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Andrew Saul testifies at his confirmation hearing in October 2018. Lawmakers accused Saul of going back on his word to work with unions in good faith. J. SCOTT APPLEWHITE/AP

**Management**

# Senate Democrats Decry Social Security's Playing Hardball with Administrative Law Judge Union

Lawmakers accuse management of a "deliberate attempt to reach an impasse" in contract negotiations.

ERICH WAGNER | JULY 29, 2019

UNIONS WHITE HOUSE



All 47 members of the Senate Democratic caucus are urging the leadership of the Social Security Administration to return to negotiations with a union representing administrative law judges, following accusations of bad faith bargaining.

Earlier this month, the Association of Administrative Law Judges announced that it has filed an [internal grievance](#) with the agency over its practices related to negotiating a new contract. The Social Security Administration requested that the Federal Service Impasses Panel assert jurisdiction over the process, after three months of negotiations, culminating in two weeks of mediation by the Federal Mediation and Conciliation Service.

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The agency's "last best offer" to the union included a seven-year contract, in line with similar contract proposals for other unions within the Social Security Administration. It also shifted telework policies to be entirely at the discretion of the agency, and reduced the amount of official time that union officials can use.

In addition, the offer included a proposal to remove all reference to the Administrative Procedures Act and the "judicial function" of administrative law judges from the contract, which AALJ President Melissa McIntosh said would make it easier for the Trump administration to chip away at judges' political independence.

In a [letter](#) to Social Security Commissioner Andrew Saul, Senate Democrats accused the commissioner of renegeing on promises he made during his confirmation hearing that he would work in good faith with federal employee unions.

"We are writing to express our dismay that the Social Security Administration refuses to bargain in good faith with union representatives," they wrote. "When your nomination was before the Senate, you committed to working transparently and in good faith with the unions representing workers at SSA. Now, you have an opportunity and responsibility to honor that commitment."

The lawmakers accused management at the agency of attempting to implement provisions of President Trump's controversial workforce executive orders, which remain subject to an injunction although the U.S. Court of Appeals for the D.C. Circuit on jurisdictional grounds [reversed the decision](#) imposing the prohibition. Lawyers for the Trump administration filed a motion last week requesting that the injunction be [lifted immediately](#).

"In its negotiations with this union's representatives, we are concerned that SSA has insisted on extreme terms similar in substance to President Trump's [executive orders], which the unions are challenging," Democrats wrote. "It is apparent that SSA's conduct on this matter constitutes a deliberate attempt to reach an impasse."

The lawmakers demanded information regarding whether officials in the White House or the Office of Management and Budget provided "direction or guidance" on how the agency should proceed in negotiations, as well as the "demonstrated need" for the most controversial elements of management's "last best offer."

"What discretion did your negotiation team have in deviating from the seven-year contract term, the proposal [to limit grievances], or guidelines the White House, OMB, or any other entity may have issued to SSA management?" the lawmakers asked. "We urge SSA to return to the bargaining table . . . immediately and negotiate in good faith. It must abandon its insistence on retrograde anti-union and anti-worker policies." [G](#)

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