



October 26, 2026

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Acting Inspector General  
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**RE:   *Request for Investigation into Allegations that the State Department is Using Political Affiliation as a Basis for Denial of Foreign Service Promotions***

Dear Special Counsel Baldis and Acting Inspector General Baker:

On October 22, *The Washington Sun* reported that top officials in the State Department made it clear that certain candidates for promotion in the Foreign Service would be ineligible if they did not vote for President Trump or had donated to Democrats.<sup>1</sup> If true, these allegations appear to constitute prohibited personnel practices under 22 U.S.C. § 3905(b)(1); violate the criminal law prohibiting the coercion of political activity under 18 U.S.C. § 610; and amount to political activity by government employees in violation of the Hatch Act, 5 U.S.C. §§ 7323-7324. A prompt investigation is necessary by your offices to evaluate these allegations, to determine who ordered the use of political affiliation as an illegal litmus test for promotion, and to bring appropriate actions against such individuals.

### **Background**

According to *The Washington Sun*, officials in the State Department have sought historical voting and political contribution records of Foreign Service candidates seeking promotion to mid-to-upper level Foreign Service roles. That apparently includes their voting records for 2016, 2020, and 2024 elections.<sup>2</sup> In addition, the *Sun* reported that candidates were told that they would be disqualified for consideration if they made campaign donations to

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<sup>1</sup> Eric Katz, *State Asked Foreign Service Officers Up for Promotion Whether They Voted for Trump*, *The Wash. Sun* (Oct. 22, 2026), <https://www.washingtonsun.com/administration/state-foreign-service-officers-voting-history-interview-promotion>.

<sup>2</sup> *Id.*

Democrats.<sup>3</sup> The *Sun*'s reporting was based on conversations with six current and former State Department officials.<sup>4</sup> A spokesperson for the State Department was asked about the policy by the *Sun* but initially declined to comment on whether candidates were asked questions about their voting history.<sup>5</sup> Instead the spokesperson advised that “fidelity” was an important attribute for Foreign Service officers.<sup>6</sup> In response to the story, the Principal Deputy Spokeswoman for the State Department stated that the reporting represented a “false narrative.”<sup>7</sup>

## Legal Authorities

### *a. The Foreign Service Act of 1980*

The Foreign Service Act of 1980, 22 U.S.C. § 3905(b)(1) provides that: “The Secretary . . . shall prescribe such regulations as may be necessary to ensure that members of the Service, as well as applicants for appointments in the Service . . . are free from discrimination on the basis of . . . political affiliation, as prohibited under section 2302(b)(1) of title 5.” Section 5 C.F.R. § 2302(b)(1) provides that employees who have the “authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority . . . discriminate for or against any employee or applicant for employment . . . on the basis of . . . political affiliation.”

Chapter 3, section 1212.1 of the Foreign Affairs Manual (FAM) implements 22 U.S.C. § 3905(b)(1) and provides that “[t]he personnel programs of the foreign affairs agencies must be administered without discrimination on the basis of . . . political affiliation.”<sup>8</sup> The Board of Examiners of the Foreign Service is likewise required to periodically review Foreign Service examinations to ensure that they do not have an “adverse impact on the hiring, promotion, or other employment of individuals, by virtue of their . . . political affiliation.”<sup>9</sup>

### *b. 18 U.S.C. § 610*

Section 610, Title 18 of the United States Code, was enacted as part of the Hatch Act Reform Act of 1993 to protect employees from coercion or intimidation for engaging in or not engaging in private political activity. That section provides that:

It shall be unlawful for any person to intimidate, threaten, command, or coerce, or attempt to intimidate, threaten, command, or coerce, any employee of the Federal Government as defined in section 7322(1) of title 5, United States Code, to engage in, or not to engage in, any political activity, including, but not limited to, voting or refusing to vote for any candidate or measure in any election, making or refusing to make any political contribution, or working or refusing to work on behalf of any candidate. Any

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Paloma Chacón (@StateDeputySpox), x.com (12:44 PM Oct 22, 2026), <https://x.com/StateDeputySpox/status/2113310411177218310>.

<sup>8</sup> 3 FAM 1212.1.

<sup>9</sup> 3 FAM 1319.2.

person who violates this section shall be fined under this title or imprisoned not more than three years, or both.

The prohibition applies broadly to any individual “employed or holding office in . . . an Executive agency . . .” other than those in the uniformed services or employed in the District of Columbia.<sup>10</sup>

**c. *The Hatch Act (5 U.S.C. §§ 7323-7324)***

All government employees, excluding the President and Vice President, are subject to the civil provisions of the Hatch Act. Pursuant to 5 U.S.C. § 7323(a)(1), employees are prohibited from using their “official authority or influence for the purpose of interfering with or affecting the result of an election.” The Hatch Act regulations at 5 C.F.R. § 734.302 explain that this prohibition means, among other things, that an employee may not use “his or her authority to coerce any person to participate in political activity.” In addition, 5 U.S.C. § 7324(a) provides that a government employee, other than certain presidential appointees requiring Senate confirmation, may not engage in any political activity while on duty, in a government building, in uniform, or in a government vehicle. The term “political activity” is broadly defined to mean “an activity directed toward the success or failure of a political party, candidate for partisan political office, or partisan political group.”<sup>11</sup>

**Request for Investigation**

Reaching as far back as the Civil Service Act of 1883, also known as the Pendleton Act, it has been illegal for any person in the public service to use their official authority or influence to coerce political action by any person.<sup>12</sup> In 1939, Congress passed the Hatch Act in part to “serve the goal that employment and advancement in the Government service not depend on political performance, and at the same time to make sure that Government employees would be free from pressure and from express or tacit invitation to vote in a certain way . . . in order to curry favor with their superiors rather than to act out their own beliefs.”<sup>13</sup>

Allegations that high-level officials within the State Department have instituted a political litmus test for promotion in the Foreign Service are deeply unsettling. These alleged practices are the exact type of political patronage that Congress has attempted to weed out of the civil and foreign services, and would appear to be a clear violation of the Foreign Service Act’s

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<sup>10</sup> 5 U.S.C. § 7322(1).

<sup>11</sup> 5 C.F.R. § 734.101.

<sup>12</sup> Civil Service Act of 1883, c. 27, § 2, 22 Stat. 403, 404 (1883).

<sup>13</sup> *U. S. Civ. Serv. Comm’n v. Nat’l Ass’n of Letter Carriers, AFL-CIO*, 413 U.S. 548, 566 (1973); *see also Wagner v. Fed. Election Comm’n*, 793 F.3d 1, 11 (D.C. Cir. 2015) (“Congress’ purpose was to protect merit-based administration, including ensuring governmental efficiency and fairness and shielding government personnel from political coercion”). As George H.W. Bush said in his message to Congress vetoing the Hatch Act Reform Amendments of 1990, “The Hatch Act has upheld the integrity of the civil service by assuring that Federal employees are hired and promoted based upon their qualifications and not their political loyalties.” Message To the House of Representatives Returning Without Approval the Hatch Act Reform Amendments of 1990, 1 Pub. Papers 830 (Jun. 15, 1990), 830–31, 1990 WL 10860400, at \*1. Although many of the changes vetoed by President Bush were incorporated into the 1993 Hatch Act Reform Act, the sentiment and protections around political coercion within the executive branch were unaffected by those amendments.

prohibition on use of political affiliation in promotion decisions.<sup>14</sup> These alleged practices also appear to be coercive attempts to shape ongoing political activity in violation of 18 U.S.C. 610 and the Hatch Act.

To begin, use of political affiliation as a basis for promotion is clearly impermissible under 22 U.S.C. § 3905(b)(1) and the FAM. As is clear from the text, political discrimination is completely inconsistent with the merit systems principles enshrined in the Foreign Service Act. Those principles, which are based on similar requirements in the Civil Service Reform Act, are instituted to protect Foreign Service officials from improper political influence and assure a neutral and mission-oriented cadre of elite Foreign Service members.<sup>15</sup> Using a political litmus test is a direct affront to those principles and to the obligations set forth in the Foreign Service Act.

Furthermore, the use of political affiliation as a basis for promotion serves a coercive incentive against future political participation in violation of 18 U.S.C. § 610 and 5 U.S.C. § 7323. A policy of reviewing candidates' political contributions before they are considered for promotion could have an inherent chilling effect on the *ongoing* lawful personal political activity of Foreign Service members who are forced either to curtail their constitutional and statutorily protected right to contribute to their favored candidates<sup>16</sup> or face the possibility of disqualification from further promotion or other retaliation.

It is well settled that the supervisor-subordinate relationship is inherently coercive, and thus courts and the Merit Systems Protection Board (MSPB) have long held that supervisors can almost never even ask an employee to contribute to a political cause.<sup>17</sup> As the MSPB noted in 1990, "Where the supervisor-subordinate relationship exists no particular words are required to establish coercion because virtually any language can be threatening, depending on the atmosphere."<sup>18</sup>

That coercive relationship works the other way as well. Once a supervisor establishes that they will be considering political affiliation and political contributions as part of their personnel actions, a subordinate could feel obliged to either stop contributing to any candidate who is disfavored by the current Administration or feel the need to begin contributing to candidates who

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<sup>14</sup> 22 U.S.C. § 3905(b)(1); 3 FAM 1212.1.

<sup>15</sup> Cf. S. Rep. No. 95-969, at 18 (1978), as reprinted in 1978 U.S.C.C.A.N. 2723, 2740 (explaining that the CSRA was enacted in part to "protect career employees against improper political influences").

<sup>16</sup> See, e.g., *Rutan v. Republican Party of Illinois*, 497 U.S. 62, 65 (1990) (providing that patronage promotion policies violate the First Amendment rights of officials denied promotions because they did not support the Republican party); 5 U.S.C. § 7321 ("It is the policy of the Congress that employees should be encouraged to exercise fully, freely, and without fear of penalty or reprisal, and to the extent not expressly prohibited by law, their right to participate or to refrain from participating in the political processes of the Nation"); 5 U.S.C. § 7323(c) ("An employee retains the right to vote as he chooses and to express his opinion on political subjects and candidates"); 5 C.F.R. § 734.208(a) ("An employee may make a political contribution to a political party, political group, campaign committee of a candidate for public office in a partisan election and multicandidate political committee of a Federal labor or Federal employee organization").

<sup>17</sup> See *Special Couns. v. Purnell*, No. HQ12068710001, 1988 WL 70043 (M.S.P.B. June 24, 1988), *aff'd sub nom. Fela v. U.S., Merit Sys. Prot. Bd.*, 730 F. Supp. 779 (N.D. Ohio 1989).

<sup>18</sup> *Special Counsel v. Gallagher*, 44 M.S.P.R. 57, 76 (1990).

are favored by the Administration. That result flies in the very face of the political protections established by 18 U.S.C. § 610 and 5 U.S.C. § 7323(a)(1).

Finally, to the extent to which State Department officials are engaged in a campaign to dissuade political activity that favors Democrats as part of their official duties, that campaign would appear to violate 5 U.S.C. § 7324(a)(1). That provision provides that no employee can engage in political activity while “on duty,” except for certain presidential appointees requiring Senate confirmation. An official is deemed to be “on duty” any time that they are in a pay status or are representing an agency in an official capacity.<sup>19</sup> Assessing whether a candidate is eligible for promotion in the Foreign Service is an activity that would be done as part of one’s official capacity duties. As noted above, by making political contributions and party affiliation part of the test for promotion eligibility, at least some individuals could be dissuaded from supporting candidates of their choice. The State Department’s reported policy would serve no purpose other than to reward political activity of Republicans and chill support for the Democratic party in violation of 5 U.S.C. § 7324(a)(1).

### Conclusion

Foreign Service members are a vital part of our nation’s diplomatic efforts abroad. Located throughout the world, they are often willing to sacrifice being with their families, friends, and neighbors for years on end to promote U.S. foreign policy. They should not, however, be asked to sacrifice their core constitutional rights as citizens to engage in the political process as they see fit. The recent reports that the State Department is utilizing a political litmus test to determine eligibility for Foreign Service promotions would, if true, force upon these members unconstitutional and unlawful sacrifice. It is therefore necessary for your offices to investigate these allegations and to take appropriate action if you determine that there are violations of the Foreign Service Act, 18 U.S.C. § 610, the Hatch Act, or any other law.

Sincerely,

/s/

Amb. (ret.) Norman L. Eisen  
Executive Chair and Co-Founder  
Democracy Defenders Fund

/s/

Virginia Canter  
Chief Counsel and Director for Ethics  
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/s/

Christopher Swartz  
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<sup>19</sup> 5 C.F.R. § 734.101.