



November 18, 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 ("CLC") respectfully requests that the U.S. Senate Select Committee on Ethics ("Ethics Committee") review whether Senator Kelly Loeffler violated federal ethics law and Senate ethics rules by soliciting campaign contributions while in a federal building.¹ Her request for contributions occurred on Wednesday, November 18, 2020, as she was giving a televised interview on Capitol Hill.

Last month, CLC requested that the Ethics Committee review nearly identical conduct by Senator Lindsey Graham in the final days of his 2020 Senate race.² If the Ethics Committee fails to review this matter and hold Senator Loeffler accountable, her 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

¹ Fox News, *Georgia discovers additional uncounted ballots*, YouTube (Nov. 18, 2020), https://www.youtube.com/watch?v=owm0nV_cQ_Y.

² CAMPAIGN LEGAL CTR., *Letter from CLC to Senate Ethics Committee Regarding Senator Lindsey Graham* (Oct. 15, 2020), https://campaignlegal.org/sites/default/files/2020-10/Campaign%20Legal%20Center%20Complaint%20Against%20Sen%20Graham_Oct%2015%202020.pdf.

investigation to reassure the public that it enforces its well-established rules and that Senators are not permitted to use federal resources to fundraise.

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.”³

Courts have historically construed the law as prohibiting Members from soliciting contributions while the *target* of the solicitation was on federal property, because the receipt of the request theoretically completes the solicitation.⁴ 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).⁵

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.”⁶

³ 18 U.S.C. § 607(a)(1).

⁴ See SELECT COMM. ON ETHICS, 108TH CONG., SENATE ETHICS MANUAL 145 (2003), *available at* https://www.ethics.senate.gov/public/index.cfm/files/serve?File_id=F2EB14E3-1123-48EB-9334-8C4717102A6E.

⁵ *Id.*

⁶ *Id.* at 145 n.377.

Federal law also prohibits the solicitation of contributions on Capitol grounds specifically: “A person may not carry out any of the following activities in the Grounds: (1) offer or expose any article for sale; (2) display a sign, placard, or other form of advertisement; (3) solicit fares, alms, subscriptions, or contributions.”⁷

Senator Loeffler Solicited Contributions to Her Campaign in a Senate Building

Senator Loeffler is running in a highly publicized Senate runoff in Georgia. In a televised interview on a cable news program that appears to be in a Senate office building, Senator Loeffler answered a wide range of questions relating to the Senate runoff, her opponent’s and her own agendas, and voting in Georgia. When she was asked about out-of-state donations to her opponent, Senator Loeffler said the following:

“Well look, we know that hundreds of millions of dark liberal money is pouring into our state. **That’s why it’s so important that everyone across the country get involved. They can visit KellyforSenate.com to chip in five or ten bucks,** and get involved, volunteer. But what we have to make sure Georgians do is vote, at the polls, on January 5 or before. Because it is our state, it is our election and we are not going to let them buy it. . . . We’re a red state and we’re going to keep it red.”⁸



⁷ 40 U.S.C. § 5104(c) (emphasis added).

⁸ Fox News, *supra* note 1 at 5:45 (emphasis added).

Senator Loeffler clearly solicited contributions from a federal building that she occupied in the discharge of her official duties, in violation of federal law. She specifically solicited contributions, asking “everyone across the country” to go to her campaign website to “chip in five or ten bucks.”⁹ Her answers relating to her opponent’s agenda, as well as her discussion of controversial issues she plans to raise at the debate, made clear that she was angling for contributions to help her in the final stretch of runoff. The target of this solicitation was “anyone” who saw the interview.¹⁰ Senator Loeffler posted portions of this interview in three separate tweets on her candidate Twitter account, further indicating that she was using this interview on Capitol grounds to be a fundraising opportunity.¹¹

In light of these facts, Campaign Legal Center respectfully requests that you investigate whether Senator Loeffler violated federal law and Senate ethics rules 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

⁹ *Id.*

¹⁰ At time of filing, the interview on YouTube had just under 30,000 views. *Id.*

¹¹ Kelly Loeffler (@KLoeffler), TWITTER (Nov. 18, 2020, 1:02 PM), <https://twitter.com/KLoeffler/status/1329122700447637506>; Kelly Loeffler (@KLoeffler), TWITTER (Nov. 18, 2020, 10:58 AM), <https://twitter.com/KLoeffler/status/1329091494335090688>; Kelly Loeffler (@KLoeffler), TWITTER (Nov. 18, 2020, 9:54 AM), <https://twitter.com/KLoeffler/status/1329075555753369601>.