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1750 H Street N.W. • Washington, D.C. 20006 • (202) 572-5500

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**Contact: Dina Long, Ext. 7058
Sheila McCormick, Ext. 7034
Mike Drapkin, Ext. 7011**

NTEU's Kelley Slams SEA Proposal for One-Stop Court That Would Curtail Federal Worker Rights

Washington, D.C.—The head of the National Treasury Employees Union (NTEU) today attacked a proposal that would sharply curtail the appeal rights of federal workers on a broad range of issues. She said the significant loss of appeal rights contained in the proposal “cuts to the heart of due process.”

In comments submitted to a House panel, NTEU President Colleen M. Kelley said the idea being advanced by the Senior Executives Association (SEA)—a group of federal managers—would also eliminate the negotiated grievance and arbitration procedures on equal employment opportunity and adverse action matters, and perhaps others.

Such a step, President Kelley said, would effectively strip from federal workers one of their key tools in protecting and advancing their workplace rights. She called that “wholly unacceptable.”

Under the SEA proposal, a new Federal Employee Appeals Court would in essence replace the Merit Systems Protection Board (MSPB); the Federal Labor Relations Authority (FLRA); the part of the Equal Employment Opportunity Commission (EEOC) that deals with federal employees; the part of the Office of Personnel Management (OPM) that handles adjudications; the Office of Special

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Counsel (OSC), which deals among other things with whistle-blower and Hatch Act claims; and the negotiated arbitration process for EEO and adverse action matters.

That would create “an enormous, unwieldy conglomerate agency,” as unwieldy as the Department of Homeland Security, President Kelley said, to perform the diverse administrative and review functions of many separate agencies. With only limited exceptions, its decisions would be final and unreviewable.

Kelley had sought to present NTEU’s views on the SEA proposal in person at a hearing today of the House Government Reform Subcommittee on the Federal Workforce and Agency Organization, but the request was not granted. NTEU did submit written testimony.

Among other sharp criticisms of the proposal, the NTEU leader cited the “unprecedented” notion of a court combining investigative and prosecutorial functions with adjudicative functions—a step she said that “would create, at a minimum, the appearance of conflict of interest and would undermine the neutrality that a court must have.”

The union president also said the SEA proposal fails to discuss how such a court is to handle the important advisory functions of the independent agencies; noted that there is no justification for replacing agencies with specialized expertise with an entity that has no particular expertise; warned that transforming grievances into court cases would swamp any such court and add greatly to the time it takes for resolution; and cautioned that creating a “super court” would lead to sharply increased costs for employees who would feel compelled to hire lawyers to press their claims.

As the largest independent federal union, NTEU represents some 150,000 employees in 30 agencies and departments.