



October 15, 2020

Chairman James Lankford
Vice Chairman Christopher A. Coons
U.S. Senate Select Committee on Ethics
220 Hart Building
United States Senate
Washington, D.C. 20510

Submitted via mailbox_office@ethics.senate.gov

Dear Chairman Lankford and Vice Chairman Coons:

Campaign Legal Center respectfully requests that the U.S. Senate Select Committee on Ethics (“Ethics Committee”) review whether Senator Lindsey Graham violated federal ethics laws and Senate ethics rules by soliciting campaign contributions while in a federal building.¹ His request for contributions occurred on Wednesday, October 14, 2020, in the Hart Senate Office Building immediately following a meeting of the Senate Judiciary Committee that he was chairing.

If the Ethics Committee does not review this matter and hold Senator Graham accountable, his highly publicized actions will establish the precedent that certain solicitations of campaign contributions on federal property are permissible. Such a result conflicts with the Ethics Committee’s unequivocal rules and guidance that all campaign fundraising on Capitol grounds is strictly prohibited. The Ethics Committee should conduct a swift investigation to reassure the public that it enforces its well-established rules and that Senators are not permitted to use federal resources to fundraise.

¹ C-SPAN, *Senator Graham Speaks to Reporters After Confirmation Hearing*, (Oct. 14, 2020), <https://www.c-span.org/video/?476972-3/senator-graham-speaks-reporters-confirmation-hearing>.

Federal Law and Senate Rules Prohibit a Senator from Soliciting Campaign Contributions on Federal Property

Federal law prohibits any member of Congress from soliciting campaign contributions while on federal property:

“It shall be unlawful for an individual who is an officer or employee of the Federal Government, including the President, Vice President, and Members of Congress, to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election, while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person.”²

This law has historically been construed to prohibit Members from soliciting contributions while the *target* of the solicitation was on federal property, because the receipt of the request theoretically completes the solicitation.³ However, the Ethics Committee’s rule is broader and clarifies that the prohibition applies to a federal employee who solicits campaign contributions while on federal property in the course of official duties:

“Solicitation or receipt of contributions in any room or building occupied by a Federal employee in the course of official duties is prohibited. . . . Note well that the seven day provision of 18 U.S.C. § 607 [an exception that allows contributions received by a Member’s staff and then transferred to committees] applies to unsolicited contributions only: it does not authorize solicitation from a federal (including congressional) office[.]” (emphasis in original).⁴

The Senate Ethics Manual, quoting the House Standards Committee, provides that “no activities of a political solicitation nature should occur with the support of any federal resources (staff or space) in order to avoid any question that a violation of 18 U.S.C. § 607 has occurred.”⁵

Federal law also prohibits the solicitation of contributions on Capitol grounds specifically. “It is forbidden to offer or expose any article for sale in said United States Capitol Grounds; to display any sign, placard, or other

² 18 U.S.C. § 607(a)(1).

³ See SELECT COMM. ON ETHICS, 108TH CONG., SENATE ETHICS MANUAL 146 (2003), *available at* 145, available at https://www.ethics.senate.gov/public/index.cfm/files/serve?File_id=F2EB14E3-1123-48EB-9334-8C4717102A6E.

⁴ *Id.*

⁵ *Id.*

form of advertisement therein; to solicit fares, alms, subscriptions, or contributions therein.”⁶

Senator Graham Solicited Contributions to His Campaign in a Senate Building

Senator Graham is Chair of the Senate Judiciary Committee. In that role, he leads the confirmation hearing process for all Supreme Court nominations. On October 14, 2020, Senator Graham conducted the third day of the Supreme Court confirmation hearing in the Senate Hart Office Building on Capitol Hill. Immediately following the hearing, and in the hallway of the Senate building, he was asked by a member of the press about his fundraising numbers and whether Senator Graham believed his fundraising correlated to the confirmation hearing. In response, he said the following: “I think people in South Carolina are excited about Judge Barrett. I don’t know how much it affected fundraising today but if you want to help close the gap, lindseygraham.com, a little bit goes along way.”⁷

He continued his appeal for contributions by noting the large gap between the fundraising of his campaign and his general election challenger, and by emphasizing his race for reelection:

“My opponent raised \$57 billion, congratulations to him, that is the most ever raised in the history of the Senate. I raised \$8 million . . . The contest in South Carolina has taken on a national profile. . . . What has happened in my case is I stood up for [Justice] Kavanaugh and that made some people upset on the left, and I have been helping President Trump. But I trust the people of South Carolina to get it right, the state is not for sale, and I feel good about my campaign.”⁸

Senator Graham clearly was soliciting contributions in a federal building that he occupied in the discharge of his official duties, in violation of federal law. He specifically solicited contributions from people to “close the [fundraising] gap” between him and his opponent. His further explanation of the fundraising numbers and highlighting his political successes made clear that he was angling for contributions to help him in the final stretch of a close race. He made this solicitation to the general public through the press. Furthermore, he specifically referenced the confirmation hearings of Judge Barrett that he had just been conducting as part of his official duties.

⁶ 40 U.S.C. § 193d.

⁷ C-SPAN, *supra* note 1.

⁸ *Id.*

In light of these facts, Campaign Legal Center respectfully requests that you investigate whether Senator Graham has violated any ethics laws by soliciting campaign contributions in a federal building while on duty.

Sincerely,

_____/s/_____
Kedric L. Payne
General Counsel and Senior Director,
Ethics

_____/s/_____
Delaney N. Marsco
Legal Counsel, Ethics