



July 12, 2019

Senator Ron Johnson
Chairman
Homeland Security and
Governmental Affairs Committee
340 Dirksen Senate Office Building
Washington, DC 20510

Senator Gary Peters
Ranking Member
Homeland Security and
Governmental Affairs Committee
442 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Johnson and Ranking Member Peters:

As National President of the National Treasury Employees Union, representing 150,000 federal employees in 33 agencies, I am writing to share my concerns with the nomination of Catherine Bird to be the General Counsel of the Federal Labor Relations Authority (FLRA) and to urge you to oppose her nomination. Ms. Bird is unqualified for this position.

Over the course of the past year, as NTEU attempted to work with the Department of Health and Human Services (HHS) to develop a new collective bargaining agreement (CBA) for our members, Ms. Bird, a political appointee at HHS, played an instrumental role in the negotiations and repeatedly engaged in bad faith bargaining -- eagerly championing a scheme to weaken federal-sector unions and strip employees of long-standing collective bargaining rights by minimizing any collective bargaining with NTEU to ensure that the dispute would promptly be sent to the Federal Services Impasses Panel (FSIP), where management's proposals to gut much of the contract would be imposed.

Federal law expressly states that collective bargaining is in the public interest and the General Counsel of the FLRA makes decisions on whether to issue unfair labor practice (ULP) complaints for violations of the Federal Service Labor-Management Relations Statute based on charges filed by unions and agencies. ULPs could involve issues related to the duty to bargain and bargaining in good faith, failure to respond to information requests, interfering with the rights of bargaining unit employees to collectively bargain or exercise their other statutory rights, discrimination based on bargaining unit status, and other matters related to the collective bargaining process. Throughout the negotiations with HHS, Ms. Bird repeatedly demonstrated a fundamental lack of understanding of that Statute. She is new to federal sector labor law, and her actions at the HHS table do not give NTEU any confidence that she will make impartial or legally correct decisions about whether to issue complaints or dismiss unfair labor practice

charges filed by unions. In fact, throughout the course of our recent negotiations with HHS, NTEU filed an ULP against the agency as well as five national grievances. These filings concern HHS's bad faith bargaining, including failing to discuss contract language at all; ignoring and failing to respond to NTEU's information requests on issues that were open at the table; and the unprecedented request by the agency for mediation assistance after one day of bargaining and then its request for assistance from the FSIP when no impasse had been reached and the parties had not even discussed 32 of the 34 contract articles open for negotiation. Given Ms. Bird's central role in these actions and continued efforts at HHS to undermine collective bargaining rights, it is highly likely that if she is confirmed, the FLRA General Counsel will be weaponized to continue to further weaken union rights and protections by failing to prosecute union-filed charges of statutory violations.

During NTEU's engagement with HHS on a new CBA, HHS was clear in its intent to severely limit employee and union rights and eliminate more than 41 issues from the grievance process. Important employee benefits like telework and leave, for example, have become essentially discretionary, meaning supervisors would have the ability to allow or disallow it without any consistency or justification and employees would be nearly powerless to object when they are treated unfairly. HHS is also trying to undermine the ability of the union to assist employees when they are mistreated by, for example, limiting the time that union leaders are given to provide such assistance. In nearly every instance, HHS' intent was to weaken the employees' voices in the workplace and undermine collective bargaining altogether. And despite NTEU's numerous attempts to discuss the proposed contract changes, seek information on HHS' concerns, and develop possible alternative proposals that the parties could agree on, HHS forced the term contract through the statutory impasse process to have its proposals imposed. HHS's conduct, led in part by Ms. Bird, is antithetical to the statutory obligation of both parties to bargain in good faith and to make a sincere effort to reach an agreement.

The actions of Catherine Bird throughout her tenure at HHS demonstrates her lack of qualifications to be the General Counsel of the FLRA, including her lack of knowledge of the Federal Service Labor-Management Relations Statute and her dogged efforts to undermine union rights. NTEU strongly opposes her nomination and urges you to do the same.

Sincerely,



Anthony M. Reardon
National President