



U.S. OFFICE OF SPECIAL COUNSEL  
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Washington, D.C. 20036-4505  
202-804-7000

January 3, 2022

Mr. Michael Chamberlain  
Director  
Protect the Public's Trust

VIA EMAIL: [REDACTED]

Re: OSC File Nos. HA-21-000245

Dear Mr. Chamberlain:

This letter is in response to a complaint you filed with the U.S. Office of Special Counsel (OSC) alleging that Dr. Anthony Fauci violated the Hatch Act during an interview that was reported in the Washington Post on October 31, 2020.<sup>1</sup> OSC reviewed this allegation, and as explained below, concluded that Dr. Fauci did not violate the Hatch Act. Accordingly, we are closing our file without further action.

As Director of the National Institute of Allergy and Infectious Diseases (NIAID), Dr. Fauci is subject to the provisions of the Hatch Act and prohibited from, among other things, using his official authority or influence for the purpose of interfering with or affecting the result of an election.<sup>2</sup> This prohibition includes, for example, using his official title while engaging in political activity or his official position to advance or oppose candidates for partisan political office. Political activity is defined as activity directed toward the success or failure of a political party, partisan political group, or candidate for partisan political office.<sup>3</sup>

At issue here is an October 31, 2020 Washington Post article that discussed Dr. Fauci, the coronavirus, and the Trump Administration's response to the pandemic. During the interview, Dr. Fauci was asked about the difference between President Donald J. Trump's and then-presidential candidate Joseph R. Biden's approach to the pandemic. Dr. Fauci is quoted as responding that Biden's campaign "is taking it seriously from a public health perspective" and President Trump is "looking at it from a different perspective," which is "the economy and reopening the country." You alleged that Dr. Fauci's comments praised one candidate while criticizing another, in an attempt to influence the outcome of the presidential election.

But after reviewing the article, and these comments in particular, OSC determined that Dr. Fauci did not violate the Hatch Act. As you point out, the interview was conducted just days before the 2020 presidential election, and although that fact is relevant, it is not dispositive. The timing of the interview coincided with the upcoming winter season and Dr. Fauci's assessment

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<sup>1</sup> Josh Dawsey and Yasmeen Abutaleb, 'A whole lot of hurt': Fauci warns of covid-19 surge, offers blunt assessment of Trump's response, Washington Post (Oct. 31, 2021), [https://www.washingtonpost.com/politics/fauci-covid-winter-forecast/2020/10/31/e3970eb0-1b8b-11eb-bb35-2dcfdab0a345\\_story.html](https://www.washingtonpost.com/politics/fauci-covid-winter-forecast/2020/10/31/e3970eb0-1b8b-11eb-bb35-2dcfdab0a345_story.html).

<sup>2</sup> 5 U.S.C. § 7323(a)(1).

<sup>3</sup> 5 C.F.R. § 734.101.

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of the virus's impact leading into that season. And while OSC generally advises employees that it is best not to discuss candidates for partisan political office when speaking in their official capacity, we must still show that the employee engaged in political activity to establish a Hatch Act violation. Here, while a close call, Dr. Fauci's comments, without more, do not appear to be directed at the electoral success or failure of either candidate. This is true even though the author of the article may have written it from a particular perspective and tried to use Dr. Fauci's words to make a political point. But OSC cannot impute the author's intent to Dr. Fauci's otherwise neutral assessment. Therefore, OSC has concluded that Dr. Fauci did not use his official authority or influence as NIAID Director to affect the outcome of the 2020 presidential election.

Based on the preceding, we are closing the above-referenced file without further action. If you have any questions, you may contact me at [REDACTED].

Sincerely,

A handwritten signature in cursive script that reads "Erica S. Hamrick".

Erica S. Hamrick  
Deputy Chief  
Hatch Act Unit