



May 3, 2022

Marcella Goodridge-Keiller
Assistant General Counsel &
Designated Agency Ethics Official
U.S. Department of Education
400 Maryland Ave, SW
Washington, DC 20202

Re: Potential Loudoun School Board Hatch Act Violation

Dear Ms. Goodridge-Keiller,

America First Legal Foundation (AFL) is a national, nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, and ensure due process and equal protection for all Americans.

We write today to notify you that at least one member of the Loudoun County School Board, Atoosa Reaser, appears to have engaged in partisan political activity potentially in violation of the Hatch Act. Ms. Reaser—both during the final run-up to Virginia’s 2021 gubernatorial race and after—has tweeted from the official Vice Chair of the Algonkian District school board account, or an account with the imprimatur of her official authority as a school board member, advocating for partisan candidates and fundraising activities.

The Loudoun County School Board is responsible for the Loudoun County Public Schools (“LCPS”), which the Department of Education financially supports, subjecting it to Hatch Act restrictions. Accordingly, we request your Office refer this matter for investigation by the Office of Special Counsel, in accordance with 5 U.S.C. § 1504.

I. Hatch Act Application

As you know, the Hatch Act prevents covered state and local officers or employees from using their official authority or influence to interfere with or affect the result of an election or a nomination for office. 5 U.S.C. § 1502(a)(1). A covered state or local officer or employee is “an individual employed by a State or local agency whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a Federal agency.” 5 U.S.C.

611 Pennsylvania Ave SE #231
Washington, DC 20003

§ 1501(4). The Hatch Act excludes an individual employed by an “educational or research institution, establishment, agency, or system” that is supported by a State or political subdivision. 5 U.S.C. § 1501(4)(B).

“It has long been established that an officer or employee of a state agency is subject to the Hatch Act if, as a normal and foreseeable incident to his principal position or job, he performs duties in connection with an activity financed in whole or in part by federal funds.” *Special Couns. v. Gallagher*, No. HQ12068810012, 1990 WL 23951 (M.S.P.B. Mar. 2, 1990). As a Loudoun County school board member, Ms. Reaser meets this test.¹

School board members are not expressly or impliedly excepted from the Hatch Act. The Merit Systems Protection Board has defined an educational institution as: “any public or private elementary school, secondary school, vocational school, correspondence school, business school, junior college, teachers' college, college, normal school, professional school, university, or scientific or technical institution furnishing education for adults.” *Matter of Grindle*, 1 M.S.P.R. 38, 42, *approved*, 1 M.S.P.R. 36 (1979). The MSPB, when discussing this exception, found “that even a cursory review of the legislative history of the amendment to the definition shows that the exclusion applies to teachers and educational institutions.” *Special Couns. v. Suso*, 26 M.S.P.R. 673, 678 (1985) (citing H.R.Rep. No. 2296, 77th Cong., 2d Sess. (1942)). In *Suso*, the MSPB looked at the employee’s duties, which were “programmatic, operational, and managerial” and that any research activities were “merely incidental to these duties.” *Id.* The MSPB concluded that interpreting “the definitional exclusion so broadly as to cover every organization that engages in some amount of research would contravene the intent of Congress in adopting the exclusion.” *Id.* at 678-79.

The purpose of the exception for state employees engaged in educational or research activities was to ensure teachers and educators could participate in the political process. *See Suso*, 26 M.S.P.R. at 678 (“Protection of academic freedom, and fear of governmental control of education and the teaching profession, were the principal factors that led Congress in 1942 to adopt the exemption in question.”) The exemption, however, does not allow school board members to use their position, title, and official influence to support other partisan candidates and host fundraisers for them while using federal funds to support their school districts.

¹ <https://tinyurl.com/5x9k5a9w> (Last Accessed March 30, 2022) (This is a shortened link to the LCPS 2022 School Budget in a .pdf.) Page 24 of the budget identifies federal grant revenue.

II. Alleged Hatch Act Violations

a. Atoosa Reaser Changed Her Twitter Profile, But It Still Carries the Imprimatur of Her Official Authority

Prior to October 17, 2021, Atoosa Reaser apparently used her Twitter account as an official account of the Vice Chair of the Algonkian District of the Loudoun County School Board. Prior to October 17, 2021, her profile—obtained from archive.org—appeared with her title in her name as “Vice Chair Atoosa Reaser,” and had her full title in her profile. It listed her as: “Problem-solver, listener, teacher, mother, lawyer. Vice Chair & Algonkian District rep of the Loudoun County School Board. Views are my own.” Further, it included a link to atoosareaser.com, her campaign website. Prior to October 17, 2021, her profile appeared as follows:



On October 17, 2021, she changed her Twitter handle to just her name—“Atoosa Reaser”—dropping the title from her handle, but the description still included her title and campaign website. It read: “Problem-solver, listener, teacher, mother,

lawyer. Personal acct of Vice Chair & Algonkian District rep of the Loudoun County School Board. Views are my own.” Her profile still included a link to her campaign website at atoosareaser.com. The obvious change is that she added “Personal acct of...” Her Twitter account currently reflects these same changes. It still has her title and campaign website in its description.

Ms. Reaser’s tenure as Vice Chair of the Loudoun County School Board ended on January 4, 2022. Her current Twitter profile, as of March 31, 2022, appeared as follows:



Atoosa Reaser could not use the official account of the Vice Chair of the Algonkian District of the Loudoun County School Board to participate in partisan political activity. Yet she clearly used Twitter to participate in such activity. The change to her profile on October 17, 2021, evidences Ms. Reaser’s knowledge that her profile was improperly using her authority as a school board member to support partisan candidates. Her attempted solution fails to resolve any Hatch Act concerns because she is still using her official authority or influence to affect the result of an election or nomination for office.

b. Atoosa Reaser Made Posts Supporting Partisan Candidates and Calls for Fundraising in Partisan Elections.

On September 20, 2021, she explicitly called for fundraising in a partisan election. Wendy Gooditis is a Virginia State House of Representative member and ran in a partisan election which was held on November 2, 2021. She won by only 821 votes out of 41,694 total votes; an extraordinarily close race. Here is what the Vice Chair Atoosa Reaser’s September 20, 2021 tweet looked like prior to the change of her account:



There can be no doubt that this was a post from the official account of the Vice Chair of the Loudoun County School Board engaging in partisan political fundraising, a direct violation of the Hatch Act.

On September 26 and 27, 2021, prior to any profile changes, the official account of the Vice Chair of the Loudoun County School Board engaged in other partisan political activity by advocating for partisan candidates:



Vice Chair Atoosa Reaser
@AtoosaReaser

Follow



PUMPED to launch a canvass for
[@kmurphyva](#) with [@julibriskman](#)
[@JenniferBoysko](#) and [@NetworkVirginia](#)
because [#suburbanwomen](#) get it DONE!



6:40 AM - 27 Sep 2021



Vice Chair Atoosa Reaser
@AtoosaReaser

Follow



FANTASTIC canvass launch on behalf of the
Virginia statewide ticket - [@TerryMcAuliffe](#),
[@HalaAyala](#) & [@MarkHerringVA](#) w/special
guest U.S. Senator [@amyklobuchar](#)
[@EFillerCorn](#) [@kmurphyva](#)
[@SenDaveMarsden](#) [@JennMcClellanVA](#)
[@DSMcAuliffe](#)



11:20 AM - 26 Sep 2021

The changes made to the Atoosa Reaser Twitter profile have no effect on whether it is the official account of the Vice Chair of the Loudoun County School Board or whether her partisan activity violates the Hatch Act. She still identifies herself as the Algonkian District representative to the Loudoun County School Board. Additionally, she still has her campaign website, atoosareaser.com, as part of her profile. This crosses the Hatch Act's line that no State or local officer or employee can use their "official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office." Her Twitter profile reflects her authority as the Algonkian District representative of the Loudoun County School Board. Thus, her activities in partisan elections advocating support for candidates is a violation of the Hatch Act.

On October 23 and 24, 2021, after she changed her profile, she engaged in partisan activity advocating for Mark Herring, Terry McAuliffe, Hala Ayala, and Kathleen Murphy, all candidates for partisan elections.





Atoosa Reaser @AtoosaReaser · Oct 23, 2021



Yes we are. Yes we can.

The Democrats @TheDemocrats · Oct 23, 2021

The crowd is fired up, ready to go for @TerryMcAuliffe, @BarackObama and Democrats up and down the ticket in Richmond today.



11

6

39



Atoosa Reaser
@AtoosaReaser



It's still #knocktober and with #democracy on the line there's nothing more patriotic than voting ! Do you know who else has already worked hard to protect your right to vote? @MarkHerringVA @TerryMcAuliffe @HalaAyala @kmurphyva



3:01 PM · Oct 24, 2021 · Twitter for iPad

To this day, Ms. Reaser continues to use her Twitter account for blatant political purposes, using the improper leak of a United States Supreme Court draft opinion to advocate for Democrats taking back the Virginia General Assembly.



Atoosa Reaser
@AtoosaReaser

...

Women should make decisions about their own bodies & Virginians overwhelmingly support access to safe & legal abortion. We also need universal health to care for women, kids, families. Democrats will ensure these rights - we MUST take back our majority in the VA General Assembly.

7:40 AM · May 3, 2022 · Twitter for iPhone

These additional tweets from Atoosa Reaser, even after she made the changes to her Twitter profile, are still in violation of the Hatch Act. She is using the imprimatur of her office and official authority by using her title and linking her campaign website to advocate in partisan elections. This is one of the activities the Hatch Act is meant to prevent.

III. Conclusion

AFL respectfully requests that, pursuant to 5 U.S.C. § 1504, the Department of Education seek an investigation by the Office of Special Counsel for the Hatch Act violations that occurred in the run up to the November 2, 2021, Virginia gubernatorial election and the subsequent violations that are currently ongoing.

Sincerely,

s/ Gene P. Hamilton
Vice-President and General Counsel
America First Legal Foundation