**Unions Consider Next Steps Following Workforce Order Ruling**

## The injunction blocking three controversial executive orders by President Trump will remain in place for 45 days to allow unions to consider an appeal.

Federal employee unions said they are examining all of their options in the aftermath of a federal appeals court ruling that found labor groups must challenge three workforce executive orders through the Federal Labor Relations Authority before going to the courts for relief.

The [decision](https://www.govexec.com/management/2019/07/court-delivers-blow-federal-unions-fighting-trumps-workforce-orders/158446/) by a three-judge panel at the U.S. Court of Appeals for the D.C. Circuit overturned an August 2018 ruling from U.S. District Judge Ketanji Brown Jackson that found the three executive orders [“eviscerated”](https://www.govexec.com/management/2018/08/judge-strikes-down-trump-executive-orders-limiting-federal-employee-union-bargaining/150813/) federal employees’ collective bargaining rights. Those orders issued by President Trump sought to shorten the length of performance improvement plans to 30 days, exempt adverse personnel actions from grievance proceedings, streamline collective bargaining negotiations, and significantly reduce the number of work hours union members can spend on official time.

The unions now have 45 days before Jackson’s injunction blocking implementation of the orders will be lifted. During that time, they can elect to appeal for a rehearing of the case, or for a rehearing of the case by all 11 judges on the D.C. Circuit Court.

In the meantime, labor groups are considering all of their options, in the court system and otherwise. Union leaders met Tuesday afternoon with members of the Maryland congressional delegation to discuss how they’re coping with what one lawmaker said was likely the most anti-union administration in memory.

“[Acting White House Chief of Staff] Mick Mulvaney is like a kid in a candy store,” said Rep. Paul Sarbanes, D-Md. “He’s got unfettered power, in a place where he can use every possible tool available to him to try to take down the unions. It’s a playbook they’ve had for years, but they’ve never had the kind of opportunity and freedom to deploy every provision on every page.”

Union leaders and lawmakers expressed hope that whatever spending deal is signed into law this fall will include a provision of the House Financial Services and General Government appropriations bill that would block agencies from [implementing collective bargaining agreements](https://www.govexec.com/management/2019/07/house-appropriations-bill-would-block-impasses-panel-imposing-new-union-contracts/158172/) that do not have union buy-in. In recent months, the Federal Service Impasses Panel has handed down a number of management-friendly contracts over the objections of labor groups.

“The strategy we’re using is that the FSGG bill in the House takes away appropriations for agencies so they can’t implement these contracts unless they’re voluntarily agreed to or reached through arbitration,” said American Federation of Government Employees President J. David Cox. “But it has to get through the Senate or through conference [committee], and the president has to sign it.”

“Speaking for [Minority Leader] Chuck Schumer, it’s a high priority for us,” said Sen. Ben Cardin, D-Md. “We’re very much focused on that.”

Although advocates hope that provision could stop the most harmful elements of the executive orders from being implemented, it is not foolproof. Matt Biggs, secretary-treasurer and legislative director for the International Federation of Professional and Technical Engineers, told members on a conference call Wednesday that he will continue to push for a provision blocking agencies from using funds to implement the executive orders, although odds of its inclusion are slim.

“The fact of the matter is, we’ve tried to get this language in the appropriations bill to defund implementation of the EOs altogether, but we didn’t achieve that,” Biggs said. “We did achieve the language . . . to defund the ability of the impasses panel to unilaterally impose contracts. It doesn’t do away with the executive orders, but it’s certainly helpful. Given the appropriations process up here, we can still push for a full defund of the EOs in whatever final spending product the House and Senate agree to, but honestly, that’s a really tough task.”

IFPTE President Paul Shearon said that at a certain point, it might make more sense to shift union resources to campaign activities, with a goal simply to outlast the Trump administration.

“It does appear that really, the case is in a legal morass, and not one that will be solved in any short order,” Shearon said. “In reality, we should probably settle into the mindset that we have to survive, to delay the process as much as we can, and wait until after this administration so that the executive orders can be thrown out, hopefully by a new president.”