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# Republicans on House science panel suggest top environmental health scientist broke antilobbying law

Lawmakers call for investigation of editorial co-authored by NIEHS Director Linda Birnbaum

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Representative Lamar Smith (R–TX) NASA/JOEL KOWSKY/FLICKR (CC BY-NC-ND 2.0)

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The chief of the National Institute of Environmental Health Sciences (NIEHS) in Durham, North Carolina, has gotten into hot water with Republicans on the House of Representatives science committee for writing an editorial urging citizens to advocate for environmental protection laws. NIEHS Director Linda Birnbaum says she violated no ethics laws, however, and some legal experts agree.

In the [editorial](#), published on 18 December 2017 in *PLOS Biology*, Birnbaum and a *PLOS Biology* editor summarize the articles appearing in a special issue on U.S. policies regulating chemicals. They end with the sentence: "Closing the gap between evidence and policy will require that engaged citizens, both scientists and nonscientists, work to ensure our government officials pass health-protective policies based on the best available scientific evidence."



That statement is a problem, argue Representatives Lamar Smith (R–TX) and Andy Biggs (R–AZ) in [17 January letters](#) to the acting director of the Department of Health and Human Services (HHS), NIEHS's parent agency, and the HHS inspector general. Smith, chair of House science committee, and Biggs, chair of its environmental subcommittee, write that "the Committee suspects" that Birnbaum may have violated the Anti-Lobbying Act, which bars federal employees from lobbying Congress on specific issues, along with related HHS ethics laws. "She is prohibited to pressure citizens to contact their government representatives to favor or oppose any policy, even before the introduction of an actual piece of legislation," they write.

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The letters note that Birnbaum used her NIEHS email address and didn't include a disclaimer stating that she was not expressing her agency's position. The lawmakers ask for related documents and request that the inspector general determine by 31 January whether "a full scale review" is warranted.

But some experts suggest Birnbaum was in the clear. The editorial's statement calling for science-based protective policies is so general, it's "endorsing something akin to motherhood and apple pie," says Kathleen Clark, a law professor at Washington University in Saint Louis in Missouri and government ethics consultant in Washington, D.C. Clark notes that Birnbaum did not include her job title of NIEHS director, suggesting she was writing in her personal capacity. At the same time, Clark would have recommended that she include a disclaimer stating as much.

A former senior government official shares the view that Birnbaum's editorial probably didn't constitute lobbying. The Anti-Lobbying Act "is really aimed at Congress" and preventing advocacy for specific pieces of legislation, says attorney Chris Lu, who served as deputy secretary of labor under former President Barack Obama and is now at the University of Virginia's Miller Center of Public Affairs in Charlottesville. The committee's letter "in my mind is more broadly an attack on science and evidence," he says. Birnbaum defended her actions in a statement to *ScienceInsider*. "The editorial reminds us that health policy needs to be updated as research provides us with new information, and it simply acknowledges the fact that public opinion plays a role in the policy making process," she wrote.

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