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United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

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January 8, 2024

VIA ELECTRONIC TRANSMISSION

The Honorable Jennifer Abruzzo
General Counsel
National Labor Relations Board
1015 Half Street, SE
Washington, D.C. 20570

Dear General Counsel Abruzzo:

The National Labor Relations Board (NLRB or Board) Office of Inspector General (OIG) found “gross mismanagement” and biased enforcement related to the handling of mail ballot elections in Region 14 (St. Louis, Missouri).¹ Similar allegations have been made in Region 3 (Buffalo, New York) and others for failing to adhere to Board protocols and procedures when conducting elections. Following an investigation into these allegations and substantiated findings of Board personnel misconduct within various regions, regional directors have had to set aside entire elections because the Board’s agents put its objectivity and neutrality in serious doubt.²

Aside from objections and claims of Board mismanagement levied by parties before the Board, a whistleblower from within the NLRB alleged similar concerns that Board officials have been conducting themselves in ways that compromise the Board’s ability and/or willingness to conduct representation elections in a fair and impartial manner as required by law.³ Based on information provided to the OIG by a whistleblower it is clear the Board conducted representation elections with an eye toward ensuring union victories in 33 elections in 15 different regions.⁴ In fact, in the

¹ See Memorandum from David Berry, NLRB Inspector General, to Jennifer Abruzzo, NLRB General Counsel, on the Report of Investigation – OIG-I-596, at 10 (July 8, 2023); *Starbucks Corp.*, Case 03-RC-285929 (NLRB May 18, 2022) (Region 3 report on objections, order setting aside election and order directing rerun election); *Starbucks Corp.*, No. 14-RC-289926, at 9 (NLRB Feb. 24, 2023) (hearing officer’s report and recommendations on objections).

² See e.g., *Starbucks Corp.*, No. 14-RC-289926, at 9 (NLRB Feb. 24, 2023) (hearing officer’s report and recommendations on objections); *Starbucks Corp.*, No. 14-RC-289926 (NLRB Reg. Dir. Sept. 13, 2023) (Regional Director’s Decision and Direction of Second Election).

³ See Letter from Virginia Foxx, Chair U.S. House Committee on Education and the Workforce, to Rebecca A. Dormon, Assistant to the Regional Manager, National Labor Relations Board Region 15 (Mar. 22, 2023), https://edworkforce.house.gov/uploadedfiles/letter_from_chairwoman_foxx_march_22_2023.pdf.

⁴ Letter from Virginia Foxx, Chair, U.S. House Committee on Education and the Workforce, to Lauren McFerran, Chair, National Labor Relations Board, and Jennifer A. Abruzzo, General Counsel, National Labor Relations Board

Region 14 election the Board agents' conduct was so egregious that it prompted the NLRB OIG to investigate.⁵ The OIG sent you a letter and investigation report specifying the ways in which the Board agents tipped the scales in favor of the union in March/April 2022 and suggested administrative action to remedy these failures.⁶

These egregious instances of “gross mismanagement” and lopsided enforcement by the NLRB are unacceptable and deserve prompt and thoughtful remedial action by your office to ensure that all parties before the Board—employees, unions, and employers alike—receive the benefit of unbiased and fair proceedings. Accordingly, in an effort to ensure necessary changes are taking place at the Board and throughout its regions, I request that you answer the following questions, on a question-by-question basis, by January 22, 2024:

1. In response to the OIG's July 8 letter and report, what remedial changes have you made within Region 14 and/or any other NLRB region to alter the ways in which the NLRB regions oversee representation elections to ensure the Board carries out its statutory obligation to remain a neutral arbiter in representation elections?
2. If you have not yet made any remedial changes, what changes do you intend to implement in NLRB regions in response to the OIG's letter and report?
 - a. If you do not intend to make any remedial changes, why you do not think any remedial changes are necessary following the OIG's findings?
3. Provide a list of any retrainings you have conducted or required on election procedures and protocols, progressive discipline, or removal from service based on the OIG's findings of inappropriate conduct during elections of Board personnel by region and type of action.
4. Provide all communications between you, your office, and any NLRB regional office and/or documents prepared by your office sent to any NLRB regional office regarding the OIG's findings of “gross mismanagement” in Region 14.
5. Are you investigating similar failures in other impacted regions? In answering this question, please provide:
 - a. The nature of the allegations;
 - b. The regions impacted;
 - c. The names and titles of NLRB regional officials involved in the allegations; and,
 - d. The estimated timeframe in which the NLRB anticipates completing its investigation.

(Aug. 14, 2023),

https://edworkforce.house.gov/uploadedfiles/08.14.23_letter_to_nlr_re_nlr_personnel_misconduct.pdf.

⁵ Memorandum from David Berry, NLRB Inspector General, to Jennifer Abruzzo, NLRB General Counsel, on the Report of Investigation – OIG-I-596, at 10 (July 8, 2023).

⁶ *Id.*

Thank you for your prompt attention to this important matter.

Sincerely,

Bill Cassidy, M.D.
Bill Cassidy, M.D
Ranking Member
U.S. Senate Committee on Health
Education, Labor, and Pensions