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[DESCRIPTION](#) [NEWSLETTER](#) [CURRENT ISSUES](#) [PRESS RELEASES](#) [LINKS](#) [MEMBERS](#)
[PAGE](#) [HISTORY](#) [SITE INDEX](#)

Inside The Fishbowl

Official Newsletter of NTEU 280

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Table of Contents

- **What Should You Do If You Disagree With Your Performance Rating**
- **Katrina Hurricane Survivor - Update**
- **Quote of the Month**
- **Letters to the Editor**
- **NTEU Chapter 280 - Who We Are**
- **[Know Your Rights](#)**

FROM THE PRESIDENT

- **Know Your Rights**
 - **Management Friend of Partnership to Retire**
 - **Get the Picture?**
 - **NTEU 280 Greet New OECA AA and Deputy**
 - **“Does Anybody Know What Time It Is, Does Anyone Really Care?”**
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What Should You Do If You Disagree With Your Performance Rating

The NTEU Collective Bargaining Agreement (CBA) contains the grievance procedures that NTEU collective bargaining unit employees are required to follow. Be aware that there is a 30 day filing date deadline that must be met. Even though the agreement provides that the filing deadline can be extended by mutual consent, be advised that the Agency generally never agrees to an extension no matter what the circumstances. Consequently, if you miss the filing date, the

Agency will successfully argue that you are time barred and have lost the opportunity to move forward with your grievance.

Consequently, if your performance review results in a less than a fully satisfactory rating it is imperative that you contact Chief Steward Rosezella Canty-Letsome at 202 566-2784 as soon as possible. Such rating is usually the first step to removing an employee for performance issues. And yes, contrary to the press, federal employees can and do get fired. If you find yourself in this situation, please contact her well before the end of the 30 day filing period.

If your performance review results in a fully satisfactory or better rating, but you believe the rating is not correct, you too have a 30 day filing date deadline that must be met if you wish to contest such rating. Again, please contact Chief Steward Rosezella Canty-Letsome as soon as possible to discuss your situation.

Katrina Hurricane Survivor - Update

In the November 2005 edition of Inside the Fishbowl we reported on an 84 year old Katrina Survivor, a former member of Local 802, American Federation of Musicians, and how out of the wreckage of her house in Slidell, Louisiana, she managed to find her American flag and to fly it as a symbol of her faith in America and the American people who came to help her in her time of need. She lost virtually everything she owned, including her sheet music and her signature song, "Only A Rose." A number of our readers have asked what ever happened to her. There is good news to report. Just last week, FEMA came through and put a trailer in her driveway so that she may return to her neighborhood.



When asked how she managed to survive the storm, having spent two days in a neighbor's attic while the rest of the house was seven feet under water, she remarked that she found comfort in the lyrics to the song by Rogers and Hammerstein, from the 1945 musical *Carousel*, "You'll Never Walk Alone", a song about the power of hope. For those who are not familiar with the song, it can be found at <http://home.no.net/perroe/ynwa/songuk.htm> and <http://liverpool.senet.com.au/history/songs.php> which are two English Liverpool Football Club sites.

Not one to sit idly by, while staying in the Virginia area, she sang in a recent production of *A 1940's Christmas Homecoming*[that's her in the back row, upper right hand corner] and now

looks forward to singing again in her local church, the Mount Olive African Methodist Episcopal Church of Slidell.



Quote of the Month

“Wrongs will be righted. If we’re united.” From the musical Newsies based on a true story of New York City newspaper delivery kids who united in 1899 to protest the unfair treatment they were getting from the giant newspapers and how the kids won.

Letters to the Editor

Below is a reprint from a letter to the editor that was published about two years ago. The focus, power through unity, is even more important now as we move forward into 2006.

I finally got to see the movie GLADIATOR. (Have you ever seen it?) I was deeply impressed by the story of how a man, a military general, no less, who lost everything, right after being asked to rule -- yet lived thru his own execution; put his life back together in a utterly hopeless arena, and accomplished Marcus Aurelius's wishes, without invading Rome, while dying from a fatal puncture wound, right in the Colosseum by fighting the very "caesar" who murdered his own father, -- wow! That's the spirit that your newsletter needs to capture! (Name omitted at the request of the writer.)

Editor's Response: I have seen the movie Gladiator and have found it most moving. It also is relevant today for it demonstrates that there is power through unity, and once the people are energized and focused, even an emperor is powerless to resist the will of the people. The lesson still holds true today in America. If we unite and work through our Union and exercise our rights as citizens, we can direct the shape of the future and decisions to be made by management. We can make it most difficult for management to fire a whistle-blower, or someone who will not agree that $2+2=7$.

Yes, there is strength in unity. Or as stated in the movie just before a major battle scene in the Colosseum: "We stand a better chance of survival if we work together. If we work together, we will survive." And against all odds, they did!

NTEU Chapter 280 - Who We Are

Chapter 280 of the National Treasury Employees Union (NTEU) represents professional employees at the headquarters offices of the U.S. Environmental Protection Agency. Scientists, lawyers, engineers, economists and other workers defined by Congress as "professionals" voted in 1984 to be represented by the union. At that time, the union was affiliated with the National Federation of Federal Employees, as Local 2050. The membership voted in 1998 to change affiliations and become part of NTEU.

Professional workers at EPA organized to defend their freedom to practice their professions in pursuit of environmental and public health protection and to do so in conformity with high ethical standards of professionalism. In addition to professional ethics, Chapter 280 also pursues a program of traditional labor interests - worker health and safety, family-friendly workplace programs, and other work place condition issues. Chapter 280 is responsible for EPA adopting its first set of Principles of Scientific Integrity, which the Administrator issued in March 2000.

The union's officer corps consists of the President, Executive Vice-President, Senior Vice-President, five Vice-Presidents, Chief Steward, Secretary and Treasurer.

Know Your Rights

For EPA employees who are part of the NTEU Chapter 280 bargaining unit, the Collective Bargaining Agreement between EPA and NTEU sets forth the rights of the employees, employer, and the Union. If you do not have a copy of the CBA, please contact by e-mail Seth Low, Senior VP and Editor.

To give you an idea of what is in the CBA, here are some excerpts from Article 3. Employee Rights.

Section 1.

B. Employees recognize their responsibility to promptly comply with all orders and instructions from their supervisors. If an employee reasonably believes that an order or instruction patently violates any law, rule, regulations or Agency policy, he/she should state his/her beliefs to his/her supervisor. Additionally, Supervisors recognize their responsibility to ensure that all orders and instructions are consistent with law, rule, regulation or Agency policy.

C. The employee may document his/her belief that the order or instruction violated one or more laws, rules, regulations or Agency policies. If an employee refuses to carry out an order or instruction promptly and the EPA takes an adverse personnel action against the employee as a result of such refusal, that employee may assert as a defense that he/she believed the order or instruction to be illegal. An employee will not be subject to discipline on the basis that the employee carried out the order of the supervisor. [Editor's note: This last sentence will not shield you from criminal prosecution if you commit a crime. In other words the, "I was just following orders", is not a defense if you commit a crime by following such orders.]

* * * Section 5.

A. In accordance with 5 USC 7114(a)(2)(B), the Union will be given the opportunity to be represented at any examination of an employee in the unit by a representative of the Employer in connection with an investigation if (1) the employee reasonably believes that the examination may result in disciplinary action against the employee; and (2) the employee requests the representation. Prior to the start of such an examination, the Employer will inform the employee of the purpose of the meeting.

B. Employees will be informed annually of this right to representation through e-mail at the beginning of each calendar year.

C. If an employee requests Union representation under this Article and a Union representative is not available, the examination will be rescheduled as soon as practicable, but not to exceed two (2) workdays in order to secure a Union representative. . . .

D. Any discussion with employees by representatives of the Employer which may reasonably be considered by an employee to lead to disciplinary action will be conducted in private.

At any meeting as referenced in Section 5A above, the Employer agrees:

1. To inform the employee in advance of the meeting, of the general subject of the interview, including whether or not it is criminal in nature; and

2. That the interview will be scheduled to allow the employee an opportunity to seek the counsel of a Union representative and to prepare for the investigatory interview.

FROM THE PRESIDENT

by Dwight Welch

Know Your Rights

NTEU Chapter 280 will be having its elections sometime around April 2005. I encourage anyone considering running to take the challenge and put your name on the ballot. NTEU 280 elections are a win-win proposition. Even if you are not elected to the office for which you run, there is always plenty of room in the steward corps. I particularly encourage our newer employees to get involved. There is always more work than people to do it. This is YOUR union, I urge you to get involved.

One change is certain in the upcoming term. Our by-laws prevent a president from succeeding his or herself. As my three year term draws to a close, having also been elected to this post more times than any other member in our history, I am looking forward to a change. NTEU 280 can look forward to a new top leader. At no time in its history, in my opinion, have the challenges been so great.

Partnership or Confrontation?

When I first got involved with this union, those were some pretty heady times. George Bush was president, and his Assistant Administrator for OARM was openly out to bust the union. When the smoke cleared, the union prevailed and AA Charles Leslie Grizzle high-tailed it to the Heritage Foundation. These days, union busting is more subtle. It is sort of like racial discrimination. In the old days, your obviously discriminating boss could easily fire you. These days, throttling employees is more clever and much more sophisticated. They generally assign targeted employees to someone who “looks like” the targeted employee. For instance, they use African-American managers to fire African-Americans, female supervisors to fire females, etc.

Similarly, disabling the unions is far more subtle. They can no longer openly talk, as they did in the days of Grizzle v. Welch, of union busting. They speak of partnership. So convincingly, I almost believe them. But while on the one hand they speak of partnership, with the other hand, they have staffed the Labor Relations section with all attorneys. There are NO more labor relations professionals. There are no negotiations, there is no interest based bargaining. Like a good law firm, protecting criminal clients, this group is out for the win, take no prisoners, they get their client off. It matters not how outrageous the management offense against the employee is, Labor Relations is there to make sure the manager is protected while the employee is destroyed. The challenge for the next term’s incoming President and officers is to force management to either train these attorneys in the art of labor relations or to force them out.

Assistant Administrator Luis Luna is the ultimate head of this part of EPA. I never even met Charles Grizzle. On the other hand, I have frequent access to Luis Luna. You may recall previous editions where I have lavished much praise on Mr. Luna. While I have had plenty of access and while I have laid plenty of problems before him, very little seems to get done. While a majority of the other 19 EPA presidents seem to think Mr. Luna a clever operative who speaks one way but then does another, I disagree. I believe that having no fear of accountability from the Assistant Administrator, LR and other OARM officials act at will. Though it matters not

whether the majority of presidents are right, or the minority of us are right, the state of union-management relations has severely declined.

For those who think I am given to hyperbole, let me offer a few examples:

1. Ignorance of the NTEU contract. It has not only been my experience, and the experience of the Chief Steward, that the LR folks, including the director (actually team leader), seem not to have read the contract, I get similar complaints from our national negotiators and LR professionals as well. With each issue, it becomes a tedious exercise in laying out chapter and verse to these folks. For instance earlier in the day, I got a call from our national negotiator. The issue was employee reimbursing the Agency for accidental overpayments. This issue is covered by the Collective Bargaining Agreement. The team leader of Labor Relations, Mr. Ruben Moreno, had no idea what Mr. Bialczak was even taking about as Mr. Bialczak cited CBA chapter and verse. The meeting ground to a swift halt. Is it not outrageous that Mr. Moreno and at least some of the LR specialist are unfamiliar with the CBA? Apparently, Mr. Luna has yet to share that outrage.

As previously reported, in one grievance the LR professional cited the AFGE contract rather than the NTEU contract. To her credit, the LR professional apologized and the error, which would have had the employee writing his grievance on personal rather than official time, was corrected. The team leader and the other LR professionals, short on apology, long on excuses.

2. Spinning away management falsehoods. As reported in the last issue of Inside the Fishbowl, the facts never seem to stand in the way of covering up for management. While I can't get into details, an employee charged with AWOL came up with proof positive that there was no AWOL. Proof such as computer save records, a leave slip signed prior to the use of leave, and a sign in sheet for an EPA course, LR dismissed out of hand as being insufficient evidence. The program director who signed this letter takes the ultimate hit for the discrepancies between fact and fiction. I would urge other directors to read what you are signing before you sign it.

3. An international expert is only worth a GS-13? A rule of thumb is national expert equals a GS-14, international expert equals a GS-15. Also reported in last issue, the inventor of an entirely new technology, one that the employee gets calls from as far away as Japan, Russia, and China about, received a desk audit recommending at least a GS-14 promotion. The results of the audit were reversed by the supervisor, Sharon Ellis, now thankfully retired, after a call from program management. The union grieved, it went through the entire grievance process, yet no one in the OARM management chain considered it a problem that the rating of an internationally recognized expert was reversed! The culture of corruption is sustained. If an employee is a total idiot, but his or her supervisor recommends a GS-14, the employee gets the GS-14. If an employee walks on water, but his or her supervisor recommends against a GS-14, the employee remains a GS-13. I have been told an OPM appeal is available. However, why should this be necessary? Even the most superficial of inspections reveals that the system is corrupted to the point of being broken and no one in OARM is willing to fix it. Mr. Luna offered me, at the start of the grievance, a review of the process if resolution was unsuccessful. Resolution was unsuccessful, but Mr. Luna reneged on his promise.

4. PARS. This was rammed down our throats. There was plenty of time to have negotiated it, but it has yet to happen. (Negotiations are scheduled now in February, nearly 8 months AFTER implementation.) Was anyone disciplined for this failure? Not to my knowledge.

5. People Minus. Again rammed down our throats. Problems with over/under payments, union dues deductions, a list of problems too numerous to name, seem to continue. As previously reported, employees still get threatening collection letters, due to no fault of their own.

6. 4/10 - Flexible Work Hours. This agreement has languished for years. LR can't seem to get to "yes."

7. An Improved Move Agreement to fill vacant offices. Again, this agreement has languished for years, LR can't seem to get to "yes" and hasn't even met with the HQ unions for over a year.

8. Smart Card. Will this technology be abused? Management claims no. Not surprisingly, the unions are suspicious.

9. The Crystal City Consolidation. Once again, rammed down the unions throats. Much planning was done without union input. Employee complaints about this move abound. Meetings to smooth feathers are held after the fact.

10. Pay banding. Once again, management claims no. Once again, the unions, not surprisingly, are suspicious.

11. Coming budget cuts. A 2% plus budget cut is coming. At the budget meeting I asked then Deputy Chief Financial Officer, now acting CFO, Mike Ryan (one of EPA's best managers), "How much of the budget are SES bonuses and awards?" Mike replied "About 1%." I came back with, "Well there's half your shortfall." But don't worry, the SES bonuses are undoubtedly safe.

12. Library Closures? Upon hearing that the EPA library staff have been told to look for other jobs, I inquired as to the closure of the EPA libraries. Mr. Luna told me he would get back. I'm still waiting. EPA scientists, engineers, and attorneys need these facilities to do a professional job.

13. The Principles of Scientific Integrity. While endorsed by at least 3 administrators, to my knowledge these principles have NEVER been enforced against management. Indeed, most managers are unaware of them, don't even know where to find them. (In all honesty, they are difficult to find, hopefully that has been corrected.)

So there were just a baker's dozen of prominent issues that readily perked to the top of my head. I'm sure that if I really thought about it, and pored through the records, I could come up with many more. So if you are ready for the challenge, I invite you to run for my office. I will do my best to support my successor, but be advised, make sure your health plan has good coverage of stress related illnesses. Meanwhile, spring cannot come soon enough.

Management Friend of Partnership to Retire

One of the best managers in this place, and certainly one of the biggest supporters of the partnership mode of doing business, Mr. Dave O'Connor is about to retire this coming May. This is a major loss to EPA as well as the Unions. Mr. O'Connor has been a major player in getting partnership going and in sustaining it here at EPA. There will be more on this story as details emerge. Mr. O'Connor, in his time gave some of EPA's best Christmas and St. Patty's Day parties. These days, however, having some fun seems to be against the new order. We will greatly miss Dave when he goes, however, I am happy that he will soon be moving to what will undoubtedly be a better and more fulfilling life. If I had any sense, I'd be following him out the door.

With Dave's departure, we may experience the final demise of partnership as the confrontation mode surges to the forefront.

Get the Picture?

If you haven't checked it out, see the display of former EPA Administrators in the hallway leading to the Administrator's suite. Bill Riley, Bill Ruckleshaus, and Anne Gorsuch look particularly good. The artist(s) however, didn't do Carol Browner justice.

Hmm, I wonder how many bucks were laid out for that project? But maybe we don't have the money to keep the library open?

NTEU 280 Greets New OECA AA and Deputy

President Dwight Welch, VP Linda Barr, Chief Steward Rosezella Canty-Letsome, and OECA Steward Ann Strickland recently had a meet and greet with OECA AA Granta Nakayama, and Deputy Cathy McCabe. Mr. Nakayama has initiated open door hours for all OECA employees. (We were impressed.) The Union leaders encouraged dialogue between OECA and NTEU 280, and the AA and DAA seemed receptive. We discussed a number of issues including backfill moves and everyone's favorite issue (not) PARS. Steward Ann Strickland suggested the possibility of quarterly meetings.

“Does Anybody Know What Time It Is, Does Anyone Really Care?”

After writing the story about future issues, I ran into LR Section Head Ruben Moreno. I just had to ask: “Ruben, is it too much to ask for the head of Labor Relations to read the NTEU contract?” He didn't deny he hadn't. He indicated he didn't have the time!