



CONGRESSMAN FOR COLORADO'S 6TH DISTRICT

No Political Enemies (NOPE) Act

The Danger of Increasing Attacks on Free Speech and Political Participation

No president – Democrat or Republican – should have the power to punish people or organizations for their constitutionally protected speech, viewpoints, or political participation. Our democracy is built on the foundational principle that all Americans have the right to express themselves, even when others don't agree or like what they say.

Since taking office, President Trump has targeted individuals, nonprofits, law firms, universities, companies, media outlets, and other institutions for his own personal and political gain. While the Constitution and existing laws prohibit vindictive government actions, it is clear that targeted individuals and others need more tools, protections and authorities to constrain this government overreach and fight back against these abuses of power.

The NOPE Act will empower any American who is targeted by their government for what they say and believe with the tools they need to defend themselves in court and strongly disincentivize political targeting by creating meaningful accountability for abuses. Victims of political prosecutions are forced to spend their time, money, and energy defending themselves in court against baseless accusations. Some targeting victims may be subject to costly and harassing investigations, or are tarnished as dangerous to associate with, without even having the chance to clear their names in court. Others hear the message loud and clear that criticizing the Administration, or its allies, will have dire consequences and self-censor their speech as a result. Public trust in the neutrality of law enforcement and the integrity of civil society will suffer if Congress does not stand up for the American people and enact clear, enforceable protections that deter government abuse of power.

Summary of Key Provisions to Protect Free Speech and Political Participation:

- **Clear Statement of Congressional Policy:** Would enact a clear statutory declaration that no federal executive branch official may initiate or direct investigative, regulatory, or enforcement actions against Americans to suppress or burden constitutionally protected speech or association (i.e., “politically motivated” targeting).
- **Statutory Defense in Political Targeting Cases:** Would create an affirmative defense in criminal prosecutions or civil enforcement actions. If a defendant presents substantial evidence that protected speech or association was a motivating factor, the burden shifts to the government to prove that legitimate, non-protected grounds justified the action. As part of this inquiry, the court may grant expedited discovery into government

motivations. This provides a tool for those wrongly targeted to get meaningful access to evidence, corrects the imbalance of proof, and allows courts to quickly dismiss abusive actions.

- **Narrow Statutory *Bivens* Remedy to Deter Targeted Political Retaliation:** Would establish a cause of action allowing individuals to sue federal officials for damages when their First Amendment rights are violated due to politically motivated targeting. The bill would immunize officials who demonstrate the target's speech was not constitutionally protected but end existing immunities for federal employees from lawsuits in their personal capacity.
- **Attorney Fee-shifting to Deter Meritless Politically Motivated Enforcement:** Would require the U.S. government to pay reasonable attorney's fees and costs to individuals and organizations who prevail in criminal prosecutions or civil enforcement actions if they can demonstrate the government's action was substantially motivated by a desire to suppress their constitutionally protected speech or association.
- **Prohibition on Use of Funds for Politically Motivated Targeting:** Would prohibit the use of federal funds for any investigatory, regulatory, or enforcement action initiated or pursued to suppress protected speech. Violations would trigger the Anti-Deficiency Act, creating administrative and potential criminal liability, and allow private parties to seek to prevent the use of such funds.