216 WORKS

Official Publication of the National Council of EEOC Locals Number 216 AFGE/AFL-CIO

Volume 2 Number 2 December 2002

EEOC Changes Could Choke Federal Sector Civil Rights

In mid June, the National Council of EEOC Locals, No. 216 (the Council) learned that the EEOC, under Chair Cari Dominguez, was proposing the elimination of the Hearing Sector. The Council learned of this proposal from several articles, including one appearing in a Washington, D.C. newspaper; finding out in the news paper is contrary to the established etiquette in labor relations whereby the EEOC would notify the Council of its intentions. The essence of the EEOC's proposal is to eliminate hearings and send federal employees (who can afford it), to federal court. This would be a loss of rights for federal employees, with no adequate redress.

The Council, after learning of the proposal, took several steps. Council President Gabrielle Martin attempted to contact the Office of the Chair to learn more details behind the proposal; Martin also alerted the American Federation of Government Employees (AFGE) of this development. The Office of the Chair did not immediately respond to Martin's query and when they did respond, they did not provide very much information. The AFGE was very interested in the EEOC Chair's proposal because of how such an action would affect the rights of federal employees.

Currently, the federal sector hearings process is governed by 29 C.F.R. Part 1614. A claim of discrimination by a federal employee must initially be made at the agency level.

National Council President Gabrielle Martin far right, participated in a demonstration against proposed changes in federal sector EEO enforcement in from of EEO's Washington, DC headquarters.

Following investigation by the agency accused of discrimination, claims of discrimination may be heard by an EEOC Administrative Judge (AJ). Following the decision by an AJ, the federal employee or the agency has an option of appealing to the EEOC's Office of Federal Operations (OFO).

After the news article, word quickly spread. It is understandable that many AJs were concerned. Rumors spread that the elimination of the hearing process would be done quickly. The Council communicated with AJs, reminding them that such a change had to go through a lengthy rulemaking procedure; AJs were invited to form a committee to assess the process and propose means to improve the federal sector process. Employees in the appellate and enforcement sectors of the federal sector process also were contacted to provide input. Members of the AJ Committee have been working with the National Council concerning the proposal and the Council's activities.

Continued on page 5

National Council Meets; Elects Officers

The National Council of EEOC Locals, No. 216 (the Council) met in Chicago between August 22 and 25, 2002. The Council is the governing body of the eight Locals throughout the country. It is comprised of the eight Local presidents and any additional delegate a Local may be entitled to by virtue of its membership strength. Only the Secretary of the Council is not an elected delegate. The Council met in the Chicago District EEOC office on August 22 and 23 and at the Palmer House Hotel to conduct Council elections and finish business on August 24 and 25.

EEOC Chair Cari Dominguez had been invited to address the Council. Dominguez accepted the invitation. However, a scheduling conflict arose. In her stead, Lee Guarria, EEOC Chief Operating Officer, appeared. Guarria summarized where the EEOC finds itself and answered questions from Council members. Questions posed to Guarria ranged from whether and how the agency may restructure, transfers, the expansion of Telecommuting, the recent NAPA study and its impact, the EEOC 2003 budget as well as other topics. Also addressing the Council was Joann Riggs, the Labor Relations Director for EEOC.

The Council agenda then turned to the Financial Report from Council Treasurer, Levi Morrow followed by the presentation of the proposed budget for

Continued on page 2

PRESIDENT'S VIEWPOINT

History and Membership

Gabrelle Martin, Council President

How important is history? A wise person once said that all is lost without a sense of history. Do you know the history of telecommuting?

Our current Collective Bargaining Agreement contains a new contractual provision on telecommuting (formerly known as flexiplace).

Our previous contract contained a provision which allowed seven offices to implement a pilot program. At the time (1995), we knew that in the early 1990s, the agency tried a telecommuting pilot program in headquarters.

The reviews of that pilot were mixed—fairly negative on the part of management, and much more positive on the part of the employees.

Despite the mixed results and somewhat contrary views, in 1995, the parties nonetheless decided to tackle the hurdle of making flexiplace a workable program at EEOC. After all, flexiplace was becoming another way of performing work in the public sector. Moreover, flexiplace was used in the private sector to attract and retain staff.

As a result of the 1995 negotiations, the parties reached an agreement for another pilot. As soon as the pilot was announced, there was a large outcry. Both management and the union membership were in an uproar—greater participation was wanted. While the CBA called for seven offices to volunteer to participate, through the National Partnership Council and an agreement between the parties, many more offices opted into the program. As a result, any office, through its Local Partnership Council, could participate in the program.

The program was opening up. While not all offices participated, (a great number, at least 26 by the time negotiations began), already were participating.

When the parties agreed to come to the bargaining table in 2002, the issue of Telecommuting once again loomed large. The parties were able to build on the past program and experience, as well as everyday realities, and move forward another step.

While every position in the agency may not be an eligible position, the provisions of Article 34 provide the opportunity for participation by eligible employees in every office, so long as mission—related requirements and customer services continue to be provided.

Overall, this is a step forward that has been a long time coming. I am certain that as time goes on, we will continue to make strides. For that is what history provides us, the framework to move forward.

What then, does having a sense of history have to do with membership? Membership is another relationship in which we engage. In any relationship, there is give and take, there is some measure of having to check individual goals and interests against the goal(s) of the relationship.

For the most part, there is enough congruity between the individual and the relationship that the relationship is supported. For some, on the other hand, the test of membership is a real dilemma. As with a relationship, membership means that everything an individual wants may not be obtained (or obtainable). Membership means that in most instances, actions are taken for the good of the whole organization.

With respect to telecommuting, it may mean that your office now uses forms which have been approved through negotiations. On the other hand, a benefit is that the substantive agreement is not tied to any other particular form. Yet another benefit is that more people and members in a greater number of offices now have the opportunity to participate. The question each of us must ask is whether for the good of all, and with history, rather than personal interest as our guide, membership is worthwhile?

Council Delegates Re-Elect Incumbent Board Members

Continued from page 1

the next year. Both were approved as were the minutes from the previous meeting with minimal corrections. Other business included the final approval of a revised Council Constitution, discussion of the procedures for obtaining and reporting Official Time, a report from a Council Committee on whether the Locals within the Council should be realigned, a report on how training on the new Collective Bargaining Agreement will be done, the Chief Negotiators report and the President's report. A committee was selected to begin to formulate the Council's Strategic Plan for the next year.

All of the incumbents were reelected. The term of office is two years. Once the revised Constitution is in place, the term of office will be three years.

The Council's election of officers took up the entire day of August 24. The results of the election are:

President: Gabrielle Martin, 893; Johnnie Johnson, 117;
1st VP: Michael Davidson, 937; Valerie Johnson, 73;
2nd VP: Walter Raisner, 931; Arnold Reuben, 69;
Treasurer: Levi Morrow, 936; Brenda Hester, 73;
Secretary: Danny Lawson, 937; Kevin Hudson, 73.

LOCAL UNION REPORTS

Local 3230

Local 3230 is a diverse Local comprised of 6 very different Districts, each with its own set of challenges. Officers were elected this summer.

In August the President and First Vice President attended the AFGE Leadership Conference in Chicago. The newly elected First Vice-President, Grace Bernal, got the opportunity to participate in designing AFGE's future, as well as to meet all of the AFGE National Officers. In addition, Grace attended the first day of the National Council meeting. Grace remarked that the experience left her with a great appreciation for the various levels of work and commitment necessary to make the union work.

A large number of employees in the Phoenix District Office received awards for designing and standardizing their intake system. As a result of much committee work involving both union members and managers, we signed a Memorandum of Understanding concerning the Intake Handbook, a set of operating procedures for Intake. The resulting handbook covers such subjects as intake rotations, intake notes, assignments of calls and mail-ins, and intake questionnaires, among others.

In San Diego, employees have been faced for some time with changing Directors and acting Directors. As a result of discussions with upper lever management and a visit by key headquarters staff, the office now has a single Acting Director. In addition, a proposed long term suspension action was withdrawn.

There are also some grievance issues being investigated relating to promotions and the Information Technology Specialist upgrades.

Telecommuting Agreements are being negotiated and reached throughout the Local. We continue to address the need for adequate staffing throughout the local.

Local 3504

Most recently the seven offices of Local 3504 have been negotiating MOUs on Telecommuting and Compressed Work Schedules. The major areas of concern in Telecommuting are the number of days employees may work at home, the positions eligible for participation; and, securing 4-10 are the goals of all the offices within the Local.

Throughout the year, the Local has subsidized various office events such as a picnic in Detroit and Indianapolis and an end of the fiscal year event in Chicago. A couple of weeks prior to the end of the fiscal year, the Chicago Local office provided doughnuts, bagels, etc. for the office for that last, frenzied push. The Local anticipates subsidizing events in offices for the holidays as it has done in the past.

Each office has been asked by the Local President to create committees to analyze whether and how Production Standards are being imposed in each office, whether Investigators believe that they are being micro-managed and other relevant questions. These committees will be tasked with suggesting to the Local, assuming that Productions Standards are imposed and/or the respective office is micro-managed, what actions should be taken by the Local and what role the respective office would play in any action by the Local. A questionnaire for Investigators is being developed to assist in gathering such information.

Currently, arbitration has been invoked on behalf of a member. Also, the Local will be representing another employee in an EEO hearing.

Members will be voting on the Local's proposed budget and on an amendment to the Local's By-Laws before the end of the year.

During the last year the Local's membership has declined primarily due to promotion of members out of the bargaining unit, transfers, retirement and resignation. A few members have simply resigned their membership. The Local is making efforts to recruit new members. Every member is seen as a recruiter. It is particularly important in the current political climate to maintain the greatest membership possible. Our focus is to educate bargaining unit members that their membership has an effect.

Local 3555

Needless to say, it has been a fiscal year that will always be remembered. For those of you who have visited our temporary offices in New York City, no grim details are necessary. For those of you who haven't, please imagine an overcrowded schoolhouse cafeteria at the height of lunch hour!

Yet, I am very proud to report that all the bargaining unit members of Local #3555 have survived the year with affirmative hope in their hearts and with countless gestures of "good will" amongst co-workers. In no uncertain terms, the men and women of the NYDO have met the challenge day-in and day-out and they have clearly demonstrated that the American spirit is far more powerful than any terrorist.

As of the writing of this article, the NYDO prepares to move into permanent office space in a building located close to the tip of southern Manhattan, New York. The old adage, "You don't know what you got until you lose it," has been a hard-earned lesson. I truly doubt bargaining unit members will ever take for granted such simple things as your own desk, your

Continued on next page

Continued from previous page

chair or even the common water fountain! The upcoming office move marks a happy event but there is more sad news as well.

Whether a Union member or not, the death of a co-worker always hurts and diminishes the office as a whole. This past summer, Deputy Director Richard Alpert died several months short of celebrating his fiftieth birthday. I sat across the table from Richard, the manager, in a host of labor/management negotiations. No matter the passion of the subject matter, there was always an environment of mutual respect and professional dignity.

Indeed, at what turned out to be our last negotiating session, I delivered an argument to Richard that workers should be treated as "responsible adults" and therefore, the new time/attendance forms should be fashioned accordingly. Richard looked at me, put his pen down and said, "I agree we have a good group of people and so, I'm willing to take the chance." As a result, our present time/attendance forms are a radical departure from previous forms. For me, the attendance forms will always serve as a constant reminder of Richard's' final act of respect to all NYDO employees.

The upcoming fiscal year presents serious challenges to the Union on both the national and local levels, e.g., the "rumored" demise of Commission hearings. Whatever the outcome, we must continue to demonstrate that we are working professionals who can get the job done no matter what the adverse circumstances.

Remember: As long as we stand together, we never stand alone!

Local 3599

Local 3599 held its annual meeting October 17 through 19, 2002 at the Atlanta Embassy Suites hotel. The stewards from Miami, Tampa, Birmingham, Atlanta, Greenville, Charlotte, Raleigh, Memphis, Nashville, and Louisville were present. The only missing steward was from Jackson.

The first day, the stewards received some really great and informative training from Sharon Baker, Louisville steward and member the National Council's CBA negotiating team.

Sharon taught us the new CBA by turning it into a Jeopardy game. The stewards were assigned to teams, and true to our Local tradition, the competition became lively with commentary on the attributes of the opposing teams. But it was all in good fun and we actually learned the new CBA along the way.

We think Sharon should give this training to the stewards in all of the Locals. Sharon also answered our questions about the new CBA.

The following day, the Local held its annual business meeting. The President presented an update on what has gone on in the Local the past year. The Treasurer presented the new budget and the current treasury totals. The Local's newsletter was discussed. The Secretary presented the minutes from the previous year's meeting. The stewards outlined grievances from their respective offices.

By far, the Charlotte District office had the most grievances with 12 filed during the past year. The Charlotte District Office had a grievance filed on working an employee in three different jobs at the same time. There was also a grievance filed on trial attorneys assigning time frames to investigators.

Another grievance was filed over denial of a within-grade increase. Several grievances were filed on how the outreach program is conducted in the Raleigh office. The Miami District office filed a grievance on the fact two attorneys in that office lost money because their promotions were not processed in a timely manner.

The Memphis District Office filed a grievance over an enforcement investigator being supervised by an attorney. Both the Tampa and Louisville offices were proud to state that they did not need to file a grievance.

The stewards discussed how to handle the upcoming telecommuting negotiations. Apparently the Miami and Charlotte Directors are going to attempt to come up with forms for employees who telecommute to fill out each every day that they telecommute, stating what work they will get accomplished while telecommuting. Our stewards pledged solidarity and agreed to share grievances with each other in order to help each other. This is probably the most informative and congenial meeting that our Local has had in many years.

Local 3629

Local 3629, the St. Louis District, which includes the Kansas City Area Office, has a growing membership! Union membership is about 75 - 80% between both offices, but we are steadily trying for 100%.

Recent elections were held and Mark Bretches was elected Treasurer, Samuel James was elected for another term as Second Vice President and Walter Raisner was re-elected as President. Samuel and Walter have each done a great job for our Local during their terms of office.

The Local is seeking arbitration of a grievance involving management's failure to negotiate a material change of conditions of employment, seeking redress for personal grievances,

Continued on next page

LOCAL UNION REPORTS

Continued from previous page

trying to get a pilot program concerning ergonomics accepted by Headquarters and generally seeking to improve and protect working conditions for all employees.

Generally, we have no new staff and the workload has not abated. Our Daily Dilbert's assure us we are not alone. The Dilbert Principle still applies.

Local 3637

Local 3637 held its elections in August. The following persons were elected to serve: Levi Morrow - President; Ed Sanchez - Vice President; Danny Lawson - Chief Steward; Debra Moser - Delegate; Cecil Warren - Secretary Treasurer and Charles House, Sergeant at Arms. Also in August, three members of the Local attended the National Council meeting held in Chicago, IL. Levi Morrow, Danny Lawson and Debra Moser attended the meeting.

While National Council meetings are old hat for Levi and Danny, Debra was a first time attendee and she says it was quite an "eye-opening" experience.

The Local is currently involved in negotiating agreements on the agency's Telecommuting Program in each of the seven offices in the Local—Dallas, Houston, San Antonio, El Paso, Oklahoma City, Little Rock and New Orleans.

Local 2667; Local 3614

No report submitted

Planned Hearing Policy Emperils Federal EEO Enforcement

Continued from page 1

The AFGE, in part acting on information provided by the Council, contacted an array of groups including other federal sector unions, the AFL-CIO, civil rights organizations, plaintiff's attorneys, the NAACP. The AFGE sent letters to Chair Dominguez and to members of Congress, both signed by a large number of groups. In late July, this coalition of groups organized a lunch time demonstration in front of EEOC Headquarters in Washington, D.C. President Martin was one of the speakers. President Martin also responded to the Chair's All Employee Letter in which the Chair indicated that no decision had been made. President Martin pointed out that all indications from the Chair's office on this subject consistently indicated a preference to eviscerate the federal sector hearings process.

In any event, due to a lack of information from the EEOC as to the specific problem and any analysis of same, the Council also wrote a letter to the Chair opposing the elimination of the Hearing Sector and proposing the convening of a task force of stakeholders to discuss how the Hearing Sector functions and what changes to the process might be made. In addition, the Council also submitted a request for information.

In response to the Request for Information, on November 6, 2002, President Martin was able to discuss concerns of the AJs with the Chair. Concerns about the loss of jobs were reiterated, and the Chair reported that she was looking, not to end jobs, but to make a better process for the charging party, while taking full advantage of the skills and expertise of current employees. President Martin stressed the need to have staff available to respond to the task, as well as to hold agencies accountable for any role in the process which the agency plays. Allowing the AJs to fully perform the range of duties prescribed by the regulations was also suggested.

For the moment, the issue is lingering out there. The good news is that the focus of the November 12th Commissioner's meeting was on the topic of the federal sector process. Elimination, according to Chair Dominguez, is not being contemplated. Time will tell.

It is, however, premature to conclude that the danger of any attempt to eliminate the federal sector is off the Commission's radar screen.

The prompt action by the Council, AFGE and the coalition of groups can be credited with the change of focus from elimination to reform of the federal sector.

The Commission has been following a course recommended by the Council early on of initiating discussions with stakeholders as evidenced by the setting of a November 12, 2002 Commission meeting to discuss the issue. Management has now decided to take the approach that convening panels of stakeholders and obtaining input will be useful.

Following the Commission meeting, the Commission announced that it hopes to issue a notice of proposed rulemaking by early Summer with implementation of changes by the end of FY 2003. The next related event is a November 19th "town hall" style meeting moderated by EEOC Chief Operating Officer, Lenora Guarria at EEOC Headquarters.

The Council continues to monitor the Chair's activities on the issue and maintains contact with the AFGE to coordinate plans. The Council continues to contact other groups who have an interest in this issue, both internally and outside the EEOC.

The Council believes that the combined political strength of federal employees and their organizations has slowed the EEOC's efforts. But, the fight is not over. At present, the Commission remains a noose around the neck of federal employees, threatening to strangle the life and effectiveness out of their civil rights.

One lesson drawn from this episode is the validity of the cliche, "In unity there is strength". What would have been the fate of the federal sector without the presence of the union and its allies?

Micro Management Threatens Charlotte District Office Investigators

By Victoria Mackey

The Charlotte District Office has a system of micro management that seriously threatens investigators' ability to get upgraded to GS-13 when the time comes.

A GS-13 investigator has to be able to investigate independently with little or no supervision. When investigators take charges in Intake in the Charlotte office, they assess the charge as either an A, B, or C. The charge then goes to the supervisor of Intake who agrees with the investigator's assessment or changes the assessment.

The charge then goes to MERG, which is comprised of the Regional Attorney and two Enforcement Managers. They either agree with the assessment or change the assessment. Sometimes it can be up to two months from the date an investigator takes the charge in Intake until the charge is assigned to them.

Once a charge is assigned to an investigator, the investigative process begins. Each enforcement team has monthly A1 and A2 meetings where each investigator brings in all of their A1 and A2 charges to discuss. Those present at the meetings are the Regional Attorney, the assigned trial attorney, the investigator's supervisor, the investigator's enforcement manager, and sometimes the District Director.

Each and every A1 and A2 charge is discussed, even if has been assigned to the investigator for only five days. Each and every meeting, the investigator has to give the name of the Charging Party, the name of the Respondent, the charge number, the basis, issues, and a brief historical update.

During the meeting the investigator is given a time frame for completion of a processing event and told exactly what steps need to be taken whether the investigator wants or needs to know this.

One of the persons in the meeting takes notes on the computer on what the time frame is and what is to be accomplished. This is done for each and every investigator no matter how long the investigator has been working at EEOC.

The investigator with the least seniority in this office has been with EEOC for fifteen years so we are not talking about a new investigator who needs direction.

What this system does is slow down investigators because they are told to wait until the monthly A1 and A2 meetings so the charge can be discussed at that meeting rather than dealing with a question or issue as it occurs. But perhaps the most distressing part of this system is that investigators are not allowed to process charges completely on their own, asking for help only when they need it.

How is your office run? Write 216 Works.—ed.

Chicago Hosts AFGE Conference

The AFGE Leadership conference was held in Chicago, Illinois between August 17 and 22, 2002 at the Palmer House hotel. The aim of this special conference was to bring AFGE Local and Council leaders together to develop a unified vision, strategies and actions to address current issues. AFGE National President, Bobby Harnage, dubbed the conference the ". . .second most important AFGE meeting ever held.. . . The most important was the AFGE's founding convention [on August 18, 1932]."

During the course of the conference, attendees heard fiery speeches from a number of people including U.S. Representative Jan Schakowsky, Susan Schurman, President of the George Meany Center for Labor Studies, and Richard Trumka, Secretary-Treasurer of the AFL-CIO. Their presentations put into perspective the dangers being posed to the Labor Movement, workers and a variety of groups by the Bush Adminstration.

Coincident with the Leadership Conference was the 70th anniversary of the AFGE's founding convention. A birthday party was held in recognition of that hallmark. On August 21 the 650 delegates to the conference participated in a demonstration at the federal building protesting the creation of a Department of Homeland Security that deprived those federal employees of their right to be represented by a union.

The attendees spent most of their time developing a strategic plan for the AFGE and their respective Locals and Councils. The result was a'"Plan on a Page" strategy for the national organization. At the conclusion of the conference, Locals and Councils were encouraged to develop specific plans of action at their respective levels. *Get more information www.afge.org*.

New York Office Dedicated

On November 15, 2002 the New York EEOC was officially opened in a ribbon cutting ceremony attended by notables including EEOC Chair Cari Dominguez. Since the catastrophic events of September 11, when the World Trade Center, which housed the New York EEOC office, employees have been working at home or in a temporary EEOC office. The theme of the dedication will be "*New Place, New Spirit, New Beginning*" . In conjunction with the ceremony will the dedication of the Richard B. Alpert Memorial Law Library.

The membership and leadership of the National Council of EEOC Locals, No. 216 expresses its admiration of the courage of the New York District EEOC employees for carrying on in the face of these most terrible events. We congratulate all of you on your progress and dedication.

Officers of National Council Locals

Name	Position	Home Office
Local 2667		
Johnny L. Johnson	President	Headquarters
Diane Dawson	Vice President	Headquarters
David J. Butler	Chief Steward	Headquarters
Louise Thompson	Treasurer	Headquarters
Dorothy Hauze	Secretary	Headquarters
Diane Amos	Bargaining Rep	Headquarters
Gwendolyn Harling	Bargaining Rep	Headquarters
Pat Floyd	Delegate	Headquarters
Kevin Hudson	Delegate	Headquarters
Local 3230		
Gabrielle Martin	President	Denver
Graciela Bernal	1st Vice President/ Steward	Phoenix
David Skillman	2nd Vice President	San Francisco
Sandra Nakata	Secretary	Denver
Martha Mueller	Treasurer	Denver
Dorothy Bruton	Delegate/Chief Steward	Denver
Miriam Santos	Steward	Albuquerque
Deborah Kinzel	Steward	San Diego
Sertello Humphrey	Steward	Los Angeles
David Skillman	Steward	San Francisco/Oakland/ Fresno San Jose/Honolulu
Edna Oberman	Steward	Seattle
Rita Kittle	Steward	Denver
Local 3504		
Michael Davidson	President	Chicago
Jacquelyn Gandy	Vice President	Chicago
Kathy Leaver	Treasurer	Chicago
Mary Ries	Secretary	Chicago
Albert Thomas	Chief Steward	Chicago
Beverly Anderson	Steward	Cleveland
Thomas Fiertag	Steward	Cincinnati
Ruby Jones	Steward	Minneapolis
Stephanie Perkins	Steward	Detroit
Edward Vance	Steward	Indianapolis
Willola Williams	Steward	Milwaukee
Local 3555		
Ricardo Cuevas	President	New York
Kevin Berry	1st Vice President	New York
Julian Martinez	Vice President	Newark
John Thompson	Vice President	Buffalo
Linda Ingle	Vice President	Boston
	Vice President	New York
Dorothy Crump	Treasurer	New York
	Secretary	
Elaine Pinion	Chief Steward	Newark

Other offices within Local 3555 jurisdiction: San Juan, Puerto Rico

Name	Position	Home Office
Local 3599		
Zack Taylor	President	Memphis
Gloria Allen	1st Vice President	Miami
Victoria Mackey	2nd Vice President/ Steward	Charlotte
Wendall Sims	Alt. Steward	Charlotte
Janice Smith	Treasurer	Savannah
Allen Hammond	Secretary	Memphis
Ron Lyas	Regional Steward	Birmingham
Rita Sterling	Steward	Birmingham
William Hopkins	Alt. Steward	Birmingham
Clinton Smith	Steward	Atlanta
Peggy Saunders	Steward	Greensboro
Beth McGill	Steward	Greenville
Laouida Small	Steward	Jackson
Sharon Baker	Steward	Louisville
Rachel Shonfield	Steward/Delegate	Miami
Greg Hardy	Steward	Memphis
Rhonda Ellison	Steward	Nashville
Alvon Robinson	Steward	Raleigh
Beverly Collins	Steward	Tampa
Jeff Nelson	Alt. Steward	Tampa
Local 3614		
Regina Andrew	President	Baltimore
Kathleen Harmon	Vice President	Richmond
David Norken	Treasurer/Secretary	Baltimore
Cecile Quinlen	Chief Steward	Baltimore
Louis Marino	Steward	Philadelphia
Grerory Nanny	Steward	Pittsburgh

Other office within Local 3614 jurisdiction: Norfolk; Washington, D.C. field office

Local 3629		
Walt Raisner	President	St. Louis
Joe Wilson	1st Vice President	St. Louis
Sam Jamos	2nd Vice President	Kansas City, Mo.
Andrea Baran	Treasurer	Kansas City, Mo.
Terri Wilke	Chief Steward	Kansas City, Mo.
Local 3637		
Levi Morrow	President	Dallas
Edward Sanchez	Vice President/Steward	Houston
Cecil Warren	Treasurer	Dallas
Marina Guerra	Secretary	Houston
Danny Lawson	Chief Steward	Dallas
Charles House	Sgt.-at-Arms	Houston
Michelle Megerle	Steward	San Antonio
Debra Moser	Steward/Delegate	Little Rock
Ron Castine	Steward	New Orleans
Dick Valentine	Steward	Oklahoma City
Arturo Carrion	Steward	El Paso

Labor History

The Roots of Labor in the United States

Information for this article was drawn from The History of American Labor by Joseph G. Rayback, Free Press Paperback, 1959 and Toil and Trouble by Thomas R. Brooks, Delecorte Press, 1964.

Between the Colonial period and the Civil War, the American economic structure evolved and reshaped itself several times over. While there were sporadic attempts by various trades to act in concert, a "union movement" did not coalesce until about the Civil War. During the Colonial and pre-Revolutionary period in America there was a scarcity of labor ". . . in which the laborer held the whip hand."(The Hisory of American Labor, p. 15). Work was available for any who sought it and ". . .[t]he great need for the services of skilled and unskilled alike meant that their wage demands were paid with little legal complaining." (ibid, p. 15). Craftsmen, in the 1600s, were lured to America with promises of property and high wages. On the other hand, the abundance of labor in Britain, depressed the wages there. The formation of "guilds", more prevalent and legal in England and an outcome of the overabundance of workers, were few and short lived in America. Organization, when it did occur, was in the form of "mechanic societies" or "associations" by journeymen. "Strikes" by tradesmen occurred occasionally for higher fees and prices and sometimes were met and sometimes opposed by municipal governments. "Actually, spontaneous strikes preceded the formation of unions in many trades." (Toil and Trouble, p. 17). A consequence of the unsuccessful strike might be having a license revoked or the loss of a job. The Colonial governments were soon complaining of "excessive wages" being paid. "Colonial workmen commanded anywhere from 30 to 100 percent higher real wages than did contemporary English workmen. Wages exceeded the English scale by up to 100 percent for skilled workers and up to 50 percent for unskilled workmen. Irked by the 'excessive rates' charged by workmen, the Colonial governments sought to regulate wages [and prices]."(Toil and Trouble, p. 3). Mostly, regulation attempts failed and journeymen continued to command the wages they sought throughout the earliest stages of the development of America. Examples of concerted labor action included an early1600s refusal to work among bakers over price regulation; a 1636 strike over withheld wages; a "combination" in 1677 among cartmen over wages; a "combination" of Bostonian caulkers in 1741; a 1746 house carpenters strike; a 1768 New York tailors refusal to work because of a wage reduction; a strike in 1774 of New Jersey carpenters because their wages were not paid promptly; a strike in 1761 by Charleston Negro sweeps; and, in 1786 where Philadelphia printers "turned out" for a minimum wage of six dollars a week. But, organizations were short-lived. Even in such rudimentary forms, political action was early recognized as a means to an end and this lesson was not confined to labor organizations. In response, owners, as early as the 1790s, began forming associations to counter the actions and demands of workers. One tactic by employers was resort to the courts. In the early 1800s, Cordwainers (shoemakers) sought minimum wages. In response, employers went to court arguing that the actions by the Cordwainers constituted "a conspiracy in restraint of trade under common law." The courts agreed. This doctrine haunted labor organizations and acted as check on early unionism until 1842 when, in Commonwealth v. Hunt, the court set it aside.

Colonial America was a primarily agrarian society with artisans in business for themselves. It was typically a one-man, custom order business. But, labor, skilled and unskilled, remained scarce. Skilled Europeans were lured to America with promises of wages and land. This scarcity was the impetus to the development of indentured servitude. As the demand for labor multiplied, indentured labor became less skilled. "Very few convicts were sent to the American colonies in the first half of the seventeenth Century, but after 1665 the number increased steadily." The History of American Labor, p. 8. Still later the slave trade became predominant as a source of unskilled labor.

As colonial society evolved, one-man operations expanded and the master workman began to employ journeyman workers. As the country expanded and moved westward, so, too, did the market for the trades. The market for goods ceased to be local and labor became more specialized. The finished product was being broken down with more people involved with the final product. Less and less was the final product that of the single artisan or craftsman and more and more parts of that product were done by one individual with other individuals

Continued on next page

Continued from previous page
completing other parts. Artisans who formerly worked out of their homes or small shop began stocking and inventory, traveling and selling far from home. Thus, the standards of the artisan were being undermined by the new methods of manufacturing. This was the wholesale order manufacturing phase. Goods were sold in larger lots, a larger stock was maintained creating a need for increased storage space and long-term credit needed to be extended. By about 1800, merchant capitalism was in full bloom. "By 1830 the merchant-capitalist emerged as the undisputed master of workshop enterprise. . ." and ". . .became the organizer and owner of the American factory system." See The History of American Labor, p. 48. Factories became the place where work was done on a mass scale. With these changes there was a marked change in the condition of labor. Labor which had formerly reaped the benefits of its own scarcity, was becoming plentiful. The result was a deterioration of wages and working conditions.

Workers recognized, even during this early period of American history, that banding together offered a greater ability to achieve their ends whether economic or political. Because working conditions were favorable for working people in the pre and post revolutionary periods labor organizations were short-lived. The briefness of the lives of labor organizations is also attributable to fluxes in the economy. When economic hard times hit, labor organizations did not normally survive. When economic time improved, new labor organizations appeared and lasted until the next economic calamity. Not until the evolution of the American economy into a highly developing industrial system prior to the Civil War did unions become organizations with greater longevity.

The next Labor History column will present an overview of that period.

MOUs Bog Down as Offices Nit Pick

The new Collective Bargaining Agreement has now been in place since September 2, 2002. During negotiations a couple of the central articles were Article 34, Telecommuting (formerly Flexiplace) and Article 30, which included Compressed Work Schedules. The EEOC expressed support for Telecommuting. Compressed Work Schedules and Telecommuting had been options for EEOC bargaining unit employees for about six years. It was thought that the general agreement memorialized in the contract laid out the general provisions and that each office could negotiate specific terms and conditions based upon local circumstances to put Telecommuting and Compressed Work Schedules in place through Memorandums of Understandint (MOUs). In some offices, that is indeed what is happening. However, in other offices that is not the case. The sticking points vary from office to office. Several offices have failed to even reach agreement on the Ground Rules for negotiating the terms and conditions of Telecommuting and Compressed Work Schedules. So, in those offices, negotiations have not actually begun. In a number of offices, the sticking points have been whether 4-10 would be an option for employees, which titles would be eligible to participate in the Telecommuting Program, whether employees could be on a Compressed Work Schedule and, simultaneously, Telecommute and the number of days an employee could be out of the office per pay period using a combination of Telecommuting and Compressed Work Schedules.

Telecommuting MOUs, according to the contract were to be completed after 90 days of the effective date of the contract or by December 2, 2002. In the interim, the status quo remains in effect. In other words, employees who were on Flexiplace retain that schedule until Telecommuting is implemented. It is the Council's position that this status quo remains in place even where a Telecommuting MOU is not agreed upon by December 2, 2002. The Council has been discussing that issue with Headquarters.

In offices where the Local and the office Management reach an impasse third party procedures can be utilized. Ultimately, the impasse issue can be presented to the Federal Impasse Panel. However, prior to that, the services of the Federal Mediation and Conciliation Services (FMCS) must be sought. The FMCS attempts to mediate the dispute. Where that fails, the impasse issue may be presented to the Federal Impasse Panel. The Panel will decide the issue based upon information submitted by both sides.

The process of negotiating the MOUs on Telecommuting and the Compressed Work Schedules tests the EEOC's commitment to becoming a model employer for the 21st Century. Employees working on a Telecommuting schedule will require employees to diligently meet their work obligations and require supervisors to manage effectively under circumstances where employees are working out of the office. So far, the road to becoming the model employer has been bumpy as evidenced by this and other issues.

Overtime Or Compensatory Time: *The Intricacies And Practicalities*

Who is covered by which statutes or rules is often tricky. This article addresses irregular or occasional overtime. Overtime for general schedule (GS) federal government employees is recoverable under either Title 5 of the United States Code (Title 5 overtime) or under the Fair Labor Standards Act (FLSA overtime). Each provision has certain advantages and provides an overtime hourly rate of one and one-half times (150% of) the employees basic hourly rate. However, unlike Title 5 overtime, FLSA overtime is not available to all bargaining unit GS employees.

1. Title 5 Overtime

The provisions for Title 5 overtime are found at 5 USC§ 5541 and following. While all employees are covered by Title 5, typically, since attorneys and higher graded bargaining unit employees are typically classified as exempt from FLSA provision, these employees are covered only by Title 5 overtime provisions. Title 5 overtime has two principle disadvantages to overtime under the FLSA. Overtime pay under Title 5 can be paid up to the GS-10, Step 10 rate. 5 U.S.C.§5542(a)(2). The result of the "cap" is that persons paid at or over GS-10, Step 1 typically are paid at an overtime hourly rate which is paid the same as straight time. The second major obstacle is that Title 5 overtime typically must be approved in advance. Neither the "cap" nor the need for explicit advance overtime authorization is applicable to FLSA overtime.

2. Fair Labor Standards Act Overtime

The Fair Labor Standards Act of 1938 ("FLSA"), is found at 29 U.S.C.§201 and following. The act sets forth the requirements for, among other things, overtime pay for covered employees. Most bargaining unit employees, other than attorneys and, are covered by the FLSA The right to FLSA overtime is independent of the collective-bargaining process (except in the flex-time area) and FLSA overtime may not be waived and cannot be abridged by contract..

It is important to note that the FLSA is based on a seven (7) day work-week and not in terms of the federal government two week (bi-weekly) pay period. The first 80 hours under the government bi0weekly pay period will not be subject to FLSA overtime. It is important to note that under a flexible or compressed work schedule, overtime hours must be approved in advance. 5 USC§6121(6).

3. Compensatory time

Provisions of both the FLSA and Title 5 at 5 U.S.C.§6123(a)(1) allow an employee to elect, (with the approval of the Agency) compensatory ("comp.") time in lieu of overtime. The employer cannot legally force an employee to take compensatory time in lieu of FLSA mandated overtime**.** But, overtime paid, will be paid at strait time, once the wages exceed the GS 10, Step 1.

Mandatory compensatory time off is limited to FLSA-exempt employees (who are not prevailing rate employees) whose rate of basic pay is greater than the rate for GS-10, step 10. (See 5 CFR§550.114(c).) This is so because the employer cannot pay overtime wages of more than the salary for GS 10, Step 10, 5 USC§5543(a) 2). In that case, an agency head may designate that employees earning overtime shall be granted compensatory time off from his scheduled tour of duty in an amount equal to the time spent in irregular or occasional overtime work instead of being paid for that work under 5 USC§ 5542. EEOC has made this designation. So, for attorneys and higher graded non-attorneys not covered by the FLSA, compensatory time shall be provided for overtime work.

4. Suffered or permitted overtime

A principle advantage of FLSA overtime as compared to Title 5 overtime is that typically under the specific language of the FLSA, an Agency must pay for all Agency work that it either ordered or that it "suffered or permitted" employees to work. Thus, if employees come into the office early, work late, work weekends, or work through lunch, the Agency is obligated to pay for this time, providing all of the work time adds up to more than 40 hours in a week (80 hours in the bi-weekly pay period). Advance authorization to work overtime is not required. The only requirement is that the Agency had knowledge that the overtime was being worked and that the work is being done for the benefit of the Agency. The crux of the issue is that management has a duty to exercise its control and see that the work is not performed if it does not want it to be performed. It cannot sit back and accept the benefits without compensating for them.

An employer who knows or should have known through the exercise of reasonable diligence that an employee is working overtime must comply with the FLSA requirements. Constructive knowledge may be found due to knowledge and acts of employees' immediate supervisors in accepting work. Constructive knowledge may also be established through proof of a pattern or practice of overtime work.

No Work Rules

An employer cannot take shelter in an instruction to employees not to work overtime knowing the employee actually works more. Even where an employer has not specifically ordered an employee to work, an employee must be compensated for time spent working on the employer's behalf if the employer accepts the benefits of such work and does not act to stop performance of the

Continued on next page

Continued from previous page

work it does not want performed, regardless of whether the employee demands overtime compensation. The mere promulgation of a policy or instructions not to work overtime, standing alone, does not establish that the employer did not suffer or permit the work where the nature of the work required overtime or the employer pressured the employees to work overtime.

In a recent case, the United States Court of Federal Claims ruled that Title 5 attorneys are entitled to overtime compensation when the employer advised employees that overtime work would be required, and urged, but did not request overtime work.

5. Travel Issues

Often, employees are required to travel, either after hours or on a non-work day. Overtime rules will apply in certain cases. For Title 5 purposes, time in travel status away from the official duty station of an employee during work hours generally is deemed employment, and thus compensable, especially when the agency could control the hours. This includes travel by an employee to such an event and the return of the employee to his or her official-duty station.

For FLSA employees, time spent while working on travel must be compensated. An employee who travels from home before the regular workday begins and returns home at the end of the workday is engaged in normal "home to work" travel; such travel is not hours of work.

Another travel issue relates to the mode of travel. An employee who is offered one mode of transportation, and who is permitted to use an alternative mode of transportation, or an employee who travels at a time other than that selected by the agency, shall be credited with the lesser of: (1) The actual travel time which is hours of work under this section; or (2) The estimated travel time which would have been considered hours of work under this section had the employee used the mode of transportation offered by the agency, or traveled at the time selected by the agency.

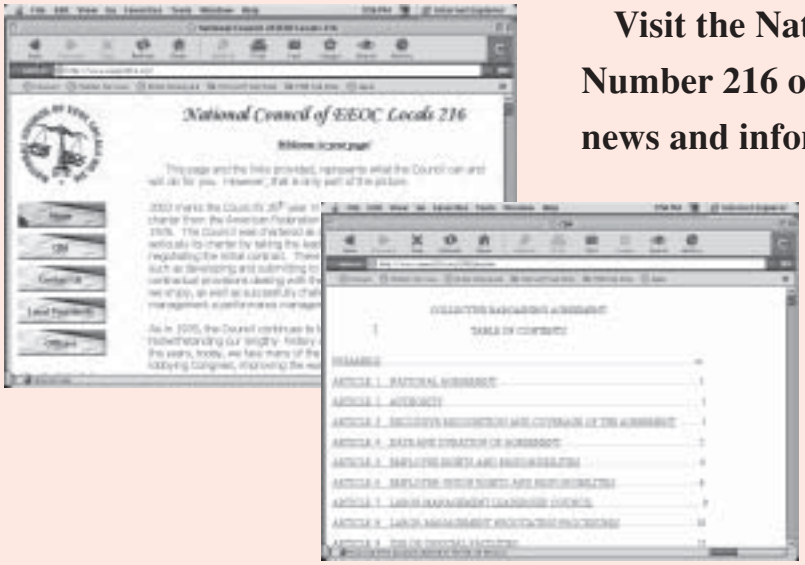
Conclusion

Overtime is an issue which impacts many of us in various ways. Depending on your FLSA status, the schedule you work and whether travel is involved, different rules will apply. As additional information becomes available, we will keep you notified.. If the mean time, if you have questions, please contact your union steward or local president.

Resources:

5 USC 5541, et. seq.
29 USC 201, et.seq.
5 CFR Parts 410 and 530
Doe v. United States, No. 98-896C
OPM Wesite: Overtime Article
Federal Travel Regulations
AFGE Manual on Overtime

The National Council is Now On the Web



Visit the National Council of EEOC Locals, Number 216 on the web at www.council216.org for news and information from your union. On the website you will find a copy of the Collective Bargaining Agreement, the list of officers, and local president's names, addresses and phone numbers.

Check back frequently for new additions to the site.

Go to the "In" Site, Get the FAQs

By Kathleen (Kathy) Harmon

As anyone and everyone working at the EEOC should know by now, the new CBA went into effect September 2, 2002. Every effort is being taken to make this contract a "household" resource for bargaining unit employees, Management and Union representatives, alike.

Initially the new CBA was posted on the EEOC **"INSITE"** after the signing in June. In September, bright fuchsia-covered copies were delivered to all bargaining unit employees. Copies will be given to all incoming EEOC bargaining unit employees during new employee orientation.

Now you can get the FAQs. Under what circumstance may an employee depart from his or her work station without the permission of his or her supervisor because of safety or health concerns? What if I prefer to use my private vehicle rather than the government car for official travel? May an employee be removed or reduced in grade for unacceptable performance without first being given an opportunity to improve (the PIP period)? Why was the Step 2 Official for the legal unit changed under the grievance procedures? These are among many questions answered in our FAQs supplement to the CBA. Some of the answers have direct links to other sources. If you have not checked the FAQs out, go to **"INSITE,"** then to either **HOT ITEMS** or **Administration**, then to **Human Resources**. Under **National Council of EEOC Locals, No. 216 and EEOC Collective Bargaining Agreement** you will find **Frequently Asked Questions (FAQs)**.

The **FAQs** will be periodically supplemented as we receive additional questions. You can keep questions coming to me via e-mail.

"The FAQs and just the FAQs Ma'am" (for us Dragnet fans) is not the name of this show, so we'll tell you more next issue.

Investigator Classification Standard

The OPM announced that it will not finalize the 1800 Investigator Series classification standard until after the first of the year.

This means investigators have additional time to prepare. If a meeting is scheduled with your supervisor/manager/director, go prepared with an update and plan for your cases. If you assess a charge at intake, make sure your justification is sufficiently detailed. Then, management is approving your work, rather than assigning all the details of your work. Yes, it takes work to organize and prepare, but that work is what we can rely on to demonstrate that we work independently. To the extent that we can nudge OPM to complete its work, we are doing so. Keep your eyes on the Federal Register and OPM's website for news and updates.

Happy Holidays from the National Council of EEOC Locals, Number 216

National Council of EEOC Locals 216
AFGE/AFL-CIO
80 F Street
Washington, DC 20001