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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

April 20, 2021

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Attorney General Garland:

I write to request information on Trump Administration political appointees who have converted to civil service positions at the Department of Justice (DOJ) and its components. In particular, I am seeking information about political appointees for whom conversions to civil service positions at the Executive Office for Immigration Review (EOIR) were requested or completed.

While it is not uncommon for certain political appointees to transition to career civil service positions during the course of a presidential administration, recent reporting indicates that the number of persons who sought this type of conversion during the final year of the Trump Administration was unusually high.¹ While I am aware that such conversions have occurred at multiple DOJ components, I took particular note of multiple completed conversions at EOIR. Any such conversions to civil service positions at EOIR deserve substantial scrutiny given the Trump Administration's pernicious attempts to implement and enforce an ideological agenda by politicizing the immigration court system.

As you are aware, problematic conversions can undermine the nonpartisan nature of the federal government's career workforce, particularly when individuals convert to high-level civil service positions from political postings.² In addition to raising the specter of a politicized career workforce, such situations also call into question the fairness of the civil service hiring process. The seriousness of this concern is reflected by internal guidance at the Office of Personnel

¹ Adam Edelman, *High number of Trump political appointees sought permanent jobs in final year*, NBC NEWS (Apr. 10, 2021), <https://www.nbcnews.com/politics/donald-trump/high-number-trump-political-appointees-sought-permanent-jobs-final-year-n1262234>.

² *The 'Burrowing In' of Political Appointees*, AMERICAN OVERSIGHT (Updated Jan. 20, 2021), <https://www.americanoversight.org/investigation/the-burrowing-in-of-political-appointees>.

Management (OPM), which notes that “political appointees . . . must not be given preference or special advantages” when being considered for civil service positions.³

Both nonpartisanship and a fair hiring process are foundational elements of our federal career workforce and we must ensure that they are protected. Several of my colleagues and I noted these concerns in a December 8, 2020 letter to former Attorney General William P. Barr requesting information on recent career conversions. DOJ did not respond. Given the crucial importance of ensuring the reliability of our federal workforce, I ask that you provide the following information no later than May 10, 2021:

1. A list of all individuals who held positions as political appointees from January 20, 2017 through January 20, 2021 and are now employed in permanent competitive positions, non-political excepted service positions, or career Senior Executive Service (SES) positions at the DOJ and its components. For each individual, please include:
 - a. the individual’s name;
 - b. the title of the position(s) to which the individual was initially appointed;
 - c. the start and end dates of such appointment(s);
 - d. the title of the individual’s current position;
 - e. the start date of the individual’s current position; and
 - f. a copy of the written OPM authorization of the individual’s appointment to a permanent position.

2. A list of all individuals who held positions as political appointees from January 20, 2017 through January 20, 2021 for whom the DOJ and its components sought written authorization from OPM for the appointees’ conversion to permanent competitive positions, non-political excepted service positions, or career SES positions at EOIR. For each individual, please include:
 - a. the individual’s name;
 - b. the title of the position(s) to which the individual was initially appointed;
 - c. the start, and end dates if applicable, of such appointment(s);
 - d. the title of the permanent position sought; and
 - e. a copy of the Department’s request to OPM for written authorization of the individual’s appointment to a permanent position.

I appreciate your prompt attention to this important request.

³ McGettigan Memo, *Political Appointees and Career Civil Service Positions*, U.S. OFFICE OF PERSONNEL MANAGEMENT (Feb. 23, 2018).

Sincerely,

A handwritten signature in blue ink that reads "Dick Durbin". The signature is written in a cursive, flowing style.

RICHARD J. DURBIN

Chair

cc: The Honorable Charles E. Grassley
Ranking Member

The Honorable Kathleen McGettigan
Acting Director, U.S. Office of Personnel Management