

**U.S. Senate Committee on Homeland Security and Governmental Affairs**  
**Opening Statement of Kurt Rumsfeld**  
**Nominee for General Counsel of the Federal Labor Relations Authority**  
**October 20, 2021**

Madame Chair and Members of the Committee:

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

It is a true honor to be nominated for this position. I am a strong believer in the value of public service, the policies promoted by the Federal Service Labor-Management Relations Statute (the Statute), and the vital role played by the Office of General Counsel (OGC) in administering and enforcing this Statute.

The FLRA's General Counsel is responsible for protecting and enforcing employee, union, and agency rights under the Statute by investigating unfair labor practice charges and prosecuting ULP complaints. The General Counsel also has direct authority over, and responsibility for, all employees in the Office of General Counsel including the FLRA's Regional Offices, which handle representation matters before the FLRA. In furtherance of its mission, the Office of General Counsel offers clear, accurate, and readily-accessible training and guidance to employees, unions, and agencies regarding their labor-relations rights and responsibilities. It also offers assistance to parties in resolving their disputes regarding those matters in a fair, consistent, and timely manner.

As I noted in my written responses to the Committee's questions, the OGC currently faces a number of substantial challenges. The FLRA has not had a Senate-confirmed General Counsel since January 2017, and it lacked an Acting General Counsel between November 2017 and March 2021. This has resulted in a significant backlog of unfair labor practice charges for which complaints could not be filed and litigated in the absence of a General Counsel, as well as a backlog of appeals from dismissals of ULP charges which could not be decided.

Another challenge is the reduction of full-time equivalent employees that the OGC has endured over the last several years. Inadequate staffing obviously affects the OGC's ability to address the ULP backlog, particularly since the OGC has lost attorneys who had experience litigating ULP complaints. But it has also adversely affected employee morale.

Thanks to the considerable efforts of the OGC's employees, under the leadership of Acting General Counsel Charlotte Dye, the OGC has begun to effectively address this backlog. And if I am confirmed as General Counsel, I will primarily devote my attention to addressing, and meeting, these challenges. I am confident that my prior service as the OGC's Assistant General Counsel for Operations and Legal Policy – and my subsequent tenure as FLRA Chairman DuBester's Chief Counsel – have equipped me with the operational knowledge, working relationships, and technical skills that will allow me to begin this process on day one of my service as General Counsel.

This will include meeting immediately with the OGC's career leadership to assess the current status of pending cases, including a candid evaluation of the procedures that have been employed to date to address the backlog. It will also include a thorough review of procedures that have worked well in addressing past backlogs, with the goal of

developing a comprehensive case-management plan under my direction. And working with OGC's leadership, career staff, and employee representatives, I will finalize and implement this plan as soon as possible.

While focusing on this challenge, I will also work to ensure that the OGC's Regional Offices have the personnel and resources needed to effectively address the backlog while continuing to meet – in a fair, consistent, and professional manner – the additional responsibilities of the OGC's mission, including the timely processing of newly-filed cases.

I joined the ranks of the FLRA in 2013 after practicing labor and employment law for 17 years with a private law firm. In my new position with the FLRA, I was instantly impressed with the professionalism of the OGC's employees and their dedication to the core principles articulated in our Agency's governing Statute. And as I have continued my service with the FLRA, I have developed a deep respect and admiration for employees at all levels of the federal workforce, and the vital importance of the services their agencies provide to the American people. These insights have informed the actions I have taken as an FLRA employee, and they will continue to guide me as General Counsel if I am confirmed to this position.

I wish to express my appreciation to the Committee and staff for making this hearing possible, and I look forward to answering any questions.