



UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY
1400 K STREET N.W. • WASHINGTON, D.C. 20424
(202) 218-7900 FAX: (202) 482-6778
www.FLRA.gov

July 16, 2019

The Honorable Elijah Cummings, Chairman
Committee on Oversight and Reform
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

JUL 24 2019

The Honorable Gerald E. Connolly, Chairman
Subcommittee on Government Operations
Committee on Oversight and Reform
United States House of Representatives
2157 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Cummings and Chairman Connolly:

Enclosed are the Federal Labor Relations Authority responses to the post-hearing questions submitted to Chairman Kiko following the hearing held on Tuesday, June 4, 2019, "Examining Federal Labor-Management Relations."

If you or your staff need additional information or have any questions, please contact me at 202-218-7927.

Sincerely,

Richard Burkard
Director of Legislative Affairs

Enclosure

cc: The Honorable Jim Jordan, Ranking Member
The Honorable Mark Meadows, Ranking Member
Subcommittee on Government Operations

House Committee on Oversight and Reform
Subcommittee on Government Operations
Hearing: "Examining Federal Labor-Management Relations"
June 4, 2019
Questions for the Record (Majority Members)

The Honorable Colleen Duffy Kiko
Chairman
Federal Labor Relations Authority

Question from Rep. Gerald Connolly:

Have you received a request of any kind from senior managers in the Office of General Counsel to hire replacements for the people who have left the agency since you became Chair? If so, what was your response?

FLRA Response: On May 6, 2019, I received a Hiring Request Form from Charlotte Dye, Deputy General Counsel, in which she requested authority to fill three Full-Time Equivalent (FTE) positions. I met with Ms. Dye on May 29, 2019, and we discussed this hiring request. I suggested to Ms. Dye that we should develop an estimate of the expected workload for each agent in the regions. Once we had a good sense of that, we would then know how many of the FTEs currently allocated to the regional offices should be filled. She agreed that she would do some additional review of the data to come up with an analysis of optimal workload per agent. We agreed to revisit the request at that time.

At the meeting, we acknowledged and discussed the fact that a General Counsel had been nominated in April 2019. I advised that, since there was a General Counsel in the pipeline, it would be preferable for that person to be involved in the analysis of hiring needs, if possible. We agreed to monitor the confirmation process and reassess again in a few months.

Questions from Rep. Jamie Raskin:

1. What is your legal basis for applying Section 2423.10(a)(1) [of title 5 of the Code of Federal Regulations] to a representation case, when that regulation clearly applies to unfair labor practice cases, not representation cases, and when there is another regulation, Section 2422, which does apply to representation cases?
2. What explicit authority does the three-member Authority have for denying the union's request to withdraw a petition, when the regulation you cited solely and exclusively authorizes the Regional Director, not the Authority, to do so?

FLRA Response: The FLRA decisions about which you have inquired¹ are currently the subject of litigation in the U.S. District Court of the District of Columbia. *See Am. Fed. of Gov't Emps.*,

¹ *U.S. Department of Veterans Affairs, Kansas City VA Medical Center, Kansas City, Missouri*, 70 FLRA 465, *reconsideration denied*, 70 FLRA 960 (2018); and *U.S. Department of Labor*, 70 FLRA 452, *reconsideration denied*, 70 FLRA 953 (2018).

AFL-CIO v. FLRA, Docket No. 19-cv-00142 (D.D.C.). Consequently, it is not appropriate to communicate further about these matters at this time.

Question from Rep. Eleanor Holmes Norton:

What is your basis for interpreting “conditions of employment” to mean less than “working conditions” and the three specific exclusions in the plain language of the statute?

FLRA Response: Your question concerns *U.S. Department of Homeland Security, U.S. Customs and Border Protection, El Paso, Texas*, 71 FLRA 49 (2019), which is currently the subject of litigation before the U.S. Court of Appeals for the District of Columbia Circuit. See *Am. Fed’n of Gov’t Emps., AFL-CIO, Local 1929 v. FLRA*, Docket No. 19-1069 (D.C. Cir.). It is therefore inappropriate to comment further about this case at this time.