

June 19, 2018

Hon. Henry Kerner  
Special Counsel  
Office of Special Counsel  
1730 M Street, NW, Suite218  
Washington, DC 20036

Dear Special Counsel Kerner:

As labor organizations representing hundreds of thousands of our nation's federal employees, we write to express our concerns about potential retaliatory activities against labor relations professionals as they seek to carry out their duties as required by federal statute.

As you know, collective bargaining has been enshrined in law since the passage of the Civil Service Reform Act of 1978 as enumerated in the Federal Service Labor-Management Relations Statute (FSLMR Statute). Even prior to being encoded in law, a labor-management relationship existed in the federal government. As such, many of our organizations have had collective bargaining relationships with federal agencies for over 40 years. Through the course of these collective bargaining relationships, the representatives of our organizations, the vast majority of whom are federal employees, have built professional working relationships with the labor relations professionals at the various federal agencies. These relationships can sometimes be contentious, and our interests do not always align. However, it is understood that the relationship is legally created under the FSLMR Statute that provides a panoply of legal rights and obligations. In order for collective bargaining to operate properly, the representatives of both unions and agencies must have a free hand to engage in good faith toward each other and ensure they act in accordance with the law. This includes the duty to bargain in good faith, which includes approaching negotiations "with a sincere resolve to reach a collective bargaining agreement." It also extends to attempting to resolve a wide-range of grievances, including grievances over discipline and performance issues.

We are concerned the labor relations professionals with whom many of us have good working relationships will face reprisal if they continue to engage in good faith as required by the FSLMR Statute. We believe the Administration, through its Executive Orders and other actions, is violating the law and asking individual agencies and components to also violate clearly established law. This will require civil servants, who are labor relations professionals at various agencies, to carry out orders that violate federal statute.

In that regard, we ask the Office of Special Counsel to be proactive in investigating retaliation (as well as implied threats of retaliation and other forms of pressure) being taken against labor relations employees at various agencies who push back against carrying out orders that violate law. We also urge you to remind federal employees, including labor relations professionals, that they can blow the whistle by contacting the Inspector General or the Office of Special Counsel.

This includes encouraging labor relations employees to blow the whistle on improper pressure by administration officials to violate 5 U.S.C. Chapter 71 and other parts of Title 5 that are critical to maintaining a merit system.

Sincerely,

American Federation of Government Employees, AFL-CIO  
American Federation of State, County, and Municipal Employees (AFSCME)  
American Federation of Teachers, AFL-CIO (AFT)  
Federal Education Association/National Education Association (FEA/NEA)  
International Association of Fire Fighters (IAFF)  
International Association of Machinists and Aerospace Workers (IAMAW)  
International Brotherhood of Electrical Workers (IBEW)  
International Federation of Professional and Technical Engineers (IFPTE)  
International Organization of Masters, Mates and Pilots (MM&P)  
Marine Engineers' Beneficial Association (MEBA)  
Metal Trades Department, AFL-CIO (MTD)  
National Association of Government Employees, SEIU (NAGE)  
National Federation of Federal Employees (NFFE)  
National Treasury Employees Union (NTEU)  
National Weather Service Employees Organization (NWSEO)  
Overseas Federation of Teachers, AFT, AFL-CIO  
Professional Aviation Safety Specialists (PASS)  
Patent Office Professional Association (POPA)  
Seafarers International Union of North America (SIU)  
Service Employees International Union (SEIU)  
Sheet Metal, Air, Rail and Transportation Workers (SMART)  
SPORT Air Traffic Controllers Organization (SATCO)  
United Power Trades Organization (UPTO)