



## LEGISLATIVE ALERT

October 8, 2025

The Honorable Bill Cassidy, Chairman  
The Honorable Bernie Sanders, Ranking Member  
U.S. Senate Committee on Health, Education, Labor, and Pensions  
428 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Cassidy, Ranking Member Sanders and Members of the HELP Committee:

On behalf of the AFL-CIO, I am writing to urge you to oppose the nominations of Crystal Carey to serve as General Counsel of the National Labor Relations Board (NLRB), Scott Mayer and James Murphy to serve as Members of the NLRB, and Rosario Palmieri to serve as Assistant Secretary of Labor for Policy at the U.S. Department of Labor (DOL).

The NLRB is the sole agency responsible for interpreting and enforcing the National Labor Relations Act (NLRA) for more than 100 million workers. Congress deliberately designed the Board to function as an impartial adjudicator, an “independent quasi-judicial agency,” with Members deciding cases based on the law and evidence. Its independence is essential and supported by its legislative history, its decades of treatment by the courts, and emphasized at virtually every nomination hearing since its inception, by Republican and Democratic Senators and nominees alike. The NLRB Members sit as judges, interpreting the law and applying it to facts. Their judgment must be free from political interference. This fundamental tenet – a simple, American expectation that a worker should receive a fair hearing at the only venue which may hear their unfair labor practice claims – is under severe attack in the current Administration, and the Committee should therefore scrutinize the Administration’s nominees with an eye toward their defense of this principle.

The assault on the Board’s independence is two-fold. First, the President has claimed the authority to fire Board Members whose decisions he does not like. The statute specifically denies him such authority, but he has done so anyway in the case of Member Gwynne Wilcox. Any judge who can be fired at will and still commit themselves to impartiality must be a judge willing to lose their job at the hands of the President. None of this sounds like the United States of America, but that is where we are. Second, the President has claimed the authority for himself and the Attorney General to issue interpretations of the law that will be controlling for every executive branch employee, including those of the hitherto independent quasi-judicial NLRB. Once again, the notion of the chief executive deciding what the law is for judges rings deeply foreign to American ears, yet the Executive Order on Ensuring Accountability for All Agencies claims such power.

In response to various questions probing their commitment to independence, both Mr. Mayer and Mr. Murphy responded with “I will follow the law.” In times past, such an answer would be reassuring. Today, however, thanks to the President’s machinations, the answer is

painfully incomplete. We regret that there is no record of them explaining what they understand “the law” writ large to be. At the moment, via his Executive Order, President Trump claims that he and Attorney General Pam Bondi are the law. If either the President or the Attorney General issues a definition of “good faith bargaining” or “concerted activity” or “employee,” will the nominees consider those edicts to be “the law” that they will follow? Or will they ignore the decree and utilize their own expertise and judgment to interpret the law, based on the statute and Board and Supreme Court precedent? Already, anti-worker organizations are appealing to Attorney General Bondi to issue such rewrites of the law. What if she does? Lacking clarity on this critical point, we do not believe these nominees should be confirmed as Members of the Board, tasked with providing justice for working people.

Setting aside whether they will be free to perform their jobs without political interference or effectively resist such interference, we are concerned that their underlying approach to the law will not be aimed at effectuating the full promise of the NLRA – the guarantee of workers’ rights to organize and collectively bargain – but at minimizing it. Mr. Mayer serves as in-house counsel at Boeing, a company with a long record of union busting. Previously, he was a partner at Morgan, Lewis & Bockius LLP, one of the country’s largest anti-union firms. Mr. Murphy’s tenure as chief counsel to former NLRB Member Marvin Kaplan strongly suggests he would continue the anti-worker approach of Kaplan. His confirmation could help create an eventual Board majority set on potentially reviving dissents that Kaplan authored, including reversing the Board’s current ban on captive audience meetings and making it easier for employers to misclassify employees as independent contractors.

Some 60 million Americans say they would join a union – if they could. The fact that they cannot is a failure of the law. We believe Mr. Mayer and Mr. Murphy would not seek to fully effectuate workers’ rights but instead endeavor to narrow those rights. With corporate power reaching new peaks while working people struggle everyday to get ahead, our country needs a Board that will ensure people who work for a living have the freedom promised to them by the Act to join together and exercise their bargaining power. For this reason and for the lack of clarity on their independence, we urge the Committee to not confirm Mr. Mayer and Mr. Murphy.

The NLRB General Counsel serves as the agency’s chief prosecutor and policy leader, responsible for enforcing workers’ rights under the NLRA. Crystal Carey’s record demonstrates hostility to those rights. Ms. Carey has served as a partner at Morgan Lewis (the same anti-union firm where Mayer also served as a partner) which has advised corporations (including Amazon, SpaceX, Apple, and Tesla) on how to defeat organizing efforts and exploit loopholes such as “independent contractor” and “joint employer” classifications. She has defended coercive “captive audience” meetings and, during her confirmation hearing, reaffirmed her opposition to the NLRB’s ruling banning such mandatory sessions. During Ms. Carey’s hearing she also refused to affirm the constitutionality of the very agency she seeks to lead, saying only that “the courts will decide.” Meanwhile, Morgan Lewis is actively litigating a case challenging the NLRB’s constitutionality. Under the NLRA, working people do not have a private right of action. They will have to rely on Ms. Carey to prosecute their employers for unfair labor practices and ensure their rights are respected. Accordingly, we urge you not to confirm Ms. Carey.

Finally, the Assistant Secretary for Policy at the Department of Labor guides the regulatory agenda of the agency charged with protecting the welfare of working people. Rosario Palmieri has espoused wide-ranging hostility to regulation. At the Department of Labor, that hostility will undoubtedly be directed at regulations that ensure workers' health and safety, that they are paid properly, that their benefit plans are protected, and so on. He has criticized rules to protect workers from silicosis and other respiratory and kidney diseases associated with silica inhalation, along with rules requiring injury reporting, affording paid sick leave to workers, and imposing transparency requirements for employers engaged in unionbusting. As the DOL's top policy official, Mr. Palmieri would be positioned to implement an extreme deregulatory agenda, undermining the safety and economic security of millions of workers. We urge you not to confirm Mr. Palmieri.

Thank you for your consideration of these views.

Sincerely,

A handwritten signature in black ink, appearing to read "Jody Calemine". The signature is fluid and cursive, with the first name "Jody" being more prominent and the last name "Calemine" following in a similar style.

Jody Calemine  
Director, Government Affairs