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Inside The Fishbowl

Official Newsletter of NTEU 280

JUNE 2003 Volume 19, Number 5

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USE YOUR COMP TIME NOW, BEFORE IT DISAPPEARS

EPA headquarters employees with earned compensatory time off ("comp time") are urged to use it as soon as possible, in lieu of other forms of annual leave or sick leave. A "double whammy" is imminent.

Whammy Number One will affect everybody. When the Agency converts its payroll system from EPAYS to the new PeoplePlus system, around the start of the new fiscal year, which begins October 1, comp-time balances will not be carried forward into the new system. Use 'em or lose 'em before September 30.

Whammy Number Two may affect fewer people, but is more immediate. Those people are ones with a current comp time balance in excess of 80 hours. Agency policy calls for conversion of Compensatory Time Balances of more than 80 hours to Paid Overtime in pay period 03-21, which ends on July 12. That will leave the folks just referred to with a comp time balance of 80 hours from then until September 30, which is the end of the fiscal year and the use-or-lose deadline for comp time.

But, regarding conversion of the comp time in excess of 80 hours to paid overtime, guess what -- not all jobs are eligible for overtime pay. So, if your comp-time hours are converted to overtime pay that you're not entitled to collect, it looks like you lose. But thanks for your good work. Enjoy the feeling of satisfaction from knowing that you've made important contributions to human and environmental well-being.

CHAPTER 280 OFFICERS SET TO START ON JULY 1

One and only one candidate accepted nomination for each of the 11 elected offices of Chapter 280 this year, so each stands elected without opposition to a three-year term of office that begins on July 1, making the usual process of balloting by mail and in person unnecessary. Becky Jones did her usual superb job as chair of the election committee, assisted by Pat Hilgard, Cindy Wheeler, and Jack Kooyoomjian. The local constitution bars the Chapter 280 President from serving consecutive terms, creating a vacancy which will be filled by the very experienced Dwight Welch. Dwight has served several terms as President of NFFE Local 2050 and NTEU Chapter 280. Jim (James J.) Murphy will serve next as Executive Vice-President.

Most of the incumbents will remain on the Executive Board in the same offices. Attorney Rosezella Canty-Letsome will return as Chief Steward, a full-time position. The Senior Vice-President is elected in July by the 11-person Executive Board, and is expected again to be John William (Bill) Hirzy. Bernie Schneider repeats as Treasurer, and Jacqueline Rose, as Secretary.

Linda Barr and Arthur Chiu and Freshteh Toghrol return as Vice-Presidents. Al Galli will replace Richard Nalesnik, who declined nomination for Vice-President to focus on a fellowship with the Council for Excellence in Government. Newsletter Editor Seth Low was appointed by outgoing President Jim Murphy to replace Vice-President Bill Garetz, who retired. This

appointment was confirmed by the Executive Board. President-elect Dwight Welch is expected to invite Seth to continue to serve as both Editor and Vice-President. Dwight has new ideas, soon to be announced, for expanding the editorial board of *Inside the Fishbowl*.

As this went to press, plans were being developed for a luncheon to recognize the new officers and formally initiate their new term of office.

CHAPTER 280 MEMBERSHIP MEETING HELD ON JUNE 11

Jim Murphy called the meeting to order, after a telephone hookup was established for members who could not be present in person. The meeting was turned over to Election Chair Becky Jones, who described this year's nomination process and reported that balloting would not be necessary, because there was one and only one nominee for each office [and write-in votes are not and have never been recognized under our local constitution].

The membership discussed and set aside earlier guidance from the Executive Board to pass up this year's national convention and to send votes for national officers by proxy, in order to minimize Chapter expenses. The membership authorized limited expenditures for one officer to attend the convention this year, chiefly because of concerns about the effects of contracting-out federal jobs. Dwight Welch volunteered to be our representative and will carry our votes. The other eligible officers declined to attend and executed waivers. In NTEU, the President and Vice-Presidents are eligible to be *ex-officio* delegates to a national convention.

FROM THE CHAPTER PRESIDENT

Hail and farewell. These are my valedictory remarks as President of Chapter 280. I will continue to contribute to the newsletter, but next month I will be Executive Vice-President. Our local constitution bars the President from serving consecutive terms, and our Chapter membership has affirmed this principle on more than one occasion.

Again, I salute my fellow officers and stewards with warmth, gratitude and admiration. I urge members of our bargaining unit (attorneys, auditors, economists, engineers, industrial hygienists, operations-research analysts, and scientists) to join hands, hearts and minds with us. Don't wait to "let George do it." George may not be here. His job may have been "competitively sourced" out of here. We're on the same team, and the American people need your contributions. Your Chapter has been influential with puny numbers. The challenge is far greater now. Puny numbers may not suffice. Each of our members should invite a colleague to join with us. Numbers enhance our arguments.

As I may have mentioned, I have worked on both sides of the table in contract research. I was with Stanford Research Institute and a couple of other "Beltway bandits" before coming to EPA. I can offer these opinions with confidence. Contracting-out will not save money for the government or the taxpayers, because the contractor will bill more than the direct labor cost. When I was with SRI, I had a private office (with a door) and a window looking out over the Potomac, and nobody wanted me to do my own typing. Contracting-out will not save time either, because the contractors will assign "Joe the New Guy," who is at a low step on the pay scale, and

Joe doesn't know what's important and what's nonsense, and the cost in time and money and government effort in the re-work involved in helping Joe find out will be tremendous.

Then there is a cost in loss of institutional memory. People in contract research are nomads, following contracts from agency to agency. When they move on, they leave a vacuum in experience. Experienced government professionals don't need to reinvent the wheel every year. If the physical threats to this country become more tangible, we won't have time to reinvent the wheel. We'll need to know what's what and hit the ground running. The country can't afford the luxury of believing stereotypes of unproductive government employees, and needs to give credit honestly where credit is due.

FROM THE INCOMING PRESIDENT

My Agenda for the Upcoming Term

by Dwight Welch, President-Elect

In last month's issue, I outlined some of my plans for the upcoming term. This is to flesh out previous items as well as adding new ones.

Fighting Contracting Out

The number one priority for all Federal Unions is to oppose the usurpation of the Civil Service. We should all be proud that our national union, the National Treasury Employees Union has filed a law suit opposing the illegality of what OMB defines as "inherently governmental". (See related articles.) We must keep the issue in the public's face at any and every forum available. In talking with some of the AFGE Local 3331 leadership (Selwyn Cox, Theresa Fleming-Blue, Gretchen Helm), we have tentative plans for more rallies and press conferences as the year progresses.

See the issue of *The Progressive* magazine that comes out in mid-July for comments on contracting out by our union's Senior Vice-President Bill Hirzy.

Union Partnerships

As I indicated in the last issue of INSIDE THE FISHBOWL, NTEU Chapter 280 has a thriving partnership with all but one of its fellow Unions, that exception being AFGE Local 3331. Last month I informed you that I had written to the AFGE 3331 President and would inform you of her response. I got no response so I sent a reminder, asking her to restart the joint AFGE 3331/NTEU 280 meetings. In the face of losing half our jobs, such inter-Union cooperation is vital. Below I President Petty's response, unedited:

From: Eyvone Petty-Callier on 06/19/2003 03:45 PM

To: Dwight Welch/DC/USEPA/US@EPA

cc:

Subject: Re: Restarting AFGE 3331/NTEU 280 Joint Meetings

I am not interesting in meeting with you.

Fortunately, I did get some responses from other AFGE Local 3331 Executive Board members, as well as some activist members, expressing an interest in working together to fight this threat to our employment, this threat to honest government, with or without the cooperation of the 3331 President. I will keep you posted.

Reviving an EPA HQ Labor-Management Council

We used to call this the EPA Headquarters Partnership Council, however the "P" word is taboo in an administration where Civil Servants are regarded as "human capital," a concept by another name which lost favor in the 1860s. Assistant Administrator Morris Winn, however, seems to be more progressive than other Administration appointees, or at least he talks that way. I intend to suggest to Mr. Winn, reviving the concept of a regular HQ-wide meeting between the AA-ships and both of EPA's Headquarters Unions.

More Membership Involvement - New Editorial Board

I intend to encourage more membership involvement at every level of Union activity. To this end, the previous Executive Board came up with a terrific idea to get us started. They decided that the editorial board of this newsletter would no longer consist of Executive Board members, but rather be composed of regular members. This would not only encourage more union democracy, but would help the newsletter focus on what is most interesting to the average member. The officers, myself included, sometimes get caught up in the minutia of labor relations, and issues we sometimes talk about are not necessarily items of interest to the average employee. While the editor would continue to do most of the editing, the members will determine which articles stay and which go.

I have suggested to the Executive Board a trial basis for this idea. The terms of the Editorial Board members would be limited to 6 months to a year. This would give us flexibility should the board or individual Editorial Board members not work out. (Non-participation, etc.) I have put out a number of invitations, trying to balance scientists/engineers with attorneys and also trying to balance those who like to push the envelope with those of a more conservative bent. I would envision about 6 members of this board. My appointments will, of course, be subject to Executive Board approval. Here are the four accepting so far:

Mario Salazar - Engineer and also an active member of the Hispanic Advisory Council

Richard Emory - Attorney, successful whistle-blower, former Executive Board member

Bill Evans - Scientist, current steward in the Office of Pesticide Programs

Seth Low - Attorney, Vice President, current Editor

With two more openings available, if you are interested please e-mail me or give me a call at 202-566-2787. I would especially appreciate the addition of some who could represent the point of view of African-American and Asian-American employees, as well as some female input.

Meeting with New Administrator, Assistant Administrators

I intend to try hard to arrange a meeting between the new Administrator, whoever he or she may be, and our Executive Board. In the past we have been brushed off by the previous two Administrators and their elitist attitudes. Both Administrators granted our Union only one token meeting each. Twenty minutes with Carol Browner and an hour with Christie Whitman. Both Administrators were expecting a get acquainted meeting, but then felt somewhat intimidated by strong presentations of issues of concern, such as scientific integrity. This cannot happen with the coming Administrator. The previous Administrators also brushed off other non-Union groups such as BIG, HAC, GLOBE, APAC, etc. Any Administrator worth their salt MUST be in touch with the concerns and needs of the employees; this can only be done by directly communicating with them.

Extensive Interaction with EPA "Minority" Groups

This is something I have discussed extensively with the AFGE Local 3331 Vice President for Civil Rights, Selwyn Cox. If extensive job cuts come, we all know who will be most vulnerable. The various civil rights groups on campus need to become as involved in fighting contracting out the Civil Service as the Unions are. I have already floated tentative proposals of group action to the leadership of EPA VARD, BIG, HAC, and GLOBE with enthusiastic responses.

Increase Membership

Last, but not least, we must all work to increase membership in the Unions. Both NTEU and AFGE Nationals have engaged in extensive efforts to fight the destruction of the Civil Service by this administration. These efforts, such as law-suits, rallies, and press conferences cost money. Non-members should be informed that the free ride is over; it will be too late to join after your job has been contracted out.

EDITORIAL COMMENT ON EPA'S STATE OF THE ENVIRONMENT REPORT- - by Bill Hirzy

The *New York Times* published an article by Andre Revkin and Katharine Seelye on June 19 that lambasted a draft report on the state of the environment that EPA planned to publish the week of June 23. The *Times* article said that the report was commissioned in 2001 by Administrator Whitman to give a comprehensive picture of what is known about environmental problems, where data gaps exist, and what the implications are for human health and the environment of those problems.

The *Times* reported that when the draft went to the White House for review, it was returned with a long section describing risks from rising global temperatures whittled down to a few noncommittal paragraphs. Reference to studies linking rising temperatures to greenhouse gas emissions from stationary and mobile sources was stricken from the report by the White House, along with reference to the 1999 study showing temperatures over the past decade had risen sharply in comparison with the last 1000 years. Reference to the latter study was replaced with one to an American Petroleum Institute report questioning global warming.

According to the *Times* article, Administrator Whitman commented that, "...rather than go out with something half-baked or not put out the whole report, we felt it was important for us to get this out....there is a lot of really good information that people can use to measure our success." The *Times* said that internal memoranda among staff said the section on climate, "no longer accurately represents scientific consensus on climate change," and "EPA will take responsibility and severe criticism from the science and environmental communities for poorly representing the science."

These two sets of comments exemplify the difference between the professional Civil Service and those in the administration who care little about public service or scientific integrity. Ms. Whitman remains the loyalist to the bitter end, defending the moral bankruptcy at 1600 Pennsylvania Avenue, while the Civil Service fights to get the truth into the hands of the American people despite the corruption of its current political leaders.

For those us who lived through the years of Ann Gorsuch, Rita Lavelle, James Watt and that whole crew, this is all too familiar. Environmental protection by NewSpeak - clear-cut forests to save them, Clear Skies by pole-axing new source performance standards, and now hear no evil, see no evil, speak no evil about green house gas impacts on climate.

If the administration gets its way though, those pesky Civil Service employees will be out the door in a few years, replaced by contractors who will not have the temerity to write memos like those cited above nor the inclination or courage to get the word out to the *New York Times*

when outrages like this happen again - and again and again.

Unite and Resist!

NTEU SUIT ASKS FEDERAL COURT TO DECLARE OMB A-76 CONTRACTING REVISIONS ILLEGAL

The National Treasury Employees Union (NTEU) in June 2003 filed a lawsuit in federal court alleging that major revisions in the rules covering the contracting of government work to the private sector set forth by the Office of Management and Budget (OMB) are illegal. The revisions make it easier for the president to carry out his agenda of shifting vast amounts of

work from federal employees to the private sector. More than 850,000 federal jobs are at stake.

NTEU President Colleen M. Kelley said that OMB "has illegally trumped Congress" on the sensitive issue of determining whether a function is "so intimately related to the public interest as to require performance by federal government employees."

The union is asking the U.S. District Court for the District of Columbia to declare illegal recent OMB revisions to a document known as Circular A-76. The revisions became effective May 29. The document sets out mandatory instructions to federal agencies for determining whether particular activities should be performed by federal workers or contracted to the private sector.

The suit says the A-76 revisions require federal agencies to apply "a substantially narrower definition" of inherently governmental functions than is now contained in federal law. Under the Federal Activities Inventory Reform (FAIR) Act of 1998, activities that are "inherently governmental" may only be performed by federal employees, while those activities designated as "commercial" may be contracted to the private sector.

The FAIR Act, the suit says, requires the exercise of "discretion" for a function to be deemed inherently governmental. The revised Circular A-76, on the other hand, rules out as inherently governmental all functions that do not require the exercise of "substantial" discretion--a significant difference in language.

Moreover, functions involving the collection, control or disbursement of federal funds, which have routinely been deemed inherently governmental under the FAIR Act, may obtain that designation under the new circular only if they include the authority "to establish policies and procedures."

This, President Kelley said, would have a substantial adverse impact on large numbers of federal employees, including thousands of NTEU-represented employees at the Internal Revenue Service who are engaged in the collection, control or disbursement of appropriated or other federal funds, even though they may not be responsible for "establishing policies or procedures."

In conjunction with narrowing the inherently government functions definition, OMB also has restricted a union's ability to challenge improper agency designations of functions as "commercial." This, too, runs afoul of the FAIR Act.

"Ensuring that inherently governmental functions are performed by federal employees only," President Kelley said, "is firmly rooted in sound government policies, such as ensuring that confidential taxpayer information is safeguarded and that the government maintains needed expertise at all times."

The suit seeks OMB's withdrawal of the revised A-76 provisions, a court declaration that any executive branch reliance on it is improper and illegal, and an order that the language of Circular A-76 in effect prior to May 29 remain in effect.

As the largest independent federal union, NTEU represents more than 150,000 employees in 29 agencies and departments, including more than 97,000 in the IRS.