



U.S. OFFICE OF SPECIAL COUNSEL
1730 M Street, N.W., Suite 218
Washington, D.C. 20036-4505
202-254-3600

November 19, 2020

Barnstead Police Department
24 Shackford Corner Road
Center Barnstead, New Hampshire 03225

VIA EMAIL: barntownhall@metrocast.net

Re: OSC File No. HA-20-000314

Dear Madam or Sir:

This letter is in response to a complaint received by the U.S. Office of Special Counsel (OSC) alleging that employees of the Barnstead, New Hampshire, Police Department (PD) violated the Hatch Act by promoting a candidate for reelection when they hosted the "Women for Trump Campaign" event and posted pictures of the event on social media. As explained below, OSC has concluded that Barnstead PD employees are not covered by the Hatch Act, and we are closing the above-referenced file without further action.

The Hatch Act governs the political activity of certain state and local government employees in order to protect the public workforce from partisan political influence and ensure the nonpartisan administration of laws.¹ The Hatch Act applies to those employees whose principal position or job is with a state, county, or municipal executive agency and whose job duties are "in connection with" programs financed in whole or in part by loans or grants made by the United States or an agency thereof.² Employees are subject to the Hatch Act if, as a normal and foreseeable incident of their positions or jobs, they perform duties in connection with federally financed activities.³ An employee, however, is exempt from the Hatch Act's restrictions if he has no duties in connection with federally funded activities or if his duties in connection with federally funded activities are so inconsequential in comparison with other duties as to make applicable the maxim *de minimis non curat lex*.⁴

OSC investigated whether Barnstead PD employees are covered by the Hatch Act. We learned that the only federal funding the Barnstead PD has received in 2020 is a traffic safety grant, which funds a drive sober program and is used to pay for 23 hours of officer overtime. Because this federal grant funds such a minimal amount of duty time, OSC has concluded that any duties in connection with the grant-funded activities are so inconsequential in

¹ See generally 5 U.S.C. §§ 1501-1508.

² 5 U.S.C. § 1501(4).

³ See *Special Counsel v. Gallagher*, 44 M.S.P.R. 57, 61 (1990); *In re Hutchins*, 2 P.A.R. 160, 164 (Civil Serv. Comm'n 1944).

⁴ *In re Todd*, 2 P.A.R. 49, 51 (1953). (The Civil Service Commission found that the employee was not subject to the Hatch Act because only about 1/10 of one percent of the employee's time was devoted to a duty financed in whole or part by federal funds).

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comparison with other duties that they are *de minimis*. Accordingly, OSC has concluded that Barnstead PD employees are not covered by the Hatch Act, and we are closing our file in this matter without further action.

Please contact OSC Attorney Sherri Borman at (202) 804-7103 if you have any questions.

Sincerely,



Erica S. Hamrick
Deputy Chief, Hatch Act Unit