



June 7, 2021

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
Washington, DC 20500

RE: Department of Justice Should Support the National Association of Immigration
Judges and Withdraw the Petition to Decertify its Union

Dear Attorney General Garland,

We, the undersigned unions, organizations, immigration law professors and scholars, and other immigration court stakeholders call your attention to the urgent need to preserve and protect the National Association of Immigration Judges (NAIJ) and support collective bargaining by Department of Justice (DOJ) career civil servants. We are heartened by President Biden's announcements on January 22, 2021, that both overturned his predecessor's policies limiting employee rights to collectively bargain and also implement a wide-ranging policy to protect, empower, and rebuild the career federal workforce. President Biden's announcements specifically *encourage* union organizing and collective bargaining.¹

After four relentless years of union-busting, decisive leadership is needed to refortify the federal workforce. NAIJ and its 500+ bargaining unit members—immigration judges who are DOJ attorney employees—are in need of protection right now! NAIJ has been the collective bargaining representative for immigration judges since 1979. Yet, in 2019, the Trump administration filed a petition to strip immigration judges of their statutory right to be represented by a union and decertify NAIJ.

The Trump administration targeted NAIJ in retaliation for NAIJ's criticism of both the unreasonable working conditions that DOJ managers imposed on its members and the sweeping curtailment of due process rights in immigration court.

¹ Executive Order 14003, on Protecting the Federal Workforce.

While the decertification attempt was initially and thoroughly rejected in a decision by a career employee of the Federal Labor Relations Authority (FLRA), the decision was abruptly reversed in a politically-motivated decision by the FLRA. That FLRA decision ignored the detailed fact-finding of the career employee and reversed long-standing FLRA precedent that 20 years earlier had found that immigration judges were not in a position to influence agency policy.

The FLRA decision is devoid of any reasoned analysis and creates an extremely dangerous precedent for professional workers throughout the federal government. Future administrations could wield this decision like a sword to preclude other professional employees such as physicians, scientists, engineers, and others from unionizing. Indeed, this ill-conceived anti-union precedent could have devastating repercussions for decades to come.

At this moment, a motion to reconsider is currently pending at the FLRA, and we call on the DOJ to withdraw its opposition to that motion, withdraw its decertification petition, and take all steps to restore collective bargaining rights for NAIJ members. President Biden has committed to restoring labor unions and fair working conditions for federal employees. We ask the DOJ to do its part in supporting that objective by taking all necessary actions to ensure that the NAIJ remains a union so that it can continue to represent its members in support of fair working conditions. Doing so will be a service to Immigration Court stakeholders and the public at large.

We seek your immediate review and leadership in this matter.

Sincerely,

Amiena Khan

Amiena Khan, President
National Association of Immigration Judges

Unions:

AFL-CIO

American Federation of Government Employees (AFGE), AFL-CIO

American Federation of Government Employees (AFGE), Local 511

American Federation of Government Employees (AFGE), Local 3525

American Federation of State, County & Municipal Employees

American Federation of Teachers

Asian Pacific American Labor Alliance, AFL-CIO

Association of Flight Attendants-CWA

Communications Workers of America (CWA)

Department for Professional Employees, AFL-CIO

Federal Education Association

International Federation of Professional and Technical Engineers (IFPTE)

International Union of Painters and Allied Trades

Labor Council for Latin American Advancement

National Association of Government Employees

National Education Association

National Federation of Federal Employees

National Nurses United

National Treasury Employees Union

National Weather Service Employees Organization

Patent Office Professional Association

Service Employees International Union (SEIU)

The International Brotherhood of Teamsters

UNITE HERE

United Mine Workers of America

United Power Trades Organization

Organizations:

African Services Committee

Alliance for Justice

American Immigration Lawyers Association

AsylumWorks

Bellevue Program for Survivors of Torture

Brooklyn Law School Safe Harbor Project

Catholic Labor Network

Catholic Legal Services, Archdiocese of Miami

Catholic Legal Immigration Network, Inc.

Center for Gender & Refugee Studies

Columbia Law School Immigrants' Rights Clinic

Disciples Immigration Legal Counsel

Florence Immigrant & Refugee Rights Project

Immigrant Defenders Law Group

The Legal Aid Society

Migrant Center for Human Rights

Minnesota Interfaith Coalition on Immigration

Mississippi Center for Justice

National Immigration Law Center

National Network for Immigrant & Refugee Rights

The Right to Immigration Institute

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