



October 20, 2020

The Honorable Gerald E. Connolly
Chairman
Subcommittee on Government Operations
House of Representatives
Washington, DC 20515-6143

Dear Chairman Connolly:

This responds to your October 13 letter to Postmaster General Louis DeJoy, regarding a request to tour a U.S. Postal Service facility.

I appreciate the opportunity to clarify our position on this matter. As you are aware, since 1939, the Act to Prevent Pernicious Political Activities (commonly known as the Hatch Act) has prohibited employees of the federal government from, among other things, engaging in partisan political activity while on duty or on government property. "Political activity" is defined as an action directed toward the success or failure of a political party, a candidate for a partisan political office, or a partisan political group. Postal Service employees are prohibited from engaging in partisan political activity while on duty, in uniform, in a postal vehicle, or on postal property, and from using their official authority or influence for the purpose of affecting the result of an election. The two main purposes of the law are to ensure that federal employees serve all of the American people, regardless of their politics, and that career civil service employees are not pressured into engaging in political activity in order to retain their jobs.

Because the Postal Service is in every state, community, and Congressional district, we receive numerous requests each year from elected officials and candidates for office to tour our facilities, meet with employees, "ride along" with a letter carrier, or participate in one of our events. While the Postal Service has an interest in maintaining good relationships with federal, state, and local officials, engaging in these activities with those officials while they are also candidates for re-election (or for election to another office) poses Hatch Act risks for our employees that are largely outside of our control. For example, taking an elected official on a tour of a plant by itself is not a Hatch Act violation; but if during the tour, the official starts shaking hands with employees and mentioning that he or she is running for re-election, then the employees involved in authorizing and/or giving the tour may be subject to investigation for a violation of the Hatch Act for allowing a campaigning event on federal property. Similarly, if during a tour, a postal employee were to express well wishes for the candidate, or any opinion that could be deemed as directed toward the success or failure of the touring official or any other partisan political candidate, political party, or partisan political group, that employee would be in violation of the Hatch Act. As such, the

Postal Service has always been cautious with regard to allowing political candidates to attend postal events or visit postal facilities during election season.

Prior to 2018, in order to mitigate the risk that postal employees might violate the Hatch Act, the Postal Service refused to allow government officials, regardless of the level of government at which the official worked, to tour a postal facility or be invited to speak at or otherwise participate in any postal events if they were a current candidate in a partisan election. In addition to Hatch Act concerns, the Postal Service also sought to alleviate the appearance that current political candidates were receiving special access to postal facilities, events, or employees in violation of the ethics rules.

In 2018, the Postal Service reviewed this policy with regard to federal elected officials, in light of additional guidance issued by the United States Office of Special Counsel (OSC), the agency with exclusive jurisdiction to enforce the Hatch Act. OSC stated in its February 15, 2018, Federal Hatch Act Advisory on "Candidate Visits to Federal Agencies" that federal officials may visit federal facilities "for an official purpose, to include receiving briefings, tours, or other official information." Although OSC indicated that nothing in the Federal Hatch Act Advisory was "intended to impede elected officials from appropriately representing their constituents," OSC instructed federal agencies to "ensure that candidates who visit their facilities to conduct official business do not engage in any political campaign or election activity during the visit." Finally, OSC indicated that federal agencies should consider the Hatch Act "carefully when handling a candidate's request to visit or use a federal building" and should "review their guidelines concerning such visits to [e]nsure that they are consistent with the Hatch Act."

While the Postal Service still prohibits all plant tours, meetings with employees or management, participation in Postal Service events of any kind, and any other activity with a candidate involving government property, official time, or an employee's official position for all other political candidates, the Postal Service adjusted its policy to allow federal officials to participate in certain events with certain restrictions. The restrictions were established to ensure compliance with OSC guidance regarding federal officials visiting federal facilities while recognizing the role of Congressional oversight over the Postal Service.

First, if an election in which the federal elected official is a candidate will be held within 45 days, then the Postal Service will not engage in any activities (including tours) with the federal elected official other than private meetings with management focused on the official's oversight role or addressing constituent concerns. To establish this policy, the Postal Service considered another reasonable restriction regarding campaigning that applies to federal elected officials: the rules related to the Congressional franking privilege. As you know, the Congressional franking privilege allows Members of the House of Representatives and Senators to transmit mail matter under their signature without postage. Although the franking privilege may only be used for matters of public concern or public service, and not for political campaigning, there still is a restriction on the use of the franking privilege for mass mailings during election season. Members of the House of Representatives may not send any unsolicited mass mailing or mass communication within 90 days before a primary or general election, and Senators may not do so within 60 days. In light of these restrictions, the Postal Service determined that a 45-day restriction on in-person activities that could involve large groups of postal employees or the general public would be reasonable. The 45-day restriction mitigates the risk that such events could turn into campaign events or that postal employees might inadvertently violate the Hatch Act. Furthermore, the 45-day restriction does not impede the federal elected official's ability to appropriately represent their constituents because the federal elected official may still attend

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private meetings or briefings to address concerns, or send official government staff to visit or tour facilities.

The other restrictions placed on federal elected officials are designed to ensure that postal employees involved in authorizing, planning, or executing the activity or event are not exposed to a risk of violating the Hatch Act. For example, a carefully planned and authorized Postal Service event could turn into a campaign event if the federal official says, "Don't forget to vote for me in November."

Therefore, since 2018, the Postal Service has requested the following assurances from a federal elected official or the federal elected official's staff prior to the federal elected official's visit to a facility or attendance at an event: (1) no one will accompany the official to the activity or event other than the official's government staff (i.e., no campaign employees and no media); (2) the official understands that no campaign or election activity may occur during the activity or event; (3) the official understands that any meetings with employees during the activity or event will be with small groups of management employees (i.e., no meetings with the public or large groups of employees); and (4) any photos or other materials from the activity or event will be used for official, government purposes only, and will not be used in any campaign or election materials. By obtaining these assurances, the Postal Service meets its obligation under the OSC guidance to "ensure that candidates who visit their facilities to conduct official business do not engage in any political campaign or election activity during the visit."

The Postal Service discussed the changes to its guidelines with OSC. OSC did not object to the guidelines or conclude that the guidelines were inconsistent with the Hatch Act.

While our guidelines forbid us from having you tour the Merrifield Processing and Distribution Center at this time, we are able to facilitate your staff's tour of the facility. Alternatively, we would also be pleased to schedule a briefing with you and your staff to address any questions or concerns you may have.

If I can be of further assistance with this matter, or with any other postal issues, please let me know.

Sincerely,



Sheila T. Meyers
Manager, Government Liaison

cc: The Honorable Jody B. Hice, Ranking Member
House Subcommittee on Government Operations