



October 16, 2020

Chairman James Lankford
Senate Select Committee on Ethics
220 Hart Senate Office Building
Washington, D.C. 20510

Chairman Lankford:

The American Democracy Legal Fund is requesting an immediate investigation into Senator Martha McSally's flagrant violation of Senate Ethics rules in a blatant abuse of taxpayer dollars to promote her re-election campaign. This week, the Daily Beast reported that Senator McSally misused taxpayer funded robocalls to communicate with Arizona voters less than 60 days before an election. This in clear violation of Senate Ethics rules:

The activities prohibited by the Senate rules within 60 days of a contested election are: (1) sending mass mailings using the frank; (2) using the Senate radio and television studios; (3) seeking reimbursement for certain aspects of official travel; (4) seeking reimbursement for the costs of a mobile office; and (5) certain Internet activities. See Select Comm. on Ethics, Senate Code of Official Conduct R. XL (2015), https://www.ethics.senate.gov/public/index.cfm/files/serve?File_id=efa7bf74-4a50-46a5-bb6f-b8d26b9755bf; Senate Ethics Comm., Senate Ethics Manual 505-506 (2003), <https://www.ethics.senate.gov/downloads/pdffiles/manual.pdf>; Campaign Activity, Select Comm. on Ethics, <https://www.ethics.senate.gov/public/index.cfm/campaign-activity#:~:text=60%20days%20prior%20to%20a,is%20prohibited%20from%20certain%20activities.&text=May%20not%20send%20unsolicited%20mass,if%20not%20in%20direct%20response> (last visited Sept. 10, 2020).

The specific rules governing Internet activity during the moratorium period are created by the Committee on Rules and Administration. Under the Committee's policies, a Member may not, during the 60 days before an election: (a) "seek constituent input or inquiries (such as online petitions or opinion polls) via a mass communication using Senate Internet Services," or (b) "transmit an unsolicited mass communication." Comm. on Rules & Admin., Internet Services and Technology Resources Usage Rules 6.2-6.3 (2015), <https://www.senate.gov/usage/internetpolicy.htm>. A "mass communication" is "an electronic communication including, but not limited to, posting to an Official Website, automated telephone calls for events such as Tele-Town Halls, and electronic mail transmission of substantially identical content to 500 or more recipients." *Id.* 6.1.3.

When confronted with this clear violation of Senate Ethics rules, Senator McSally's office responded with a waiver supplied by the Senate Rules Committee allowing communications that

update constituents on the ongoing COVID-19 pandemic. Unfortunately, Senator McSally's message does not fall under the guidelines established by the Senate Rules Committee.

The waiver granted by the Senate Rules Committee explicitly states:

These limited purposes include sharing relevant federal resources, providing updated information about the pandemic, and providing information about the federal government's response.

Senator McSally's message clearly violates this policy. Her communication uses campaign type messaging about "Washington dysfunction," and "breaking through gridlock." The message did not relay "updated information" on the pandemic to her constituents. The message is almost entirely about Senator McSally's unsuccessful efforts to pass legislation.

Furthermore, Senator McSally's message violates another component of the Rules Committee waiver which says these messages cannot be used to seek constituent input or inquiries. The waiver reads:

This limited waiver does not include a waiver of any other moratorium restrictions, including the restriction on seeking constituent input or inquiries via a mass communication.

Senator McSally's message violates this waiver upon its conclusion with her directing call recipients to call her office.

Senator McSally is not entitled to abuse taxpayer resources to advance her re-election campaign. Her message clearly violates Senate Ethics rules prohibiting the use of tax dollars on mass communications less than 60 days before an election. We also believe it does not meet the requirements established by the Senate Rules Committee to waive this moratorium. This blatant abuse of tax dollars is a clear violation of Senate Ethics rules and we request an immediate investigation into this matter.

Sincerely,

DocuSigned by:


Brad Woodhouse
President