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LABOR RELATIONS



November 17, 2021

Mr. Ivan Butts
President
National Association of Postal
Supervisors
1727 King Street, Suite 400
Alexandria, VA 22314-2753

Dear Mr. Butts:

As a matter of general interest, the Postal Service intends to revise Section 662.11 of the Employee and Labor Relations Manual (ELM), *Ethics Advice*.

The revisions are being made to better clarify the scope of protections to ethics advice provided to employees when that advice becomes the subject of, or is responsive to, an external request for information such as a Freedom of Information Act (FOIA) request.

We have enclosed final draft copies of the ELM Section 662.11, *Ethics Advice*, one with and one without changes identified.

Please contact Bruce Nicholson at extension 7773 if you have questions concerning this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "David E. Mills".

David E. Mills
Director
Labor Relations Policies and Programs

Enclosures

662 Federal Standards of Ethical Conduct

662.1 Publication

To ensure that every citizen can have complete confidence in the integrity of the federal government, each federal employee, including each postal employee, must respect and adhere to the principles of ethical conduct set forth in 5 CFR 2635, 5 CFR 7001, and 39 CFR 447.

Note: The *Code of Federal Regulations* can be accessed at <https://www.ecfr.gov/>.

662.11 Ethics Advice

Employees who have questions about the application of the ethics regulations to particular situations should seek advice from an agency ethics official. Disciplinary action for violating these regulations will not be taken against an employee who has engaged in conduct in good faith reliance upon the advice of an agency ethics official, provided that the employee has made full disclosure of all relevant circumstances in seeking such advice. In any investigations of, or actions against, employees in their individual capacities, employees are not protected by the attorney-client privilege and may not assert in that context that such privilege prevents disclosure of their communications made to agency ethics officials or attorneys. An agency ethics official is required by 28 U.S.C. 535 to report any information he or she receives relating to a violation of the criminal code (Title 18 U.S.C.).

However, the Postal Service may still assert the attorney-client privilege and other privileges available in the civil litigation context, and/or Freedom of Information Act (FOIA) exemptions, to protect from public disclosure information provided to an agency ethics attorney from an employee, ethics advice provided from an agency ethics attorney to an employee, and any related documents, in response to FOIA requests, news media inquiries, and other external requests for information (except when disclosure is required by law).

662.12 Ethics Officials

Employees who wish to obtain ethics advice in accordance with [662.11](#) above must obtain that advice from one of the following agency ethics officials or their designees: the Postal Service general counsel, the chief counsel for ethics and federal requirements, the managing counsel for the civil practice section, or the managing counsel for each field legal office. Inspection Service employees may also seek routine ethics advice from the Inspector in Charge, Office of Counsel, or designee. Office of Inspector General employees may also seek routine ethics advice from the Office of Inspector General counsel or designee.

662.2 Financial Disclosure

Certain federal and postal employees are required by law to disclose their personal financial interests in order to ensure confidence in the integrity of the federal government. The federal regulations regarding financial

disclosure are set forth in 5 CFR 2634. Specific instructions regarding the financial disclosure requirements of postal employees are contained in Management Instruction EL-660-97-1, *Financial Disclosure Report Procedures for the U.S. Postal Service*, January 30, 1997.

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