



Dr. Everett B. Kelley
National Secretary-Treasurer

J. David Cox, Sr.
National President

Jeremy A. Lannan
NVP for Women & Fair Practices

July 12, 2019

Honorable Ron Johnson
Chairman
Senate Committee on
Homeland Security and
Governmental Affairs
Washington, DC 20510

Honorable Gary C. Peters
Ranking Member
Senate Committee on
Homeland Security and
Governmental Affairs
Washington, DC 20510

Dear Chairman Johnson and Ranking Member Peters:

On behalf of the American Federation of Government Employees, AFL-CIO (AFGE), which represents more than 700,000 federal and District of Columbia government employees who serve the American people in 70 different agencies, I urge you to oppose the confirmation of Catherine Bird as General Counsel to the Federal Labor Relations Authority (FLRA) when it comes before the Homeland Security and Governmental Affairs Committee for a vote.

The job of the FLRA Office of General Counsel, by its own description, is to promote effective labor-management relations by investigating and prosecuting allegations of unfair labor practices, determining union representation matters, providing guidance and training to managers and unions and providing alternative dispute resolution services. The role of the General Counsel requires an objective, unbiased individual with an impeccable record of impartiality and independence from the Administration's political influence. This is not a responsibility Ms. Bird is qualified to fulfill.

Ms. Bird has repeatedly played a biased and politically-driven role in labor contract negotiations at her employing agency, the Department of Health and Human Services, which has resulted in multiple Unfair Labor Practices charges for refusing to bargain in good faith. This alone should disqualify her from holding the top job tasked with adjudicating those charges.

Additionally, she has provided unauthorized counsel to at least one other agency, the Department of Veterans Affairs, as they are currently engaged in negotiating a new collective bargaining agreement with AFGE. While the agency representatives removed her from the bargaining room when her presence was questioned, she remained on site at two significant intervals of bargaining and was observed providing direction to agency representatives. Agency representatives were observed seeking her counsel before refusing to continue bargaining. The agency told union officials Ms. Bird instructed the agency not to make any movement in negotiations.

By refusing to bargain in good faith and intervening in at least one agency's bargaining under dubious circumstances, Ms. Bird has shown herself to either be above the rules or simply contemptuous of labor law. If she were to hold the position of FLRA General Counsel, she would not only have to recuse herself from cases in which she is directly named, but she would



not be qualified to issue an objective ruling in any collective bargaining case before the Authority. Ms. Bird has an inherent conflict in every case that is before or may come before her as FLRA General Counsel that deals with unlawful bargaining by any agency. Decisions she would make involving the prosecution of an agency for bad faith bargaining could absolve Ms. Bird of responsibility for her own unlawful behavior while she was at HHS.

The General Counsel demonstrate impartiality toward federal collective bargaining rights and procedure and should be above reproach with respect to fostering an apolitical civil service.

For these reasons, AFGE does not believe that Catherine Bird's professional career demonstrates the appropriate experience and temperament to serve as General Counsel for the FLRA. I urge you to oppose her confirmation.

Sincerely,

A handwritten signature in black ink that reads "J. David Cox, Sr." The signature is written in a cursive style with a large, stylized initial "J".

J. David Cox, Sr.
President