

Congress of the United States

Washington, DC 20515

September 10, 2008

The Honorable Gordon England
Deputy Secretary of Defense
1000 Defense Pentagon, #3E678
Arlington, VA 20301-1000

Dear Secretary England:

We are writing to request that the Department of Defense (DOD) refrain from taking any action to finalize the proposed rule issued May 22, 2008 regarding the National Security Personnel System (NSPS)* until a new Administration has an opportunity to review and make decisions with regard to the proposed rule.

We strongly believe that the proposed regulations go beyond the intent of the revisions made to NSPS in the National Defense Authorization Act (NDAA) for Fiscal Year 2008 (Public Law 110-181). The intent of this legislation was to restore the collective bargaining rights of DOD employees. However, the proposed regulations would restrict such rights by unilaterally removing negotiable issues from the scope of collective bargaining. In particular, the law provided that while unions would not be able to negotiate over the "rate of pay," they would be permitted to bargain over "procedures and appropriate arrangements," as defined in chapter 71 of Title 5 (the statute governing collective bargaining in the federal sector). However, the proposed regulations define "rate of pay" so broadly that it would be impossible to negotiate over any procedures or appropriate arrangements. That clearly was not the intent of Congress.

We understand that the Department intends to finalize the regulations in October, after Congress has adjourned and just weeks before the election. This decision to move forward hastily and unilaterally is likely to result in the rule being set aside or otherwise revisited by the next administration or by Congress. We do not believe that the uncertainty caused by repeated changes in the Department's personnel system is good for either the Department or its employees. Therefore, we believe the proposed regulations should be put on hold until the next

* Notice of Proposed Rule Making, 73 Fed. Reg. 29897 (May 22, 2008).

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administration has had an opportunity to review these draft regulations and issue them in a deliberate, considered manner.

We request a prompt response to this letter.



Carl Levin, Chairman
Senate Armed Services Committee

Sincerely,



Ike Skelton, Chairman
House Armed Services Committee