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COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

STATEMENT OF ANA GALINDO-MARRONE

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BEFORE THE

UNITED STATES HOUSE OF REPRESENTATIVES

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

HEARING ON:

**THE HATCH ACT: THE CHALLENGES OF SEPARATING POLITICS FROM
GOVERNANCE**

Tuesday, June 21, 2011

Washington, DC

Chairman Issa, Representative Cummings, and members of the Committee, I thank you for the opportunity to appear before this Committee to discuss the Hatch Act.

My name is Ana Galindo-Marrone. I am a career civil servant, and I have been Chief of the Office of Special Counsel's (OSC) Hatch Act Unit since 2000.

I am pleased to speak about OSC's experience enforcing the Hatch Act. The visibility this hearing brings to the Hatch Act can enhance awareness and understanding, and deter violations of the law, which is central to our mission.

The Hatch Act restricts the political activity of federal executive branch employees, District of Columbia employees, and state and local employees who work on federally-funded programs. The law was enacted in 1939 to address the spoils system that dominated the federal workplace in the nineteenth and early twentieth centuries, under which federal employment and advancement depended largely upon political party service and changing administrations rather than meritorious performance. In passing the law, Congress determined that placing limits on employees' partisan political activity was necessary for public institutions to function fairly and effectively. The Hatch Act is essential to ensuring that our government operates under a merit-based system and serves all citizens regardless of partisan interests.

Indeed, the Supreme Court recognized that the purposes in enacting the Hatch Act were to ensure:

the impartial execution of the laws [,] . . . that the rapidly expanding Government work force should not be employed to build a powerful, invincible, and perhaps corrupt political machine [,] . . . and that employment and advancement in the Government service not depend on political performance, and at the same time to make sure that Government employees would be free from pressure and from express or tacit invitation to vote in a certain way or perform political chores in order to curry favor with their superiors rather than to act out their own beliefs.

Civil Service Comm'n v. National Ass'n of Letter Carriers, 413 U.S. 548,565-66 (1973).

The reasons for the passage of the Hatch Act remain as compelling today as they were when it was first enacted. Critical to good and fair governance and to maintaining the public trust is a commitment by public servants to a neutral, nonpartisan federal workplace.

OSC is committed to its statutory mission to enforce the Hatch Act and that commitment is demonstrated in the hard work of the career lawyers that work in OSC's Hatch Act Unit ("the Unit"). Growing public awareness of OSC's enforcement efforts and increased media attention contributed to record numbers of Hatch Act complaints received and advisory opinions issued in fiscal year 2010. During that year, Hatch Act Unit staff, which consists of only fifteen employees, issued well over 4,000 advisory opinions. Also, during that time the Unit received 526 complaints and investigated and resolved 535 cases. Many of these cases were resolved informally, i.e., without litigation, by advising employees that they were in violation of the Hatch Act and securing their willingness to comply with the law. A number of the complaints the Unit investigated or is currently investigating concern allegations of federal employees using their

official authority to affect the results of elections, including instances where supervisors targeted subordinates for political contributions. Similarly, in state and local cases the Unit investigated allegations of supervisors, including some law enforcement officials, using their official authority to coerce subordinates into making political contributions.

The Hatch Act Unit has been proactive through its advisory and outreach efforts in educating employees about the Act. In particular, the Unit is responsible for a nationwide program that provides federal, District of Columbia, state and local employees, as well as the public at large, with legal advice about the Hatch Act.

The Unit is also active in OSC's Outreach Program. In fiscal year 2010, the Hatch Act Unit conducted approximately 30 outreach presentations to various federal agencies and employee groups concerning federal employees' rights and responsibilities under the Act. Many of these programs involved high-level agency officials. Notably, several of these programs were conducted as roundtable discussions with political appointees in attendance. As part of OSC's outreach efforts, Hatch Act publications are available upon request, on OSC's website, and distributed during outreach programs. Currently, some of these efforts are focused on educating federal employees about the Hatch Act and the use of technologies, including e-mail, blogs, or social media such as Twitter and Facebook.

OSC also enforces compliance with the Hatch Act by investigating complaints and, in some cases, seeking disciplinary action by filing an action with the Merit Systems Protection Board (MSPB). In the last 12 months, OSC sought disciplinary action in several cases involving federal employees who engaged in prohibited political activity, including using a government computer to make political contributions or e-mailing invitations to political fundraisers while on duty; soliciting political contributions from subordinates via e-mail; and hosting political fundraisers. The MSPB has found that engaging in such prohibited political activity warrants disciplinary action.

The Hatch Act was last amended in 1993. The OSC looks forward to working with Congress if it determines that the Act should be amended again.

Thank you. I look forward to taking your questions.

Ana Galindo-Marrone began her employment at the Office of Special Counsel (OSC) in 1998 and has been Chief of the Hatch Act Unit since 2000. Ms. Galindo-Marrone is primarily responsible for overseeing the operations of the Hatch Act Unit. The Unit enforces compliance with the Act by investigating complaint allegations and litigating Hatch Act cases before the Merit Systems Protection Board. Also, the Unit is responsible for a nationwide program that provides federal, District of Columbia, state and local officials, as well as the public at large, with legal advice about the Hatch Act. Prior to joining OSC, Ms. Galindo-Marrone was a Staff Attorney for the School Board of Miami-Dade County, Florida. Ms. Galindo-Marrone, who is a native of Miami, Florida, received her law degree, cum laude, from the University of Miami School of Law.