Legal Update

June 19, 2025

UPDATE ON FEDERAL LAWSUITS CHALLENGING THE HHS RIF

- AFGE et al. v. Trump: The administration's request for an emergency stay of the preliminary injunction is currently before the Supreme Court's emergency docket. No ruling has yet been issued, though one is expected soon.
- For the duration of the injunction, the administration may not separate employees or proceed with additional reductions in force (RIFs) or reorganization plans. At the District Court level, Judge Susan Illston ruled that RIF notices scheduled to go out from the State Department were a violation of the injunction and had to be paused. She also required that Housing and Urban Development (HUD) submit its Agency RIF and Reorganization Plan so that she could determine whether its recent termination of 79 probationary employees was a violation of the preliminary injunction. The HUD ARRP is due to the court by June 17 at 3 p.m. PT.
- State of New York v. Kennedy: On June 17, the government submitted a supplemental memorandum of opposition, arguing that last week's rescission of the RIF notices of 469 CDC employees "undermines Plaintiffs' claims of irreparable harm and statutory violations with respect to those functions." An accompanying declaration from CDC Acting COO Sara Patterson further specified how some of the reinstated employees will restore functionality to selected programs. The plaintiffs submitted notices of the preliminary injunctions upheld by the Ninth and First Circuits for the AFGE et al. v. Trump and State of New York v. McMahon cases, respectively. No ruling has yet been issued.

OTHER CASES TO WATCH

AFGE, together with a coalition of labor unions representing federal employees across agencies, sued the Trump administration in the U.S. District Court of the Northern District of California over Executive Order 14251 ("Exclusions from Federal Labor-Management Relations"), which removes collective bargaining rights for workers at more than 30 federal agencies that involve the issues of national defense, border security, foreign relations, energy security, pandemic preparedness, cybersecurity, economic defense, and public safety. Notably, the executive order does not impact law enforcement. A hearing before Judge James Donato on AFGE's request for a preliminary injunction has been scheduled for July 18 at 10 a.m. PT.

RESOURCES AND GUIDANCE

- If you are seeking outside employment while on administrative leave, you MUST submit a Request for Approval of Outside Activity (Form HHS 520). Use EPATS if you still have network access; if not, submit the form and supplemental materials to HRCS@cdc.gov. You will need to include a description of the position (e.g., the vacancy announcement), the formal offer letter, and your most recent PMAP.
- If you are planning to retire after the RIF but want to preserve your right to appeal your separation to the MSPB, you must set your retirement date to be effective on a date after separation. This can be done through the GRB platform. **This is critical because our separation date has been pushed back** due to the injunction issued by the U.S. District Court in Northern California and upheld by the Ninth Circuit. We will likely be on administrative leave until late June.

CONTACTING YOUR CONGRESSIONAL REPRESENTATIVES: A PRIMER

Calling your representatives is an important way to engage in the national political process. You can make your advocacy efforts more effective with a thorough understanding of how congressional offices operate, how they track constituent communications, and what they do (and don't) respond to.

Congressional offices collect data on constituent communication.

- Nearly every Congressional office uses constituent management software to track phone calls and written correspondence from constituents. This is typically a database that includes your name, address, phone number, email address, and logs of your communication (date, bill or issue, and a brief summary of your message). This allows them to report the number of constituents contacting the office about a given issue, which many offices present to the member on a regular basis. Many offices will integrate data from third-party vendors with this database, so constituent profiles may include additional information such as occupation and employer type.

Only call <u>your</u> representatives.

- When you call a Congressional office, the first thing the person who answers will ask you for is your name and address. *This is to verify that you are a constituent.* Members of Congress do not care about the views of anyone who cannot vote for (or against) them. If you refuse to provide this information or you provide false information, your call will not be logged, and your message will be discarded. If you write or email your representative, *make sure you provide your full name and address*. Calling members who do not represent you may be counterproductive, as it is frustrating to Congressional staff to take time and resources to filter out communication from people who cannot influence their member's next election.

Use your own voice.

- Many apps and platforms make it easy to contact your Congressional representatives with a prepared message. You may have seen campaigns that give you a script to read when you call or provide you with a prewritten template. While this makes it easier for the person calling,

Congressional staffers recognize these “canned” messages immediately and are more likely to disregard them. Your outreach will be most impactful if it is in your own words.

Don’t send mail.

- Paper mail is screened and logged the same way as phone calls or email correspondence. However, *it takes significantly longer* to arrive at the office. After the anthrax attacks of 2001, all postal mail sent to Congressional offices is opened and repackaged after going through an extensive screening process for chemical and biological hazards. As a result, traditional mail is typically delayed by 2-4 weeks. A phone call or email is much more timely.

Be kind.

- The staff receiving your communications are young, overworked, and underpaid. Congressional offices in Washington, DC, are very small and trying to manage multiple competing (urgent) priorities. A typical office in the House of Representatives has nine staffers, including one staff assistant at the front desk and one Legislative Correspondent (LC) who manages all of the written correspondence to the office. A typical Senate office has around 50 staffers, including two staff assistants and 4-8 LCs. Your call (or voicemail) will most likely be screened and logged by an intern; if you send an email through the office web form, your message will be screened by the LC. The median age of Congressional staffers is 25, and the median salary for these positions is around $60,000 (roughly equivalent to $40,000 in Atlanta when adjusted for cost of living). Interns are paid a stipend of $500 per month. *Do not abuse the young person receiving your message.* Make sure your outreach is polite, direct, and clear.