Congress of the United States
Washington, DC 20515

September 5, 2019

The Honorable Nancy Pelosi
Speaker
United States House of Representatives
H-232 U.S. Capitol Building
Washington, D.C. 20515

The Honorable Nita Lowey
Chairwoman
House Committee on Appropriations
H-307 U.S. Capitol Building
Washington, D.C. 20515

The Honorable Mike Quigley
Chairman
Subcommittee on Financial Services and
General Government
2000 Rayburn House Office Building
Washington, D.C. 20515

Dear Speaker Pelosi, Chairwoman Lowey and Chairman Quigley:

As you begin to finalize appropriations legislation for Fiscal Year 2020 (FY 2020) in compliance with H.R. 3877, and begin to negotiate with your Senate counterparts, we respectfully request that you fight to retain Section 749 of the Financial Services and General Government Appropriations Act (H.R. 3351), which is essential to the protection of fair collective bargaining rights for federal employees.

This is the first time in four decades that federal unions have had to come to Congress to ask for protection of the institution of fair collective bargaining, including their ability to collect union dues and obtain adequate amounts of official time to carry out legally-required representational duties. Without this provision, the Trump administration will likely succeed in crushing the federal employee unions, making a mockery of the collective bargaining guarantee and rendering the task of effectively representing union members all but impossible.

The right of federal employees to form and join unions, and to engage in collective bargaining, was established by the Civil Service Reform Act of 1978. Under the Act, once a "bargaining unit" of federal employees elects union representation, the union has a duty to represent all members of the unit regardless of whether they are dues paying union members or not. In order to carry out this "duty of fair representation" without a membership or agency fee requirement, the law provides for elected union representatives from within the bargaining unit to use "official time" or duty time to represent fellow employees. The law instructs agencies to provide amounts of "official time" that are "reasonable, necessary, and in the public interest."

When disputes arise about whether an issue is negotiable under the law, or if the parties to collective bargaining fail to reach agreement, the law provides each side with an avenue for adjudicating their differences. The Federal Labor Relations Authority (FLRA) is supposed to rule on specific substantive issues such as negotiability, bargaining unit definition, and unfair labor

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practices, including failing to bargain in good faith, and the Federal Services Impasses Panel (FSIP), a part of the FLRA, decides the outcome when the parties to collective bargaining cannot agree on terms.

As you know, the Trump administration has been waging war against "official time," union access to workers, and respect for collective bargaining. This boundless hostility to federal employee rights has also come to define the FLRA and FSIP, which have rubberstamped the most punitive, destructive, and extreme interpretations of the Act and all but ignored its actual terms. It is sad to report but perfectly clear that, under this administration, neither the FLRA nor the FSIP cares what the law says or what legal precedents say.

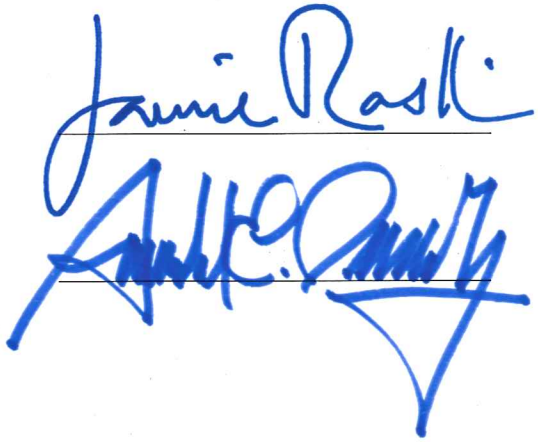
Last month, the U.S. Court of Appeals for the District of Columbia Circuit made clear that the courts will not save the labor movement from the axe. It held that the U.S. District Court did not have subject matter jurisdiction to rule on a challenge brought by the American Federation of Government Employees (AFGE) and others fighting President Trump's May 2018 union-busting executive orders. The D.C. Circuit held that unions must always first exhaust administrative remedies through the Federal Labor Relations Authority, an agency that is now overtly hostile to unions.

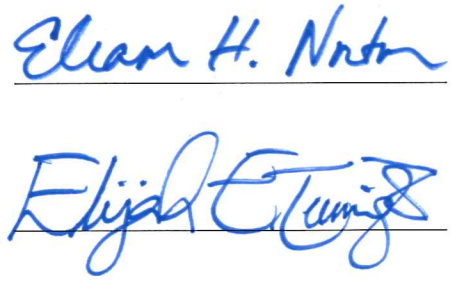
This ruling makes it essentially impossible for federal employee unions to seek meaningful or timely relief from the Trump administration's executive orders or its unilateral determination to impose phony contracts on entire bargaining units.

The ball is thus now in our court in Congress to protect federal workers, their besieged union rights, and the institution of collective bargaining in the federal sector. The most effective defense for government whistleblowers is a collective bargaining agreement that prevents retaliation against employees who come forward with evidence of waste, fraud, or abuse. Without the language contained in Section 749 of H.R. 3351, this protection will be knocked out.

As the nation's largest unionized employer, the federal government sets many key standards for labor-management relations. We who affirm the right of American workers to form, join, and operate independent labor unions must stand up for our federal employee unions in this precarious moment. They have sought our assistance as a last resort, but they need our help and they are unlikely to survive the Trump administration's assault on their rights without our action.

Very truly yours,





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