

# **NTEU**

**The National Treasury Employees Union**

September 28, 2006

**VIA FACSIMILE AND FIRST CLASS MAIL**

The Honorable Michael Chertoff  
Secretary  
U.S. Department of Homeland Security  
Washington, D.C. 20528

Dear Secretary Chertoff:

The Department of Homeland Security (DHS or Department) showed sound judgment when it decided not to seek Supreme Court review of NTEU, et al. v. Chertoff, 452 F.3d 839 (D.C. Cir. 2006). I now write to urge DHS to show the same sound judgment in charting the future of its labor relations program.

As you know, as a consequence of the litigation led by NTEU, DHS agencies remain subject to the provisions of Chapter 71 to Title 5. The Bureau of Customs and Border Protection (CBP), however, continues to demonstrate a frequent willingness to ignore both its statutory and contractual obligations with NTEU, which has precipitated an unprecedented level of litigation and employee dissatisfaction.

Moreover, NTEU and the employees we represent are eager to help CBP and DHS accomplish the Department's vital mission. In the current climate, CBP employees rarely get the chance to bring their dedication and expertise to bear on the challenging issues with which DHS is confronted. They are excluded from the decision making process and are given a voice in the workplace only when NTEU successfully vindicates basic statutory and contractual rights denied by CBP.

I hope that you will agree with me that there should be a better way of doing business. Accordingly, I urge you to hold DHS agency managers accountable for complying with their statutory and contractual obligations. I also urge you to

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encourage an environment where employee input and expertise is valued and where employees and their unions are viewed not as adversaries, but as partners in protecting our nation's security.

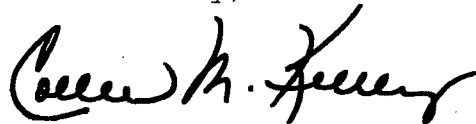
The labor relations portion of the new human resource management system devised by DHS and the Office of Personnel Management was invalidated by the courts because it did not satisfy the Homeland Security Act's (Act) mandate that the new system ensure collective bargaining rights. I remind you that the Act requires that any adjustments to the new system be made in accordance with the requirements of 5 U.S.C. 9701(e). NTEU expects, therefore, that DHS will fully comply with Section 9701(e)'s notice, comment, and consultation requirements if it attempts any system modifications.

NTEU also expects that if DHS attempts to modify the labor relations component of its new system the modifications will comply with the Act's requirement that collective bargaining rights be ensured. Ideally, any new labor relations program will explicitly recognize the value of employee involvement in workplace decision making.

NTEU stands ready, of course, to challenge vigorously any violation of the Act's procedural or substantive requirements. As I have said in the past, NTEU also stands ready to engage in a meaningful dialogue over ways to improve DHS's labor relations system. Neither the Department nor its employees benefit from the current environment of exclusion and distrust.

I look forward to your reply.

Sincerely,

A handwritten signature in black ink, appearing to read "Colleen M. Kelley". The signature is fluid and cursive, with the first name "Colleen" being the most prominent part.

Colleen M. Kelley  
National President