



United States Government

NATIONAL LABOR RELATIONS BOARD

1015 Half Street, SE

Washington, DC 20570

October 23, 2020

The Honorable Elizabeth Warren
United States Senate
309 Hart Senate Office Building
Washington, DC 20510

The Honorable Mark Pocan
United States House of Representatives
1421 Longworth House Office Building
Washington, DC 20515

The Honorable Rosa DeLauro
United States House of Representatives
2358-B Rayburn House Office Building
Washington, DC 20515

The Honorable Barbara Lee
United States House of Representatives
2470 Rayburn House Office Building
Washington, DC 20515

Dear Senator Warren and Representatives DeLauro, Pocan, and Lee:

I write in response to your letter dated September 24, 2020 regarding the ethics and recusal program at the National Labor Relations Board (NLRB). In that letter you asked me to commit to following the guidance of the NLRB Designated Agency Ethics Official (DAEO) if I was advised to recuse myself from a case or other official matter.

I will adhere to DAEO determinations that are consistent with the law. It has been my practice to seek and follow the DAEO's advice and I will continue to do so. Although I cannot anticipate a reason not to follow the DAEO's advice at this time, I believe my obligation as a Board Member under the NLRA and the requirements of the Government in Ethics Act require that I make an independent judgement regarding each recusal issue. As such, there may be situations where I cannot follow the DAEO's advice if it is contrary to the law. In such a situation, I will follow the protocol set forth for handling such disagreements in ES Memo 19-1, and I will work to resolve the disagreement through discussion and consensus as the protocol encourages.

If you or your staff have any further questions or concerns, please do not hesitate to contact Edwin Egee, Director of the Office of Congressional and Public Affairs, at (202) 273-1991.

Sincerely,

Marvin E. Kaplan
Board Member