

**Written Testimony of Special Counsel Carolyn N. Lerner
United States Office of Special Counsel**

Senate Committee on Veterans' Affairs

Hearing on Pending Benefits Legislation

May 15, 2013

Chairman Sanders, Ranking Member Burr, and Members of the Committee:

Thank you for the opportunity to submit written testimony on behalf of the Office of Special Counsel (OSC) in connection with today's legislative hearing. OSC protects the merit system for over 2 million civilian employees in the federal government. Congress has tasked OSC with four distinct mission areas. First, we protect federal employees from prohibited personnel practices, especially retaliation for whistleblowing. Second, we provide a safe and secure channel for employees to disclose waste, fraud, abuse, and threats to public health or safety. Third, we enforce the Hatch Act, which keeps the federal workplace free from political coercion and improper partisan politics. Finally, we are the primary enforcement agency for federal sector claims under the Uniformed Services Employment and Reemployment Rights Act (USERRA).

USERRA protects the civilian employment and reemployment rights of those who serve the United States in the Armed Forces, including the National Guard and Reserves. OSC plays a critical role in enforcing USERRA and helps to fulfill Congress' directive that the Federal government serve as a "model employer" under the law. This is especially important because the federal government is the largest civilian employer of National Guard and Reserve members.

OSC receives referrals from the Department of Labor for representation of service members and prosecution of USERRA violations. In addition, in August 2011, OSC took on new responsibilities for USERRA enforcement under a "Demonstration Project." Under the project, OSC investigates over half of all federal sector USERRA claims. OSC recently piloted a novel, expeditious and low-cost approach to resolving USERRA cases by using alternative dispute resolution. OSC has achieved a 100% success rate using mediation to resolve service members' claims.

S. 6 – "Putting Our Veterans Back to Work Act of 2013"

OSC strongly supports S. 6, the "Putting Our Veterans Back to Work Act of 2013." Section 303 of S. 6 clarifies OSC's authority to subpoena the attendance and testimony of witnesses, as well as the production of documents from federal employees and agencies. This provision is necessary to assist OSC in determining whether a service member is entitled to relief. This section also sets forth a streamlined and more efficient process for enforcement of subpoenas against federal executive agencies or their employees by order of the Merit Systems Protection Board (MSPB). Explicit authority under Title 38 to issue subpoenas to federal employees and agencies will assist OSC in protecting rights of service members.