

OSC Concludes Hatch Act Investigation of Kellyanne Conway, Finds Two Violations, and Refers Findings to President for Appropriate Disciplinary Action

For Immediate Release

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WASHINGTON, D.C./March 6, 2018 – The U.S. Office of Special Counsel (OSC) today sent an investigative report to President Donald Trump finding that Counselor to the President Kellyanne Conway violated the Hatch Act in two television interviews. According to the report, in both instances, Conway appeared in her official capacity. In the first interview, Conway advocated against one Senate candidate and gave an implied endorsement of another candidate. In the second interview, she advocated for the defeat of one Senate candidate and the election of another candidate. Both instances constituted prohibited political activity under the Hatch Act and occurred after Conway received significant training on Hatch Act prohibitions, according to the report.

OSC submitted the report to the President for appropriate disciplinary action. The report states that OSC gave Conway the opportunity to respond to the allegations during the OSC investigation and in response to the completed report and that she did not respond. The Office of White House Counsel provided brief explanations of Conway's statements. The report includes and analyzes those explanations.

According to the report, on November 20, 2017, Conway appeared in her official capacity on Fox News's *Fox & Friends* and discussed why voters should not support Democrat Doug Jones in the Alabama special election for U.S. Senate. On December 6, 2017, Conway appeared in her official capacity on CNN's *New Day* and discussed why voters should support Republican Roy Moore and not Democrat Doug Jones in the Alabama special election for U.S. Senate.

"While the Hatch Act allows federal employees to express their views about candidates and political issues as private citizens, it restricts employees from using their official government positions for partisan political purposes, including by trying to influence partisan elections," the report says. "In passing this law, Congress intended to promote public confidence in the Executive branch by ensuring the federal government is working for all Americans without regard to their political views. Ms. Conway's statements during the *Fox & Friends* and *New Day* interviews impermissibly mixed official government business with political views about candidates in the Alabama special election for U.S. Senate."

The report continues, "The U.S. Constitution confers on the President authority to appoint senior officers of the United States, such as Ms. Conway. Considering the President's constitutional authority, the proper course of action, in the case of violations of the Hatch Act by such officers, is to refer the violations to the President. ... OSC hereby submits this Report of Prohibited Political Activity to the President for appropriate disciplinary action. See 5 U.S.C. § 1215(b)." Some presidentially appointed White House employees and other officials, such as Cabinet secretaries, generally fall under the President's authority to discipline for Hatch Act violations. For all other federal employees, OSC may pursue disciplinary action with the Merit Systems Protection Board.

Federal employees, including employees designated as “commissioned officers” at the White House, are subject to the Hatch Act. While commissioned officers may engage in some political activity, they are still barred from using their official authority or influence to interfere with or affect elections. Although the President and Vice President are exempt from the Hatch Act, their employees are not.

OSC’s report is available [here](#).

The U.S. Office of Special Counsel (OSC) is an independent federal investigative and prosecutorial agency. Its basic authorities come from four federal statutes: the Civil Service Reform Act, the Whistleblower Protection Act, the Hatch Act, and the Uniformed Services Employment & Reemployment Rights Act (USERRA). OSC’s primary mission is to safeguard the merit system by protecting federal employees and applicants from prohibited personnel practices, especially reprisal for whistleblowing, and to serve as a safe channel for allegations of wrongdoing. For more information, please visit our website at www.osc.gov.