

FLRA

Office of the General Counsel

Town Hall Meeting Series
FY 2010 Year in Review



OGC Mission, Function and Structure

- ❑ Office of General Counsel (OGC) is an independent component of the FLRA charged with investigating and prosecuting unfair labor practice cases and deciding representation cases.
- ❑ OGC is composed of a headquarters office in Washington, D.C. and seven regional offices.
- ❑ OGC employees interface with federal management and union representatives, employees, supervisors and managers on a daily basis, handling nearly 4,500 ULP cases and 300 Representation cases, and providing labor relations training, information and filing assistance to tens of thousands of individuals annually.

First Term Goals and Priorities

1. Eliminate backlog of ULP complaint and appeals cases within first **180 days**.
2. Restore public information resources within the first **18 months**.
3. Improve timeliness in OGC core mission functions (i.e. Unfair Labor Practice and REP case processing) within the **first term**.

FY 2010 Goals and Priorities in Context

- ❑ On August 17, 2009, General Counsel took office, after 18 month General Counsel and Deputy General Counsel vacancy.
- ❑ Programmatic consequences of GC and DGC vacancy substantial and significant. (Note: statutory scheme of CSRA and Vacancies Reform Act provide for continuity of FLRA/OGC operations through the appointment of Deputy GC)
- ❑ Consequently, past year's focus:
 - clearing ULP complaint and appeals case backlog caused by these key vacancies;
 - rebuilding lost information resources;
 - and positioning OGC to resume federal sector labor relations leadership

First Term Goals and Priorities

- 1. Eliminate backlog of complaint and appeals cases within first 180 days.**
 - ✓ All 342 backlogged complaint cases have been settled, tried or scheduled for trial.
 - ✓ All 800 backlogged appeals cases completed on time.
 - ✓ FLRA agents are now working new filings.

First Term Goals and Priorities

2. **Restore on-line information resources within first 18 months, in order to provide practical, accessible information to all federal managers, supervisors, union representatives and employees.**
 - ✓ Updated web-based ULP manual and case law summary.
 - REP hearing officer guide, manual and case law summary *to be completed*
 - ✓ Statutory training resumed/training materials posted.
 - ✓ Joint OGC/FMCS E.O. 13522 training launched.
 - ✓ OGC trained over **5,600 individuals** in FY 2010

Training Courses

- Basic and Advanced Statutory Training
- Representation Case Training
- FLRA OGC/FMCS E.O. 13522 Training
- FLRA 7106(b)(1) Pilot Project Training

FLRA OGC/FMCS Course Overview

FLRA: Overview of Executive Order 13522, Collective Bargaining under the Statute, including section 7106(b)(1) and Pre-Decisional Involvement.

FMCS: Introduction to Labor-Management Forums, skill building and next steps for starting a Labor-Management Forum.

FLRA 7106(b)(1) Pilot Project Training

- Provided to bargaining committee participating in E. O. 13522 pilot projects.
- Presented by senior FLRA Authority and OGC attorneys.
- Available, resources permitting, to other labor management groups.

First Term Goals and Priorities

3. Improve timeliness in **core mission functions** (i.e. Unfair Labor Practice and REP case processing) within the **first term**.

OGC Core Mission Functions

ULP and REP Case Processing



What is the OGC Core Mission?

To fairly and responsibly perform functions for which the OGC has EXCLUSIVE statutory or regulatory jurisdiction.

- Investigating and prosecuting Unfair Labor Practices
- Deciding Representation cases, including determining the scope of bargaining units and conducting secret ballot elections.

First Term Goals and Priorities

Improve Unfair Labor Practice and REP case processing in relation to time targets

- Current time target for ULP and REP cases 120 days. OGC meets target 49% for ULP and 65% REP.
- Management and Unions agree on the critical need for improvement.
- Essential to good government that OGC performance in relation to these targets improve.

Evolution of Staffing/Time Targets

1990-2004

Structure: 7 Regional Offices

Staffing: Regional Director, Regional Attorney or DRD, 11 Agents per office – Total of 77 Agents

Time Target: 90 days for ULP and REP

Performance: Not More than 15% of Pending ULP Cases Over 90 Days Old at End of Month

OGC structure, staffing, and core mission performance constant until mid-2000's

Evolution of Staffing/Time Targets

- **2004-2005** Reassessment: Assumed substantial caseload reduction due to proposed adoption of NSPS and DHS Personnel Systems
- **2005-08** FLRA Political Leadership cut OGC staffing from 77 to 38 agents.
- When predicted caseload reduction failed to materialize, **OGC time targets were increased from 90 to 120 days** for ULP and REP cases
- Performance in relation to this longer target deteriorated due to understaffing.

Evolution of Staffing/Time Targets

FY 2011 Status and Challenge

- Time targets remain at 120 for ULP and REP
- OGC meeting target 49% for ULP and 65% REP
- Staffing: 7 Regional Directors, 2 Regional Attorneys 1 Deputy RD, and 43 Agents

**Federal Labor Relations Authority
Office of the General Counsel**

***2003-2011 ULP and REP Case Intake:
Workload Statistics and Impact on Performance***



OGC Work Load Projected to Increase

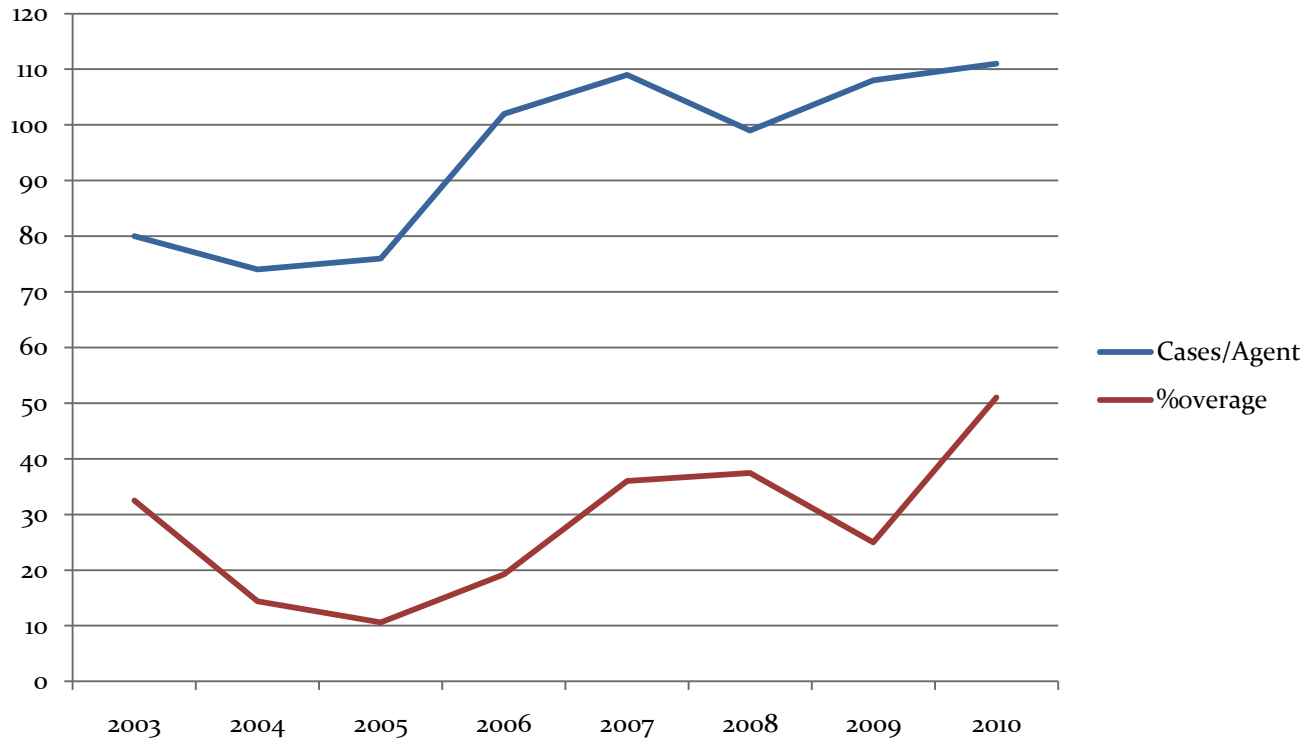
- ❑ OGC experienced a 23% increase in ULP filings during past two fiscal years.
- ❑ ULP filing rate continues to increase.
- ❑ Agency budget constraints will likely result in management changes that will increase collective bargaining, and therefore the demand for dispute resolution during the next two fiscal years.

ULP and REP Cases Filed/Agent Ratio Analysis

Fiscal Year	2003	2004	2005	2006*	2007*	2008	2009	2010	2011 (proj.)
ULP Cases Filed	5129	4551	4036	4421	3935	3569	3954	4398	4620
REP Cases Filed	309	347	285	276	297	289	275	278	285
Total Cases Filed	5438	4898	4321	4697	4232	3858	4229	4676	4905
Total Agents	68	66	57	46	39	39	39	42	42
Cases/Agent	80	74	76	102	109	99	108	111	117

* In FY2006 and 2007, NATCA filed 1,110 ULP charges against FAA relating to a contract dispute. Most of these cases were processed without the need for an investigation. The actual ULP filings for FY 2006 (4788) and FY 2007 (4677) have been adjusted to account for this one-time anomaly.

Case/Agent Ratio Compared to Percent of Cases in Overage Status



% Overage Cases based on the number of cases where dispositive action was taken in more than the current 120 day performance time target

Case Process Improvement

- ❑ Implementing case processing improvements:
 - Incorporated pre-complaint ADR into ULP Regulations
 - E-filing
 - Remote Access Voting
 - Web-based conferences to facilitate stipulations settlement, pre-hearing preparations
 - Video REP hearings.
- ❑ Rebuilding OGC staff levels as quickly as resources permit.
- ❑ Optimal staffing level – Experienced Agents can reasonably be expected to handle, on average, 80 cases per year in a manner that yields timely, high-quality results.
- ❑ The OGC is currently 19 Field Agents short of optimal staffing.