United States Government
NATIONAL LABOR RELATIONS BOARD
1015 Half Street, SE
Washington, DC 20570

November 18, 2022

Delivered via e-mail

The Honorable Patty Murray
Chair
Subcommittee on Labor, Health and Human Services, Education, and Related Agencies
Senate Committee on Appropriations
Washington, DC 20510

The Honorable Rosa DeLauro
Chair
Subcommittee on Labor, Health and Human Services, Education, and Related Agencies
House Committee on Appropriations
Washington, DC 20515

The Honorable Roy Blunt
Ranking Member
Subcommittee on Labor, Health and Human Services, Education, and Related Agencies
Senate Committee on Appropriations
Washington, DC 20510

The Honorable Tom Cole
Ranking Member
Subcommittee on Labor, Health and Human Services, Education, and Related Agencies
House Committee on Appropriations
Washington, DC 20515

Dear Chairs Murray and DeLauro and Ranking Members Blunt and Cole:

As you continue your work on appropriations legislation for FY2023, we write to update you on the urgent funding needs of the National Labor Relations Board.

We are committed to upholding the Agency's statutory mission and share a deep appreciation for the Agency's 1,200 career staff. The Agency's current funding level is impairing our ability to maintain staff capacity, both in headquarters and across 48 field offices. Understaffing ultimately affects employers, employees, labor organizations, and practitioners with cases before the Agency.

The NLRB has received the same nominal appropriation of $274.2 million since FY2014. Adjusting for inflation, we have lost one-quarter of our purchasing power over the past nine years.

While increasing costs are not unique to the NLRB, we have less margin to absorb these increases than other agencies. Unlike the Federal Mediation and Conciliation Service, National Mediation Board, and worker protection agencies within the Department of Labor, the NLRB did not receive an increased appropriation in the FY2022 omnibus. Collectively, appropriations for other worker protection agencies increased 8 percent from FY2014 to FY2022 while NLRB funding remained flat.

At this point, the Agency has exhausted its ability to absorb cost increases through staff attrition and operational efficiencies. Labor costs already comprise 80 percent of the NLRB's budget. The Agency has already implemented a hiring freeze and, without additional funding, will likely be forced to pursue furloughs.

While the Agency has increased its productivity in recent years, staff cannot keep up with an increasing workload. The number of unfair labor practice (ULP) case dispositions per field staffer increased 7 percent from FY2014 to FY2022, but the number of ULP filings per field staffer increased 39 percent over the same period. Similarly with Board cases, median case processing time decreased 14 percent last year. However, the number of cases pending before the Board still increased 28 percent. Further erosion of the Agency's staff and resources will continue to harm case processing to the significant detriment of both employers and employees.

The vast majority of the Agency's work is routine and noncontroversial. Across Republican and Democratic administrations, about 60 percent of ULP charges filed with the Agency end in dismissal or withdrawal. In most cases, slower case processing typically means an employer remains under the shadow of meritless allegations for additional time. Of meritorious cases, about 95 percent are settled or resolved by career staff in the field. (Only a few hundred contested cases reach the Board each year, and more than 80 percent of Board decisions are unanimous.) Longer processing times in meritorious cases delay relief for the injured party and may also increase the amount the charged party owes in monetary damages as interest, backpay, and other harms continue to accrue.

The Agency needs additional funding in FY2023 to simply maintain current operations without any investments in critical infrastructure and cybersecurity needs. We wish to call your attention to three specific expenses:

1. **2023 federal pay increase:** The Agency expects to cover a 4.6-percent pay increase for its employees, beginning in January 2023. At current staffing levels, this will increase the Agency's total labor costs by *$10.2 million* in FY2023.
2. **Non-labor inflation:** Non-labor costs comprise 20 percent of the Agency's budget. Assuming 8.5-percent inflation, we expect *$4.8 million* in additional costs without operational changes.
3. **Upcoming lease actions:** The General Services Administration has informed the Agency that we must relocate three field offices in FY2023 at an expected cost of *$3.7 million*. The affected field offices include Subregion 17 (Kansas City[1]), Region 22 (Newark), and Region 31 (Los Angeles).

[1] The current office in Overland Park, KS will be relocating to Kansas City, MO. Subregion 17 serves western Missouri, Kansas, Oklahoma, most of Nebraska, and part of Iowa. The Subregion's Tulsa Resident Office will remain in the same location.

These additional expenses are effectively beyond the Agency's control. However, we will be forced to reduce our operational capacity, including likely furloughs of the dedicated career employees at the agency, unless Congress provides funding to cover these costs.

We appreciate your careful consideration of our Agency's funding needs as you finalize FY2023 appropriations legislation. Please do not hesitate to reach out if we can provide any further information to you or your staff.

Sincerely,

Lauren McFerran
Chairman

Jennifer A. Abruzzo
General Counsel