

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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### Opening Statement Chairman Elijah E. Cummings Hearing on “Violations of the Hatch Act Under the Trump Administration” June 26, 2019

Today, we are holding a hearing on a very troubling report issued by the Office of Special Counsel on June 13. This report finds that Kellyanne Conway, Counselor to President Donald Trump, violated the Hatch Act dozens of times, and it recommends that the President fire her immediately for her repeated violations.

There are rarely issues that come before our Committee that are so clear cut, but this is one of them. This is about right and wrong. This is about the core principle of our democracy that nobody in this country is above the law.

Contrary to claims from Ms. Conway and President Trump, this is not a conspiracy to silence her or restrict her First Amendment rights. This is an effort to enforce federal law, which very clearly prohibits employees from engaging in political activities on federal property or while using their official position.

This report was issued by Special Counsel Henry Kerner. Mr. Kerner leads the Office of Special Counsel, the independent agency charged with enforcing the Hatch Act. Mr. Kerner was nominated to his position by President Trump in 2017, and all the Republicans and Democrats in the Senate approved his nomination by a voice vote. Mr. Kerner worked on the Republican staff of this Committee for several years under both Chairmen Darrell Issa and Jason Chaffetz.

In this report, the Special Counsel describes “persistent, notorious, and deliberate Hatch Act violations.” This report explains how Ms. Conway violated the law dozens of times by using her official position to criticize Democratic candidates and support Republican candidates. I should not have to say this, but obviously, that is against the law.

Unfortunately, this was not the first time the Special Counsel informed the President that Ms. Conway violated the law. In 2018, the Special Counsel sent President Trump a report finding that Ms. Conway violated the Hatch Act twice. Yet, the President took no disciplinary action against her.

Instead, with the President’s full support, Ms. Conway has engaged in an astounding show of defiance by increasing the frequency of her illegal activity and disparaging the law itself. On May 29, 2019, she answered a question from a reporter about her violations by saying, “blah blah blah.” She then stated dismissively, “Let me know when the jail sentence starts.”

Ms. Conway is apparently comfortable escalating her violations—and her defiance—because she knows President Trump will not take any disciplinary action against her. The President stated during an interview with Fox News, “No, I’m not going to fire her. I think she’s a terrific person. She’s a tremendous spokeswoman. She’s been loyal.”

Now, things are getting worse. In response to the Special Counsel’s report, the White House and Ms. Conway have gone on the offensive by arguing that the Hatch Act does not even apply to her. In a letter to the Special Counsel on June 11, the White House Counsel claimed there were no violations “even assuming that the Hatch Act applies to the most senior advisers to the President in the White House.” Similarly, Ms. Conway stated this week, “It is not even clear to us at the White House according to White House Counsel that the Hatch Act applies to assistants of the President.”

Let me make this clear—the Hatch Act absolutely applies to Ms. Conway. Period. It is written in black and white. We are the Committee on jurisdiction over this law, and neither Congress nor the courts has ever suggested that the President’s advisors are exempt.

Finally, I want to address the White House’s baseless arguments for refusing our request for Ms. Conway’s testimony here today. They sent a letter to the Committee on Monday arguing that Ms. Conway is “absolutely immune” from testifying. They claimed that this principle has been “consistently adhered to by administrations of both political parties.”

This is not true. Congress has never accepted the claim that White House advisors are absolutely immune. In fact, our Committee has obtained public testimony from numerous White House officials—while they served in the White House. These include multiple White House Counsels, the Deputy Counsel to the President, an Associate Counsel to the President, a Deputy Assistant to the President, and the Director of the White House Office of Security.

In the case of Ms. Conway, the White House’s arguments have even less merit. We are not asking about any conversations she had with the President, and we are not asking about any advice she gave to the President.

Here we have a clear-cut case of a federal employee violating federal law over and over and over again. We have video of that same federal employee mocking the law itself and claiming it does not apply to her. And we have the White House asserting that Congress may not question this employee, may not investigate her repeated violations, and may not conduct oversight relating to the legislation that we on this Committee passed.

This is the opposite of accountability, and it is contrary to our fundamental system of laws in this country. Nobody is above the law, not even Kellyanne Conway. For these reasons, we will hear from our Ranking Member, we will hear Special Counsel Kerner’s opening statement, and then we will pause this hearing so Committee Members can vote on a subpoena to compel Ms. Conway’s appearance at a later hearing.