



U.S. Department of Justice

Office of the Solicitor General

The Solicitor General

Washington, D.C. 20530

September 29, 2026

The Honorable Mike Johnson
Speaker
U.S. House of Representatives
Washington, DC 20515

Re: Restriction on the Removal of Administrative Law Judges

Dear Mr. Speaker:

Pursuant to 28 U.S.C. 530D, I am writing to advise you that the Department of Justice has concluded that the restriction on the removal of administrative law judges (ALJs) in 5 U.S.C. 7521 violates the Constitution and that the Department will not defend it in court.

Section 7521 provides that a federal agency may remove an ALJ “only for good cause established and determined by the Merit Systems Protection Board on the record after opportunity for hearing before the Board.” 5 U.S.C. 7521(a); see 5 U.S.C. 7521(b)(1). The Supreme Court has explained, however, that the President possesses the “unrestricted” authority to “remove the agents who wield executive power in his stead,” *Seila Law LLC v. CFPB*, 591 U.S. 197, 215, 238 (2020), and that “[s]ubordinates who exercise the President’s [executive] power” on his behalf, including by conducting “‘administrative adjudications,’” must be subject to removal “at will,” *Trump v. Slaughter*, 609 U.S. 422, 437, 454, 464 (2026). The Court has also explained that ALJs are officers of the United States, see *Lucia v. SEC*, 585 U.S. 237, 244-251 (2018), and that such “adjudicative officers” “wield executive power on behalf of the President,” *United States v. Arthrex, Inc.*, 594 U.S. 1, 11, 20 (2021). The Court has, to be sure, previously recognized an exception to the removal power for certain “inferior officers with limited duties and no policymaking or administrative authority.” *Seila Law*, 591 U.S. at 218. But that exception does not survive the Court’s more recent decision in *Slaughter*, and ALJs in any event exercise sweeping and significant power that takes them well outside that exception. Consistent with the Court’s precedents, the Department has determined that Section 7521 violates Article II by making ALJs removable only for good cause, rather than at will.

Please let me know if I can be of any further assistance in this matter.

Sincerely,

D. John Sauer

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Solicitor General