



November 7, 2019

Dear Senator:

As National President of the National Treasury Employees Union, representing 150,000 federal employees in 33 federal 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.

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 played an instrumental role in the negotiations and repeatedly engaged in bad faith bargaining. In that capacity, she eagerly championed a scheme to weaken federal-sector unions and strip employees of long-standing collective bargaining rights by essentially foreclosing 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 existing 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 (the "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 federal sector labor law. She has very little experience in this area of law, which is limited to her work at HHS since 2017, and her actions at the HHS table combined with her lack of knowledge of the Statute resulted in our filing of five unfair labor practice 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.

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' voice 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 without first bargaining over them in good faith with NTEU, as the Statute requires.

On September 30, 2019, an independent arbitrator found that HHS' actions in this matter amounted to an ULP for bargaining in bad faith and ordered the parties back to the table to resolve the matter, effectively invalidating the contract mandated by the FSIP. Whether representing labor or management, parties have a requirement to follow the law and HHS' 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.

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 further weaken union rights and protections by failing to prosecute union-filed charges of statutory violations. As a result, NTEU does not have any confidence that Ms. Bird will make impartial or legally correct decisions about whether to issue complaints or dismiss ULPs filed by unions. In addition, her lack of understanding and experience with federal sector labor law make her unqualified to serve in this position. Therefore, NTEU opposes her nomination and urges the Senate to do so as well.

Sincerely,

A handwritten signature in black ink, appearing to read "Anthony M. Reardon". The signature is fluid and cursive, with the first name "Anthony" being more prominent.

Anthony M. Reardon
National President