

United States Senate

WASHINGTON, DC 20510

November 18, 2024

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

Dear Attorney General Garland:

You are likely aware of recent reports that, in response to President Trump's election, attorneys in your Department's Civil Rights and Environment and Natural Resources Divisions are "rushing" to organize with the National Treasury Employees Union (NTEU), accelerating these efforts as a result of his election.ⁱ

I have several concerns with this effort being hastily conducted because of a presidential election, and despite serious doubts regarding whether this group of employees constitutes an appropriate bargaining unit under federal sector labor law.

The U.S. Federal Labor Relations Authority (FLRA) has already rejected a previous attempt by employees of your Department's Civil Rights Division to unionize.ⁱⁱ In a 1984 decision, the FLRA found that the Division lacked a shared community of interest separate and distinct from employees elsewhere in the Department, which meant that unionization was inappropriate under Section 7112 of the Federal Service Labor-Management Relations Statute. It seems the same rationale would apply to the current division unionization efforts.

Beyond the legal defects, the rush to conduct unionization elections ahead of President Trump's inauguration raises concerns regarding the ulterior motive of this effort. Public reporting cites "labor experts" that claim part of the reason your employees want to organize is because they are "anticipating that employees are going to need a voice and a lot more protections."ⁱⁱⁱ Unionizing in order to dodge accountability to the American people through their duly elected President is anti-democratic and unacceptable.

More broadly, though in a similar vein in terms of preventing politically motivated transition-period abuses, I recently wrote to remind you and your employees of the limitations regarding improper uses of resources during the transition period and the criminal and administrative sanctions under the Antideficiency Act (31 U.S.C. §§ 1341 and 1517) to which federal employees who obligate or expend federal funds in violation of appropriations laws are subject.

In order to promote transparency and ensure your Department complies with applicable federal labor laws, please provide the following information no later than November 30, 2024:

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1. all communications between Department management and the Civil Rights Employee Union Steering Committee and its representatives;
2. all communications between Department management and the representatives of the Environment and Natural Resources Division unionization effort;
3. all communications between the Department and FLRA regarding the Civil Rights Division and Environment and Natural Resources Division unionization efforts; and
4. evidence demonstrating the distinct shared community of interest among the specific employees proposing to organize that has emerged since the FLRA's 1984 decision.

Thank you for your attention to this matter and I look forward to your prompt reply.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bill Hyatt". The signature is fluid and cursive, with the first name "Bill" and the last name "Hyatt" clearly distinguishable.

ⁱ <https://www.law360.com/articles/2258623/gov-t-union-continues-organizing-push-for-doj-attys>;

ⁱⁱ <https://www.flra.gov/decisions/v16/16-045.html>

ⁱⁱⁱ <https://news.bloomberglaw.com/us-law-week/justice-department-lawyers-seek-to-lock-in-union-before-trump>