

FEDERAL WORKERS ALLIANCE

COLLECTIVELY REPRESENTING OVER 300,000 FEDERAL WORKERS

July 19, 2021

Hon. Carolyn Maloney, Chair
Oversight & Government Reform Committee
U.S. House of Representatives
2157 Rayburn Office Building
Washington, DC 20515

Hon. Gerald Connolly, Chair
Subcommittee of Government Operations
U.S. House of Representatives
2157 Rayburn Office Building
Washington, DC 20515

Dear Chairwoman Maloney and Chairman Connolly:

On behalf of the Federal Workers Alliance (FWA), representing upwards of 300,000 workers from across the federal government, we are writing in support of the bipartisan *ALJ Competitive Service Restoration Act*, authored by Government Operations Subcommittee Chairman, Gerald Connolly. This much-needed legislation is in response to former President Trump's 2018 Executive Order 13843, that removed federal Administrative Law Judges (ALJs) from the competitive service to the excepted service. EO 13843, which remains in effect today, also removed the non-partisan and sound ALJ hiring and vetting process from the Office of Personnel Management (OPM) and handed it over to political appointees at agencies throughout the federal government to pick and choose who can serve as ALJs. This has created a hiring process that is ripe for political patronage and should be reversed, which is exactly what the *ALJ Competitive Service Restoration Act* achieves.

The Trump Administration incorrectly claimed that EO 13843 was needed to address the Supreme Court's 2017 decision, *Lucia v SEC*. However, the decision in that case was very narrowly tailored to apply only to the SEC, not other government agencies such as the National Labor Relations Board (NLRB) where over 30 ALJs hear cases involving matters such as protected union activities, discrimination, and unfair labor practice claims, or at the Social Security Administration (SSA) where the overwhelming majority of all federal ALJs are employed and hear disability determination cases. Yet, the Trump Administration took the opportunity of the *Lucia* ruling to put in place an Executive Order that opens the door to the politicization of the federal ALJ corps, thereby threatening the due process protections of those citizens that appear before federal ALJs.

Fortunately the *ALJ Competitive Service Restoration Act* remedies the damage done by EO 13843 by reinstating all federal ALJs back to the competitive civil service; bringing the non-partisan ALJ hiring process back to OPM; guaranteeing that ALJs are properly appointed by the heads of Executive Departments or agencies once they are hired from the OPM register, and; reestablishing the pre-Executive Order ALJ job requirements, including seven years of applicable experience adjudicating administrative law.

Regardless of political party or ideology, lawmakers across the political spectrum should be alarmed at the impact that EO 13843 will have on the due process protections for the American public. The FWA applauds Chairman Connolly for seeking to mitigate and avoid the negative implications of EO13843 by introducing the bipartisan *ALJ Competitive Service Restoration Act*. We urge you to move it through the Committee process and to the House floor for passage.

If you have any questions, contact FWA legislative co-chairs Steve Lenkart or Matt Biggs at (202) 216-4458.

Sincerely,

American Federation of State, County, and Municipal Employees (AFSCME)
American Federation of Teachers, AFL-CIO (AFT)
Antilles Consolidated Education Association
Department for Professional Employees (DPE, AFL-CIO)
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 Teamsters (IBT)
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 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)