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Social Security Administration reaches impasse in union negotiations

By: **Jessie Bur** (</author/jessie-bur>) 📅 1 day ago

Another federal agency and its union have reached a sticking point in collective bargaining negotiations, furthering the saga of Trump administration officials butting heads with federal employee labor unions (<https://www.federaltimes.com/management/2019/06/27/union-files-unfair-labor-charges-against-new-epa-contract/>).

The Federal Mediation and Conciliation Service recently notified the Association of Administrative Law Judges and the Social Security Administration that negotiations between the two parties over a new contract had officially reached an impasse.

“We believe the Social Security Administration has been refusing to negotiate in good faith and its extreme positions have failed to put the interests of the American public first. We hope to hear from new Social Security Commissioner Andrew Saul soon to discuss our pending constitutional claim. The AALJ wants to effectively support agency mission and hopes to work productively with Commissioner Saul. We need to hit pause on these negotiations,” said Judge Melissa McIntosh, president of the AALJ, in a news release.



(<https://www.federaltimes.com/management/2018/07/10/trump-takes-federal-agency-judges-out-of-competitive-status/>)

Administrative law judges oppose Trump executive order
(<https://www.federaltimes.com/management/2018/07/10/trump-takes-federal-agency-judges-out-of-competitive-status/>)

Administrative law judges will no longer be hired through competitive examination and selection processes under a new executive order.

By: **Jessie Bur**

According to McIntosh, the agency notified AALJ in mid-2018 that it wanted to renegotiate the collective bargaining agreement, and ground rules for the negotiation were established in October 2018. The official negotiations then began in March 2019 and concluded with the Federal Mediation and Conciliation Service’s impasse determination in June, which McIntosh characterized as a “very short” negotiating period in an interview with Federal Times.

The agency and union now have the option to turn to the Federal Service Impasses Panel, which can provide a hearing or accept document submissions to make a determination of what the final contract should look like.

FSIP has already intervened in the contract negotiations between the Social Security Administration and its two other unions: the American Federation of Government Employees and the National Treasury Employees Union.

In the AFGE case, FSIP granted the agency total telework discretion, significantly reduced official time available to union representatives and locked the union into a seven year contract.

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According to McIntosh, the agency is looking to do the same with the AALJ negotiation.

“They want consistency with all three bargaining units, she said, adding that such consistency is problematic, since administrative law judges “have unique concerns” when compared with other bargaining units.

The Trump administration at large has had a contentious relationship with federal employee unions:

President Donald Trump signed three executive orders

(<https://www.federaltimes.com/management/2018/05/25/trump-targets-feds-in-latest-series-of-executive-orders/>) in May 2018 that would have restricted union bargaining, and, while those were in large part overturned in the courts (<https://www.federaltimes.com/management/2018/08/26/judge-rules-trump-overstepped-with-union-executive-orders/>), individual agencies have pursued many of the same policies in their individual bargaining.

McIntosh called the behavior “a concerted effort to eliminate federal labor unions,” noting that the restrictions proposed by SSA would prevent the union from meeting its statutory obligations to adequately represent its federal employees.

The union’s negotiations with SSA have also included a few points of contention that McIntosh said “demonstrates the animus” the agency has toward AALJ: the agency’s proposed removal of American flags from their offices and a refusal to add locks to administrative law judges’ offices as a shelter in place safety measure.

The association’s pending constitutional claim concerns the reporting structure of administrative law judges at SSA.

The Supreme Court ruled in the 2018 Lucia v. SEC case that administrative law judges were considered inferior officers, meaning that they have to report to a principal officer in the agency’s official structure, which is not currently set up in that manner.

AALJ called for a halt to negotiations until the administrative law judge reporting structure could be resolved.

According to McIntosh, the union also has a grievance pending against the agency for bad faith bargaining, because “we were not privy to some information critical to those negotiations.”

An SSA spokesperson told Federal Times that the agency does not comment on active negotiations.

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