

**Senate Committee on Homeland Security and Governmental Affairs Hearing
“The Postal Service’s Actions During the 2016 Campaign Season:
Implication for the Hatch Act”**

Wednesday, July 19, 2017

Written Testimony

Good Morning Chairman Johnson, Ranking Member McCaskill and Members of the Committee.

I am pleased to represent the 640,000 hard-working and dedicated men and women of the United States Postal Service. These men and women play an integral role in every region, community and neighborhood of our nation, every day. In many localities, the Postal Service is a citizen’s primary point of contact with the federal government. The vital role we play in this respect reinforces the need for strict adherence to the letter and spirit of the Hatch Act.

Last Friday, the Postal Service received the Office of Special Counsel (OSC) report concerning a Hatch Act investigation. The OSC determined that a long-standing practice of the Postal Service violates the Hatch Act by enabling union political activity. I want to give this Committee my complete and unconditional commitment that the United States Postal Service fully accepts and will fully implement all of the recommendations and directions of the OSC, in order to prevent any future violations of the Hatch Act.

The OSC noted that as a part of our effort to foster and maintain our working relationship with the National Association of Letter Carriers (“NALC”), the Postal Service has a long-standing practice to generally grant requests by the NALC for Leave Without Pay (LWOP) for some of their union members to engage in the political activities of the union. The Postal Service has a heavily unionized workforce by law, and by necessity the Postal Service is required to foster and maintain good working relationships with our unions in order for us to operate efficiently and to continue to provide the high quality service that our customers expect. However, the granting of such LWOP requests to engage in union political activity is not absolute, and such decisions are made in conformity with our general LWOP policy as set forth in our Employee and Labor Relations Manual (“ELM”), and in consideration of the applicable collective bargaining agreement as we have applied it.

The ELM policy states that “Each request for LWOP is examined closely, and a decision is made based on the needs of the employee, the needs of the Postal Service, and the cost to the Postal Service. The

granting of LWOP is a matter of administrative discretion and is not granted on the employee's demand except as provided in collective bargaining agreements." The Postal Service has defined the "needs of the Postal Service" in this context broadly, and as such our Labor Relations professionals undertake some efforts to ensure that the people making LWOP decisions under these circumstances at the local level properly consider all of the relevant facts so an appropriate decision can be made. In this regard, the language in the collective bargaining agreement concerning leave requests for union business is instructive, as it suggests that such leave "will" be granted "provided that approval of such leave does not seriously adversely affect the service needs of the installation."

Put in this context, I would like to address several issues raised as part of this hearing regarding Postal Service actions during the 2016 campaign, and to discuss our plans to revise our practice of approving LWOP applications specifically requested for the NALC's political activity so that we ensure that our employees do not run afoul of the Hatch Act in implementing our collective bargaining agreements. Finally, I would also like to describe the efforts we will undertake to enhance our prior efforts, (which are outlined below), to further educate our employees about their Hatch Act obligations, and to ensure that our Labor Relations employees understand the changes we will make to keep them out of harm's way.

The Postal Service practice to grant LWOP for NALC political activity has been in place for approximately 20 years. In that regard, and as the OSC determined, the Postal Service Labor Relations Manager and others acted consistent with our long-standing past practice during the 2016 campaign.

With regard to the initial allegations that prompted the OSC's investigation, I can say without any reservation or qualification that senior postal leadership, including myself, did not in any way guide union leadership in selecting the candidates for whom NALC employees could campaign; did not approve or choose candidates for the unions to support, and did not ask the union to advocate for political candidates on behalf of the Postal Service. Neither the United States Postal Service Office of Inspector General, nor the OSC, found any evidence to the contrary.

I also note that our postal unions do not speak for the Postal Service, and the Postal Service does not speak for our unions. This especially applies in a political context, but it is inherent in any collective bargaining relationship. The OSC found that the evidence simply does not support any allegation that any Postal Service officials sought to assist the NALC's favored candidates.

That said, the OSC ultimately concluded that application of our long-standing practice by Labor Relations and other managers enabled the NALC's political activity and constituted a violation of the Hatch Act, but OSC also acknowledged that this was a case of first impression. The OSC determined that no discipline was warranted because the manager was simply implementing a long-standing practice, and because the

evidence demonstrated that the manager was not motivated by any desire to engage in partisan political activity on behalf of himself, the Postal Service, or our senior leadership.

This violation of the Hatch Act, according to the OSC, was unintentional, and our Hatch Act awareness efforts last year demonstrate that we take our obligations under the Hatch Act very seriously. During my tenure as Postmaster General we have provided extensive training and written, oral, and digital communications to ensure that all our employees are aware of the prohibitions of the Hatch Act. In 2016, in addition to the training made available to new employees on the Hatch Act, we issued a mandatory stand-up talk, which was required to be certified as delivered in all facilities. We published five articles on the Hatch Act in Link, our national employee newsletter, and articles in the quarterly Area Update magazine, which is shared with all employees at their homes. Hatch Act reminders ran our intranet channels, Postal Vision and the Advanced Computer Environment scrolling banner throughout the year. Several of the Link articles also were featured in weekly newsletters produced by field communications and emailed to all field supervisory and administrative staff in those areas. There were also articles regarding the Hatch Act in four issues of Talk, a weekly newsletter for Postmasters, Managers and Supervisors.

Additionally, the Hatch Act was the topic of nineteen "Your Smart Business Moments," which are short messages reminding employees of a postal policy, rule, practice, business goal or law that are included in business meetings. Our Ethics Office additionally provided Hatch Act advice and guidance to postal managers and employees more than 150 times in 2016.

As a result of the OSC's report, we will change our practice in consultation with the OSC and based upon OSC's guidance. This will ensure that we do not put our people in harm's way and they do not unintentionally run afoul of the Hatch Act. As we have previously communicated to both this Committee and to the OSC, and as the OSC has acknowledged, the Postal Service has always been ready, willing, and able to end or modify our practice as appropriate, consistent with OSC's recommendations.

In its report, OSC recommends that the Postal Service take certain affirmative steps to prevent future Hatch Act violations. First, to ensure that we are administering our programs in a politically neutral manner, OSC directs that the Postal Service exclude political activity, as defined by the Hatch Act, from the acceptable uses of LWOP for official union leave. The Postal Service accepts this direction, and we will implement this change.

Second, OSC recommends that the Postal Service should not require or suggest that union members be released to engage in political activity. Rather the Postal Service should implement a "hands off" approach to a union's political activity. The Postal Service likewise accepts this recommendation, and we

will implement this change. The Postal Service will work with the OSC to design corrective measures by the OSC's August 31, 2017 deadline, in order to prevent any future violations of the Hatch Act.

Further, in light of the concerns that have been raised and in view of OSC's determinations here, the Postal Service will expand its communications efforts on the Hatch Act. Information about the Hatch Act will be posted on employee bulletin boards across the country. At least monthly, information will be disseminated through stand-up talks, Postal Vision, the ACE scrolling banner, Your Smart Business Moments, articles in the Link, the Postal Bulletin, Area Update Employee Magazine, and Talk, and other outlets. Our Ethics Office will continue to provide advice and guidance regarding Hatch Act issues as they arise. We will also educate our employees concerning the changes that we make to our current LWOP practices based upon the recommendations and guidance that is provided to us by OSC.

Mr. Chairman, the United States Postal Service delivers for the American public — both literally and figuratively. We will continue to safeguard America's trust in the Postal Service. We take these responsibilities seriously, and we will fully comply with the recommendations and directions in OSC's report.

Thank you, Chairman Johnson, Ranking Member McCaskill and Members of the Committee, for the opportunity to submit this testimony. I welcome any questions that you may have.

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