

NTEU CHAPTER 280 - U.S. ENVIRONMENTAL PROTECTION AGENCY, NATIONAL
HEADQUARTERS
BEN FRANKLIN STATION, BOX 7672, WASHINGTON D.C. 20044 - PHONE 202-566-2789
INTERNET <http://www.nteu280.org> E MAIL Al-Mudallal.Amer@epa.gov

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Inside The Fishbowl

Official Newsletter of NTEU 280

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PRESIDENT Dwight Welch 566-2787

EXECUTIVE VICE PRESIDENT Dr. James J. Murphy 566-2786

SENIOR VICE PRESIDENT Seth Thomas Low 566-2789

CHIEF STEWARD Rosezella Canty-Letsome 566-2784

VICE PRESIDENTS Linda Barr (703) 605-0768

Dr. Arthur Chiu, M.D. 564-3296

Al Galli 343-9771

Dr. Bill Hirzy 566-2788

Dr. Freshteh Toghrol (410) 305-2755

SECRETARY Jacqueline Rose 566-1232

TREASURER Dr. Bernard Schneider (703) 305-5555

EDITOR Seth Thomas Low 566-2789

MAIN UNION NUMBER (202) 566-2785

UNION FAX NUMBER (202) 566-1460

NTEU Chapter 280 Website: www.nteu280.org

NTEU National Website: www.nteu.org

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Agency Requirements For Details within EPA - Possible Conflicting Office Policies and Practices

The Agency-wide requirements for details is governed by HR Policy Bulletin 300-14 and can be found on EPA's intranet site at <http://intranet.epa.gov/policy/staffing/M300-14.htm> In addition to that HR detail policy, Article 13 of NTEU's Collective Bargaining Agreement (CBA) also addresses details. **(A copy of Article 13 is attached to the end of this edition of *Inside the Fishbowl*.)**

However, it has come to our attention that at least one AAship claims to have its own detail policy or practice which places additional requirements on details not found in either HR Policy Bulletin 300-14 or Article 13. In that AAship, extensions to existing details allegedly must be advertized. In other words, if the end date of an existing detail is to be extended by a week, or two weeks, or some other time frame, that extension must be advertized. What such extension advertizement would actual say we are not sure as that AAship has not provided to NTEU any copies of their past detail extension advertisements. So we do not know if the advertizement just notifies staff of the intended extension, or notifies and asks for their comments, or notifies that staff can apply and be selected to serve for the extension period.

Because NTEU Chapter 280 is concerned that other EPA offices may have their own detail policies or practices which violate HR Policy Bulletin 300-14 - Details Within EPA - and/or Article 13 of NTEU's CBA, we request your help to ferret out these other detail practices and policies. If your office or AAship has some other detail practice or policy, please let NTEU know about it and, if possible, provide a copy to us. Responses to this request should be sent by e-mail to our editor, Seth Low.

Suggestions For This Year's Combined Federal Campaign

This year's Combined Federal Campaign (CFC) begins in the first week of October and runs until November 16, 2004. Whether you contribute to the CFC is up to you. The staff of *Inside the Fishbowl* would like to remind you of some organizations under the CFC umbrella that have been helpful to our colleagues in past years. We do not know if or when we may need them, but it's good to know that they are there. As with NTEU, the stronger they are, the better protected federal workers are.

Federal Employee Education and Assistance Fund (number 1234)

FEEA has done outstanding service for federal employees ever since the National Treasury Employees Union helped to get it started. NTEU members can take pride in all that FEEA has done. FEEA runs a scholarship program for federal employees and their families that gives very substantial recognition to outstanding scholars in college and graduate school. When the federal building in Oklahoma City was bombed, FEEA was there for shelter and solace. On 9/11, FEEA was on the scene in New York. After hurricanes and tornados, when federal employees are affected, FEEA is there.

Public Employees for Environmental Responsibility (number 2370)

"Tree-huggers" take note: PEER was started by employees of the Forest Service. We first met them at the conference on Protecting Integrity and Ethics in government that was convened at Georgetown University during President Reagan's administration. PEER's office is in DC and they will turn out to give seminars and to assist in informational picketing with us, such as in support of the NO FEAR legislation.

Government Accountability Project (number 0861)

Before we joined NTEU (which is sometimes described as a Washington law firm masquerading as a labor union), it was good to have the attorneys at GAP to turn to for counsel. They were regular visitors to our union office. They shared our distaste for fraud, waste and abuse. GAP is in the front ranks of those who encourage and protect whistle-blowers.

Fulminations on Language

On the last day of Fiscal Year 2004, an electronic message was circulated telling us that a mariachi band would perform at lunch time in the EPA cafeteria, and that "The EPA Cafeteria will feature Latin cuisine on it's lunch menu."

What really got my attention was the spelling of "it's," as in "on it's lunch menu." The apostrophe is not needed or wanted. "It's" means "it is" or "it has," not "belonging to it." "Its" means "of it or belonging to it." The apostrophe is no more needed to indicate possession than it would be to spell "his" as "hi's."

Another related matter is the proper but inconsistent use of the possessive case with gerunds (-ing nouns). One should say, "...to ensure his being available," but often one hears, "...to ensure him being available." Close, but no cigar.

Another rule that is often ignored is the one that says the objective case should be used with prepositions, especially if more than one person is being mentioned in the same sentence. If the two people are kept in separate sentences, there is a reasonable chance of getting it right. "Send it to Mary. Send it to me." But if they are under the same roof (or sentence), it's almost guaranteed to get screwed up, as in "Send it to Mary and I." To me, with me, for me, by me. NOT to I, with I, for I, by I.

A "rule" that I ignore myself is the one about not ending a sentence with a preposition. My old grandfather used to say that "a preposition is a poor word to end a sentence with," thus managing to torpedo his own rule. And, too, there is Winston Churchill's famous response to an officious editor: "This is arrant [or errant] nonsense, up with which I will not put!"

FROM THE PRESIDENT

Dwight Welch

Buy-Outs/Early Outs for GS-13s/GS-12s?

While it is too late for Buy-Outs for GS-13s and lower for this fiscal year (beginning Oct 2004), Buy-Outs may well be possible for FY 2006 (beginning Oct. 2005). Management, in its discussions with EPA's Unions has indicated a strong inclination to consider buy-outs/early outs for GS-13s/12s. The problem is that there are EPA nation-wide some 6,000 plus GS-13s who are eligible for such a program, and such a loss, if everyone were to take advantage of that program, could have catastrophic consequences on the EPA workforce. A somewhat less dire outcome might feature significant losses of GS-13s and GS-12s sufficient to create shortages in critical

professional categories. Often referred to as the "brain-drain," a shortfall in critical skills is a problem senior EPA management wishes to avoid.

What I have suggested for FY 2006 is an assessment of our future workforce needs by management combined with an assessment of the level of interest in buy-outs/early outs to be conducted by the Unions. To the latter end, I have sent a draft of a survey to the leaders of EPA's other Unions. Preliminarily, they liked the survey, and suggest that it be sent to all bargaining unit employees across the Agency. With this information in hand, the Unions will be in a better position to bargain for buy-outs for a wider range of employees.

If you are seeking to escape the bondage of Human Capitalism to become a retired fed, you may wish to adjust your future plans accordingly.

NTEU 280 to Meet on Union's Crystal City Consolidation Bargaining Proposal

With a response to NTEU 280's bargaining proposal overdue, Rich Lemley and David Lloyd have agreed to meet with us to see what issues can be ironed out in a partnership fashion. Included in NTEU 280's statement of interest are: adequate parking, adequate transportation to and from the subway, that those now in offices will be in offices in the new building, and various family/employee friendly accommodations similar to the Federal Triangle space including, exercise facilities, lactation rooms, day care, etc.

Headquarters Partnership Council - Brief But Productive Meeting

While scheduled for three hours, HQ Union leaders and managers used barely an hour of the allotted time. By unanimous vote, the Office of Civil Rights will now be invited to the meetings as an advisor to the Council. A work group was convened to modify the Generic Move Agreement to cover the backfill of offices vacated by parting employees. The committee met before the HPC meeting but could not come to any recommendations as AFGE 3331 and OECA representatives were absent. However, the Council unanimously agreed that ANY moves NOT covered by the Generic Move Agreement, had to be bargained in the traditional manner. This was due to some managers attempting end runs around the process by moving only an individual or two at a time. These moves have to be submitted to the Unions for bargaining. A second meeting of the Backfill Committee was scheduled.

The Backfill Committee met the following Tuesday, but while this time AFGE 3331 and OECA representatives were present, the AFGE 3331 President, without explanation, has rejected the committee's recommendations. The committee proposed the following addition to the Generic Move Agreement:

1. Retain the existing Generic Move Agreement
2. Retitle the existing Generic Move Agreement as "Generic Move/Backfill Policy Agreement"

3. Add the following backfill language as an addendum or addition to the current Generic Move Agreement --

"To fill spaces vacated by bargaining unit employees leaving the organization, the same criteria (i.e., [1] grade plus years-of-service, or [2] grade then time-in-service as a tiebreaker) will be used that was used in the most recent major move, reorganization, or relocation."

The added language would make the filling of office vacancies consistent with whatever method had been decided upon in major moves by the employees of each organization.

ORD Partnership Council Signs Charter

At the last meeting of the ORD Partnership Council, both ORD management and the Unions representing ORD HQ and ORD labs signed an ORD Partnership Council Charter. Putting in a guest appearance at the meeting was OARM Assistant Administrator Designate Luis Luna.

Maxitour Agreement Close to Signing

Previously we reported that due to a 1945 law requiring the payment of a 10% night differential to those employees working before or beyond 6 AM to 6 PM, employees with schedules beyond these hours were being forced to change their schedules. Due to technicalities I still don't quite understand, Compressed Work Week (CWW) is NOT considered Flexitime. The Flexitime law allowed for the superceding of the night differential, but since CWW is not flexitime, this law did not apply. In negotiations with OHR, a temporary fix will be put in place. Those currently working beyond the 6 to 6 schedule will be able to convert to "Maxitour." This will allow such employees to continue working schedules such as 9:30 to 7:00 or 5:00 to 2:30, etc., until a final Maxiflex Agreement is negotiated by NTEU 280 and AFGE 3331. One down-side to the interim agreement is that holidays will only count for 8 hours, whereas previously, if the holiday fell on a 9 hour day, you got the full 9 hours.

This Union is hoping to negotiate a Maxiflex system, which would allow employees to custom design their schedules and would include the use of credit hours.

Former EPA Employees Honored at Whistle-Blower Recognition Awards

In a ceremony presided over by former DC Congressman Walter Fauntroy and EPA's Dr. Marsha Coleman-Adebayo, and attended/endorsed by Congressional members Sheila Jackson Lee and John Conyers. Former EPA Employees/whistle-blowers honored were Carin Memmer, the subject of my previous *Inside the Fishbowl* article "Blind Injustice" and Robert Martin, who among other things blew the whistle on the environmental effects of the World Trade Center collapse.

Ms. Memmer, as you may remember was allegedly fired after requesting accommodation for her vision disability (legally blind). Ms. Memmer since has been active as an advocate for the

disabled. At the press conference I introduced Ms. Memmer. Ms. Memmer demonstrated her specially built glasses, which she had designed and built with her own money. These glasses enable Ms. Memmer to read manuscripts, but are not effective when used with a ordinary computer monitor. The accommodation she would need is software which magnifies text and/or a monitor that fits down into the desk so that she can use her reading glasses to read it without straining her neck.

Mr. Robert Martin took on previous Administrator Christine Whitman. Mr. Martin exposed both alleged financial conflicts of interest connected with Whitman's husband, and that EPA was allegedly covering up the danger created by a burning World Trade Center. EPA's public statements played down the danger of asbestos and numerous carcinogens being emitted from the site. Indeed, since that time, many emergency workers now have chronic lung problems and over a dozen of the search and rescue dogs have died of cancer. Mr. Martin was forced by Whitman to change his position as Ombudsman of OSWER to work for the Inspector General's office. The Agency refused to bargain with the Union over this change in working conditions (Mr. Martin is an attorney) claiming Mr. Martin was a manager (even though he supervised no one) and that changes in working conditions proposed by the Administrator did not have to be bargained over the impact and implementation. It may be noted that for an EPA Inspector General, Ms. Tinsley has been more outspoken than previous EPA OIGs, and, I believe, is a definite improvement over the previous IG, John Martin (no relation).

Mr. Martin was to be introduced by our friends at the Government Accountability Project, however, he was unable to make the meeting.

For further information contact the NO-FEAR Institute.

Management +/-

Managers Plus

Karen Higginbotham and Gordon Schisler again merit positive note. At our last meeting with the Office of Civil Rights (OCR), we agreed to meet on a quarterly basis. Not waiting for the Union to propose a date, OCR contacted us. At this second meeting, Ms. Higginbotham indicated that the procedures for disciplinary actions to be taken against discriminating managers is in final review and will be shared with the Union for review and comment. Ms. Higginbotham also reinforced her past position of welcoming the Unions into the process of settling EEO Complaints.

Rafael DeLeon has kept his promise to resolve the Night Pay Differential scheduling problem as noted in the article above.

Without naming names, managers plus for certain OCFO managers. They know who they are.

Managers Minus

No reports this month.

ARTICLE 13 DETAILS AND TEMPORARY PROMOTIONS

Section 1. Definition

A. A detail is the temporary assignment of an employee to a different position at the same grade held or at a higher or lower grade or to a set of unclassified duties for a specified period when the employee is expected to return to his or her regular duties at the end of the assignment. Selection for details with promotion or career building potential that are less than 120 days will be based on factors such as: employee skills, abilities, experience and developmental needs; existing organizational staffing and workload; mission and goals of the organization; and deadlines. When reasonable to do so, the Agency will communicate detail opportunities to all qualified employees, within the appropriate area of consideration, whenever the detail opportunity is available to more than one employee.

B. A temporary promotion is a temporary assignment for a specified period of time to a position at a higher grade than the one the employee currently holds where the employee is expected to return to his or her regular duties at the end of the assignment. An employee must meet the qualifications for the higher grade level before he or she can be temporarily promoted.

Section 2. General

A. Details will not be used as discipline; however, the Employer may consider a detail when addressing a workplace problem (e.g. allegations of harassment, friction between employees, short-term accommodation needs). The Employer will give reasonable consideration to assertions by an employee that the detail will cause significant personal hardship.

B. The Employer agrees to refrain from rotating assignments to employees solely to avoid compensation at the higher level.

Section 3. Detail to Higher Graded Positions

A. The Employer agrees that an employee who is detailed to a higher grade classified position for a period of more than thirty (30) consecutive calendar days will be temporarily promoted to that position effective with the beginning of the first full pay period following the thirtieth (30th) day of the detail and will be paid at the higher grade for the duration of the temporary promotion, providing the employee meets the appropriate qualification standards.

B. Selection for details to higher graded positions and temporary promotions will be accomplished in accordance with Article 12, Merit Promotion; of this Agreement, when it is reasonable to expect that the assignment to the higher graded position is to last longer than one hundred twenty (120) calendar days. Prior service during the preceding 12 months under noncompetitive details to higher graded positions and noncompetitive temporary promotion count toward the 120-day total. .

C. It is agreed that when an employee is detailed to a higher graded position for more than thirty (30) consecutive calendar days, but is not eligible for a temporary promotion, the employee's performance at an acceptable level of competence in a higher graded position will be cause for consideration for issuing a special achievement or special act award, whichever applicable to that employee.

Section 4. Appraisals for Details Temporary Promotions in Excess of 90 Days

Pursuant to 5 CFR 430, when employees are detailed or temporarily promoted and the assignment is expected to last ninety (90) days or more, the Employer will provide the employees

with critical elements and standards as soon as possible (no later than thirty (30) days from the beginning of the assignment). The employees will be rated on the critical elements for the assignment if it lasts for 90 days or longer. These ratings will be considered in deriving the employee's next rating of record. .