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Opening Statement Chairman Gerald E. Connolly

Hearing on “Examining Federal Labor-Management Relations” Subcommittee on Government Operations June 4, 2019

More than two million federal employees work on behalf of the American people. They care for veterans, enforce the law, ensure the safety and quality of our food and drinking water, conduct scientific research, and repair our warfighting equipment, among many other important tasks.

They are also represented by unions, because Congress determined that giving federal workers the right to join unions and bargain collectively over their conditions of employment was “in the public interest.”

In fact, the law states: “the statutory protection of the right of employees to organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them safeguards the public interests, contributes to the effective conduct of public business, and facilitates and encourages the amicable settlements of disputes between employees and their employers involving conditions of employment.”

Congress created the Federal Labor Relations Authority to administer, interpret, and enforce the system of labor-management relations. The FLRA is part judicial—with a three-member Authority; part enforcement agency—with its Office of General Counsel; and part arbitrator—with its Federal Service Impasse Panel. Under the law, the FLRA “shall provide leadership in establishing policies and guidance” relating to the system of labor-management relations that Congress established.

Today, the Subcommittee on Government Operations will examine the Trump Administration’s leadership of this small but powerful agency and the consequences of their practices and operations on our system of labor-management relations.

The Trump Administration has made no attempt to disguise its hostility toward collective bargaining, unions, and federal service labor law. About one year ago, President Trump issued three sweeping executive orders that stripped employees, including whistleblowers, of union representation at grievance proceedings; physically expelled unions from federal offices; and imposed dramatic cuts to the ability of federal employees to represent their coworkers on work time.

A federal judge struck down key provisions of the President's executive orders, finding that they were "an improper exercise of his statutory authority" and illegally conflicted with the rights, duties and procedures that Congress had established decades earlier. The judge wrote, "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."

Much like the President who appointed her, the FLRA Chairman has exhibited unprecedented anti-union bias.

Chairman Kiko decertified the federal employee union that had represented employees at the FLRA since 1980. No previous Chairman in the history of the FLRA, under any administration of either political party, has done that. This single act reveals her personal and disqualifying anti-union bias. Her explanation for this blatantly anti-union decision was at odds with the Department of Justice's Office of Legal Counsel, which characterized the position she took as unreasonable.

As a judge, Chairman Kiko and the other Republican Authority member have disregarded longstanding Supreme Court precedents, and violated the FLRA's own regulations, to rule against unions.

Persistent vacancies in the top position in the FLRA's Office of General Counsel have allowed a backlog of more than 200 documented violations of federal labor law to go unprosecuted.

As a manager, Chairman Kiko has earned a failing grade from the employees of the Authority. According to the Partnership for Public Service's analysis of OPM's Federal Employee Viewpoint Survey, employee engagement during Chairman Kiko's tenure fell 31 points from 2017 to 2018, a drop more precipitous than any other small agency.

I also have serious concerns about the reliability of Chairman Kiko's representations to Congress. In a March 2018 letter, she told Congress that her reorganization of FLRA's regional offices, which closed offices in Boston and in Dallas, would increase the number of agents and have almost no net impact on staffing. In fact, it led to a 21 % cut in staff and placed unreasonable burdens on remaining employees.

Chairman Kiko's statutory interpretation is, as the Office of Legal Counsel said, unreasonable. It contradicts and disregards longstanding precedent. Her anti-union bias is extreme. The agency she leads has not prosecuted a single violation since 2017, and her mismanagement has demoralized and dismantled the capacity of the principal enforcement agency of federal service law.

Forty years ago, Congress codified collective bargaining rights and labor management practices as a critical component of civil service reform to foster an effective, merit-based federal workforce. Congress and, in particular, this committee and subcommittee, will continue to value

and protect these rights. I look forward to this hearing as an opportunity to put this Administration and the FLRA Chairman on notice.

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