:12 AM), https://x.com/StephenM/status/2096602487327215761. Although Miller's X account is not tagged officially with a grey checkmark as a government account by the company, the company's categorization of accounts is not one of the factors considered by OSC when identifying whether an account is deemed to be used for official purposes under the Hatch Act.
[5] U.S. Off. of Special Couns., *Report of Prohibited Political Activity Under the Hatch Act, OSC File Nos. HA-19-0631 & HA-19-3395 (Kellyanne Conway)* (June 13, 2019), https://www.osc.gov/~assets/docs/report-of-prohibited-political-activity-kellyanne-conway-ha-19-06-a8748ac5.pdf.
[6] Stephen Miller (@StephenM), X, https://x.com/StephenM.




Furthermore, the White House has tagged and reposted messages from Miller's account in its posts, directing viewers to his account for information about the administration's programs and policies and including video of him speaking from the Oval Office.[7]




[7] The White House (@WhiteHouse), X (Aug. 6, 2026, at 4:55 PM), https://x.com/WhiteHouse/status/2085469763925348369.




*Miller's history of apparent and confirmed Hatch Act violations*

Following Miller's prior service in President Trump's first term, in November 2021, OSC released a report finding that at least 13 senior Trump administration officials, including Miller, violated the Hatch Act prior to the 2020 presidential election.[8] At that time, during a media interview in his official capacity, Miller "mocked candidate Biden" when he stated, "As you know, Joe Biden is stuck in a basement somewhere and he just emerges every now and again and somebody hands him a notecard and he says whatever his 23-year-old staffer tells him to say and then he dutifully disappears to be seen a week later…."[9] The OSC report confirmed that Miller's statements made in an official capacity during a media interview constituted a Hatch Act violation.[10] OSC rejected the argument that these statements were permissible assertions of fact or commentary on a policy issue, asserting that they were more akin to "campaign activity."[11] At the time, Miller avoided any discipline for the illegal behavior because although OSC concluded that Miller had violated the Hatch Act because in OSC's view, it did not have statutory authority to pursue any enforcement actions when an official had since resigned from their government position.[12]

[8] U.S. Off. of Special Couns., *Investigation of Political Activities by Senior Trump Administration Officials During the 2020 Presidential Election*, *supra* note 1.
[9] *Id.* at 23-24.
[10] *Id.* at 23-24.
[11] *Id.* at 28.
[12] *Id.* at 59.

During his tenure in President Trump's second term, Miller continued to attack candidates for partisan election and make statements in his official capacity attempting to influence the outcome of partisan elections. On May 16, 2026, days before Kentucky's primary election, he reposted a Mother Jones article about Republican Representative and candidate for reelection Thomas Massie to his X account, commenting "Mother Jones also endorsing Massie. This is like being endorsed by Pravda."[13] On May 19, 2026, primary election day, he reposted an X post claiming that "Over 13 years in Congress, yet Thomas Massie has done virtually nothing for the people of Kentucky's 4th District. Zero accomplishments." and calling for voters to "Get out and vote against him TODAY."[14]







*In the the lead-up to the 2026 midterm elections, Miller repeatedly violated the Hatch Act by making partisan political statements in his official capacity*

As the midterm general election approached, Miller continued to use his position to disparage a candidate for office, in this instance, the Democratic candidate for U.S. Senate in

[13] Stephen Miller (@StephenM), X (May 16, 2026, at 4:26 PM), https://x.com/StephenM/status/2055749127468695578 (reposted from Mother Jones (@MotherJones)).
[14] Stephen Miller (@StephenM), X (May 19, 2026), https://x.com/alexbruesewitz/status/2056704934502858834 (reposted from Alex Bruesewitz (@alexbruesewitz)).

Texas, James Talarico, during a television interview in his official capacity.[15] During the interview, where he discussed Trump administration policy and appeared with a chyron identifying him by his former government title, he also made partisan comments directed towards Talarico's candidacy.[16] Miller continued to engage in his disparagement of a candidate for partisan election after the interview was over, later reposting the partisan clips of the exchange on his social media account, with the lede stating "HILARIOUS: Stephen Miller just DESTROYED James 'TOFU' Talarico's CAMPAIGN."[17] As CREW noted in a letter to OSC months later, Miller continued to commit Hatch Act violations after the complaint was filed, demonstrating that the "delay in resolving these open investigations has coincided with escalating" violations when the officials faced no apparent consequence.[18]

As detailed in the attached Appendix and highlighted below, Miller has committed dozens of apparent Hatch Act violations in media interviews in his official capacity and on the X account he uses for official government business over the past five months alone. For example, on June 19, 2026, Miller appeared in an interview with Sean Hannity on Fox News.[19] Hannity introduced Miller using his then-title, "Deputy White House Chief for Policy, Homeland Security Advisor."[20] His full name and title at the time then appeared under his image.[21] Hannity opened the interview with a clip of Senate candidate Abdul El-Sayed calling for ICE to be abolished, and asked Miller for comment.[22] Miller responded by criticising the Democratic Party, calling it "a party of marxists, communists, socialists, violent extremists, and, yes, violent revolutionaries" and claiming that their policies have led to the killing of Americans "en masse" "by criminal illegal aliens."[23] He closed by asserting that "Our job between now and election day is to make sure that Republicans are motivated, determined and committed to coming out and supporting their president" and to ensure that Americans understand "how dangerous, extreme, and, yes, violent the Democrat Party has become."[24]

---

[15] Letter from Donald Sherman, President and CEO, Citizens for Resp. and Ethics in Wash., to Ana Galindo-Marrone, Chief of the Hatch Act Unit, U.S. Off. of Special Couns. (June 1, 2026), https://www.citizensforethics.org/wp-content/uploads/2026/06/Miller-Hatch-Act-Complaint-.pdf.
[16] Jesse Watters Primetime, *Stephen Miller: President Trump has been clear about this*, Fox News (May 28, 2026), https://www.foxnews.com/video/6396903479112.
[17] *See* Letter from Donald Sherman, *supra* note 15.
[18] Letter from Donald Sherman, President and CEO, Citizens for Resp. and Ethics in Wash., to The Honorable Charles N. Baldis, Special Counsel, U.S. Off. of Special Couns. (Aug. 20, 2026) https://www.citizensforethics.org/wp-content/uploads/2026/08/CREW-to-OSC-Hatch-Act-Follow-Up-Letter-8-20-26.pdf.
[19] Hannity, *Stephen Miller: Democratic Party Has Become a Party of 'Violent Extremists' and Revolutionaries,* Fox News (June 19, 2026), https://www.foxnews.com/video/6398903302112; *see also See* Letter from Donald Sherman, *supra* note 18.
[20] Hannity, *supra* note 19 at 0:44.
[21] *Id*. at 1:03; *see also id*. at 2:34, 4:16.
[22] *Id*. at 0:15.
[23] *Id*. at 0:57.
[24] *Id*. at 5:18.

Miller regularly uses his X account as a platform to speak as a White House official, identifying his role in the profile statement (which has not been updated to reflect his new position at the time of this letter) and displaying a formal picture of his participation in meetings with President Trump and a foreign leader.[25] In addition to posting messages to speak about issues in his official portfolio,[26] he frequently uses the same account to make partisan and election-focused statements. On October 17, 2026, he wrote: "Democrat politicians' most fervently shared desire is to make America into a violent third world slum."[27] Two days later, he commented on a video of President Trump speaking at a midterm election rally, saying:"The Democrat agenda is the mass looting and pillaging of our civilization."[28] Later, he continued this theme, claiming on October 24, 2026 that: "Democrat Party's core mission and function now is to disinherit you and your children from your own country."[29] In the final days preceding the election, Miller continued posting a series of messages directly attacking Democrats[30]:

[25] Stephen Miller (@StephenM), X, https://x.com/StephenM.
[26] *See supra* note 4; *see, e.g.,* Stephen Miller (@StephenM), X (Oct. 29, 2026, at 2:36 PM), https://x.com/StephenM/status/2115875318129119304; Stephen Miller (@StephenM), X (Oct. 12, 2026, at 4:19 PM), https://x.com/StephenM/status/2109740670885785633; Stephen Miller (@StephenM), X (Sept. 6, 2026, at 10:12 AM), https://x.com/StephenM/status/2096602487327215761.
[27] Stephen Miller (@StephenM), X (Oct. 17, 2026, at 10:28 pm), https://x.com/StephenM/status/2111645685380747672.
[28] Stephen Miller (@StephenM), X (Oct. 19, 2026, at 10:26 pm), https://x.com/StephenM/status/2112369940695273533.
[29] Stephen Miller (@StephenM), X (Oct. 24, 2026, at 8:59 pm), https://x.com/StephenM/status/2114159966030299252.
[30] Stephen Miller (@StephenM), X (Nov. 1, 2026).




Miller has targeted at least 13 Republican, Democratic or independent candidates by name in interviews and on social media.[31] He has attacked Democratic Senate candidate James Talarico while acting in his official capacity at least 25 times. *See* Appendix A. Many of these statements were posted to the same X account described above, which displays Miller's former official title and which he uses for official business. For example, September 15, 2026, he wrote, "Talafreako is a deeply sick and disturbed individual."[32] On October 12, 2026, he wrote, "Never underestimate how much Freako hates Texans."[33] And most recently, on November 1, 2026, he wrote, "Talafreako's deep obsession with pushing sex changes on children is demented, pathological and horrifying."[34] But Miller has targeted candidates across the political spectrum.

---

[31] These candidates include: James Talarico, Roy Cooper, Abdul El-Sayed, Sherrod Brown, Ilhan Omar, Rashida Tlaib, Jon Ossoff, Keith Ellison, Amy Klobuchar, Alexandria Ocasio-Cortez, Pramila Jayapal, Dan J. Sullivan, and Thomas Massie. *See* Appendix A.
[32] Stephen Miller (@StephenM), X (Sept. 15, 2026, at 9:51 am), https://x.com/StephenM/status/2099858596792078515.
[33] Stephen Miller (@StephenM), X (Oct. 12, 2026, at 11:17 am), https://x.com/StephenM/status/2109664720915726807.
[34] Stephen Miller (@StephenM), X (Nov. 1, 2026, at 1:48 pm), https://x.com/StephenM/status/2116965613818229019.

Miller's public statements have often included calls to vote against Democrats or for Republicans in the upcoming midterm elections. For instance, on June 24, 2026, Miller appeared in an interview with Sean Hannity on Fox News.[35] Hannity introduced Miller using his then-title, "Deputy White House Chief of Staff and Homeland Security Advisor," and that full title appeared on screen periodically throughout the interview.[36] Hannity asked Miller what impact Democratic socialist candidates will have on the midterm elections, and Miller responded by lamenting how the Democratic Party has changed, and by asserting "A vote for any Democrat anywhere for any office is empowering a party that wants to strip this country to the bone, to take away our security, our defense, our way of life."[37] He eventually closed the interview by saying "A vote for Republicans and Trump is literally a vote to protect the lives of the people you love most in this whole world, Sean."[38]

He spoke even more directly in a September 18, 2026 interview, also with Hannity on Fox News.[39] Though Hannity did not verbally introduce Miller, he is described in the video description under his role at the time as "White House deputy chief of staff for policy" and identified on screen as "Deputy WH Chief of Staff and Homeland Security Advisor."[40] Hannity asked Miller about the midterm election, and he responded by explaining voters' "two choices": President Trump and his agenda or "Democrats, socialists and communists, who truly want to rip America apart."[41] He concluded by directly appealing to voters, urging them not to "sit on the sidelines" but to "get up," "get out," and "participate," because "at the end of the day, if you're not going to support President Trump and support the Republican ticket, you're going to go back to the policies of record inflation, record illegal immigration, and record murder."[42]

In the closing days before the election, Miller appeared in media interviews specifically focused on the election, as he was introduced with his then-title as "Deputy White House Chief of Staff" and appeared with a chyron displaying his former official title along with an onscreen graphic showing "FOX NEWS POWER RANKINGS" that featured candidates in the pending election.[43]

---

[35] Hannity, *Democratic Socialists Win New York Primaries*, Fox News (June 24, 2026), https://www.foxnews.com/video/6399255379112.
[36] *Id*. at 1:53, 3:54, 6:01, 7:05.
[37] *Id*. at 5:25.
[38] *Id*. at 7:00.
[39] Hannity, *Stephen Miller: Democratic Socialists Want to 'Strip' America Apart*, Fox News (Sept. 18, 2026), https://www.foxnews.com/video/6405280122112.
[40] *Id*. at 0:31, 1:52, 3:48, 4:56.
[41] *Id*. at 0:21.
[42] *Id*. at 2:30.
[43] Hannity, Fox News (Nov. 2, 2026), https://archive.org/details/FOXNEWSW_20261103_070000_Hannity/start/2820/end/2880.




In that interview, Miller appealed to voters to support the administration and Republicans' policy agenda: "President Trump, since he came down that golden escalator, has saved America. [...] President Trump took a bullet for you. He bled for you. He faced life in prison for you. Now what he needs from you tomorrow is your vote. Your vote to keep producing American energy. Your vote to keep our border secure. Your vote to keep crime, violent crime and murder at all time record lows. Your vote to keep men out of women's sports. To keep DEI out of our universities. To keep your taxes low. No tax on tips, no tax on social security, no tax on overtime."[44] He also used his account to issue a flurry of Election Day posts to encourage voter turnout with specific endorsements, including reposting the president's posts that encouraged viewers to "GET OUT AND VOTE" for slates of endorsed Republican candidates in multiple states, including as one example in Texas.[45]




[44] *Id.*
[45] Stephen Miller (@StephenM), X (Nov. 2, 2026), https://x.com/realDonaldTrump/status/2117340433294807338 (reposting Donald J. Trump (@realDonaldTrump).

## Potential Violations

*The History of the Hatch Act*

The Hatch Act prohibits a federal employee from "us[ing] his official authority or influence for the purpose of interfering with or affecting the result of an election."[46] The Hatch Act of 1939 was officially named "An Act to Prevent Pernicious Political Activities" and "enacted sweeping prohibitions against certain types of political participation by federal, and later state and local, government employees."[47] Until 1966, violations of the Hatch Act's prohibitions on political activity "were punished by mandatory removal of an offending employee from his [or her] job."[48] Despite an OSC enforcement regime that includes a wider range of penalties, egregious Hatch Act violators remain subject to removal.[49] For example, in 2008, General Services Administration Lurita Doan, a senior Bush administration appointee was forced from office after Special Counsel Scott Bloch, "found … that Doan had violated the Hatch Act and urged President Bush to remove her from office."[50]

Since its original passage, the Hatch Act has been revised and modernized, but the government's core interest in regulating the political activities of its employees remains consistent—"first to prevent coercion, and second to preserve the appearance of integrity and neutrality within each department and agency."[51] As scholarship regarding the Hatch Act has noted, "[t]he policy considerations articulated in restrictions on the political activities of government workers have had a long history in this country."[52] For example, in 1801, "Thomas Jefferson warned that it was 'improper' for officers of the executive to 'attempt to control or influence the free exercise of the elective right.'"[53] Concerns about partisan influence and coercion in government service date back to the early years of our nation and the legal prohibitions ultimately codified in the Hatch Act have endured for more than 80 years since.

---

[46] 5 U.S.C. § 7323(a)(1).
[47] Shannon D. Azzaro, *The Hatch Act Modernization Act: Putting the Government Back in Politics*, 42 Fordham Urb. L. J. 781, 782 (2016) https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=2571&context=ulj (citing Act of July 19, 1940, ch. 640, Pub. L. No. 76-753, 54 Stat. 767). "The Hatch Act prohibited activities such as taking any active part in political campaigns, running for partisan political office, using official authority or influence to interfere with an election, or soliciting political contributions, etc."
[48] William Hibsher, *Assault on Hatch Act Signals Political Activity for Government Workers*, 47 St. John's L. Rev. 509, 512 (1973), https://scholarship.law.stjohns.edu/cgi/viewcontent.cgi?article=2960&context=lawreview.
[49] *Federal Employee Hatch Act Information*, U.S. Off. of Special Couns., https://www.osc.gov/services/hatch-act/federal/ (last visited Nov. 9, 2026) (under "Penalties" tab).
[50] John Bresnahan, *Lurita Doan Finally Forced Out at GSA*, Politico (Apr. 29, 2008), https://www.politico.com/blogs/politico-now/2008/04/lurita-doan-finally-forced-out-at-gsa-008251.
[51] Azzaro, *supra* note 47, at 784.
[52] Hibsher, *supra* note 48, at 510.
[53] *Id*.

*The Hatch Act's prohibitions on using official authority to influence elections*

Under the Hatch Act's prohibitions, a federal employee may not "[u]s[e] his or her official title while participating in political activity," or "activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group."[54] OSC has explained that a federal employee violates this prohibition "if [he or she] promotes the election or defeat of candidates for partisan political office while speaking in [their] official capacity."[55] OSC specifically concluded that a White House advisor's use of social media is official government activity subject to the Hatch Act in the case of former White House Counselor to the President, Kellyanne Conway, finding that "Ms. Conway uses '@KellyannePolls' to execute her official duties [and] also found that Ms. Conway engage[d] in significant political activity on this account."[56]

OSC has consistently instructed through agency guidance that "employees may not use a social media account designated for official purposes to post or share messages directed at the success or failure of a political party, candidate in a partisan race, or partisan political group. All such official social media accounts should remain politically neutral."[57] Accounts that are not maintained by agencies, but rather by individual officials are subject to Hatch Act rules if the account is being used for official purposes or if the employee is posting in their official capacity.[58] If the account identifies the official's federal position, "extensively uses photographs of the employee's official activities," frequently "shares material related to official activities," or provides a link to an official government webpage, it is subject to Hatch Act rules.[59]

Moreover, OSC has confirmed that a federal employee speaking on behalf of the president is still subject to the Hatch Act. It reasoned that "[w]hile the President is exempt from the Hatch Act, his exemption does not extend to any other employee, including those employed in the White House Office."[60]

---

[54] 5 C.F.R. § 734.302(b)(1); *Id*. at § 734.101.
[55] U.S. Off. of Special Couns., File Nos. HA-19-0631 & HA-19-3395, *supra* note 5.
[56] *Id.* at 3.
[57] U.S. Off. of Special Couns., *Hatch Act Guidance on Social Media* 7 (Feb. 2018), https://www.osc.gov/~assets/docs/social-media-guidance.pdf.
[58] *Id*. at 8.
[59] *Id*.
[60] U.S. Off. of Special Couns., *Report of Prohibited Political Activity under the Hatch Act OSC File No. HA-18-0966 (Kellyanne Conway)* 10 (2018), https://www.osc.gov/~assets/docs/report-of-prohibited-political-activity-kellyanne-conway-ha-18-0966.pdf

*Penalties for violating the Hatch Act*

A federal employee who violates the Hatch Act is subject to disciplinary action, a civil penalty of up to $1,000, or some combination of the two.[61] Disciplinary action can take the form of "removal, reduction in grade, debarment from Federal employment for a period not to exceed 5 years, suspension, or reprimand."[62]

In evaluating whether an employee's Hatch Act violation warrants removal from federal service, the MSPB considers the "seriousness of the violation, considering all aggravating and mitigating factors that bear upon the seriousness of the violation."[63] These relevant factors include:

> (1) the nature of the offense and the extent of the employee's participation; (2) the employee's motive and intent; (3) whether the employee had received advice of counsel regarding the activity at issue; (4) whether the employee ceased the activities; (5) the employee's past employment record; and (6) the political coloring of the employee's activities.[64]

No single factor appears to be determinative. Instead, MSPB applies a totality of the circumstances test. For example, MSPB ordered removal of a federal employee who forwarded multiple emails promoting and soliciting donations for the Obama campaign to three contract employees "from her government-issued computer and e-mail account and while occupying her government office."[65] In another case, MSPB recommended removal where during the relevant time period, the government employee used his government e-mail account to send numerous messages, held telephone conversations, and used his government computer to draft documents that were "directed toward the success of the Green Party."[66] MSPB has held that a Hatch Act violation generally "warrants removal if it occurred under circumstances demonstrating a deliberate disregard of the Act."[67]

In 2019, OSC recommended former White House Counselor to the President Kellyanne Conway's removal, citing three aggravating factors: she had "substantial knowledge" of the Hatch Act, she ignored OSC's repeated requests to comply with the law, and she actually "escalated her partisan critiques of candidates" after OSC's warnings, "signal[ing] that she [would] not comply with the law."[68]

---

[61] 5 U.S.C. § 7326.
[62] *Id*. at § 7326(1).
[63] *Special Couns. v. Ware*, 114 M.S.P.R. 128, ¶ 20 (2010).
[64] *Id*.
[65] *Ware*, 114 M.S.P.R. at ¶ 11.
[66] *Eisinger v. MSPB*, 236 F. App'x 628, 629 (Fed. Cir. 2007).
[67] *Special Couns. v. Malone*, 84 M.S.P.R. 342, ¶ 39 (1999).
[68] U.S. Off. of Special Couns., *File Nos. HA-19-0631 & HA-19-3395 (Kellyanne Conway)*, *supra* note 5 at 3.

*Miller repeatedly violated the Hatch Act in media interviews and through social media*

Miller has demonstrated a clear record of ongoing conduct that disregards the law by using his official public position and platform to impermissibly mix government business with advocacy for the election of certain candidates and the defeat of other candidates in a pending election.

There is no doubt that Miller was acting in his official capacity. His actions are similar to those previously cited by OSC and MSPB when considering enforcement actions against other officials who likewise used their official authority or position. Miller engaged in interviews about official government business to speak as one of the president's most senior policy advisors on various issues on the administration's agenda. When doing so, Miller was almost always introduced with his full title at the time, which was usually displayed on screen at some point during his remarks. Moreover, Miller's X account clearly identified him with his former title as Deputy Chief of Staff for Policy and Homeland Security Advisor and tags the official White House account. Though it does not appear designated as an official account, he frequently uses it for official government business, retweeting White House and federal agency messages related to immigration and security issues.[69]

In these communications, Miller advocated for the success or failure of a political party or candidate, using his opportunities to speak on behalf of the federal government to influence an election. He disparaged the Democratic Party, characterizing it as a group of violent extremists set on the destruction of America. He criticized Republican, Democratic and independent candidates currently on the ballot by name. He openly and explicitly called for his audience to vote for or against specific political candidates and parties in the upcoming midterm elections.

*OSC should recommend that Miller be removed from federal service*

Miller's conduct is among the most egregious CREW has ever reported to OSC. The factors for disciplinary consideration underscore the seriousness of his violations of the Hatch Act and counsel in favor of his removal.

*(1) The nature of the offense and the extent of the employee's participation*

Miller made his partisan statements directly and on his own behalf in televised interviews and on his X account. While MSPB has ordered removal for lesser circumstances,

[69] *See, e.g.*, Stephen Miller (@StephenM), X (June 12, 2026, at 9:38 pm), https://x.com/StephenM/status/2065609831960973762 (reposted from Rapid Response 47 (@RapidResponse47)); Stephen Miller (@StephenM), X (June 13, 2026, at 9:44 am), https://x.com/StephenM/status/2065792535323177121 (reposted from Rapid Response 47 (@RapidResponse47)).

like when the challenged conduct took the form of forwarding others' messaging through forwarded emails or reposted social media posts, Miller made the statements directly and on his own behalf. Additionally, MSPB's removal authority has been used when an employee's communications were directed more narrowly to a specific audience and less scope of influence using email and phone calls to specific individuals. Here, Miller spoke publicly, to large audiences, through television and social media. Moreover, Miller has repeatedly engaged in the challenged conduct. CREW has counted at least 50 separate violations over the course of the past five months.

*(2) the employee's motive and intent and (3) whether the employee had received advice of counsel regarding the activity at issue*

At face value, Miller's communications were intended to promote the success of the Republican Party and defeat of the Democratic Party in the midterm election while acting as a government official. He named and disparaged specific Democratic candidates running for office. He also explicitly called for voters to support Republican candidates in the midterm elections. Regardless of whether he intended to violate the Hatch Act, he clearly intended to make partisan statements to benefit Republican candidates and did so while being identified and speaking in his official capacity. An employee does not need to "act[] knowingly in disregard of the law" for OSC to find that removal is appropriate.[70]

But the evidence suggests that Miller did have substantial knowledge about and was acting in disregard of the law. Miller was cited for violating the Hatch Act during the first Trump administration, suggesting almost certain knowledge of Hatch Act restrictions.[71]After more than five years in the White House and previously being investigated by OSC for violating the Hatch Act, he should have understood his obligations under the law. In fact, there is no credible reason to believe that Miller was unaware of his obligations; nor is ignorance a defense for repeatedly violating the law. Miller appears to have engaged in an intentional and unrestrained practice of using his official positions to promote the president's preferred candidates or attack his disfavored candidates.

---

[70] *Ware*, 114 M.S.P.R. at ¶ 27.

[71] *See, e.g.*, Press Release, U.S. Off. of Special Couns., *OSC Issues Updated Hatch Act Guidance for Federal Employees After President Trump Becomes Candidate for Reelection* (Mar. 5, 2018), https://www.osc.gov/news/2018-03-05/osc-issues-updated-hatch-act-guidance-for-federal-employees-after-president-trump-becomes-candidate-for-reelection/. As OSC in its 2021 report regarding Hatch Act violations by Miller and other first term Trump appointees, "Trump administration officials knew of the Hatch Act's restrictions. Prior to the 2020 election, OSC issued two reports to President Trump documenting Hatch Act violations by a senior administration official and an unprecedented 15 warning letters to senior administration officials notifying them that they had violated the Hatch Act. And OSC made itself available and did provide advice on the Hatch Act to the White House, as well as training materials and advisory opinions when requested. Well aware of the Hatch Act's requirements, some senior officials in the Trump administration disregarded OSC's advice and chose to engage in prohibited political activity anyway." U.S. Off. of Special Couns., *Investigation of Political Activities by Senior Trump Administration Officials, supra* note 1.

*(4) whether the employee ceased the activities*

Miller has not ceased his prohibited political activities. He has regularly engaged in partisan political activity in his official capacity during the 2026 campaign season, most recently appearing in his official capacity in a Fox News interview just five days before the election. In that interview, he seized the opportunity to speak directly to voters when asked "What do you want to tell voters as they head into [Election Day] in 5 days?" His X posts over the past months have focused on disparaging Democratic candidates and the Democratic party while boosting select Republicans. Miller made multiple partisan statements in a single day particularly in the final days before the election.

*(5) the employee's past employment record*

As previously explained, this is not Miller's first infraction. OSC found that he violated the Hatch Act in an interview with Fox News before the 2020 presidential election. He has committed Hatch Act violations since returning to government service during President Trump's second term. OSC has launched investigations into many of these allegations, but Miller's violations continue to build faster than determinations can be issued. Indeed, Miller has committed dozens of violations in the weeks leading up to the November midterms in order to illegally influence the outcome of the elections, and done so unabated.

*(6) the political coloring of the employee's activities*

Miller's statements are undeniably political and contain explicit calls to action. He has made disparaging remarks about the Democratic Party. He has targeted specific Democratic candidates for office. And he has called for voters to support Republican candidates in the midterm elections. Throughout, he has refused to maintain a semblance of civility, often using inflammatory language and derogatory nicknames based on and encouraging partisan division.

Five out of six factors indicate that Miller's violations of the Hatch Act are serious enough to warrant his removal. In fact, the only relevant comparison to Miller's repeated abuse of the Hatch Act is Kellyanne Conway, whom OSC recommended be removed from federal office. We urge OSC to recommend that President Trump remove Miller, and to take all appropriate steps to ensure that other senior Trump administration officials comply with the Act.

If President Trump refuses to follow a recommendation to punish Miller, federal law establishes that OSC must file an MSPB complaint against him.[72] It provides that if OSC "determines that disciplinary action should be taken against any employee for having . . .

[72] 5 U.S.C. § 1215.

violated" the Hatch Act, the agency "shall prepare a written complaint against the employee" and "present" it to MSPB.[73] Under the statute's plain terms, OSC's duty to file an MSPB complaint is mandatory, not discretionary, if the triggering conditions are met. The statute carves out a limited exception for Senate-confirmed presidential appointees: for those appointees, "the complaint . . . shall be presented to the President for appropriate action in lieu of being presented" to MSPB.[74]

**Conclusion**

In each of the instances documented in this complaint and the attached Appendix, Miller violated the Hatch Act's prohibitions on executive branch employees. He identified himself as a White House advisor and made public, partisan statements directed toward the success of one political party, the failure of another political party, and the failure of specific candidates for partisan election. His statements were intended to influence the midterm election, explicitly addressing voters and advising them how to vote. He cannot defend his actions by claiming that he was speaking on behalf of the president. The president's exemption from the Hatch Act does not extend to advisors like Miller. OSC must step in to curb Miller's unlawful conduct and restore the American people's confidence that government officials are not using the privilege and resources of their position to put their thumb on the scales of the democratic process.

Sincerely,



Donald K. Sherman
President and Chief Executive Officer

Cc: Will Scharf,
Counsel to the President
Office of White House Counsel
1600 Pennsylvania Ave NW
Washington, DC 20500

[73] *Id.* at § 1215(a)(1).
[74] *Id.* at § 1215(b).