

AFL-CIO

LEGISLATIVE ALERT

July 17, 2017

Dear Senators:

Working people depend on the National Labor Relations Board to protect their right to organize with their co-workers and advocate for improvements at work through collective bargaining with their employers. These rights – established by the National Labor Relations Act of 1935, whose purpose was and remains to encourage and promote the practice of collective bargaining – are more important now than ever, with incomes stagnant and wealth increasingly going to the top 1%. Without a private right of action, working people must depend on the NLRB to enforce their rights. The NLRB's decisions and actions have a significant impact on the lives of working Americans.

By tradition, Presidents appoint a majority of members to the NLRB from their own political party, and in keeping with that tradition, President Trump has appointed two Republicans – former Republican Hill staffer Marvin Kaplan and longtime management lawyer William Emanuel -- to the two vacant seats on the NLRB. Unfortunately, after reviewing their records and statements at their confirmation hearing, the AFL-CIO has concluded that we must oppose these nominees and urge the Senate to reject these nominations.

Notwithstanding the clear purpose and mission of the agency to which they have been nominated – to protect and encourage the practice of collective bargaining -- nothing in the background or statements of either nominee provides any assurance that either Kaplan or Emanuel would be guided and motivated by this basic mission. Emanuel has exclusively represented employers, most recently at the notorious union-busting law firm Littler Mendelson. He confirmed at his confirmation hearing that he has never represented a worker or union in an employment matter – not even in pro bono work. Kaplan has never practiced labor law – his sole experience with labor law is on a policy level, drafting legislation to weaken worker protections under the NLRA and holding hearings to criticize the NLRB during the Obama Administration. Neither man said anything at the confirmation hearing to give working people any confidence that they would vigorously enforce the NLRA consistent with the law's purpose of protecting workers' right to organize and promoting collective bargaining.

In recent years, some in Congress and in the business community have launched relentless attacks on the NLRB and sought to get key NLRB decisions and actions overturned. Kaplan and Emanuel have been part of these attacks, and they said nothing at the confirmation hearing to distance themselves from these attacks or suggest that they would bring a less hostile, and more pro-NLRA view to their work, should they be confirmed to the NLRB. Nor did either nominee make adequate commitments to recuse from cases and issues where there is real concern, based on their prior work and writings, that they have prejudged the issue and would not approach it with an open, unbiased mind.

For these reasons, the AFL-CIO opposes the nominations of Marvin Kaplan and William Emanuel to the NLRB.

Sincerely,



William Samuel, Director
Government Affairs Department

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American Federation of Labor and Congress of Industrial Organizations

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