

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

March 5, 2021

President Joseph R. Biden, Jr.
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Biden,

Tens of millions of Americans rely on Social Security for their very lives, and the future of this program is at a crossroads. So, it is unacceptable that the two officials most entrusted with protecting and sustaining this cherished program have instead used their offices to destabilize and actively harm it. Consequently, I urge you to fire Commissioner Andrew Saul and Deputy Commissioner David Black to protect Social Security and preserve this crown jewel.

The leadership of the Social Security Administration (SSA) under Commissioner Saul and Deputy Commissioner Black has been marked by a stunning streak of disregard, callousness, and destruction of the agency. The damaging measures under their tenure have been extensive, including:

- Proposing radical changes to make it significantly harder for older, severely disabled workers to be found eligible for SSA disability benefits.¹
- Blocking access² to disability assistance for certain non-English speakers, with Commissioner Saul preposterously asserting the change would modernize the agency.³
- Ratcheting up SSA's volume of disability case reviews for Americans receiving Social Security disability insurance and Supplemental Security Income,⁴ a draconian proposal that would heap harm upon countless beneficiaries.⁵
- Seeking to shift adjudication of disability hearings from impartial Administrative Law Judges to SSA staff attorneys, a measure that erodes judicial independence and eliminates due process protections for vulnerable Americans.⁶

¹ <https://www.wsj.com/articles/trump-administration-weighs-tighter-requirements-for-disability-payments-11578686424>.

² https://www.huffpost.com/entry/trump-disability-english-rule_n_5e6273e6c5b691b525f1ef3a.

³ <https://states.aarp.org/virginia/social-security-modernizing-its-disability-program>.

⁴ <https://www.federalregister.gov/documents/2019/11/18/2019-24700/rules-regarding-the-frequency-and-notice-of-continuing-disability-reviews>.

⁵ See <https://thehill.com/blogs/congress-blog/politics/480182-trump-seeks-to-bring-back-social-security-rule-changes-one-of> and <https://www.aarp.org/retirement/social-security/info-2020/disability-benefits-proposed-changes.html>.

⁶ <https://www.govexec.com/management/2020/01/administrative-law-judges-decry-social-security-rule-would-take-cases-out-their-hands/162320/>.

Additionally, the Commissioner and Deputy Commissioner have been unceasing in their hostility to their own employees, eliminating the SSA telework program immediately before the pandemic⁷ and working assiduously to undermine the SSA employees' American Federation of Government Employees union.⁸ Such malignant behavior is not befitting of leaders entrusted with protecting the livelihoods of our nation's citizens.

The SSA Deputy Commissioner may be removed by the President at any time, and this should be done now.⁹ The SSA Commissioner "may be removed from office only pursuant to a finding by the President of neglect of duty or malfeasance in office."¹⁰ One would be hard-pressed to identify a greater example of neglect than leaders who have tried to strip benefits from millions and a greater example of malfeasance than leaders who have pursued the dismantling of the very agency they were appointed to uphold. Saul and Black's leadership constitutes clear grounds for their immediate removal.¹¹

I was delighted that you placed the White House portrait of Franklin Roosevelt prominently above the fireplace in the Oval Office. When President Roosevelt signed the Social Security Act into law on August 14, 1935, just steps from where your desk now sits, he observed that Social Security "represents a cornerstone in a structure which is being built but is by no means complete." He knew, as we know today, that this marvelous program will endure only if Social Security is protected for the generations that will come after us. That responsibility falls to us now.

Sincerely,



Bill Pascrell, Jr., *Chair*
Subcommittee on Oversight

⁷ <https://www.federaltimes.com/management/2019/10/29/social-security-administration-cancels-telework-for-most-staff/>.

⁸ <https://www.govexec.com/management/2020/08/administrative-law-judges-union-accuses-social-security-illegal-implementation-contract/167628/>; See <https://www.govexec.com/management/2021/01/social-security-unions-urge-biden-oust-agency-leadership-day-one/171356/> (A whopping 88 percent of American Federation of Government Employees Council 220 members expressed no confidence in Commissioner Saul's stewardship. See <https://www.federaltimes.com/management/leadership/2020/12/09/social-security-leaders-receive-double-no-confidence-votes/>).

⁹ Importantly, there is no statutory requirement for the removal of the Deputy Commissioner; the matter is at your sole discretion. See 42 U.S.C. § 902(b)(2).

¹⁰ 42 U.S.C. § 902(a)(3).

¹¹ Importantly, the U.S. Supreme Court recently ruled in *Seila Law v. CFPB* that the law cannot shield certain officials from removal by the President. In *Seila Law*, Chief Justice Roberts specifically observed that the directorship of the SSA was "comparatively recent and controversial." 591 U.S. ____ (2020). The Court has also expressed growing antagonism to restraints on the Article II branch. To the extent that the Court's reasoning can be applied to SSA, I encourage you to put that power to good use by removing Commissioner Saul and thus safeguarding Social Security. See <https://www.theatlantic.com/ideas/archive/2020/07/scotus-congress-trust/614380/>.