

Congress of the United States
Washington, DC 20510

July 15, 2019

The Honorable Andrew Saul
Commissioner
Social Security Administration
6401 Security Boulevard
Baltimore, MD 21235

Dear Commissioner Saul:

Congratulations on being sworn in as Commissioner. We look forward to working with you to help the Social Security Administration (SSA) deliver quality service to the millions of Americans who depend on Social Security every day.

We write to express our serious concerns regarding SSA's recent actions related to federal employee unions.

In May 2018, the Trump Administration issued three Executive Orders that sought to impose sweeping and destructive limits on the rights of federal employees, the scope of collective bargaining, the ability of whistleblowers to report abuses, and merit system principles of personnel management. The Executive Orders included provisions that:

- placed arbitrary limits on the allowable time, procedures, and topics for collective bargaining;
- imposed counterproductive restrictions on employees, including whistleblowers, receiving union representation when they face disciplinary actions, which can include retaliation for reporting waste, fraud, and abuse;
- denied the right of employees to challenge firings in grievance procedures;
- severely limited the ability of federal employees to engage in employee representation and collective bargaining by slashing the amount, use, and purpose of Official Time; and
- expelled unions from office space in federal buildings.

In August 2018, a Federal District Court Judge in the District of Columbia enjoined nine provisions of the Executive Orders, ruling that they represent “an improper exercise of [President Trump’s] statutory authority” and conflict directly with the laws Congress passed decades earlier. The court found that “many of the challenged provisions of the Orders at issue here effectively reduce the scope of the right to bargain collectively as Congress has crafted it, or impair the ability of agency officials to bargain in good faith as Congress has directed, and therefore cannot be sustained.”¹

¹ *American Federation of Government Employees v. Trump*, No. 1:18-V-1261, slip op. (D.D.C. Aug. 25, 2018).

Prior to your arrival, SSA adopted a number of the harmful provisions of the Executive Orders as its position in contract negotiations. Last month, the Federal Service Impasses Panel issued a ruling that would permit SSA to impose a number of these provisions in a new collective bargaining agreement with employees, even if the employees have not agreed to them. Those include:

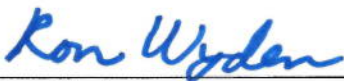
- Eliminating the right of employee unions to use designated office space in SSA buildings; and
- Reducing by 80% the ability of federal employees to engage in employee representation and collective bargaining.²

While the agency's positions were crafted and advocated for before you were confirmed by the Senate, under the law, it will fall to you to decide whether or not to impose them on the workforce, over the objections of the employee union. Section 7114 (c) states that collective bargaining agreements "shall be subject to approval by the head of the agency."³

We hope that you will use your discretion to reject these anti-union provisions and that you will not impose them in a new labor agreement. We hope that you will recognize that these contract terms would "reduce the scope of the right to bargain collectively," as the federal judge found. SSA's employees are the agency's greatest asset. During your nomination hearing before the Committee on Finance, and in response to written questions from Members, you pledged to "follow the law and act transparently and in good faith when working with the public sector unions at the agency." You also mentioned that when you were Chairman of the Federal Thrift Investment Board, the unions supported keeping you on the Board.

Your confirmation as Commissioner of Social Security provides an opportunity for the agency to wipe the slate and start fresh with the federal employee unions, including by reversing SSA's actions to implement the controversial and unprecedented provisions of the Executive Orders. Given your past working relationship with the federal employee groups, we urge you to keep the promises you made during your confirmation hearing, work in good faith with the unions, and return to the negotiating table with the federal labor unions.

Sincerely,



Ron Wyden
Ranking Member
Senate Committee on Finance



Richard E. Neal
Chairman
House Committee on Ways and Means

² Federal Service Impasses Panel, *Decision and Order in the Matter of Social Security Administration and American Federation of Government Employees* (Case No. 19 FSIP 019 (May 29, 2019) (online at www.flra.gov/node/78699).

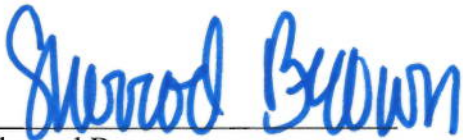
³ 5 U.S.C. § 7114 (c).



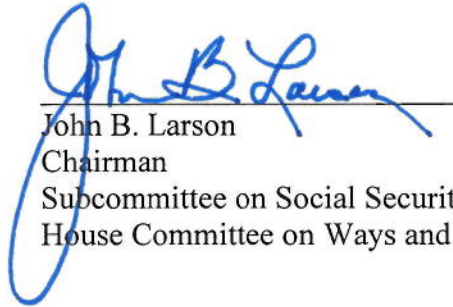
Gary C. Peters
Ranking Member
Senate Committee on Homeland Security
and Governmental Affairs



Elijah E. Cummings
Chairman
House Committee on Oversight and Reform



Sherrod Brown
Ranking Member
Subcommittee on Social Security, Pensions,
and Family Policy
Senate Committee on Finance



John B. Larson
Chairman
Subcommittee on Social Security
House Committee on Ways and Means



Danny K. Davis
Chairman
Subcommittee on Worker and Family
Support
House Committee on Ways and Means