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661 Statutory Provisions

661.1 Laws Referenced in This Manual

The laws mentioned in this manual are listed for information only. Nothing in this manual constitutes an interpretation or construction of these laws which might be construed as binding the United States Postal Service or the United States.

Failure to mention a statute does not excuse any person from complying with the statute.

661.2 Application to Postal Employees

In addition to the statutes listed in Title 5, *Code of Federal Regulations* (CFR), Part 2635.901-902, the following statutes and regulations are applicable to all employees in the Postal Service.

- a. Prohibition against proscribed political activities (Title 5, *United States Code* (U.S.C.), subchapter III of chapter 73, and 18 U.S.C. 602, 603, 607, and 608).
- b. Prohibition against appointing or promoting a relative, or advocating such an appointment or promotion (5 U.S.C. 3110).
- c. Prohibition against disloyalty and striking (5 U.S.C. 7311; 18 U.S.C. 1918).
- d. Prohibition against bribery, graft, and conflicts of interest (18 U.S.C. 201, 203, 205, 208, and 209).
- e. Prohibition against acting as the agent for a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).
- f. Prohibition against unauthorized taking or use of documents relating to claims against or by the government (18 U.S.C. 285).
- g. Prohibition against postal employees becoming interested in any contract for carrying the mail (18 U.S.C. 440).
- h. Prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).
- i. Prohibition against deprivation of employment or other benefit for political activity (18 U.S.C. 601).
- j. Prohibition against:
 - (1) Embezzlement of government money or property (18 U.S.C. 641).
 - (2) Failing to account for public money (18 U.S.C. 643).
 - (3) Embezzlement of money or property of another person in the possession of an employee by reason of his or her employment (18 U.S.C. 641).

- k. Prohibition against:
 - (1) Disclosure of classified information (18 U.S.C. 798).
 - (2) Disclosure of confidential information (18 U.S.C. 1905).
- l. Prohibition against fraud or false statements in a government matter (18 U.S.C. 1001).
- m. Prohibition against participation in lottery enterprises (18 U.S.C. 1303).
- n. Prohibition against carriage of mail contrary to law (18 U.S.C. 1693).
- o. Prohibition against desertion of mail (18 U.S.C. 1700).
- p. Prohibition against obstruction of correspondence (18 U.S.C. 1702).
- q. Prohibition against delay or destruction of mail or newspapers (18 U.S.C. 1703).
- r. Prohibition against theft of property (18 U.S.C. 1707).
- s. Prohibition against theft of mail (18 U.S.C. 1709).
- t. Prohibition against theft of newspapers (18 U.S.C. 1710).
- u. Prohibition against misappropriation of Postal Service funds (18 U.S.C. 1711).
- v. Prohibition against falsification of postal returns (18 U.S.C. 1712).
- w. Prohibition against improper issuance of money orders (18 U.S.C. 1713).
- x. Prohibition against misuse of the franking privilege (18 U.S.C. 1719).
- y. Prohibition against the unlawful sale or pledge of stamps (18 U.S.C. 1721).
- z. Prohibition against unlawful collection of postage (18 U.S.C. 1726).
- aa. Prohibition against improper approval of bond or sureties (18 U.S.C. 1732).
- bb. Prohibition against lobbying with appropriated funds (18 U.S.C. 1913).
- cc. Prohibition against the use of deceit in an examination or personnel action in connection with government employment (18 U.S.C. 1917).
- dd. Prohibition against mutilating or destroying a public record (18 U.S.C. 2071).
- ee. Prohibition against disclosure of lists of names and addresses (39 U.S.C. 412).
- ff. Prohibition against making or receiving political recommendations for appointment or promotion (39 U.S.C. 1002).
- gg. Prohibition against receipt of unauthorized fees (39 U.S.C. 1009).
- hh. Prohibition against opening First-Class Mail® (39 U.S.C. 3623).
- ii. Oath of office required for all postal employees (39 U.S.C. 1011).
- jj. Privacy Act of 1974 (5 U.S.C. 552a).

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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 <http://www.gpoaccess.gov/cfr/>.

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.

Disclosures made by an employee to an agency ethics official are not protected by the attorney-client privilege. 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.).

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.

663 Participation in Political and Community Activities

663.1 Political Activities

663.11 General

663.111 Employees Included

With the exceptions noted in part 663.112, Postal Service employees are subject at all times to restrictions on their participation in political activities under the Hatch Act (5 U.S.C., subchapter III of chapter 73, and 18 U.S.C. 602, 603, and 607) and related regulations.

663.112 Employees Excluded

Postal employees who are employed on an irregular or occasional basis (e.g., experts and consultants, substitute rural carriers, or those on a per-diem basis), and those employees who are employed without compensation or on a when-actually-employed basis are subject to the restrictions mentioned in 663.111 only while in an active duty status and only for the entire 24 hours of a day of actual employment. Notwithstanding this paragraph, full-time employees in a leave status and part-time employees are fully subject to the restrictions of 663.111.

663.113 Nonpartisan Office

An employee may seek, accept, or hold a nonpartisan federal, state, or local office subject to the provisions of this Code and this section. A nonpartisan office is one filled as a result of a nonpartisan election. A nonpartisan election is an election in which none of the candidates to be nominated or elected represent a political party whose candidates for presidential elector received votes in the last preceding election held to select presidential electors.

663.114 Employee Responsibility

Example: An employee who wishes to seek, accept, or hold a nonpartisan federal, state, or local office is responsible for ascertaining:

- a. Whether the office is nonpartisan within the definition in 663.113.
- b. Whether federal, state, or local law permits a Postal Service employee to seek, accept, or hold the particular office.
- c. Whether the duties of the office would result in a conflict with Postal Service employment.
- d. Whether the discharge of the duties of the office would interfere with the acceptable performance of Postal Service duties or would interfere with the acceptable performance by other Postal Service employees of their respective duties. Employees may seek advice from one of the agency ethics officials listed in 662.12 or from the Office of Special Counsel (OSC) in making these determinations. The advisory service of the OSC can be reached at (800) 854-2824.

663.115 Prohibition Against Conflict

An employee is encouraged to seek advice from one of the agency ethics officials listed in 662.12 or from the OSC before taking any action to seek, accept, or hold a federal, state, or local office. If the employee assumes the

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duties of this nonpostal office and they interfere with the proper discharge of postal duties, either by that individual or by other postal employees, then the employee holding the nonpostal office must be advised by a superior to eliminate the interference. This can be accomplished either by resignation from the nonpostal office or some other appropriate manner. If the employee fails, refuses, or neglects to comply with this advice and the interference continues, that individual will be subject to disciplinary proceedings.

663.116 Campaign While on Leave

Employees, other than postmasters, district managers, or acting postmasters in a salary level of EAS-25 or higher, may be granted permission to campaign for a full-time state or local nonpartisan office while on annual leave or on authorized leave without pay during the campaign when:

- a. The criteria in 663.114a and 663.114b are met.
- b. The vice president of Area Operations determines that the employee's postal responsibilities are being conducted in a satisfactory manner and that the absence of the employee during the campaign period will not disrupt the operation of the facility where the person is employed.

Note: Requests must be submitted through the postmaster or other installation head to the vice president of Area Operations. An employee who is elected and takes such a full-time office may either be separated from the Postal Service or granted leave without pay.

A postmaster in salary level EAS-25 or higher, a district manager, or an acting postmaster in salary level EAS-25 or higher, may not be authorized to take annual leave or leave without pay for the purpose of campaigning for a full-time state or local nonpartisan office.

663.12 Additional Prohibited Political Activities

In addition to the restrictions on political activities referred to in 663.111, an employee may not:

- a. Display a political picture or sticker on property owned or leased by the Postal Service. The employee is not forbidden, however, from displaying a picture, including a personally autographed picture of a political figure, in an office or place of work if it contains no language in the nature of political campaigning.
- b. Wear a political badge or button while in uniform or while on duty.
- c. Display a political picture or sticker on a private vehicle while that vehicle is being used for official purposes.

663.13 Investigation and Enforcement

The independent Office of Special Counsel investigates allegations of political activity in violation of the Hatch Act by Postal Service employees. The Merit Systems Protection Board adjudicates such allegations.

663.2 Community Affairs**663.21 General**

An employee is permitted to participate in community affairs to the extent consistent with the proper performance of postal duties and in compliance with applicable laws and regulations. Nothing in this section prevents an employee from serving as an official of a religious, fraternal, or civil nonpolitical organization that is supported by dues or contributions from its own members, or from participating in the nonpartisan activities of a civic, community, social, labor, professional, or other similar organization in his or her personal capacity.

663.3 Nonparticipation in Segregated Meetings**663.31 Prohibition Against Participation**

Postal officials may not participate in conferences or speak before audiences where any racial or ethnic group or members of either sex have been purposely segregated or excluded from the meeting, from any of the facilities, from the conference, or from membership in the group. When requests to speak or participate are received under circumstances where discrimination may be practiced, the invited official should inquire as to the practices of the group before acceptance.

663.32 Prohibition Against Sponsorship

The Postal Service may not sponsor, support, or financially assist, directly or indirectly, any conference, convention, or meeting held where participants are segregated or are treated unequally on the basis of prohibited discrimination.

663.33 Exceptions

If the Postal Service civil rights program will be better served by permitting an exception to this policy in a particular case, the area manager of Human Resources must be advised prior to making any commitments and requested to provide a confirmation of a waiver of the policy in 663.31.

664 Bribery, Undue Influence, or Coercion

An employee must report immediately to the vice president and general counsel of the Postal Service, with a copy to the Office of Inspector General:

- a. Any instance in which a person either within or outside the Postal Service uses or attempts to use bribery, undue influence, or coercion to induce or attempt to induce the employee to act or neglect to act in regard to official responsibilities.
- b. Any information that causes the employee to believe that there has been a violation of a federal criminal statute or any law or regulation directly or indirectly related to the responsibility of the Postal Service.

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Note: Copies of the report must be sent, in sealed envelopes clearly marked “Restricted Information—To Be Opened by the Addressee Only,” to these addresses:

VICE PRESIDENT AND GENERAL COUNSEL
US POSTAL SERVICE
475 L'ENFANT PLZ SW 6TH FL
WASHINGTON, DC 20260-1100

US POSTAL SERVICE
OFFICE OF INSPECTOR GENERAL
ASSISTANT INSPECTOR GENERAL FOR
INVESTIGATIONS
1735 N LYNN ST 10TH FL
ARLINGTON VA 22209-2020

665 **Postal Service Standards of Conduct**

665.1 **General Expectations**

665.11 **Loyalty**

Employees are expected to be loyal to the United States government and uphold the policies and regulations of the Postal Service.

665.12 **Performance of Public Duties**

Employees are expected to serve on juries and to act as witnesses when summoned by official sources.

665.13 **Discharge of Duties**

Employees are expected to discharge their assigned duties conscientiously and effectively.

665.14 **Reporting Violations**

All allegations of violations of Postal Service laws or misconduct by Postal Service employees, including mail theft, must be reported immediately to the Office of Inspector General.

665.15 **Obedience to Orders**

Employees must obey the instructions of their supervisors. If an employee has reason to question the propriety of a supervisor's order, the individual must nevertheless carry out the order and may immediately file a protest in writing to the official in charge of the installation or may appeal through official channels.

665.16 **Behavior and Personal Habits**

Employees are expected to conduct themselves during and outside of working hours in a manner that reflects favorably upon the Postal Service. Although it is not the policy of the Postal Service to interfere with the private lives of employees, it does require that postal employees be honest, reliable, trustworthy, courteous, and of good character and reputation. The Federal Standards of Ethical Conduct referenced in 662.1 also contain regulations governing the off-duty behavior of postal employees. Employees must not engage in criminal, dishonest, notoriously disgraceful, immoral, or other

conduct prejudicial to the Postal Service. Conviction for a violation of any criminal statute may be grounds for disciplinary action against an employee, including removal of the employee, in addition to any other penalty imposed pursuant to statute. Employees are expected to maintain harmonious working relationships and not to do anything that would contribute to an unpleasant working environment.

665.2 **Prohibited Conduct**

665.21 **Incomplete Mail Disposition**

It is a criminal act for anyone who has taken charge of any mail to quit voluntarily or desert the mail before making proper disposition of the mail according to 18 U.S.C. 1700.

665.22 **Unofficial Recommendations**

Employees must not recommend or suggest the employment of any person offering services as a consultant, agent, attorney, expeditor, or the like, for the purpose of assisting in any negotiation, transaction, or other business with the Postal Service unless required to do so as part of their official duties.

665.23 **Discrimination**

Employees acting in an official capacity must not directly or indirectly authorize, permit, or participate in any action, event, or course of conduct that subjects any person to discrimination, or results in any person being discriminated against on the basis of race, color, religion, sex, national origin, age (40+), physical or mental disability, marital or parental status, sexual orientation, or any other nonmerit factor, or that subjects any person to reprisal for prior involvement in EEO activity.

665.24 **Violent and/or Threatening Behavior**

The Postal Service is committed to the principle that all employees have a basic right to a safe and humane working environment. In order to ensure this right, it is the unequivocal policy of the Postal Service that there must be no tolerance of violence or threats of violence by anyone at any level of the Postal Service. Similarly, there must be no tolerance of harassment, intimidation, threats, or bullying by anyone at any level. Violation of this policy may result in disciplinary action, including removal from the Postal Service.

665.25 **Illegal Drug Sale, Use, or Possession**

The Postal Service will not tolerate the sale, possession, or use of illegal drugs, or the abuse of legal drugs while on duty or on postal premises. Employees found to be engaged in these activities are subject to discipline, including removal and/or criminal prosecution where appropriate.

665.26 **Intoxicating Beverages**

Employees must not drink beer, wine, or other intoxicating beverages while on duty; begin work or return to duty intoxicated; or drink intoxicating beverages in a public place while in uniform. Unless the postmaster general specifically authorizes an exception (for example, an official reception),

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employees must not have or bring any container of beer, wine, or other intoxicating beverage into any Postal Service facility or premises, whether or not the container has been opened. Employees found to be violating this policy may be subject to disciplinary action.

665.27 Gambling

Employees must not participate in any gambling activity while on duty or while on property owned or leased by the Postal Service or the United States. This prohibition includes the operation of any gambling device, conducting a game for money or property, or selling or purchasing a numbers slip or ticket.

Note: This section does not prohibit participation in activities specified here if participation is necessitated by an employee's law enforcement duties, or if participation is in accordance with Executive Order No. 10927, relating to agency-approved solicitations, or in accordance with the Randolph-Sheppard Act, when approved by postal management.

665.3 Cooperation in Investigations

Employees must cooperate in any postal investigation, including Office of Inspector General investigations.

665.4 Attendance**665.41 Requirement of Regular Attendance**

Employees are required to be regular in attendance. Failure to be regular in attendance may result in disciplinary action, including removal from the Postal Service.

665.42 Absence Without Permission

Employees who fail to report for duty on scheduled days, including Saturdays, Sundays, and holidays, are considered absent without leave except in cases where actual emergencies prevent them from obtaining permission in advance. In emergencies, the supervisor or proper official must be notified of the inability to report as soon as possible. Satisfactory evidence of the emergency must be furnished later. An employee who is absent without permission or who fails to provide satisfactory evidence that an actual emergency existed will be placed in a nonpay status for the period of such absence. The absence may be the basis for disciplinary action. However, once the employee provides management with notice of the need for leave in accordance with Family Medical Leave Act (FMLA)-required time frames, and the absence is determined to be FMLA protected, the employer must change the AWOL to approved FMLA-LWOP, and delete the AWOL status from the record.

665.43 Tardiness

Any employee failing to report at his or her scheduled time in installations where time recorders are not used is considered tardy. Tardiness in installations equipped with time recorders is defined as any deviation from schedule.

665.44 Falsification in Recording Time

Recording the time for another employee constitutes falsification of a report. Any employee knowingly involved in such a procedure is subject to removal or other discipline. Failure of a supervisor to report known late arrivals is regarded as condoning falsification. These practices may also result in criminal prosecution.

665.5 Furnishing Address

Employees must keep the installation head informed of their current mailing addresses. Any change in mailing addresses must be reported to the installation head on Form 1216, *Employee's Current Mailing Address*, through "Self Service" on the Postal Service Blue Page, or through USPS approved methods including *PostalEase*.

665.6 Disciplinary Action

Postal officials may take appropriate disciplinary measures to correct violations of the regulations referred to in 665.

666 Prohibited Personnel Practices**666.1 Restrictions****666.11 Applicability of Restrictions**

The following restrictions apply to any Postal Service employee who has authority to take, direct others to take, recommend, or approve any personnel action with respect to any employee, eligible, or applicant.

666.12 Prohibited Discrimination

The following provisions apply:

- a. *Political Affiliation.* No discrimination may be exercised, threatened, or promised by any person or in favor of any employee, eligible, or applicant because of political affiliation except as may be authorized or required by law.
- b. *Individual Status.* No person may be discriminated against because of race, color, religion, sex, age (40+), national origin, disability, reprisal based on protected activity, marital or parental status, or sexual orientation in connection with examination, appointment, reappointment, reinstatement, reemployment, promotion, transfer, demotion, removal, or retirement.
- c. *Conduct That Does Not Adversely Impact Performance.* No person may be discriminated for or against on the basis of conduct that does not adversely impact that person's performance or the performance of others. In determining suitability or fitness of that person, any conviction for any crime under the laws of any state, the District of Columbia, or of the United States may be taken into account.

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666.13 Nepotism

See provision applicable to nepotism in Handbook EL-312, *Employment and Placement*.

666.14 Improper Employment and Placement Practices

Deceitfully or willfully obstructing or improving the prospects of any person competing for a position by granting a preference or advantage not authorized by law, rule, or regulation (including defining the scope or manner of competition or the requirements for a position), or by influencing anyone to withdraw from competition for a position, is prohibited.

666.15 Improper Recommendations

Soliciting or considering any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action is prohibited, unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of:

- a. An evaluation of the work performance, ability, aptitude, or general qualification of such individual.
- b. An evaluation of the character, loyalty, or suitability of such individual.

666.16 Coercion of Political Activity

Coercion of the political activity of any person (including the providing of any political contribution or service), or the taking of any action as a reprisal for the refusal of any person to engage in such political activity, is prohibited.

666.17 Reprisal for Exercising Appeal Rights

Taking or failing to take any personnel action as a reprisal for the exercise of any appeal right granted by a law, rule, or regulation is prohibited.

666.18 Reprisal for Release of Information

No one may take or fail to take a personnel action, or threaten to do so, with respect to any employee or applicant for employment because the employee or applicant discloses information that he or she believes evidences:

- a. A violation of any law, rule, or regulation, or
- b. A gross waste of funds, gross mismanagement, an abuse of authority, or a substantial and specific danger to public health or safety.

Disclosure of information that is specifically prohibited by law does not carry the protection described above. However, no disclosure under a. and b. above is prohibited by law if made to the Inspector General of the Postal Service. There can be no reprisal for disclosures to the Inspector General unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

666.2 Remedies

666.21 General

Depending on the status of the employee complaining and the action taken against him or her, complaints that one or more of the restrictions in 666.1 have been violated may be brought through the following appeal procedures.

666.22 Equal Employment Opportunity Complaint Procedures

Any employee or applicant may file a complaint alleging discrimination based on race, color, religion, sex, age (40+), national origin, disability, or alleging reprisal based on protected EEO activity within 45 days of the event believed to be discriminatory. For details, see Publication 133, *What You Need to Know About EEO*.

666.23 Adverse Action Appeals to the Merit Systems Protection Board

All employees eligible for veterans' preference and certain other nonbargaining unit employees with one year of current continuous service in the same or similar position may appeal removals, reductions in grade or pay, suspensions of more than 14 days, or furloughs of 30 days or less. The appeal must be made to the Merit Systems Protection Board (MSPB) within 30 days of the effective date of the action. Preference eligible employees may also appeal reduction-in-force (RIF) actions to the MSPB.

666.24 Grievance Procedures

Employees covered by a collective bargaining agreement may file grievances regarding wages, hours, and working conditions in accordance with the provisions of the applicable agreement. Nonbargaining unit employees at EAS-17 and below may use the procedure in ELM 652.4 to appeal matters other than suspensions or adverse actions. Nonbargaining unit employees at EAS-18 and above may use these procedures to appeal letters of warning and emergency placement in a nonduty status.

666.25 Nonbargaining Unit Appeals Procedures

Non-probationary employees not subject to the provisions of a collective bargaining agreement may appeal removals, reductions in grade or pay, and suspensions or furloughs of 30 days or less under the provisions of Part 652.2. Letters of warning in lieu of time-off suspensions may be appealed under the provisions contained in Part 652.3.

666.26 Other Appeal Procedures for Prohibited Personnel Practices

Allegations of violations of the provisions of 666 that cannot be brought through any other procedure may be sent to the following address:

VICE PRESIDENT LABOR RELATIONS
UNITED STATES POSTAL SERVICE
475 L'ENFANT PLZ SW
WASHINGTON DC 20260-4100

Complaints filed with the vice president must be in writing and include as much specific information on the alleged violation as possible. The complaint is referred to the proper official. Allegations of violations of law are referred to

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the Inspection Service and/or the Office of Inspector General. The complainant will be informed in writing of the disposition of the complaint.

666.3 Whistleblower Protection

- 666.31 Allegations of reprisal for the release of information as set forth in ELM 666.18, raised by any Postal Service employee, should be addressed to:

UNITED STATES POSTAL SERVICE OFFICE OF
INSPECTOR GENERAL HOTLINE
1735 N LYNN ST
ARLINGTON VA 22209-2005

Allegations of reprisal received from Office of Inspector General employees will be referred to an outside organization or individual for investigation. In such instances, the outside organization or individual will act in place of the Office of Inspector General, and the Office of Inspector General will act in place of Postal Service management, regarding the application of the procedures set forth in this section.

- 666.32 Upon receipt of the allegations, the Office of the Inspector General will conduct a preliminary review of the allegations. If the Office of the Inspector General determines that the allegations warrant further review, a questionnaire may be sent to the complainant that must be completed and returned to the Office of the Inspector General within 30 calendar days. The Office of Inspector General will review the completed questionnaire to determine whether it will investigate the allegations or decline further action and, instead, refer the allegations to Postal Service management.
- If the Office of the Inspector General declines to review allegations or terminates an investigation, it shall prepare and transmit to the complainant a written statement notifying the complainant of:
- a. its decision not to review allegations or to terminate an investigation; and,
 - b. the reasons for declining to review allegations or terminating an investigation.
- 666.33 In addition to investigations of allegations submitted to the Office of the Inspector General under ELM 666.31, the Office of the Inspector General may, in the absence of an allegation, conduct an investigation for the purpose of determining whether there are reasonable grounds to believe that reprisal for disclosures protected by ELM 666.18 has occurred.
- 666.34 The Office of the Inspector General may recommend to the Vice President, Labor Relations, for purposes of ELM 666.3, a stay of any pending personnel action until the conclusion of the investigation and the issuance of a report if the Office of the Inspector General determines that there are reasonable grounds to believe that the personnel action was taken, as a result of a release of information as set forth in ELM 666.18. The Office of the Inspector General shall provide to the Vice President, Labor Relations, an interim report explaining the nature of the allegations of reprisal and the reasons supporting the Office of the Inspector General's recommendation that a stay should be ordered.

- 666.341 The Vice President, Labor Relations, or designee, shall, within three business days of the request, order the stay unless he/she determines that, under the facts and circumstances involved, such a stay would be inappropriate.
- 666.342 A stay shall not be for a period in excess of 120 calendar days from the date granted and it may be terminated by the Vice President, Labor Relations at any time.
- 666.343 When the Vice President, Labor Relations, or designee, does not order the stay, he/she shall advise the Office of the Inspector General of his/her decision within three business days of the receipt of the request for a stay.
- 666.344 Where the Vice President, Labor Relations does not order a stay, or where a stay has been ordered and it is subsequently terminated by the Vice President, Labor Relations, the Office of the Inspector General may request that a Postal Service Administrative Law Judge order a stay of a personnel action for a period of 45 days from the date granted.
- a. A stay will be granted if the Administrative Law Judge finds that there are reasonable grounds to believe that a personnel action was taken, or is to be taken, as a result of a release of information.
 - b. Unless denied, any stay under this subparagraph shall be granted within 3 calendar days (excluding Saturdays, Sundays, and legal holidays) after the date of the request for the stay by the Office of the Inspector General.
 - c. A stay may be terminated by the Administrative Law Judge at any time, except that the Administrative Law Judge may not terminate a stay on his or her own motion or on the motion of the Postal Service, unless notice and opportunity for oral or written comments are first provided to the Office of the Inspector General.
- 666.345 When a stay has been ordered, the Office of the Inspector General shall notify the Vice President, Labor Relations in writing immediately if the Office of the Inspector General terminates an investigation.
- 666.35 Except when the Office of the Inspector General declines to investigate the complainant's allegations under ELM 666.32, no later than 120 days after the date of receiving complainant's completed questionnaire under ELM 666.32, the Office of the Inspector General shall provide an investigative report to the Vice President, Labor Relations.
- 666.36 After receipt of the investigative report, the Vice President, Labor Relations, shall advise the Office of the Inspector General in writing of the Postal Service's decision.
- 666.37 Where the Postal Service determines that no action is to be taken or, where the Office of the Inspector General determines that the action taken by the Postal Service is not corrective, the complainant may appeal and obtain a hearing before a Postal Service Administrative Law Judge under the following conditions:
- a. The complainant is a nonbargaining unit employee who does not have a right to appeal the matter to the Merit Systems Protection Board or through the hearing procedures set forth in ELM 652.2,

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- b. The appeal is only available for personnel actions as defined in ELM 669k, and,
 - c. The Office of the Inspector General has found a prima facie case of reprisal for whistleblowing.
- 666.371 If the Administrative Law Judge finds that the Postal Service has established that it would have taken the same personnel action in the absence of a disclosure under ELM 668.1, no corrective action will be ordered.
- 666.372 Where the Administrative Law Judge orders corrective action, such corrective action will place the complainant, as nearly as possible, in the position the individual would have been in had the improper personnel action not occurred.
- 666.38 Complainants who raise an affirmative defense of whistleblower reprisal during the appeals process for adverse actions set forth in ELM 652.23 and the claim of whistleblower reprisal is not sustained, may file a written request within 30 calendar days from the date of issuance of the Step 1 decision for review of the whistleblower reprisal determination by a Postal Service Administrative Law Judge under the following conditions:
 - a. The complainant is a nonbargaining unit employee who does not have a right to appeal the matter to the Merit Systems Protection Board,
 - b. The complainant has made the allegation of whistleblower reprisal to the Office of the Inspector General and the Office of the Inspector General has found a prima facie case of reprisal for whistleblowing, and,
 - c. There will be no hearing. The Administrative Law Judge's review will be limited to the record of the appeal.

The decision on the allegation of whistleblower reprisal of the Step 1 official must be affirmed unless the Administrative Law Judge finds that it is 1) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; 2) obtained without procedure required by laws, rule, or regulation having been followed; or 3) unsupported by substantial evidence.

When the Administrative Law Judge does not affirm the decision of the Step 1 official, the Administrative Law Judge shall remand the appeal to the Step 1 official for issuance of a new decision on the merits. The Step 1 official shall be bound by the Administrative Law Judge's finding regarding the allegation of whistleblower reprisal.

667 Service Matters

667.1 General Service Behavior

667.11 Compiling Directories

Employees may not compile or furnish restricted information for or otherwise assist publishers in compiling city directories for public use, nor request publishers to send free copies to them, nor accept any money or gratuity arising from publication of directories.

667.12 Engaging in Campaigns for Changes in Mail Service

Employees in active status must not engage in campaigns for or against changes in mail service. This regulation must not be construed to infringe on the rights to participate in labor organizations.

667.13 Paying for Exchange of Positions

It is unlawful for employees to give or receive payment, directly or indirectly, to affect an exchange of position in the same or different postal units, or any place in the public service. This offense is punishable by fine and imprisonment and disqualification from holding any office in the federal government.

667.14 Manufacture of Rural Mailboxes

Employees are prohibited from manufacturing or acting as the agent for a manufacturer of rural mailboxes.

667.15 Loitering

Carriers must not loiter or stop for unnecessary conversation on their routes. Employees must not linger about cases or racks after their tours of duty have ended or report at cases or racks before their tours are scheduled to begin.

667.16 Controversies With the Public

Employees must not engage in controversies with customers, railway employees, airline employees, or other members of the public while on duty or on federal property.

667.17 Obstructing the Mail

Title 18 U.S.C. 1701 provides penalties for persons who knowingly and willfully obstruct or retard the mail. The statute does not afford employees immunity from arrest for violations of law.

667.18 Giving Testimony or Campaigning for Additional Transportation Services

Postmasters and other field officials must not furnish postal information or testimonial statements or letters that purport to reflect postal needs to civic bodies or rail or air common carriers to be used in support of applications for new or additional common carrier service at a given community. Such requests for postal information must be referred to Headquarters. When there are justifiable reasons for recommending changes in transportation services, postmasters and other field officials must furnish a complete report to the proper official at Headquarters and then await specific instructions before engaging in any local activity or hearing relative to such changes.

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667.2 Interception of Oral or Wire Communications by Postal Employees**667.21 Prohibition**

During the course of activities related to postal employment, postal employees may not record, monitor, or otherwise intercept the oral or wire communications of any other person through the use of any electronic, mechanical, or other device, nor listen in on a telephone conversation, nor direct another to do so, unless all parties involved in the communication are made aware of and consent to such interception.

667.22 Exceptions

This prohibition does not apply to postal inspectors or Office of Inspector General investigators while acting in the course of their official duties, nor does it apply to authorized personnel conducting "Compliance and Monitoring" activities in accordance with Handbook AS-805, *Information Security*. All activity conducted in this area must be in accord with applicable federal statutes governing the interception of wire or oral communications by law enforcement officers.

Call monitoring programs may be established by postal management for legitimate business purposes, such as quality assurance and training. Call monitoring programs must comply with any applicable federal statutes and regulations.

667.23 Definitions

For the purposes of 667.2, the terms *oral communication*, *wire communication*, *intercept*, and *electronic, mechanical, or other device* have the meanings used in 18 U.S.C. 2510.

667.3 Records, Information, and Associated Processing Systems and Equipment**667.31 Purpose of Controls**

Federal law and sound business practice require compliance with certain rules over the uses and protection of information and information processing resources owned by the Postal Service. These rules apply specifically to those types of Postal Service property emphasized in the definition at 669h. They are provided here for the information of current and former employees and also for use by management as a basis for ensuring compliance and taking disciplinary action, when appropriate. These rules supplement 667.18 and 667.21 referred to earlier in [Section 661.2g](#).

667.32 Prohibited Disclosures**667.321 General**

Employees may not furnish to members of the public any Postal Service records or copies of records, or information taken from Postal Service records, including information contained in a computer system, unless it is a part of the duties of their position to do so. Decisions to withhold or disclose

records and information must be consistent with applicable laws, Executive Orders, and Postal Service regulations and directives. Accordingly, the responsible official must consult with the Chief Privacy Officer (CPO), managing counsel for the appropriate field legal office, or the general counsel if there is any question as to the appropriate course of action.

667.322 **Personal Information**

Disclosing nonpublic information about an individual to another person or organization not entitled by Postal Service regulations to the information, without the signed authorization from the individual, is prohibited under penalty of law. See Handbook AS-353, *Guide to Privacy and the Freedom of Information Act*.

667.323 **Trade Information**

Disclosing any information not available for public disclosure as described under ASM 824 and Handbook AS-353, *Guide to Privacy and the Freedom of Information Act*, Chapter 3, to any unauthorized person or organization is prohibited under penalty of law.

667.33 **Prohibited Uses**

667.331 **Personal Use**

Use of Postal Service property (as defined in 669h) for personal enjoyment, private gain, or other unauthorized activity is prohibited, except that management at each Postal Service employment installation may permit employees to make limited personal use of postal office equipment, including information technology, (as defined in 669j). See Handbook AS-805, *Information Security*, Chapter 5, Acceptable Use.

667.332 **Damage**

Users will be held accountable for damage to postal property caused by negligence or intentionally destructive acts.

667.333 **Bypassing Security Controls**

Bypassing or attempting to bypass established security controls in violation of the *Administrative Support Manual* (ASM), Chapter 8, is prohibited.

667.334 **Sanctions for Misuse**

Use of postal equipment in violation or excess of 667.33 (**Prohibited Uses**) may result in limitations on future use, administrative action, disciplinary action, criminal penalty, and/or personal financial liability.

667.34 **Protection Responsibilities**

Employees must protect all information about individuals, customers, all other Restricted Information, and all National Security Information against unauthorized use and disclosure.

667.35 **Reporting Violations**

See 665.14.

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668 Legal Assistance Provided by the Postal Service**668.1 Representation of Postal Service Employees by the Department of Justice in Civil and Criminal Cases****668.11 General**

Under the following procedures, an employee (hereby defined to include present and former employees or their estates) may be provided representation in civil proceedings and in state criminal proceedings in which they are sued, subpoenaed, or charged in their official capacity, when the actions for which representation is requested reasonably appear to have been performed within the scope of their employment, and providing representation would be in the interest of the United States.

A provision of the Federal Tort Claims Act prohibits suits against individual Government employees (including Postal Service employees) for loss, damage, or destruction of property or personal injury or death when caused by the negligent or wrongful act or omission of the employee while acting within the scope of his or her employment (Title 28, U.S.C. Section 2679).

668.12 Procedure for Requesting Legal Representation by the Department of Justice**668.121 Employee Responsibilities**

An employee who believes he or she is entitled to representation by the Department of Justice in a proceeding must promptly submit a written request for that representation, together with all process and pleadings served, to the employee's installation head. Failure to submit a request promptly may prevent the processing necessary to obtain approval of the employee's request. In order to give a request proper consideration, it must contain a detailed statement from the employee of his or her knowledge of the subject matter of the proceeding and be accompanied by all pertinent documents. The Department of Justice asks that the letter requesting representation be addressed to the:

ASSISTANT ATTORNEY GENERAL CIVIL DIVISION
DEPARTMENT OF JUSTICE
WASHINGTON DC 20530-0001

but that the request letter not be sent directly to the Assistant Attorney General. The request is to be sent directly to the employee's installation head, who will in turn forward the request in accordance with 668.122. The Department of Justice requires that the request contain:

- a. The date the employee was served.
- b. The date on which the employee must respond or appear at a proceeding.
- c. A statement that the employee has read the complaint; that all conduct related to the allegations in the complaint occurred within the scope of the employee's official duties; and that such conduct was done in the good faith belief that it was proper.

- d. A statement describing in detail the employee's knowledge of the subject matter of the complaint. Failure to provide a detailed statement of the facts may prevent the processing necessary to obtain approval of the request.

668.122 **Installation Head or Higher Level Official Responsibilities**

The installation head or next higher level or other designated official must:

- a. Add to the employee's request a separate statement indicating whether they believe the employee was acting within the scope of his or her employment at the time of the conduct which is the focus of the suit, subpoena, or citation.
- b. Forward the request without delay to the managing counsel for the area in which the proceeding arose.
- c. Submit a covering transmittal memorandum to the managing counsel containing a recommendation as to whether providing the employee representation would be in the best interests of the Postal Service and a statement detailing the installation head's or appropriate designee's knowledge of the subject matter of the case.

668.123 **Postal Inspection Service and Office of Inspector General**

Postal Inspection Service personnel and Office of Inspector General personnel should follow procedures established by the chief postal inspector and inspector general respectively to request representation by the Department of Justice rather than follow the procedures set forth in this section.

668.124 **Criteria for Granting Representation**

The Department of Justice provides representation at its discretion and only after it determines that the employee acted within the scope of his or her authority and that such representation would be in the best interest of the United States.

668.125 **Department of Justice Representation**

Upon determination by the Department of Justice that an attorney will represent an employee, the employee will be so notified, and will be provided information about the nature of Department of Justice representation.

668.2 **Reimbursement of Employees for Legal Fees, Judgments, and Settlements**

668.21 **Legal Fees**

An employee whose request under 668.12 has been denied for any reason may request reimbursement for legal fees incurred by his or her use of private counsel through the appropriate managing counsel.

668.22 **Judgments and Settlements**

An employee who has filed a request for representation under 668.12 may file a request for payment of any adverse judgment or settlement with the appropriate managing counsel.

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668.23 Criteria for Reimbursement

Each request for reimbursement for legal fees, judgments, or settlements will be considered by the managing counsel on its individual merits after the case is concluded. Generally, reimbursement will be made if:

- a. It is equitable and fair to do so.
- b. The employee acted reasonably, within the scope of his or her authority, and not recklessly, in bad faith, or with obvious indifference to instructions.
- c. The amount requested is reasonable, and reimbursement is deemed to be in the best interest of the Postal Service.

668.3 USPS Governors and Officers**668.31 Requests for Legal Representation**

The provisions of 668 apply also to the governors and officers and inspector general of the Postal Service. If such persons are named as defendants and desire to be represented by the Department of Justice, they must submit their requests in accordance with 668.12 to the general counsel. However, the Chairman of the Board of Governors and the postmaster general submit their requests directly to the General Counsel. The Inspector General submits the request through the OIG General Counsel to the USPS General Counsel.

668.32 Legal Fees

A person covered by 668.3 who is represented by private counsel may apply to the general counsel for payment or reimbursement for legal fees. The general counsel will exercise discretion according to the criteria in 668.23.

668.33 Judgments and Settlements

A person covered by 668.3 may apply to the general counsel for payment or reimbursement for any adverse judgment or settlement. The general counsel will exercise discretion according to the criteria in 668.23.

669 Definitions

Definitions of terms used in 660 are:

- a. *Postal Service* — the United States Postal Service as established by 39 U.S.C. 201.
- b. *Employee* — an individual appointed to a position, temporary or permanent, within the Postal Service, or hired as an executive under an employment contract, including a substitute. The term *employee* does not include a governor of the Postal Service.
- c. *Person* — an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization, institution, or entity.

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- d. *Official responsibility* — direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Postal Service action.
- e. *Employee's interests* — the interests of an employee, his or her spouse, his or her minor child or children, and other individuals related to the employee by blood who are residents of the employee's household.
- f. *Business dealings with the Postal Service* — any contract, work, or business, or the performance thereof, or any litigation arising out of or involving any contract, work, or business, or the sale or acquisition of any real or personal property, or any interest in property, whose expense, price, or consideration is payable by or to the Postal Service.
- g. *The Standards of Ethical Conduct* — the Code of Ethical Conduct consisting of the regulations published in 5 CFR 2635, 5 CFR 7001, and 39 CFR 447.
- h. *Property* — includes records and recorded information regardless of their storage medium (e.g., paper, magnetic surfaces, film, etc.); information processing equipment such as computers and word processors, along with their peripheral and terminal devices; filmers, duplicators, and copiers; and information systems software.
- i. *Information system executive* — a Postal Service official who prescribes the existence of, and the policies for, an information system.
- j. *Office equipment* — includes, but is not limited to, personal computers, printers and modems, computer software (including web browsers), telephones, facsimile machines, photocopiers, consumable office products, and office supplies.
- k. *Personnel action* — means an appointment, promotion, adverse action or other disciplinary or corrective action, detail, transfer, reassignment, reinstatement, restoration, reemployment, performance evaluation, a decision concerning pay, benefits, awards, education or training that may reasonably be expected to lead to an appointment, promotion, or performance evaluation, a decision to order psychiatric testing or evaluation, or any other significant change in duties, responsibilities, or working conditions.