

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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October 26, 2020

Mr. Louis DeJoy
Postmaster General of the United States
United States Postal Service
475 L'Enfant Plaza, S.W., Room 4012
Washington, D.C. 20260

Dear Postmaster General DeJoy:

We are writing to ensure that the substantial number of ballots being cast by mail during the 2020 election cycle are fairly delivered by the U.S. Postal Service (USPS). Since the USPS is expected to handle tens of millions of ballots, Committee Republicans are interested in learning more about USPS's policies for preventing and addressing violations of the Hatch Act.¹

On August 20, 2020, Committee Republicans wrote to the Office of Special Counsel (OSC) about concerns of political bias at USPS, including whether corrective actions have been taken since OSC identified an institutional bias for Hillary Clinton during the 2016 presidential election.² After receiving a briefing from OSC, it remains unclear if Hatch Act training is required for all employees at USPS and whether corrective action has been taken to prevent similar instances of political bias from reoccurring this election cycle.

While the vast majority of USPS employees are honest public servants, political bias has been well documented in recent years. In July 2017, OSC issued a report finding that, "USPS management took official actions to enable NALC's [the National Association of Letter Carriers'] political activity. These efforts constitute a systemic violation of the Hatch Act. Specifically, USPS's practice of facilitating carrier [work] releases for the union's political activity resulted in an institutional bias in favor of the NALC's endorsed political candidates [including presidential candidate Hillary Clinton], which the Hatch Act prohibits," concluding that "agency-wide corrective action is necessary."³

The report details how USPS managers directed the release of certain mail carriers who were members of NALC on official union leave without pay explicitly to participate in the AFL-

¹ The Hatch Act ensures that "federal programs are administered in a nonpartisan fashion." See "Hatch Act Overview," available at <https://osc.gov/Services/Pages/HatchAct.aspx>.

² Letter from James Comer, Ranking Member, H. Comm. on Oversight & Gov't Reform to Hon. Henry Kerner, Special Counsel, Office of Special Counsel, Aug. 20, 2020, available at <https://republicans-oversight.house.gov/wp-content/uploads/2020/08/Letter-to-OSC-8-20-20.pdf>.

³ U.S. Office of Special Counsel, *Report of Hatch Act Investigation: Facilitating Labor Union's Political Activity Through Use of 'Union Official' Leave Without Pay*, OSC File No. HA-17-0610 (U.S. Postal Service), July 14, 2017.

CIO's Labor 2016 program.⁴ The AFL-CIO's Labor 2016 program specifically sought to "elect Hillary Clinton..." and other candidates for partisan political office.⁵ Employees on such leave continue to be credited with step increases and accrue retirement benefits, and evidence suggested that USPS facilitated NALC's political activities by favoring official union leave without pay over other types of leave.⁶ This was particularly problematic, as "only carriers who wanted to campaign for NALC's endorsed candidates were given the opportunity to take several weeks of leave on short notice, over the objections of local supervisors who raised concerns about potential operational impact."⁷ OSC also reviewed evidence suggesting that the practice of releasing letter carriers on official union leave to engage in partisan political activity was "long-standing, going back many election cycles, and perhaps started in the 1990s."⁸

Even though OSC did not find evidence that managers sought to influence the outcome of the 2016 elections, but were intending to maintain a good relationship with the union, OSC concluded that USPS management nevertheless "took official actions with the intent of enabling NALC's political activity, and with a clear understanding of what that activity involved."⁹ OSC recommended that USPS exclude political activity as defined by the Hatch Act from the acceptable uses of official union leave, and implement a "hands off" approach to any union's political activity.

Despite pledges by USPS to implement those recommendations, it is unclear what measures have been taken to prevent Hatch Act violations generally in addition to the systematic abuses as outlined in OSC's report. The history of Hatch Act violations coupled with recent reports of mail carriers discarding mail, including general election ballots, are troubling. One mail carrier was criminally charged for discarding approximately 1,875 pieces of mail, including 99 general election ballots and 276 campaign flyers from local candidates.¹⁰ Another is being investigated after throwing away mail including a ballot application and political advertisements.¹¹ And 112 undelivered absentee ballots as well as political flyers were recently found in a dumpster in Jefferson County, Kentucky.¹²

These incidents highlight the need for robust policies to detect and prevent political bias interfering with the delivery of mail-in ballots. Even though election day is not until November 3, over 36 million early votes have already been cast, the majority of those – over 25 million –

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at 3, 17.

⁷ *Id.* at 20.

⁸ *Id.* at 2.

⁹ *Id.* at 21.

¹⁰ Press Release, *Postal Employee Arrested for Dumping Mail, Including Election Ballots sent to West Orange Residents*, Department of Justice, U.S. Atty's Office for the District of N.J., Oct. 7, 2020, available at <https://www.justice.gov/usao-nj/pr/postal-employee-arrested-dumping-mail-including-election-ballots-sent-west-orange>.

¹¹ Newell, Michele, *Local postal worker off the job after ballot application, political ads tossed in trash*, WPXI-TV NEWS, Oct. 12, 2020, available at <https://www.wpxi.com/news/top-stories/local-postal-worker-off-job-after-ballot-application-other-mail-tossed-trash/D3RQ7JSJQJGAXDJD4XSFXXFMCA/>.

¹² Blitzer, Ronn, *More than 100 undelivered absentee ballots found in Kentucky dumpster*, FOX NEWS, OCT. 16, 2020, available at <https://www.foxnews.com/politics/undelivered-absentee-ballots-kentucky-dumpster>.

by mail.¹³ It is crucial that USPS not only educate employees about inappropriate political activity but also address Hatch Act violations immediately.

In light of these concerns, we request a staff-level briefing from the USPS to update the Committee on its efforts to ensure the integrity of ballots cast by mail during the November 2020 election, as well as answering the following:

- (1) What steps has the USPS taken to prepare employees for the upcoming election cycle, including whether there are additional Hatch Act trainings for employees handling ballots sent and received in the mail?
- (2) What processes are in place for addressing allegations of Hatch Act violations while the USPS is in possession of ballots?
- (3) What policies are in place to ensure that USPS will protect official union leave from Hatch Act violations?
- (4) What steps are being taken by USPS to ensure that all ballots submitted by mail will be treated without political bias, distributed on-time, and in accordance with all applicable laws and regulations?

This briefing may be conducted remotely. Please make arrangements to schedule the briefing no later than October 30. To schedule the briefing or ask any follow-up or related questions, please contact Committee on Oversight and Reform staff at (202) 225-5074.

The Committee on Oversight and Reform is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X. Thank you in advance for your cooperation with this inquiry.

Sincerely,



James Comer
Ranking Member
Committee on Oversight and Reform



Jody Hice
Ranking Member
Subcommittee on Government Operations

cc: The Honorable Carolyn B. Maloney, Chairwoman
Committee on Oversight and Reform

The Honorable Gerald Connolly, Chairman
Subcommittee on Government Operations

¹³ Dougherty, Danny & Chad Day, *Mail Balloting is Fueling Historic Early Voting in the 2020 Election*, THE WALL STREET JOURNAL, OCT. 20, 2020, available at <https://www.wsj.com/articles/mail-balloting-is-fueling-historic-early-voting-in-the-2020-election-11602591220> (Last Accessed Oct. 21, 2020)