

NOMINATION OF HON. JULIA A. CLARK

HEARING

BEFORE THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
ONE HUNDRED THIRTEENTH CONGRESS

SECOND SESSION

NOMINATION OF HON. JULIA A. CLARK, TO BE GENERAL COUNSEL,
FEDERAL LABOR RELATIONS AUTHORITY

APRIL 29, 2014

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NOMINATION OF HON. JULIA A. CLARK

TUESDAY, APRIL 29, 2014

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 2:32 p.m., in room SD-342, Dirksen Senate Office Building, Hon. Jon Tester, presiding.

Present: Senators Tester and Portman.

OPENING STATEMENT OF SENATOR TESTER

Senator TESTER. I will call to order this hearing of the Senate Committee on Homeland Security and Governmental Affairs.

We convene this afternoon's hearing to consider the nomination of Julia Clark to serve as the General Counsel of the Federal Labor Relations Authority (FLRA).

Julia Clark has filed responses to a biographical and financial questionnaire, answered prehearing questions submitted by the Committee, and has had her financial statements reviewed by the Office of Government Ethics (OGE). Without objection, this information will be made part of the hearing record,¹ with the exception of the financial data, which are on file and available for public inspection in the Committee offices.

Julia Clark currently serves as General Counsel (GC) for the Federal Labor Relations Authority and has been in this position since 2009. Julia started her legal career at the Department of Justice (DOJ) and brought over 20 years of labor law experience to the FLRA. Thank you, Julia, for joining us today.

Senator Portman obviously is not here yet. He is en route, and when he gets here, we will certainly respect his opportunity to give an opening statement, but we will continue on with our Committee agenda.

Our Committee rules require that all witnesses at nominations hearings give their testimony under oath. Ms. Clark, would you please stand and raise your right hand.

Do you swear that the testimony you are about to give to the Committee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Ms. CLARK. I do.

Senator TESTER. Let the record reflect that the witness answered in the affirmative.

¹Information referred to by Senator Tester appears in the Appendix on page 18.

With that, I will turn it over to Senator Portman for his opening statement.

OPENING STATEMENT OF SENATOR PORTMAN

Senator PORTMAN. Thank you, Mr. Chairman. You just went through the hardest part of this hearing. [Laughter.]

I appreciate the fact that Chairman Carper and Ranking Member Coburn asked us to hold this hearing, and Senator Tester, as usual, took responsibility. We thank you for being here to answer some of our questions. We want to tell you that we are here to ask you questions and be sure you are the right person for the job, but we are impressed with your public service. I know you went through this back in 2009, so you have experienced a nomination and a confirmation process.

This is a critical juncture for the Federal Labor Relations Authority, because after a lot of years of significant backlogs and low employee morale, it appears that the agency is finally turning things around. Back in 2009, when you were just starting at FLRA, there was a backlog of nearly a thousand unfair labor practice (ULP) complaints and appeals cases. I am told that backlog has now been almost completely eliminated. I want to hear about that issue from you. If you are confirmed, my understanding is one of your top priorities would be to continue to process cases in a timely and efficient manner.

One of the most important factors, as we see, in addressing the backlog was the Office of General Counsel's (OGC) decision in 2010 to amend its regulations to authorize alternative dispute resolution (ADR), and I want to talk to you about that. I think that is a good approach to save litigation time and valuable resources, so in my view that is a good policy change and we want it to continue. I want to ask you about that.

I would say, even with these successes, the recent history of the FLRA has not been without its challenges. We are all aware the Authority came in dead last on the Partnership for Public Service's "Best Places to Work in the Federal Government" survey in 2005, 2007, and 2009. It seems like you have made some strides in terms of your internal management and now you rank No. 8 out of 29 small agencies for employee satisfaction. I was concerned to see employee satisfaction fall in a number of important areas between 2012 and 2013, including in the "performance-based rewards and advancement" area, and the "effective leadership" area.

I am sure we will be able to talk about some of these issues and can agree that more can be done to ensure efficiency and effectiveness fulfilling your responsibility at FLRA to foster lawful and productive relations between Federal employees and government managers. We look forward to discussing those issues and other issues with you this afternoon.

Thank you, Mr. Chairman.

Senator TESTER. Thank you, Senator Portman. I appreciate your comments.

Ms. Clark, you will have 5 minutes for your oral statement. Please note that your entire written statement will be a part of the record. With that, you may begin.

TESTIMONY OF THE HONORABLE JULIA A. CLARK,¹ NOMINATED TO BE GENERAL COUNSEL, FEDERAL LABOR RELATIONS AUTHORITY

Ms. CLARK. Thank you, Chairman Tester, Ranking Member Portman. It is a privilege to have the opportunity to appear before you again and report on the accomplishments of the Office of the General Counsel since I was here in 2009.

As Senator Portman mentioned, at that time when I was last here, the General Counsel's position had been vacant for a prolonged period of time, resulting in a daunting backlog of complaint and appeals cases. At that time, we suffered a 40 percent reduction in the OGC staffing level. There were many vacancies. Our case processing performance was at a historic low. Our public education and information resources were virtually nonexistent. And, sadly, our employee morale was at an unacceptable low point.

And while I identified these deficiencies as priorities when I was here in 2009 and I 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.

The Office of General Counsel Regional Office employees provide labor relations dispute resolution services directly to Federal employees, union representatives, and management representatives. They are the first point of contact. OGC employees handle over 90 percent of all the cases filed at the FLRA. Their commitment to the OGC mission and tireless efforts were key to our success. They have my deep respect and appreciation and deserve the credit for OGC's remarkable accomplishments over the past 5 years.

To support them, when I came to the agency, I decided early to direct our limited hiring ability to front-line regional office vacancies. I also adopted recommendations from our career staff to streamline case processes and make more efficient use of technology. Most importantly, as Senator Portman reflected, we decided to integrate the alternative dispute resolution opportunities into all stages of our case processes.

Our ADR processing has proven to be particularly effective and enduring and the results are measurable and positive. Our ULP case processing has improved by every measure. Our productivity is up 25 percent. Our timeliness improved from 49 percent to 68 percent. At the same time, our ULP case filings increased over 25 percent and now are holding steady at about 4,600 per year.

Our employee morale improved quickly and dramatically, although there is always room for improvement, and I am looking forward to the opportunity to talk about what we can do to continue to improve.

But, the Office of General Counsel is now the leading source of information regarding Federal unfair labor practice and representation case processing law and practice. We have comprehensive manuals, resources, case law outlines, policy guidance, and self-paced tutorials that are available to the public 24/7.

Also, our regional office employees provide classroom-style education and training on a regular basis and also in response to joint labor-management requests. Over the last 5 years, that staff, who

¹The prepared statement of Ms. Clark appears in the Appendix on page 14.

is also processing ULP cases and representation cases, managed to train 15,000 participants in training sessions nationwide.

We have also accomplished what we have accomplished by leveraging resources through interagency agreements and collaborations to expand our education and ADR activities. Through a 2010 partnership with the Federal Mediation and Conciliation Service (FMCS), we developed training to support Executive Order (EO) 13522, and in those training sessions, in an 18-month period, FMCS and our regional office employees were able to train another 6,000 labor-management representatives in 150 sessions. We developed that training into an online tutorial for folks who were not able to attend our sessions. That is still available.

We have continued our partnership with the FMCS to support the mission of the National Council on Federal Labor-Management Relations. We have also entered into shared resource agreements with the Department of Veterans Affairs (VA) and the Department of Defense (DOD) to develop online training that addresses every aspect of the law and practice that we are responsible for. The wonderful thing about these shared resource agreements is that we were able to partner with much larger agencies who had instructional designers and technological studios, and provide the content so that there can be a neutral presentation of the kinds of information that managers, union representatives, and employees need. In addition to that partnership, the Office of Personnel Management (OPM) has posted our tutorials on their Human Resources University, so they are available 24/7.

We still have ongoing challenges, the ones mentioned by Senator Portman, such as succession planning. We are a very small agency. Our hiring ability has been very limited. So, the development of new leaders has been a priority and is a challenge, but one that we have developed a strategy to meet.

Also, managing to continue to maintain a high level of productivity and efficiency and morale is a challenge that is ongoing and that we have to pay attention to all the time.

Our management culture that we cultivate and nurture is one that vigilantly examines our processes, reexamines them, looks for potential improvements, but also continuously engages our front-line staff in this deliberative process.

I believe that the Office of General Counsel is well positioned to sustain and enhance its contribution to productive, stable, and efficient labor-management relations throughout the government. 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.

Senator TESTER. Well, thank you for your testimony, Julia, and I am going to start my questioning with the standard questions, three in all, that we ask all nominees, then I will turn it over to Senator Portman for his.

Is there anything that you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Ms. CLARK. No.

Senator TESTER. Do you know of anything, personal or otherwise, that would in any way prevent you from fully and honorably dis-

charging the responsibilities of the office to which you have been nominated?

Ms. CLARK. No.

Senator TESTER. Do you agree, without reservation, to respond to any reasonable summons to appear and testify before any duly constituted Committee of Congress if you are confirmed?

Ms. CLARK. Yes.

Senator TESTER. Thank you, and you may proceed, Senator Portman.

Senator PORTMAN. Great. Thank you, Mr. Chairman. Thanks for your indulgence.

You talked a little bit about this in your opening statement and you have more even in your written comments, but getting back to the case backlog issue and how you got about a thousand complaints and appeal cases resolved that were subject to the backlog when you took the job in 2009, you say that a number of management factors, you believe, contributed to reducing the backlog. You talk about strategic hiring decisions, streamlined case processes, and more effective use of technology. However, you note that the Authority's alternative dispute resolution, ADR initiatives, and I am quoting you here, "have proven particularly effective and enduring."

As I said earlier, I am supportive of ADR, particularly in this context, and I just want to know a little bit about why you think it works. You made a decision in the office to implement this new policy. Was this something that you decided to do, or was it something that your predecessor put in place? What has your role been at the Office of General Counsel in authorizing these ADR activities?

Ms. CLARK. The ADR activities that we engage in now required a change to our regulations. We reinstated a regulatory policy that had been in place previously but was not in place at the time I came to the job. It was something that I intended to do and looked on very favorably, but consulted with career staff about their experience under those regulatory changes, both when ADR was permitted in the earliest stages of the processes and when it was prohibited, and I felt very clear that allowing for ADR early was the right thing to do and I authorized and directed that we go in that direction, which we did very quickly.

Senator PORTMAN. How important was that in terms of getting the backlog out?

Ms. CLARK. The backlog itself that occurred because of the General Counsel vacancy involved cases that had been fully investigated. Complaints had been authorized, but complaints had not been issued. And only by confirming and appointing a General Counsel could those cases go forward. ADR played a big role in resolving that backlog quickly, because at that point, the career staff was in the position to work with the agencies and the unions to resolve them.

But the real difference in terms of instituting ADR as a regular part of our work was allowing for ADR to begin at the moment a case walks in our door, at the moment a charge is filed. A charge is the first point of contact in our regional offices. The regulations permitted our field agents to offer ADR services at the moment

when they begin investigating a case. The offer is voluntary. It makes clear to both the management and the union representatives that engaging in alternative dispute resolution is at their choice.

But the offer is not a one-time deal. Not only was a regulatory change made, our agents were trained in ADR techniques and ADR techniques as they apply to our process so that while they are involved in the case process, investigating, taking witness statements, they are continuously open to and offering ADR services and looking to what the underlying dispute is, what are the interests of the parties, and how can we resolve whatever the concerns are at the earliest possible stage, and hopefully with the least amount of formal case processing. And many cases are resolved simply by a private settlement in this way.

Senator PORTMAN. Do you think more training of labor representatives and management representatives would be helpful to encourage even more use of ADR?

Ms. CLARK. I absolutely do. And, in fact, our partnership with the Federal Mediation Conciliation Service has been extremely helpful in this regard. That agency has a statutory responsibility with respect to collective bargaining in the Federal sector, and the Office of General Counsel started a partnership with them, partly in the context of the Executive Order, but since then, we do joint training with them on the front line, but we also work with the FMCS in interventions in particularly troubled relationships. But, we make a good team and that kind of training, I believe, is extremely helpful.

Senator PORTMAN. That is good for the Committee to know. Again, I believe that it is very useful, not in every case, but more training, probably, to understand the consequences of going through it, and having the option to pull back if you feel like you need full-blown litigation.

Ms. CLARK. Right.

Senator PORTMAN. That helps. On the morale issue, looking at all this data, it is a little confusing to me, because you have this latest survey. Last year, 2013 finds a drop, actually, in employee satisfaction as it relates to what is called "performance-based rewards and advancement," and that number was not very high to begin with. You had a 57.7 there. What would that be, a "C"?

Ms. CLARK. Yes.

Senator PORTMAN. So, what accounts for that apparent disconnect? Otherwise, since 2009, you seem to have had a positive impact on the culture there. There have been improvements in employee satisfaction. And yet, "performance-based rewards and advancement" seems to be flat and going down a little bit. What do you think about that? What do you think it is due to?

Ms. CLARK. I think there is a general issue throughout government, and I see it in real life at our agency, and that there has been a limit on the extent to which we can reward employees for their performance.

In our agency, or the part that I am responsible for, for example, we have a performance management system that is quantifiable and objective in terms of productivity, timeliness, and quality. Our staff is measured that way. Our managers are measured on the ag-

gregate performance of the people they supervise. It is all by the numbers. They do a great job. They exceed their goals.

But, we have very limited ability to reward them for their exceptional service. And while thank you's help, it also helps to be rewarded through the performance award system and we have not been in a position to offer financial awards for some time.

And in terms of advancement, I am hopeful that our survey will look better next year in that regard. We are in a position where we have done a lot of developmental activities, employee development, developing new leaders. So, I am hopeful that there will be some better results there. But, I do believe a real problem has been our inability to reward employees in a tangible way for their exceptional performance.

Particularly in this case, our agency is much smaller than it was in the past, and while we have many new employees, most people remember a time when ratios of cases filed to agents were much lower, maybe even 50 percent lower than what an agent is expected to do now. So, they are under a lot of pressure and we have a limited ability to reward them for their exceptional performance under pressure.

Senator PORTMAN. Yes. In your testimony, you talk about wanting to provide more advancement opportunities. I assume that means trying to manage the people you have more effectively—

Ms. CLARK. Yes.

Senator PORTMAN [continuing]. To create some openings and to promote people who have shown through performance reviews that they are doing exceptional work.

I would say the budget issues are going to be tough here on everything, but Fiscal Year 2013, direct obligations: \$23.4 million; Fiscal Year 2014, direct obligations estimated to be \$25.5 million. Some agencies would die for that percentage increase. And I know that the personnel budget is huge—about 75 percent of your budget—but there are agencies that are actually freezing or reducing employee numbers and you are talking about a 14 percent increase and a 25 percent increase from staffing levels in 2009. I would like to ask one question and then I will turn it back to the Chairman. Thanks for your time. Do you think that is necessary and justifiable?

Ms. CLARK. The budget we have now is absolutely necessary. It provides an opportunity for us to increase our staffing, which is one of the best ways we have to allow our employees a more manageable workload.

For my part, the allocation that is provided to the Office of General Counsel, from the very beginning and continuing, will be directed toward hiring at the front line, hiring at the regional office level for field agents. I believe that is the right thing to do. In addition to that, we have been building a developmental process that allows for our front line agents to be trained, but also for our senior agents to develop their leadership potential and be in a position to take on the managers' roles in those offices.

But, I think, with respect to the funding, we have gotten by with a very limited staff and done as well as we have for the past 5 years primarily because so many of our employees who had been with the agency for a long time, some from the very beginning—

hung in there and were in a very good position to make the system work, even by being understaffed. This increase allows us to rebuild our staffing to a level that hopefully will allow us to sustain this kind of performance into the future.

And I do believe that the increase was warranted, particularly in light of the fact that we were so severely cut well before the budget cuts that occurred over the last several years. So, we have been restored, but probably to a level that is still below the level that most agencies are at now.

Senator PORTMAN. I thank you for that answer. Mr. Chairman, I have no other questions for the nominee, but I will listen to yours we appreciate your service, Ms. Clark, since 2009, and we hope you will continue to focus on not just reducing the backlog, but improving the morale and making the agency work well for management and labor representatives. Thanks.

Ms. CLARK. Thank you.

Senator TESTER. Thank you, Senator Portman.

Julia, first of all, I want to say, thank you for your service and I am very pleased of your willingness to serve another stretch in this job. And I hope to get you moving sooner than later through the pipeline.

But, getting back to my statement, you have been in the position for 5 years. What makes you want to go back and do it again?

Ms. CLARK. Five years goes by faster than you think, maybe, and I do not think it is just because of my young age. We have a lot to do, and I can say that in the past 5 years, we have just now gotten to a level of functioning so that we are not racing at a break-neck speed but can actually begin laying a foundation that will be solid enough to sustain this organization, this part of this organization, well into the future. We have great plans and much still to accomplish.

To Senator Portman's point, coming from the private sector before I took this job, I was and still am a very strong believer in the role of this agency in facilitating the parties that come to us and helping them resolve their differences and move on to do the public interest. There is more that we can do in that regard and I really would welcome the opportunity to continue to do it.

Senator TESTER. Senator Portman talked about the backlog, and you have done a great job in reducing that backlog. Can you give me an idea on any initiatives you are working on at this point in time or plan to work on that will continue to improve the timeliness of management of cases?

Ms. CLARK. In terms of timeliness, this is the highest priority for me and others in our agency. It is my view that resolving disputes quickly so that the parties can get back to their work is what needs to happen.

Some of what we are doing in terms of timeliness is just pure scientific facts. We need to continue to move our resources to the front line because that is where it happens. We need to continue to train our workforce. We are also involved in some pilot programs to look at our case processes and find ways to move them along more quickly. We are developing initiatives.

In fact, today, several employees that might have liked to be here just to see you and listen to you are not here because we are en-

gaged in some intensive training of all of our employees, again, on alternative dispute resolution techniques, and in particular, the art and science of listening and finding resolutions that serve the public interest, but also train the people who come before us so that maybe they will be able to resolve their own problems the next time.

In addition to that, we are developing our use of online meetings that will facilitate taking witness statements, negotiating settlements, prehearing conferences in real time. That saves a lot of time in terms of sending witness statements, affidavits to be signed, documents back and forth, and I think that will make some tremendous improvements, as well.

Senator TESTER. Thank you. Can you talk a little bit about hiring and retention and what trends you have seen in these areas?

Ms. CLARK. I think our agency has a tremendous retention rate. The people who come to this agency have a commitment and an understanding of what they do as being fundamental to good government. So, our retention rates are good. I think that we understand how the work gets done and who is really responsible for it. So, I think that has actually been one of our strongest points.

Senator TESTER. How about transparency? What role does it play in your work?

Ms. CLARK. Transparency—well, that has been also very important to the way I wanted to do business. All of our case handling manuals, every guidance, every process that our field agents follow are published and online in the most accessible format, hyperlinked to our statutes, our decisions, so that anyone who comes before our agency can follow along and understand what our agents are doing, the policies that we follow, and the way we exercise our judgment and discretion.

Senator TESTER. Before coming to the FLRA, you spent your career as a trial attorney at the Department of Justice. How has this experience helped you in your role as General Counsel?

Ms. CLARK. That was my first job out of law school, and I think the first thing I learned about government through being at the Department of Justice is the incredible responsibility, the incredible authority, and the incredible power of the Federal Government and what an enormous responsibility that is when you are put in the position of carrying out a law passed by Congress, and in particular, a prosecutorial function. The Justice Department was a tremendous training ground for a lawyer and I am really very fortunate to have had that experience and to be able to bring it to the role that I play now.

Senator TESTER. And now you have spent 5 years as General Counsel. What lessons from that service will shape your job over your next tenure?

Ms. CLARK. I think the most important lesson that I have learned as being General Counsel has been the importance that the civil service, that career staff play in the functioning of government and upholding the laws and the Constitution. The career staff at our agency are some of the most bright, dedicated, open, flexible, adaptable people I have ever run across, and their ability—many of them, having been there since the agency was created, working under every Administration since the agency was created—their

ability to come to me with well thought out plans, to answer the questions that I had and the questions I should have had, was just a remarkable experience and I will thoroughly enjoy working with them in the future.

And the other important lesson that I wanted to reflect on is that while I had been a union representative as a labor lawyer for many years of my life, I had been a union member, I have been a management representative, but I think that I most fully appreciated the importance of a unionized workplace in terms of offering constructive and helpful information when I took this job. And I would like to say that the union at our agency has been incredibly influential in terms of helping me understand a direction, letting me know when I have made a mistake, and I have had that wonderful experience of deciding that it is not a sign of weakness to acknowledge a mistake and take a different direction.

So, I would say those two things, the incredible career service and also the value of having an independent union in the workplace.

Senator TESTER. And, finally, and we do hope that your confirmation will occur quickly, but if you could, as concise as you can, talk about what your short-term and long-term priorities are going to be for the FLRA over the next while that you are in this position.

Ms. CLARK. All right. I think ongoing, both short-term and long-term: succession planning. Those wonderful career employees that I have been talking about, well, they are going to retire, and many of them soon. We have an employee development, leadership development program in place, and now it is not just ad hoc but it is a systematic program and it will be ongoing.

The other longer-term priority is to reduce our case processing time. Right now, our performance time targets are 120 days. That is of fairly recent origin. That is the time target that was in place when I took this job. But for the most time in our history, the time targets in the Office of General Counsel were 90 days and the performance against that target was 85 percent. As I said earlier in my remarks, when I came to this job, we were only hitting the target, 120-day target, 49 percent of the time. With current staffing, we have been able to move up to 68 percent of the time. Yet, it is my firm belief that a 90-day time target is really what is in the best interest of the public. So, finding a way with the resources we have to reduce our time target to 90 days and to perform well against that target is the long-term priority.

Senator TESTER. Senator Portman, do you have any further questions?

Senator PORTMAN. [Shakes head no.]

Senator TESTER. OK. I just want to thank you for your testimony. I want to thank you for your clarity in answering the questions. As I said when I opened up my questions, I certainly appreciate your commitment to public service and thank you for wanting to sign up again for this job.

With that, Senator Portman, do you have any closing comments?

Senator PORTMAN. No, just that we appreciate the opportunity to be here as surrogates of the Chair and Ranking Member of the full Committee. Our Subcommittee on the Efficiency and Effectiveness

of Federal Programs and the Federal Workforce, as you know, is very involved in the issue of management of the Federal workforce, so I think it is appropriate we are following these issues like the backlog issue.

We appreciate your coming in today, and again, we appreciate your service since 2009. We hope you will be able to continue to make progress. As you said, there are some clear successes you have had in terms of clearing backlogs, but there is also plenty of work to be done——

Ms. CLARK. Yes.

Senator PORTMAN [continuing]. Including keeping the morale up and ensuring we have, as you said earlier, the maximum opportunity for people to resolve their issues and get back to work.

Ms. CLARK. Right.

Senator PORTMAN. So, thank you, Ms. Clark.

Ms. CLARK. Thank you.

Senator TESTER. Thank you, Senator Portman.

It is fair to say now that the hearing record will remain open for 24 hours for any additional comments and for any questions that might be submitted for the record.

With that, once again, we thank you, Julia, for your willingness to serve, and this hearing is adjourned.

[Whereupon, at 3:10 p.m., the Committee was adjourned.]

A P P E N D I X

OPENING STATEMENT & QUESTIONS

I call to order this hearing of the Senate Committee on Homeland Security and Governmental Affairs.

We convene this afternoon's hearing to consider the nomination of JULIA CLARK, to serve as General Counsel of the Federal Labor Relations Authority.

Julia Clark has filed responses to a biographical and financial questionnaire, answered pre-hearing questions submitted by the Committee, and has had her financial statements reviewed by the Office of Government Ethics. Without objection, this information will be made a part of the hearing record, with the exception of the financial data which are on file and available for public inspection in the committee offices.

Julia Clark currently serves as General Counsel for the Federal Labor Relations Authority, and has been in this position since 2009. Julia starts her legal career at the Department of Justice and brought over 20 years of labor law experience to the FLRA.

Thank you, Julia, for joining us today.

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.

HSGAC BIOGRAPHICAL QUESTIONS FOR EXECUTIVE NOMINEES

REDACTED

1. Basic Biographical Information

Please provide the following information.

<i>Position to Which You Have Been Nominated</i>	
<u>Name of Position</u>	<u>Date of Nomination</u>
General Counsel, Federal Labor Relations Authority	February 12, 2014

<i>Current Legal Name</i>			
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>
Julia	Akins	Clark	

<i>Addresses</i>					
<u>Residential Address</u> (do not include street address)			<u>Office Address</u> (include street address)		
			Street: 1400 K Street, NW		
City: Bethesda	State: MD	Zip: 20814	City: Washington	State: DC	Zip: 20424

<i>Other Names Used</i>						
<u>First Name</u>	<u>Middle Name</u>	<u>Last Name</u>	<u>Suffix</u>	<small>Check if Modern Name</small>	<u>Name Used From</u> (Month/Year) (Check box if estimate)	<u>Name Used To</u> (Month/Year) (Check box if estimate)
Julia	LoRene	Akins			08/1956 Est <input type="checkbox"/>	06/1990 Est <input type="checkbox"/>

<i>Birth Year and Place</i>	
<u>Year of Birth</u> (Do not include month and day.)	<u>Place of Birth</u>
1956	Shawnee, Oklahoma

Marital Status						
Check All That Describe Your Current Situation:						
Never Married <input type="checkbox"/>	Married <input checked="" type="checkbox"/>	Separated <input type="checkbox"/>	Annulled <input type="checkbox"/>	Divorced <input type="checkbox"/>	Widowed <input type="checkbox"/>	
Spouse's Name (current spouse only)						
Spouse's First Name	Spouse's Middle Name	Spouse's Last Name		Spouse's Suffix		
Nicholas	Wenceslaus	Clark				
Spouse's Other Names Used (current spouse only)						
First Name	Middle Name	Last Name	Suffix	Check if Maiden Name	Name Used From (Month/Year) (Check box if estimate)	Name Used To (Month/Year) (Check box if estimate)
					Est <input type="checkbox"/>	Est <input type="checkbox"/>
Children's Names (if over 18)						
First Name	Middle Name	Last Name	Suffix			
Lisa	Nichole	Clark				

2. Education

List all post-secondary schools attended.

Name of School	Type of School (vocational/technical/trade school, college/university/military college, correspondence/distance/extension/online school)	Date Began School (month/year) (check box if estimate)	Date Ended School (month/year) (check box if estimate) (check "present" box if still in school)	Degree	Date /
Oklahoma Baptist University	University	06/1974 Est <input type="checkbox"/>	08/1977 Est Present <input type="checkbox"/>	B.A.	08/1977
Washington College of Law (American University)	Law School	09/1977 Est <input type="checkbox"/>	05/1980 Est Present <input type="checkbox"/>	J.D.	05/1980

3. Employment

(A) List all of your employment activities, including unemployment and self-employment. If the employment activity was military duty, list separate employment activity periods to show each change of military duty station. Do not list employment before your 18th birthday unless to provide a minimum of two years of employment history.

Type of Employment (Active Military Duty Station, National Guard/Reserve, USPHS Commissioned Corps, Other Federal employment, State Government (Non- Federal Employment), Self- employment, Unemployment, Federal Contractor, Non- Government Employment (excluding self-employment), Other	Name of Your Employer/ Assigned Duty Station	Most Recent Position Title/Rank	Location (City and State only)	Date Employment Began (month/year) (check box if estimate)	Date Employ (month/year) (check box if esti still emp
Non-government	Grub Steak	Food preparer	Shawnee, OK	09/1974 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X	12/1975 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X
Non-government	Oklahoma Baptist University	Desk Attendant	Shawnee, OK	09/1976 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X	12/1976 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X
Non-government	Holiday Inn	Waitress	Shawnee, OK	1/1977 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X	05/1977 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X
Non-federal Government	D.C. Superior Court	Investigator	Washingt on, D.C.	03/1978 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X	07/1978 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X
Non-government	Arnold & Porter	Law Clerk	Washingt on, D.C.	10/1978 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X	05/1980 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X (except 06-08/1979)
Federal Government	Federal Trade Commission	Law Clerk	Washingt on, D.C.	06/1979 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X	08/1979 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X
Federal Government	United States Department of Justice	Trial Attorney	Washingt on, D.C.	09/1980 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X	05/1985 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X
Non-government	Blumenfeld & Cohen	Associate	Washingt on, D.C.	07/1985 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X	05/1987 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X
Non-government	National Coalition for the Homeless	Counsel	Washingt on, D.C.	06/1987 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X	08/1988 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X
Non-government	International Federation of Professional and Technical Engineers	General Counsel	Washingt on, D.C.	11/1988 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X	08/2009 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X
Federal Government	Federal Labor Relations Authority	General Counsel	Washingt on, D.C.	08/2009 <input type="checkbox"/> Est <input checked="" type="checkbox"/> X	present <input type="checkbox"/> Est <input checked="" type="checkbox"/> X

(B) List any advisory, consultative, honorary or other part-time service or positions with federal, state, or local governments, not listed elsewhere.

None.

<u>Name of Government Entity</u>	<u>Name of Position</u>	<u>Date Service Began</u> (month/year) (check box if estimate)	<u>Date Service Ended</u> (month/year) (check box if estimate) (check "present" box if still serving)
		Est <input type="checkbox"/>	Est <input type="checkbox"/> Present <input type="checkbox"/>

4. Potential Conflict of Interest

(A) Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

During the five year period (August 2004-August 2009) preceding my appointment as FLRA General Counsel, I was employed as an attorney by the International Federation of Professional and Technical Engineers (IFPTE), a labor organization that represents federal employees. IFPTE-affiliated organizations currently have cases pending before the FLRA and will likely continue to file cases with the FLRA.

(B) Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration or execution of law or public policy, other than while in a federal government capacity.

- Consulted with House Committee on Oversight and Government Reform staff regarding a technical aspect of proposed amendments to the GAO Personnel Act.
- Briefed staff of the House Committee on Oversight and Government Reform, the Senate Homeland Security and Governmental Affairs Committee, and the House and Senate Legislative Branch Appropriations Committees on union election and collective bargaining at GAO.
- Consulted with staff of the House Committee on Oversight and Government Reform, the Senate Homeland Security and Governmental Affairs Committee and House leaders regarding the GAO Comptroller General selection process.
- Assisted union representatives and individual employees in meetings with Senators regarding the Employee Free Choice Act by answering questions regarding technical aspects of the legislation.

- Briefed Senators about how proposed Department of Labor regulatory changes would impact white collar employees' Fair Labor Standards Act coverage.

5. Honors and Awards

List all scholarships, fellowships, honorary degrees, civilian service citations, military medals, academic or professional honors, honorary society memberships and any other special recognition for outstanding service or achievement.

Robert S. Kerr Scholar in Public Affairs, Oklahoma Baptist University, 1974-1977

6. Memberships

List all memberships that you have held in professional, social, business, fraternal, scholarly, civic, or charitable organizations in the last 10 years. Unless relevant to your nomination, you do NOT need to include memberships in charitable organizations available to the public as a result of a tax deductible donation of \$1,000 or less, Parent-Teacher Associations or other organizations connected to schools attended by your children, athletic clubs or teams, automobile support organizations (such as AAA), discounts clubs (such as Groupon or Sam's Club), or affinity memberships/consumer clubs (such as frequent flyer memberships).

<u>Name of Organization</u>	<u>Dates of Your Membership</u> (You may approximate.)	<u>Position(s) Held</u>
American Bar Association	2011-Present	none
District of Columbia Bar Association	1980-Present	none
Edgemoor Citizens Association	1990-Present	social chair 2008-2010

7. Political Activity

(A) Have you ever been a candidate for or been elected or appointed to a political office? Yes

<u>Name of Office</u>	<u>Elected/Appointed/Candidate Only</u>	<u>Year(s) Election Held or Appointment Made</u>	<u>Term of Service (if applicable)</u>
General Counsel, Federal Labor Relations Authority	Appointed	2009	5 years

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(B) List any offices held in or services rendered to a political party or election committee during the last ten years that you have not listed elsewhere.

None.

<u>Name of Party/Election Committee</u>	<u>Office/Services Rendered</u>	<u>Responsibilities</u>	<u>Dates of Service</u>

(C) Itemize all individual political contributions of \$200 or more that you have made in the past five years to any individual, campaign organization, political party, political action committee, or similar entity. Please list each individual contribution and not the total amount contributed to the person or entity during the year.

<u>Name of Recipient</u>	<u>Amount</u>	<u>Year of Contribution</u>
Obama for America	\$2500.00	2012
DNC	\$250	2011
DNC	\$250	2010

8. Publications and Speeches

(A) List the titles, publishers and dates of books, articles, reports or other published materials that you have written, including articles published on the Internet. Please provide the Committee with copies of all listed publications. In lieu of hard copies, electronic copies can be provided via e-mail or other digital format.

I have done my best to identify titles, publishers and dates of books, articles, reports or other published materials, including a thorough review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials I have been unable to identify, find, or remember. I have located the following:

<u>Title</u>	<u>Publisher</u>	<u>Date(s) of Publication</u>
White Collar Exemptions	ABA Section on Labor and Employment Law	September 2008
Developments in NLRB Representation Cases: April 2005-March 2006	AFL-CIO LCC	May 2006
NLRA Protected Concerted Activity in Cyber Space	ABA, Section on Labor and Employment Law, Technology Committee	April 2004
NLRA Protected Concerted Activity in Cyber Space	Labor Law Exchange	November 2003
Use of Electronic Mail in Union Organizing Campaigns	AFL-CIO LCC	May 2002 (I am unable to locate a copy of this document)
Legal Developments in Chicago Teachers v. Hudson and Hudson v. Beck	AFL-CIO LCC	May 1999
Pending Amendments to the Fair Labor Standards Act	ABA Section on Labor and Employment Law, Fair Labor Standards Committee	February 1996

(B) List any formal speeches you have delivered during the last five years and provide the Committee with copies of those speeches relevant to the position for which you have been nominated. Include any testimony to Congress or any other legislative or administrative body. These items can be provided electronically via e-mail or other digital format.

<u>Title/Topic</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
Remarks	Crystal City, VA Society of Federal Labor Relations Professionals 37 th Annual Symposium	April 22, 2010
Remarks	Washington, D.C. Federal Service Committee, Labor and Employment Section, ABA Annual Luncheon	December 3, 2009

(C) List all speeches and testimony you have delivered in the past ten years, except for those the text of which you are providing to the Committee.

<u>Title</u>	<u>Place/Audience</u>	<u>Date(s) of Speech</u>
Testimony (confirmation hearing)	Washington, D.C. Senate Homeland Security and Governmental Affairs Committee	July 29, 2009

Role of Collective Bargaining in Protecting ALJ Qualified Judicial Independence	Washington, D.C. Federal Administrative Law Judges Conference	April 17, 2009
Union Perspectives on Current Issues in Federal Labor Relations	Washington, D.C. Interagency Labor Relations Forum	EST. March 2007
Role of Professional Associations in Public Policy	Washington, D.C. Department for Professional Employees, AFL-CIO	March 15, 2005

9. Criminal History

Since (and including) your 18th birthday, has any of the following happened?

- Have you been issued a summons, citation, or ticket to appear in court in a criminal proceeding against you? (Exclude citations involving traffic infractions where the fine was less than \$300 and did not include alcohol or drugs.) No
- Have you been arrested by any police officer, sheriff, marshal or any other type of law enforcement official? No
- Have you been charged, convicted, or sentenced of a crime in any court? No
- Have you been or are you currently on probation or parole? No
- Are you currently on trial or awaiting a trial on criminal charges? No
- To your knowledge, have you ever been the subject or target of a federal, state or local criminal investigation? No

If the answer to any of the questions above is yes, please answer the questions below for each criminal event (citation, arrest, investigation, etc.). If the event was an investigation, where the question below asks for information about the offense, please offer information about the offense under investigation (if known).

- A) Date of offense:
- a. Is this an estimate (Yes/No):
- B) Description of the specific nature of the offense:
- C) Did the offense involve any of the following?
- 1) Domestic violence or a crime of violence (such as battery or assault) against your child, dependent, cohabitant, spouse, former spouse, or someone with whom you share a child in common: Yes / No
 - 2) Firearms or explosives: Yes / No
 - 3) Alcohol or drugs: Yes / No
- D) Location where the offense occurred (city, county, state, zip code, country):
- E) Were you arrested, summoned, cited or did you receive a ticket to appear as a result of this offense by any police officer, sheriff, marshal or any other type of law enforcement official: Yes / No
- 1) Name of the law enforcement agency that arrested/cited/summoned you:

- 2) Location of the law enforcement agency (city, county, state, zip code, country):
- F) As a result of this offense were you charged, convicted, currently awaiting trial, and/or ordered to appear in court in a criminal proceeding against you: Yes / No
 - 1) If yes, provide the name of the court and the location of the court (city, county, state, zip code, country):
 - 2) If yes, provide all the charges brought against you for this offense, and the outcome of each charged offense (such as found guilty, found not-guilty, charge dropped or "nolle pros," etc). If you were found guilty of or pleaded guilty to a lesser offense, list separately both the original charge and the lesser offense:
 - 3) If no, provide explanation:
- G) Were you sentenced as a result of this offense: Yes / No
- H) Provide a description of the sentence:
- I) Were you sentenced to imprisonment for a term exceeding one year: Yes / No
- J) Were you incarcerated as a result of that sentence for not less than one year: Yes / No
- K) If the conviction resulted in imprisonment, provide the dates that you actually were incarcerated:
- L) If conviction resulted in probation or parole, provide the dates of probation or parole:
- M) Are you currently on trial, awaiting a trial, or awaiting sentencing on criminal charges for this offense: Yes / No
- N) Provide explanation:

10. Civil Litigation and Administrative or Legislative Proceedings

(A) Since (and including) your 18th birthday, have you been a party to any public record civil court action or administrative or legislative proceeding of any kind that resulted in (1) a finding of wrongdoing against you, or (2) a settlement agreement for you, or some other person or entity, to make a payment to settle allegations against you, or for you to take, or refrain from taking, some action. Do NOT include small claims proceedings.

No.

<u>Date Claim/Suit Was Filed or Legislative Proceedings Began</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/</u>

(B) In addition to those listed above, have you or any business of which you were an officer, director or owner ever been involved as a party of interest in any administrative agency proceeding or civil litigation? Please identify and provide details for any proceedings or civil

litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

No.

<u>Date Claim/Suit Was Filed</u>	<u>Court Name</u>	<u>Name(s) of Principal Parties Involved in Action/Proceeding</u>	<u>Nature of Action/Proceeding</u>	<u>Results of Action/f</u>

(C) For responses to the previous question, please identify and provide details for any proceedings or civil litigation that involve actions taken or omitted by you, or alleged to have been taken or omitted by you, while serving in your official capacity.

11. Breach of Professional Ethics

(A) Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, professional association, disciplinary committee, or other professional group? Exclude cases and proceedings already listed.

No.

<u>Name of Agency/Association/Committee/Group</u>	<u>Date Citation/Disciplinary Action/Complaint Issued/Initiated</u>	<u>Describe Citation/Disciplinary Action/Complaint</u>	<u>Results of Disciplinary Action/Complaint</u>

(B) Have you ever been fired from a job, quit a job after being told you would be fired, left a job by mutual agreement following charges or allegations of misconduct, left a job by mutual agreement following notice of unsatisfactory performance, or received a written warning, been officially reprimanded, suspended, or disciplined for misconduct in the workplace, such as violation of a security policy?

No.

12. Tax Compliance

(This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

REDACTED

13. Lobbying

In the past ten years, have you registered as a lobbyist? If so, please indicate the state, federal, or local bodies with which you have registered (e.g., House, Senate, California Secretary of State).

No.

14. Outside Positions

X See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

For the preceding ten calendar years and the current calendar year, report any positions held, whether compensated or not. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities and those solely of an honorary nature.

<u>Name of Organization</u>	<u>Address of Organization</u>	<u>Type of Organization</u> (corporation, firm, partnership, other business enterprise, other non-profit organization, educational institution)	<u>Position Held</u>	<u>Position Held From</u> (month/year)	<u>Position Held To</u> (month/year)

15. Agreements or Arrangements

X See OGE Form 278. (If, for your nomination, you have completed an OGE Form 278 Executive Branch Personnel Public Financial Disclosure Report, you may check the box here to complete this section and then proceed to the next section.)

As of the date of filing your OGE Form 278, report your agreements or arrangements for: (1) continuing participation in an employee benefit plan (e.g. pension, 401k, deferred compensation); (2) continuation of payment by a former employer (including severance payments); (3) leaves of absence; and (4) future employment.

Provide information regarding any agreements or arrangements you have concerning (1) future employment; (2) a leave of absence during your period of Government service; (3) continuation of payments by a former employer other than the United States Government; and (4) continuing participation in an employee welfare or benefit plan maintained by a former employer other than United States Government retirement benefits.

<u>Status and Terms of Any Agreement or Arrangement</u>	<u>Parties</u>	<u>Date</u> (month/year)

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16. Additional Financial Data

All information requested under this heading must be provided for yourself, your spouse, and your dependents. (This information will not be published in the record of the hearing on your nomination, but it will be retained in the Committee's files and will be available for public inspection.)

REDACTED

REDACTED

SIGNATURE AND DATE

I hereby state that I have read the foregoing Statement on Biographical and Financial Information and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

 _____

This 14 day of March, 2014



United States
Office of Government Ethics
1201 New York Avenue, N.W., Suite 500
Washington, DC 20005-3917

MAR 11 2014

The Honorable Thomas R. Carper
Chairman
Committee on Homeland Security
and Governmental Affairs
United States Senate

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Julia A. Clark, who has been nominated by President Obama for the position of General Counsel, Federal Labor Relations Authority.

We have reviewed the report and have also obtained advice from the agency concerning any possible conflict in light of its functions and the nominee's proposed duties. Also enclosed is an ethics agreement outlining the actions that the nominee will undertake to avoid conflicts of interest. Unless a date for compliance is indicated in the ethics agreement, the nominee must fully comply within three months of confirmation with any action specified in the ethics agreement.

Based thereon, we believe that this nominee is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,


David J. Apfel
General Counsel

Enclosures

REDACTED

January 22, 2014

Rosa M. Koppel
Designated Agency Ethics Official
Federal Labor Relations Authority
1400 K Street, NW,
Suite 300
Washington, DC 20424

Dear Ms. Koppel:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of General Counsel of the Federal Labor Relations Authority.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any person whose interests are imputed to me, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor children of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

My spouse is an employee of the United Food and Commercial Workers International Union. I will not participate personally and substantially in any particular matter involving specific parties in which the United Food and Commercial Workers International Union is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

I understand that as an appointee I must continue to abide by the Ethics Pledge (Exec. Order No. 13490) that I previously signed and that I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this and any other ethics agreement.

I have been advised that this ethics agreement will be posted publicly, consistent with 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics with other ethics agreements of Presidential nominees who file public financial disclosure reports.

Sincerely,



Julia Akins Clark

**U.S. Senate Committee on Homeland Security and Governmental Affairs
Pre-Hearing Questionnaire for the Nomination of
Julia Akins Clark to be General Counsel of the Federal Labor Relations Authority**

I. Nomination Process and Conflicts of Interest

1. Why do you believe the President nominated you again to serve as General Counsel for the Federal Labor Relations Authority (FLRA)?

I believe I was nominated again to serve as General Counsel based upon my successful performance as General Counsel since my appointment in August 2009 and my extensive background and knowledge of Federal sector labor-management relations.

2. Were any conditions, expressed or implied, attached to your nomination? If so, please explain.

No

3. Have you made any commitments with respect to the policies and principles you will attempt to implement as General Counsel for the FLRA? If so, what are they and to whom have commitments been made?

No

4. If confirmed, are there any issues from which you may have to recuse or disqualify yourself because of a conflict of interest or the appearance of a conflict of interest? If so, please explain what procedures you will use to carry out such a recusal or disqualification.

In connection with the nomination process, I consulted with the Office of Government Ethics and the Federal Labor Relations Authority's designated agency ethics official to identify potential conflicts of interest. Any potential conflicts of interest will be resolved in accordance with the terms of an ethics agreement that I entered into with the FLRA's designated agency ethics official and that has been provided to this Committee. I am not aware of any other potential conflicts of interest.

II. Role of the General Counsel for the FLRA

5. What in your opinion is the role of the General Counsel and the Office of General Counsel?

The role of the General Counsel is specified in 5 U.S.C. §7104(f)(2)(A) and (B) of the Federal Service Labor-Management Relations Statute (Statute). It is the responsibility of the General Counsel to protect and enforce employee, union and agency rights under the Statute through the investigation of unfair labor practices (ULP) and prosecution of ULP complaints. The General Counsel has “direct Authority over and responsibility for” all employees of the Office of the General Counsel, including the seven regional offices of the FLRA. 5 U.S.C. § 7104(f)(3). Finally, the FLRA Chair has delegated to the General Counsel responsibility under 5 U.S.C. § 7104(f)(2)(C) for fulfilling the FLRA’s responsibility to handle representation matters, i. e., determine appropriate units, investigate and hold representation hearings, direct elections, and conduct and certify secret ballot elections. These responsibilities are carried out primarily by FLRA regional office staff under the direction of the General Counsel.

In addition to these statutory and delegated responsibilities, I believe the General Counsel should provide training, guidance and leadership in the area of federal sector labor relations to employees, unions and agencies. It is my opinion that civil servants, be they rank-in-file employees, supervisors, mid-level managers, or high ranking career employees and political appointees, seek to serve the public interest, which includes compliance with the Statute. It is incumbent upon the General Counsel to provide them with clear, up-to-date and easily accessible information about their rights and responsibilities under the Statute and assist them in resolving disputes regarding those rights and responsibilities in a fair, consistent and timely manner. I believe this purpose is served by providing training, published guidance, alternative dispute resolution services, and, where necessary, timely formal investigations, hearings and decisions.

6. In your responses to the questionnaire that this Committee sent you in July 2009 after your first nomination to be General Counsel, you described the top three challenges facing the Office of General Counsel as the backlog of unfair labor practice complaints, the increased workload amidst budgetary cutbacks, and need to improve employee morale. What progress has the Office of General Counsel made towards addressing these challenges?

Complaint and Appeals Backlog: When I appeared before this committee in 2009, the position of General Counsel had been vacant for nearly eighteen months and as a result, a daunting case backlog had accumulated -- approximately 300 ULP complaint cases (ULP charges that had been investigated and recommended for prosecution) and approximately 700 ULP appeals (ULP charges that had been dismissed by Regional Offices and appealed to the General Counsel). On my first day as General Counsel I set elimination of the pending backlog as the highest priority. Based upon career staff recommendations, we implemented a comprehensive case management plan to accomplish this goal within my first 180 days. I am pleased to report that

with the talent, dedication, and hard work of all OGC employees, we eliminated the complaint and appeals backlog on schedule in March 2010.

Workload Management: As of my 2009 confirmation hearing, 64 professional and administrative staff worked in the OGC compared with 125 in 2001. Today that number is 67 and is expected to be 71 by the end of FY 2014. Staff level rebuilding has been slow, due to recent budgetary constraints. Moreover, case filings have increased by over 15% since FY 2009 and are anticipated to remain constant at approximately 4800 per year. Nevertheless, we successfully met or exceeded our performance goals in every fiscal year and productivity has increased nearly 25% since 2009. Contributing management factors include: directing our limited hiring ability to front-line case processing; streamlining case processes; adopting technological improvements; providing long-overdue employee training and information resources; and integrating dispute resolution early in the case process. The perhaps intangible, but necessary, factor in this success is OGC employees' commitment to the OGC mission and tireless efforts to successfully manage their caseloads.

Employee Morale: We also saw remarkable improvement in employee morale as the FLRA went from the lowest-ranked small agency in the 2009 Best Places to Work Survey to the most improved small agency in the 2010 Best Places to Work Survey. My approach to improving employee morale from day one has been to work diligently to fulfill the OGC's statutory mandate, provide leadership and guidance to staff, ensure that staff vacancies are filled in a timely manner, deal openly and fairly with employee representatives, and manage funding to provide staff with adequate resources, technology, and training and advancement opportunities. The agency has continued with its high marks and was a top ten small agency in the 2011, 2012 and 2013 Best Places to Work Surveys. Recent years' surveys break-out FLRA data to show component level results, which further confirm that OGC employees, who make up nearly half the agency, meet or exceed the FLRA-wide survey results in critical areas.

7. What do you believe are the top three challenges facing the Office of General Counsel today? What steps do you plan to take, if reconfirmed, to address these challenges?

Timely High-Quality Case Processing: The OGC's work is of critical importance to federal agencies throughout the government as they address budgetary reductions, restructuring operations, examining and implementing new or revised work processes and procedures, and leveraging technology in order to bring efficiency to their operations. Productive and efficient labor-management relations is an essential element in the successful implementation of these necessary and sometimes difficult changes, and the work of the OGC plays a vital role in ensuring productive and efficient labor-management relations.

Succession Planning: A large number of OGC employees, including senior managers and field agents, are retirement eligible. This task is complicated by the long hiatus in succession planning, the dramatic personnel loss during the previous decade, and our

limited ability to hire since then. In recent years, we have pursued a prudent and cost-effective program to develop and train our future leaders, and to enhance knowledge and information sharing across the OGC. We must diligently build the numbers of OGC employees who can lead both as a peer and as a manager.

Sustaining current levels of productivity and employee morale: Over the last five years, the OGC's caseload, as measured by the number of cases filed per field agent, is nearly double the 2008 level. In the current environment, OGC field agents carry approximately 35-40 active cases on average, which may simultaneously include ULP investigations and trials, as well as Representation elections and hearings. This compares with past staffing levels that allowed for average pending caseloads in the 15-20 range. We must vigilantly examine and re-examine our practices and processes for potential improvements and continuously engage front-line employees in order to sustain productivity and employee satisfaction.

8. In responding to the July 2009 nomination questionnaire, you stated, "If confirmed, it is my hope that by the end of my term, the FLRA will be considered a leader in labor relations and a model to which others can look to for ideas and innovation." How well do you believe you have succeeded at this goal? What will be your long-term priorities as General Counsel if reconfirmed?

The OGC has become the leading source of information regarding federal ULP and representation law and practice. Our 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. In addition, OGC Regional Offices provide quarterly statutory and other training to labor-management groups, on request. These services are offered at no charge and provide employees, managers and unions with clear, concise and accessible information on their rights and obligations under the Statute. The OGC partnered with the Federal Mediation and Conciliation Service (FMCS) to offer jointly-led training that combined training on statutory rights and obligations with skills training on cooperative labor-management relations in support of E.O. 13522. Since 2009, over 20,000 federal management and union representatives have attended OGC live training sessions. If confirmed, I will continue to update and enhance these resources to serve the public interest in constructive and stable labor-management relations.

9. Please describe your vision of what the relative roles and relationships should be between the Office of General Counsel and other agencies with government-wide civil service responsibilities, including the Office of Personnel Management, the Merit Systems Protection Board, the Equal Employment Opportunity Commission, and the Office of Special Counsel. Also, what do you believe the relative roles and relationships should be between the Office of General Counsel and the Chairman and members of the Federal Labor Relations Authority?

Other Agencies: Each of the identified agencies -- the Office of Personnel Management, the Merit Systems Protection Board, the Equal Employment Opportunity Commission, and the Office of Special Counsel -- has a distinct role and responsibility. Each is authorized to play a vital role and make a significant contribution to the functioning of the federal government by managing federal personnel or ensuring compliance with federal employment laws. These agencies may collaborate on the effective use of resources, and developments in alternative dispute resolution techniques. As General Counsel, I would be open to opportunities to work collaboratively, where appropriate, with these agencies recognizing that they may appear as parties in cases before the FLRA.

Chairman and Members: The FLRA Chairman is the Chief Executive of the agency and is responsible for all administrative and staff functions, including budget and finance, personnel, and information technology management. The staff performing all of these functions report ultimately to the Chairman, along with the FLRA Solicitor. Further the Chairman, together with the Members, make up the "decisional component" of the FLRA, which adjudicates negotiability appeals, exceptions to arbitration awards, petitions for review of Regional Director decisions in representation matters, and review of Administrative Law Judge decisions in ULP cases.

The General Counsel is a part of the FLRA management team together with the Chairman and Members, but also has a distinct and independent statutory function. As described above, the General Counsel has statutory authority for the investigation and prosecution of ULP allegations and direction of Regional Office operations, and delegated authority to direct the processing of representation matters. As the Chairman and Members are responsible for adjudication of exceptions from ALJ decisions on OGC complaints, it is critical that the OGC safeguard its decisional independence thereby preserving the integrity and independence of both the OGC and the Authority decision-making processes.

At the same time, I will continue my on-going collaborative and collegial relationship with the Chairman and Members regarding all other aspects of agency operations, e.g., budget, technology improvements, training, public relations, staffing, alternative dispute resolution programs, interagency cooperation and information sharing.

10. How has the Office of General Counsel changed over the past four years under your leadership? How will you continue to strive for positive developments within an agency facing a history of challenges?

As discussed above, the OGC has shown marked improvement in the timeliness and quality of its decisions, has met or exceeded its performance goals, developed and made available a host of innovative and comprehensive information resources publicly and has

become a consistent top ten agency in the annual Best Places to Work Surveys. I will continue these successful efforts and will continue working closely with the OGC staff to maintain and improve upon these positive accomplishments.

III. Policy Questions

11. What is your assessment of the current state of Federal labor-management relations? If you believe that improvements can be made, in what areas should there be improvement and how can this be accomplished?

In my view, federal managers and union represented employees generally are jointly engaged and committed to accomplishing their agencies' missions and serving the public interest through their labor-relations activities. As a group, they have faced and will continue to face challenges related to budget constraints and increased or changing demands. A fully functioning FLRA is necessary to promote stable, efficient and constructive labor-management relations in the public interest. I am committed to providing timely labor-relations services that support managers', union-represented employees' and the public's interest in an effective and efficient federal service.

12. Do you believe that improvements should be made to the Federal Service Labor-Management Relations statute? If so, what improvements can and should be made?

This is a matter appropriately decided by the Congress and the Administration.

13. The Federal Service Labor-Management Relations statute states, as part of the section on Congressional findings and purpose that "labor organizations and collective bargaining in the civil service are in the public interest." (5 U.S.C. 7101(a)). Based on your experience, have you found this to be true? Please explain.

Yes. Based on 25 years of labor-relations experience, including experience as a union representative, a management representative, a union member, a senior manager and a neutral decision-maker, I have consistently found that employee engagement, through a collective bargaining relationship, in decisions that affect their employment promotes productivity and morale, which contributes to a more effective and efficient government.

14. How has national security affected the nature of collective bargaining under the Federal Service Labor-Management Relations statute and the decision-making at the FLRA. How should national security be dealt with when it comes to labor-management relations?

The statutory framework of the Federal Service Labor-Management Relations Statute provides clear safeguards to avoid impact on national security interests. For example,

employees involved in national security are not covered by the Statute. In addition, the Statute recognizes and provides that management has the right to assign work, determine its internal security practices and to take whatever action is necessary in the event of an emergency.

15. In many situations, federal employees work closely with contract workers. Do you believe a blended workforce of federal employee and federal contract personnel has an impact on federal labor-management relations, and, if so, what sort of impact? Do you believe that changes are needed in labor-management policy, and, if so, what changes do you believe would be appropriate?

The FLRA does not currently play a role in determining the appropriate balance between federal civil service employees and contract workers. The FLRA's role is to assist federal agencies and unions in their efforts to constructively address their interests through collective bargaining. I am committed to ensuring that the parties fulfill their bargaining obligations under the Statute.

16. If confirmed again as General Counsel, you will have wide prosecutorial discretion in determining whether to pursue allegations of unfair labor practices and will operate, to a large extent, without review by the members of the Authority or any court. Federal courts have held that a decision by the General Counsel not to issue an unfair labor practice complaint is not judicially reviewable. Given this great responsibility, what factors will you consider in deciding whether or not to pursue unfair labor practice allegations? How often does your office dismiss unfair labor practice complaints, and what are the criteria for such dismissals?

The OGC has published criteria in its ULP Case Handling Manual to determine when the issuance of a complaint would not advance the purposes and policies of the Statute. The Manual is posted and publicly available on our web site. These criteria include, but are not limited to, the seriousness of the violation, degree of harm to the bargaining relationship between the agency and the union, harm to employees, whether the violation is an isolated one or part of a pattern, whether the violation has been cured, or whether the circumstances preclude an effective remedy, and whether the alleged violation presents a novel issue, the litigation of which may contribute important legal precedent. All Regional decisions to dismiss a charge may be appealed to the General Counsel where the determination is carefully reviewed to insure the determination to dismiss is well supported by fact and law.

Further, all case decisions, including the decision to dismiss a charge, involve a case-by-case determination based on the facts uncovered by the investigation and application of case precedent under the Statute. These processes are explained in detail in the OGC ULP Case Handling Manual, which is available on the OGC web page. Applicable case precedent is also available in our web-based case law outline, and through the FLRA's searchable decision data base. Last year, the OGC handled over 4500 ULP cases. Of that number, we dismissed 673 cases, issued 258 complaints and resolved 207 of the

complaint cases prior to hearing. The remainder of the cases were informally resolved or withdrawn during the investigative process, due in large measure to our field agents' effective use of ADR practices.

17. When Regional Directors determine, on behalf of the General Counsel, to issue an unfair labor practice complaint, they must decide what remedy will be sought in litigation. What types of remedies do you believe should be available to an aggrieved party and what kind of evidence would be necessary to establish the appropriateness of each remedy?

The remedies available and evidence required for a particular remedy are addressed in the Statute and well-established Authority precedent. The main goals of a remedy are to place the parties in the position they were in before the ULP was committed, deter future ULPs, and not to be punitive or disruptive to government operations. I will continue to seek the remedies that are consistent with the Statute and Authority precedent.

18. What issues and factors do you believe most frequently give rise to unfair labor practice complaints? What should be done to reduce the number of unfair labor practice complaints?

Issues that frequently give rise to ULP allegations include: a party's refusal to respond to a request for information; unilateral implementation of changes to working conditions; bad faith bargaining; infringement on self-organizational rights; discrimination/retaliation for engaging in protected activity; breach of the duty of fair representation; bypass of the exclusive bargaining representative; failure to provide the union with the opportunity to be present at a formal discussion with represented employees; and failure to provide union representation at investigatory meetings.

Many ULP disputes are the result of a misunderstanding about applicable law and procedures. As discussed above, I have made it a priority to provide our parties comprehensive training resources on the Statute and alternative dispute resolution (ADR) services to resolve their disputes without the need for costly litigation.

19. Do you believe you have successfully maintained impartiality during your tenure as General Counsel at FLRA? What methods do you employ to ensure that your decisions and practices are transparent, consistent, and fair?

Yes. The OGC has published web-based case law guides for ULP and representation cases and has published all of our manuals, policies and guidance. Thus, the parties have access to the same tools and resources that the OGC field offices rely on when investigating and deciding ULP and representation cases. In addition, the OGC

headquarters conducts in-depth quality reviews of each Region's work bi-annually to ensure that case investigations are handled promptly, appropriately and in a high-quality manner.

20. The backlog of cases has been a persistent problem for the Office of General Counsel. During your time as General Counsel, what improvements have you made to ensure that cases are investigated and resolved in a timely and fair fashion?

In FY 2009, only 49% of ULP cases were investigated and resolved timely (within 120 days of filing). We have improved our performance by this measure each year since then. In FY 2013, 68% of all ULP cases were investigated and resolved within 120 days. As mentioned previously, contributing management factors include: directing our limited hiring ability to front-line case processing; streamlining case processes; adopting technological improvements; providing long-overdue employee training and information resources; and integrating dispute resolution early in the case process. Further, our comprehensive web-based public information and education resources have facilitated efficient and effective interactions with parties.

- a. In your view, what is the relationship between the timeliness of case investigation and disposition by the Office of General Counsel and the quality of decisions and actions taken?

I believe there is a strong correlation between timely case investigation and disposition and the quality of decision making. It is critical that OGC staff be allowed adequate time to investigate and dispose of allegations if we are to expect high quality results. However, ULP allegations do not arise in a static environment. Instead, facts and circumstances related to the allegations continue to change. Consequently, to have a meaningful and positive impact on labor relations, the OGC must carry out these functions in a timely manner.

- b. In a response to the 2009 nomination questionnaire, you stated "I believe that the General Counsel, in consultation with staff, should endeavor to develop measures for quality of case processing and disposition." What measurements have you put in place, and have they been effective?

As discussed above, I instituted a formal quality review process that involves a bi-annual review of the Region's work in a selected sampling of cases. This is a cover-to-cover review and analysis of the Region's actions on a case and the Region's compliance with the OGC quality and performance standards. The results of the review are shared with each Regional Office and feedback is provided to staff. In addition, the OGC reviews the quality of a Region's work when a case is appealed and conducts on-going quality reviews of Regional dismissal letters, complaints, briefs, and Decisions and Orders issued in representation cases.

- c. Has the Office of General Counsel developed performance goals related to case processing and decision quality? If not, what goals would you recommend?

The OGC set performance goals for ULP and representation case processing, which are revisited at least annually. We also developed and implemented a performance management system that sets measurable timeliness, productivity and quality standards for each employee. Managers' performance standards are directly linked to the aggregate performance of the employees they supervise. The OGC performance management system was designed collaboratively with employee representatives and managers, and requires monthly and quarterly feedback meetings, in addition to the annual formal performance review, intended to trouble shoot case processing issues early and avoid adverse impact to the OGC mission.

21. Under 5 U.S.C. § 7118(a)(5), the General Counsel may prescribe regulations providing for informal methods by which an alleged unfair labor practice may be resolved prior to the issuance of a complaint. What kind of methods do you believe would be most effective in enabling the parties to fix disputes prior to the issuance of a complaint?

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 ongoing employee training and development activities. This regulatory change and training enabled the OGC's front-line agents to facilitate ULP resolutions early in the case process. The OGC now provides parties with the opportunity to resolve a dispute at all phases of the proceeding, both before and after a complaint is issued. As a result of the OGC's emphasis on ADR, many cases are resolved without the need for formal litigation.

- a. What do you believe are the advantages and disadvantages of ADR, from the perspective of the employee, of the employing agency, and of the public interest?

In my view the advantages and disadvantages of ADR apply in largely the same way regardless of the stakeholder's point of view. Among the advantages are the preservation and improvement of labor-management relationships by reaching mutually agreed-upon, rather than imposed, solutions and a reduction in litigation, which is a resource-intensive activity. On the other hand, each litigated ULP complaint provides an opportunity to clarify the law, create precedent, and thereby provide parties with guidance on compliance with the Statute and/or deterrence from violating the Statute. In most situations, the parties' interests are best promoted by a jointly-devised and agreed-upon resolution to their dispute.

- b. What are your views on the use of ADR to resolve federal workplace disputes, and what changes, if any, do you believe should be made in ADR policies and practices in the federal workplace?

It is my view that the use of ADR to resolve workplace disputes contributes positively to labor-management relationships and, therefore is in the public interest. I believe the changes described above have expanded the use of ADR, and have had a positive impact on federal labor relations.

22. The Office of the General Counsel offers training on rights and obligations under the labor-management relations statute, relevant case law, and regulatory filing requirements. In addition, the Office of the General Counsel provides training in such areas as labor-management partnerships, relationship building, interest-based negotiations and problem solving, alternative dispute resolution design, labor relations strategic planning, and pre-decisional involvement. What do you think are the principal results that such a program should achieve? Do you have any views on the current training program, and have you considered what changes, if any, you would make?

The goal of our training programs is to provide parties with the necessary education, tools and resources to improve their labor-management relationship and to resolve their disputes informally without the need to resort to formal third-party dispute resolution programs. I believe our current programs have helped fill a void in the Federal labor-management program and I will continue to work on improving and expanding our training programs.

23. In the 2009 Best Places to Work rankings by the Partnership for Public Service, based on the data collected in the Federal Human Capital Survey, the FLRA ranked last out of all the small federal agencies that submitted data. In 2013, the FLRA showed remarkable improvement, ranking 8th out of 29 agencies. What steps were taken that effectively improved employee morale and thus the agency's overall ranking? What plans are in place to ensure the FLRA's ranking does not drop?

In addition to the information provided in response to question 6 above, I believe our improvement in the Best Places to Work Survey was the result of combined efforts of the FLRA leadership team to communicate with employees, seek their feedback, and to provide them with the necessary tools and support needed to do their jobs. These efforts will continue.

24. Much has been said about the graying of the federal workforce and the proportion of the workforce at or near retirement eligibility. What is the current situation within the Office of General Counsel in terms of impending retirements, and what succession planning has the office undertaken and implemented to address this challenge?

As discussed above in response to question 7, a large number of our staff is retirement eligible and we are in the process of identifying, developing and training our future leaders. These efforts are crucial to the continued success of the agency and will be continued.

25. In 2009 President Obama issued Executive Order 13522 to establish labor-management forums. What are your views on labor-management partnerships? Generally, do you believe it is desirable to promote collaborative, as opposed to arms-length, labor-management relationships in the federal government?

Whether mandated by Executive Order, statute, or based upon bi-lateral agreement, labor-management partnerships can mutually benefit employees, unions and agencies and further the public interest. It is my view that collaborative labor-management relationships are desirable and can result in mutually beneficial solutions to complex problems. Often collaborative decision-making not only yields better outcomes, but also requires fewer resources than more formal rights-oriented decision making.

26. What has been your role in establishing and conducting the training under E.O. 13522? How have you encouraged participation in the training program, and how effective do you believe it has been?

The OGC partnered with the FMCS in 2010 to provide joint labor-management training to federal managers and union representatives to assist them in establishing cooperative labor-management forums to promote the effective and efficient delivery of government services. In an eighteen month period we trained over 6,000 participants in over 150 live sessions nationwide. We also offered the training via web-casts and developed a self-paced online tutorial to convey this information to individuals who could not attend a training session. I believe this training provided necessary and practical education parties needed to achieve the objectives of E.O. 13522.

The OGC training partnership with FMCS has developed into on-going support of the the National Council on Federal Labor-Management Relations mission. Presently, we are jointly guiding and facilitating the development of a web-based labor-management information tool kit, parts of which are already available on the National Council website. The aim is to address common issues and questions and highlight best practices with clear, concise and practical information. The content of each information tool is jointly determined by labor and management representatives based upon their substantial experience and expertise.

27. The purposes of E.O. 13522 are to establish a cooperative and productive form of labor-management relations throughout the executive branch, and to improve delivery of government services to the American people. To what extent do you believe the initiatives under E.O. 13522 have been successful at meeting those two goals? What have been the greatest challenges to meeting these goals?

The establishment of labor management forums (LMF) has added a meaningful and useful forum for OGC ADR activities. To the extent a particular labor-management relationship includes significant cases, large numbers of cases, or particularly contentious

cases, the LMF can be a catalyst for resolution of these disputes as means to improving cooperation. The OGC welcomes these opportunities.

28. E.O. 13522 also called for the development of metrics to monitor improvements in labor-management satisfaction, productivity gains, and cost savings. Please describe the metrics that have been developed and applied. What does data show about what has been accomplished and about what more remains to be done?

The National Council on Federal Labor-Management Relations, appointed by the President, is responsible for tracking and evaluating metrics. Their web site posts current and historical metrics information and their public meetings include analysis and discussion of this topic.

IV. Relations with Congress

29. Do you agree without reservation to respond to any reasonable request or summons to appear and testify before any duly constituted committee of the Congress, if confirmed?

Yes

30. Do you agree without reservation to reply to any reasonable request for information from any duly constituted committee of the Congress if you are confirmed?

Yes

V. Assistance

31. Are these answers your own? Have you consulted with the FLRA or any other interested parties? If so, please indicate which entities.

These answers are my own. I consulted with FLRA and Administration personnel for this purpose.

I, Julia Akins Clark, hereby state that I have read the foregoing Pre-Hearing Questionnaire and that the information provided therein is, to the best of my knowledge, current, accurate, and complete.

Julia Clark

Special Agent in Charge
Office of the Inspector General
U.S. Department of Justice
440 Constitution Avenue, NW
Washington, DC 20535

(Signature)


April 24, 2014

This 21 day of April, 2014.