

Open Letter to Chuck Schumer: Confirm President Biden's nominees to the FLRA!

6 APRIL 2022

Dear Senator Schumer,

As you know, the Federal Labor Relations Authority (FLRA) is the independent agency responsible for governing labor-management relations for more than two million federal employees. We represent tens of thousands of federal workers from across the country--including thousands of New Yorkers--and we write to encourage you to urgently prioritize confirmation of Susan Grundmann, Ernest DuBester and Kurt Rumsfeld to their assigned roles at the FLRA.

Over the past five years, federal employees have suffered direct harm as the Civil Service Reform Act of 1978 has been systematically undermined. For Donald Trump's part, rather than nominating neutral FLRA board members, his appointees--Colleen Duffy Kiko and James Abbott--have pursued a relentless anti-union mission.

Over the same period, Mitch McConnell, your predecessor as Senate majority leader, effectively sabotaged the office of the FLRA's General Counsel by refusing to confirm the nominee.

Senator, why hasn't any of this changed?

President Biden long ago made all the necessary nominations and you've had the votes. Why are federal employees still working under Trump rules?

With the FLRA as it is, successfully arbitrated grievances get routinely overturned and proven Unfair Labor Practices go unpunished because there is no General Counsel.

Senator, for a wronged federal worker, every avenue for recourse at the FLRA is a dead end.

To provide a sense of the danger, consider how DC Circuit Court Judge Ketanji Brown Jackson recently described terms of the bargaining-threshold policy established by Kiko and Abbott in September of 2020: "specious," "arbitrary and capricious," "unreasoned and unreasonable," and "simply incorrect."

Fortunately, in this case, the Circuit Court vacated the policy and restored 35 years of precedent requiring agencies to negotiate over the impacts and implementation of changes to working conditions (trivial changes aside). But at the time of its publication, a few weeks before Trump lost his bid for reelection, the new policy was just the latest of a long list of indignities and injuries suffered by federal workers under that administration.

Senator, why must the indignities and injuries continue under this administration?

Already in 2022, despite withdrawal of the agency petition, Kiko and Abbott are actively working to decertify the Department of Justice's union of immigration judges. In addition to losing their collective bargaining rights, decertification will serve as a dangerous gag order against the judges.

When Trump attempted to turn our nation's immigration courts into a high-speed assembly line, the National Association of Immigration Judges (NAIJ) called it out for what it was: political interference against due process. As one NAIJ member put it, "Clearly they want to use the judges to ramrod through cases and ramp up deportation regardless of any due process defects their policies have." Without a union, such critical speech from within the government will be treated as a crime.

This example shows how Trump politics and reprisals continue to corrode federal agencies. Conversely, the NAIJ have shown how the democratic rights of civil servants uphold the democratic rights of all.

As with all legislation, the Civil Service Reform Act of 1978 enshrined a compromise. In this case, it was a deal between federal agencies and their workers.

On the one hand, the law guarantees provision of impartial services by dedicated independent agencies whenever a collective bargaining agreement or merit principles might be violated. The law also enshrines a well-defined scope of bargaining over conditions of employment, and release time for those workers elected to negotiate or enforce agreements on behalf of their peers.

In exchange, the law denies federal workers the right to negotiate over important conditions of employment, including pay and healthcare. In another concession, federal workers are required to operate in an "open shop" environment. That is, dues are not automatically collected despite the union's duty to fairly represent all employees. And finally, federal workers are not only denied the right to strike, they are prohibited by law from even asserting the right to strike.

Federal workers continue to live up to their end of the bargain. And yet the deal has been broken.

Senator Schumer, will you make it right?

SIGNED,

IFPTE Local 98, US Army Corps of Engineers (USACE), New York District

IFPTE Local 777, USACE, Chicago

AFGE Council 238, Environmental Protection Agency (EPA)

National Association of Immigration Judges (NAIJ)

LiUNA Local 335, Dept. of Energy (DOE), Bonneville Power Administration (BPA)

AFGE Local 0928, DOE, BPA
AFGE Local 400, Army, Fort Drum, New York
IAFF Local F-283, Joint Base Lewis-McChord, Tacoma, WA
ACT Local 83, KY Long Rifle Chapter, Army National Guard, Kentucky
IFPTE Local 8A, National Oceanic & Atmospheric Admin. (NOAA) + USACE, Seattle
AFGE Local 0911, Housing & Urban Development (HUD), Chicago
IAM&AW Local Lodge 1998, Army, Fort Shafter, Hawaii
IFPTE Local 121, Pearl Harbor Naval Shipyard, Hawaii
IFPTE Local 561, USACE, Mobile
IBEW Local 121, Architect of the Capitol (AOC), Gov't Printing Office (GPO), Bureau of Engraving & Printing (BEP), Nat'l Institute of Standards & Technology (NIST), Washington, D.C.
IFPTE Local 96, USACE, Pittsburgh
AFGE Local 1003, EPA, Region 6, Dallas
IFPTE Local 852, USACE, Louisville
IFPTE Local 86, USACE, San Francisco
IFPTE Local 94, DOE, Idaho
AFGE Local 789, Jesse Brown VA Medical Center, Chicago
AFGE Local 1836, Eielson Air Force Base, Alaska
NFFE Local 2109, Army, Watervliet Arsenal, New York
AFGE Local 3343, Social Security Admin. (SSA), Hudson Valley/Capital District, NY
AFGE Local 3184, SSA, Texas, Arizona, Louisiana
AFGE Local 3907, EPA, Nat'l Vehicle & Fuel Emissions Lab, Ann Arbor, MI
Merit Systems Protection Board Professional Association, IFPTE Judicial Council 4, MSPB
LiUNA Local 28, Army, Fort Sam Houston, San Antonio, TX
IFPTE Local 29, NASA Goddard Space Flight Center, Maryland
AFGE Local 1834, Army, Alaska
AFGE Local 648, Dept. of Labor, IL, IN, WI, MN
AFGE Local 3403, Nat' Science Foundation, Nat'l Endowment for the Humanities, Nat' Endowment for the Arts, Nat'l Institute of Food & Agriculture (USDA), and Economic Research Service (USDA)
NFFE Local 1450, HUD, Phoenix
AFGE Local 3525, DOJ - EOIR - Board of Immigration Appeals, Falls Church VA
Capital District Area Labor Federation (AFL-CIO), Albany, NY
IAMAW, NFFE FL777, USACE Los Angeles District
AFGE Local 1858, Redstone Arsenal, Alabama + USACE Huntsville
NTEU Chapter 335, Consumer Financial Protection Agency, Washington DC
AFGE Local 3380, HUD, Richmond Virginia