

**U.S. Senate Committee on Homeland Security and Governmental Affairs**  
**Opening Statement of Julia Akins Clark**  
**Nominee for General Counsel of the Federal Labor Relations Authority**

Thank you for the opportunity to appear before the Committee for the purpose of being considered for confirmation for a second term as the General Counsel of the Federal Labor Relations Authority (FLRA).

When Congress enacted the Federal Service Labor-Management Relations Statute (Statute), the Office of the General Counsel (OGC) was established as the independent investigative and prosecutorial component of the FLRA. The Statute further assigns responsibility for the management and supervision of FLRA Regional Offices and their employees to the General Counsel. OGC Regional Office employees provide labor relations dispute resolution services directly to federal employees, union representatives and managers nationwide. These services include unfair labor practice (ULP) and representation case processing as well as labor relations education and information assistance. Their work is of critical importance to federal agencies and federal employees throughout the government. Productive, stable and efficient labor-management relations are essential to the successful implementation of necessary and sometimes difficult work place changes. The services provided by the OGC play a vital role in facilitating this process by resolving labor relations disputes in a fair, consistent and timely manner and, whenever possible through mutually agreed settlements.

Today I have the privilege of reporting on the OGC's remarkable accomplishments since I appeared before you on July 29, 2009. At that time, the General Counsel position had been vacant for many months, resulting in a daunting ULP complaint and appeals case backlog. OGC

operations were also hampered by a 40% staff reduction during the preceding years. OGC case processing performance had hit a historical low, public education and information resources were virtually nonexistent, and FLRA employee morale was unacceptably low. While I identified these deficiencies as priorities and vowed to address them, I could not know then what I know now about OGC career employees' capability and commitment to addressing these looming challenges.

OGC employees handle over 90% of all cases filed with the FLRA. They are the first point of contact with whom the vast majority of persons deal when they file a case with or seek assistance from the FLRA. These employees' commitment to the OGC mission and tireless efforts to successfully manage their caseloads were the key to our success. They have my deep respect and appreciation, and deserve the credit for the OGC's remarkable accomplishments over the past five years.

From my first day as General Counsel, OGC career staff not only embraced the challenges and priorities identified in 2009, they presented concrete, well-reasoned plans to address these challenges. Within days, we were able to adopt and implement plans of action that resulted in dramatic improvements in OGC performance and customer service, which are all the more remarkable in light of our limited ability to fill OGC vacancies during my tenure as General Counsel. Among the most important management factors that contributed to our success were early decisions to direct our limited hiring ability to front-line regional office vacancies, streamline case processes, make more effective use of available technology, and integrate alternative dispute resolution (ADR) opportunities into all stages of the case process.

Our ADR case processing initiatives have proven particularly effective and enduring. In 2010, the OGC amended its regulations to authorize ADR activities during the period between

the filing of a ULP charge and the issuance of a complaint. We also added ADR skills training to our internal employee development program. This regulatory change and skills training enabled the OGC's front-line employees to facilitate ULP resolutions early in the case process. The OGC now provides parties with the opportunity to resolve disputes at all phases of the process, both before and after a complaint is issued. As a result of the OGC's emphasis on ADR, most ULP cases are resolved without the need for formal litigation.

The measurable positive results of these efforts are clear:

- The pre-existing ULP case backlog (approximately 300 ULP complaint and 700 ULP appeals cases) was eliminated within the first 180 days – by March 2010.
- ULP case processing improved by every measure. Since 2009, productivity has increased over 25%, while timeliness has increased from 49% to 68% since 2010. At the same time ULP case filings increased over 25%, and are expected to remain constant at about 4,600 per year.
- Employee morale improved quickly and dramatically. The FLRA was named most improved small agency in 2010 and has been ranked a top ten small agency in the 2011, 2012 and 2013 Best Places to Work Surveys.
- The OGC has become the leading source of information regarding federal ULP and representation law and practice. OGC web pages contain comprehensive information and education resources, including OGC case handling manuals, extensive case law guides, policy guidance and on-line, self-paced training programs. OGC Regional Offices provide regular statutory training to federal managers and union representatives, as well as specialized training requested jointly by labor and management representatives. Since 2009, OGC regional office employees have trained over 15,000 participants in these live training sessions.

Further, we have expanded the scope of our ADR activities, and improved the accessibility of our information resources, through interagency collaboration and resource sharing agreements. Through a 2010 partnership between the OGC and the Federal Mediation and Conciliation Service (FMCS), our agencies developed a two-day training program on

cooperative labor-management relations to achieve the objectives of Executive Order 13522, *Creating Labor-Management Forums to Improve Delivery of Government Services*. In an eighteen month period OGC and FMCS employees trained over 6,000 participants in over 150 live sessions nationwide. We also developed web-based tutorials to convey this information to individuals who could not attend a training session. This training partnership has developed into on-going support of the National Council on Federal Labor-Management Relations mission. Further, through shared resource agreements with the Department of Veterans Affairs (VA) and the Department of Defense (DoD), the OGC has developed comprehensive web-based tutorials addressing federal labor relations law and practice, which are available to federal employees through the Office of Personnel Management's on-line learning portal -- Human Resources University, and to the public through web sites maintained by the VA and the DoD.

I believe the OGC is well positioned to sustain and enhance its contribution to productive, stable and efficient labor management relations throughout the federal government. We are addressing known challenges such as identifying and developing new leaders to replace the many senior managers and front line employees who will retire in the coming years. We understand that we cannot take current levels of employee productivity and morale for granted, or expect significant staff level increases. We are committed to maintaining a management culture that vigilantly examines and re-examines our practices and processes for potential improvements and continuously engages front line staff in these deliberative processes. It would be an honor and a privilege to continue to lead the Office of General Counsel as we meet these challenges and serve the public interest.