

Hatch Act Enforcement Transparency and Accountability Act

Enacted in 1939 the Hatch Act prohibits federal employees from engaging in certain political activities. The Hatch Act serves to ensure that the federal government administers its duties in a nonpartisan fashion, protects federal employees from political pressure, and helps ensure that federal employees are promoted based on merit rather than political affiliation.

The U.S. Office of Special Counsel (OSC) is authorized to investigate and prosecute alleged violations before the Merit Systems Protection Board (MSPB), an independent, quasi-judicial body that oversees disputes arising from the federal workforce.

In the last several years, good government groups such as the Project on Government Oversight (POGO) and Citizens for Responsibly and Ethics in Washington (CREW) raised concerns regarding OSC's enforcement record over the last several years. In fact, OSC told news media that, in one four-year period, 17 political appointees violated the Hatch Act, yet the office only penalized one. OSC based its decision on the misguided interpretation of the law that it could not prosecute White House employees. Good government advocacy groups raised a related concern about OSC's unwillingness to seek civil penalties for violations committed by presidential appointees who are not Senate-confirmed. OSC's recent record raises serious questions about the fairness and impartiality of its enforcement of the Hatch Act.

The Hatch Act Enforcement Transparency and Accountability Act:

- Requires OSC to notify Congress when it declines to initiate an investigation within 90 days of receiving a covered allegation against a political appointee.
- Requires OSC to provide the Chair and Ranking Members of the Senate Committee on Homeland Security and Governmental Affairs (HSGAC) and the House Committee on Oversight and Reform (OGR) with a written report containing the complete basis for declining to conduct such investigations.
- Requires the OSC to provide the Chair and Ranking Members of HSGAC and OGR with an annual written report on the number of allegations received by the Special Counsel in the previous year and the number of allegations that resulted in an investigation, with separate data sets for political appointees and career federal workers..
- Requires OSC to provide the Chair and Ranking Members of HSGAC and OGR with a confidential addendum to the annual report that contains the name and position of each political appointee (or former political appointee) who was the subject of an allegation, a description of each allegation, and a description of the outcome. In the case of an allegation against a presidential appointee who was not subject to Senate confirmation, the addendum shall include a statement as to whether OSC presented a complaint to the MSPB Board and whether the board collected a any civil penalty.
- Requires OSC to provide Congress with a detailed written explanation of the complete basis for each decision of the Special Counsel not to present a complaint to the MSPB against any political appointee, other than a Senate-confirmed presidential appointee, determined to have violated the Hatch Act.
- Requires the OSC to publish anonymized employee demographic statistics regarding Hatch Act enforcement.