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Inside The Fishbowl

Official Newsletter of NTEU 280

FEBRUARY 2006 Volume 22 - Number 2

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Upcoming Event

NTEU PARS Lunch and Learn Update.

Hear what your Union is doing about PARS. Date: March 14, 2006, Time: 12:00 to 1:00 p.m., Location: Crystal Gateway I, 11th floor, Conference rooms A and B.

Here's your opportunity to meet with the NTEU National PARS negotiator to ask questions and give comments so that NTEU is in the best possible position to fight for your rights. If you plan on attending, please e-mail Senior VP and Editor Seth Low to let him know.

NTEU Mission Statement

To Organize Federal Employees To Work Together To Ensure That Every Federal Employee Is Treated With Dignity And Respect.

Quote of the Month

“As He died to make men holy, let us live to make men free.” [originally ...let us die to make men free.”] From The Battle Hymn of the Republic which was born out of the American Civil War. Julia Ward Howe wrote the Hymn after she visited a Union Army Camp where the soldiers were preparing for battle and were ready to “die to make men free.”

Letter to the Editor

Hi Rosezella and Seth:

My immediate supervisor [name redacted] has solved my PARS complaint. He is a good manager and he does think about how his employees perceive things. He decided that what I asked for was fair and he got management to agree to a new rating. He has done all that I asked and has substituted the corrected rating for the one I disputed.

We have no need to pursue the complaint further, but thank you for helping me out here - I'm sure you have many, many more that will not go so smoothly. [named withheld at the request of the writer]

Editor's Response:

The NTEU/EPA Collective Bargaining Agreement (CBA) gives you the right to file a grievance if you believe your manager has not rated your performance correctly, and, as the above letter illustrates, you can be successful in such grievance, and it does not have to be contentious. I understand that the manager increased the rating from “Fully Successful”.

I was told by the writer that prior to filing the grievance there were discussions with the manager to change the rating but that the manager gave the Agency party line that “Fully Successful” was really a very high rating. The writer further stated the opinion that if it had not been for the Union and the exercising of the CBA grievance rights, the rating would not have been changed.

The bottom line is that your Union is your advocate, but unless you exercise your rights, your Union cannot help you to correct an incorrect performance rating. As was noted in the January 2006 Inside the Fishbowl, “Wrongs will be righted. If we’re united.”

Author Integrity For Fishbowl Articles

Editor’s Note: Please note that before the Fishbowl Table of Contents is the statement that: “Articles indicating authorship reflect the views of the author and do not necessarily reflect the views of the Editor, Editorial Board, or NTEU Chapter 280.”

What this means is that for such articles the Editor and Editorial Board, in their capacity as representatives of NTEU Chapter 280, do not generally conduct a “peer review” or fact finding exercise before such articles are published in the Fishbowl. Instead, these Chapter representatives (President, Executive Vice President, Senior Vice President, Chief Steward, Vice Presidents, Secretary, Treasurer, and Editor) consistent with the Principles of Scientific Integrity, such as Honesty, Accuracy, Recognition, Responsibility, and Open-mindedness, rely on the integrity of the author.

In the event that the reader believes that authorship identified articles or other articles may contain statements that are inaccurate, or are misrepresentations, or are based on misinformation, such readers are encouraged to contact the Editor for corrective action.

PARS - What Should You Do Regarding Developing Your 2006 Performance Agreement

The short answer is that you should: (1) participate actively in developing your 2006 performance standards; (2) make sure that any thing that is out of your control that might impact you meeting your Critical Job Elements is noted in the assumptions section of that CJE, and (3) exercise your CBA rights.

For example, whether you agree with the performance standards or not, they are “established” when your supervisor hands them to you to sign. Fortunately, because of the efforts of your union, the NTEU CBA gives you the right to attach your statement of concern to the performance standards.

Here is the reference from the existing NTEU CBA, Article 9, Employee Performance Evaluation, Section 9, Communicating Performance Plans, which states in pertinent part:

“The individual employee and supervisor should agree on the plan by both signing and dating the plan. However, if the parties cannot agree, the plan will still be established. The date the employee signs, or refuses to sign, the plan is the beginning date of the minimum period of performance. If the employee refuses to sign the plan, then the supervisor annotates the

disagreement and date in the employee signature block. If the employee disagrees with the plan, the employee may attach his or her statement of concern to the performance plan. An employee's initials on a plan, where provided for, indicates only that the plan has been received, not an employee's agreement with the performance plan. The supervisor keeps the original plan and the employee receives a copy." (Emphasis added).

FROM THE PRESIDENT

Dwight Welch

Resisting the Climate of Fear, Corruption, and Cronyism

As I indicated in last month's column, morale and the labor relations climate have hardly been worse in my nearly 30 years here at EPA. It continues to decline.

In the past month, we have had two, what should have been slam-dunk grievances, not be settled by Step 3. The first dismissed on a technicality, despite the outstanding merits of the case. The second, settled at step three after considerable negotiations even though management's arguments were proven to be without merit on the basis of hard evidence. And this union is doing well.

Recently I received an e-mail from a former AFGE 3331 President who claimed that that bargaining unit was averaging about one firing a month! During the past few years, we have lost a few ourselves. I can't speak for the other bargaining unit, but at least two of those three were top scientists. I saw their letters of support from other top scientists and university professors around the country. They were a victims of the long standing EPA problem of corruption and cronyism. In a fair world, the cronies should have been fired.

Thus, in this new environment, to the traditional mix of corruption and cronyism, we now have fear blended into the mix. Consider, nationwide, during the 8 years of the Clinton Administration only about 7 people, EPA Nationwide, were separated from service. Now some might claim that those fired deserved it, and in some cases, I might privately agree. But I know of others that are just plain wrong. Making things worse, many fine professionals are literally driven out of this agency simply because they can't take it anymore. Some simply because they have too much self respect to allow themselves to be abused anymore.

Here is a new way to spell "fear"—PARS. With the rating period underway, the Chief Steward's phone is ringing off the hook. If I had a dollar for every time an employee came up to me to complain about PARS and/or five dollars for every manager who came up to me to complain about PARS, I could pay off my car loan in cash. PARS is being used to target some of the "less popular," but nonetheless competent employees. But even more disastrous is the effect on the high performing employees. EPA is an Agency filled with high performers. With people who are not only highly competent, but dedicated to their mission at EPA. No longer are these employees evaluated as "outstanding" or "exceeds expectations;" the new "outstanding" is "fully successful." People are now being told, "Fully successful" is a good rating." It is important to

note, that awards are no longer even tied to evaluations. So why be so Scrooge-like with the evaluations? Maybe a high morale is not a goal, but rather the goal is quite the opposite.

They are saying “fully successful” is the new “outstanding.” I say, “EPA’s new paradigm has gone from excellent to mediocrity. Until the full scope of this is comprehended, I hope you can settle for one anecdotal story. A scientist friend of mine is one of those unpopular folks. She is being targeted. They give her difficult assignments, hoping she can’t do them. But she’s determined not to let them win. So on a recent paper she submitted, she had it peer reviewed by university scientists. When her boss got the paper, his response was something along the lines of, “This paper is too technical; I can’t understand it. Could you please dumb it down.” “Dumb it down,” indeed, the new paradigm is “mediocrity.”

Now some of you reading this might be saying, “My performance evaluation is so unfair, I’m thinking about filing a grievance, but now I am afraid to.” You need to think the opposite. Management needs plenty of feedback before it sinks in as to what a bad idea this new system is.

Meanwhile, the earliest date for negotiating a change in working conditions begun on July first is now looking like late March as the earliest start date. Here the paradigm exceeds even my cynical expectations. Here the new paradigm is “fully incompetent.” Guess how many heads will roll, how many PAPS and PIPS issued to those “fully incompetents.” None.

EPA Losing a Good Inspector General

We’ve all seen the all employee memo. EPA Inspector General Nikki Tinsley is leaving us. Nikki was the best IG I’ve seen in my 30 years here. While I have been sometimes critical of her for not pursuing some cases vigorously enough (that’s my job, after all, to push for improvement), there have been a number of cases in which I would rate the OIG as “Exceeds Expectations.” Ms. Tinsley has certainly been an improvement over the old days. In the old days, if an employee blew the whistle on waste, fraud, abuse, or mismanagement, the job of the OIG, it seemed, was to “kill the messenger;” retaliate against the whistle-blower. Under Ms. Tinsley, at least, I felt relatively safe against retaliation by EPA’s watchdog. I can’t think of a single case where an employee was retaliated against under Nikki Tinsley.

Once I complained to Ms. Tinsley about nobody managing the OIG Hotline. She quickly returned my e-mail complaint with a personal phone call. The problem was fixed.

I’m not friends with Ms. Tinsley. Sometimes we say, “Hello,” but I’m not even sure she knows who I am. Still, when I saw her zipping across the courtyard the other day, I just had to ask, “Nikki, how come you are leaving us.” With a broad smile, she replied, “Because I can.” I’d truly love to do that exit interview. We’re going to miss Nikki Tinsley. Unfortunately, that bit of nostalgia is quickly replaced with fears of what her replacement will be like. Hopefully, the era of retaliation against whistle-blowers will not return, but I wouldn’t expect anything in the way of reform either.

Ignorance is Bliss - Closing the EPA Libraries

More than a month ago, while riding the subway, I got into a chat with a management friend of mine. She asked me about the closing of the EPA Libraries indicating that, according to her, the contractors there have gotten notices to be looking for other jobs. I brought up my concerns at Mr. Luna's monthly Union President Conference call. Luis and the OARM crew indicated that they knew nothing about it. Weeks later, Public Employees for Environmental Responsibility (PEER) broke the library closing story. We are supposed to cover this issue at the March 1st Conference Call. Meanwhile, the question that arises is this—did they know and like Dick Cheney's hunting accident, NSA spying on citizens, weapons of mass destruction, Niger uranium deals, etc., they just weren't telling until the truth was exposed? Or were they really clueless? Either way OARM is not looking too good. Shouldn't OARM's union "partners" know about the closings of the libraries before an outside group?

Late breaking note: The unions were finally briefed on the library closings. \$2 million is being cut from EPA's library budget and if Congress doesn't change anything, the HQ libraries are likely to close by the end of the year.

Unfair Labor Practices - Union Officers Pressured at Both Ends

This Union has 11 officers, 4 full time, and 7 who work in varying degrees part time. As President, I am thankful to have a Vice President named Linda Barr. Linda's major projects have been to negotiate (well attempt to negotiate, this LR staff does not really know how to do negotiations) the 4/10 flexitime agreement and she has served on several of the Potomac Yard committees. Problem is for certain committees, she is being excluded. Another problem is she has received veiled threats from her management that union participation is bad for her career. The latter is an Unfair Labor Practice. Bad managers, baaaad. I've brought this to Luis Luna's attention, but no answer did I receive.

But it doesn't stop there. In the hinterlands, some Union Presidents are only part time. One or more of these have been hassled about taking official time to negotiate their Union's PARS agreement. They are getting pressured from both ends. Again, I brought this to Luis Luna's attention. Again, no answer.

Mr. Luna has left unaddressed my suggestions to end the Unfair Labor Practices outlined above. He has also left unaddressed my repeated suggestion (over and over and over again) of having Labor Relations and the unions engaging in some joint Interest Based Bargaining training. Finally, there was no reaction to my suggestion that Luis have regular meetings with the NTEU 280 Executive Board.

Union Busting - 21st Century Style

Like racism, union busting has evolved in the 21st century. Previously, managers were unafraid to discriminate against minorities and women. But now in the 21st century, when they want to target a specific employee, they usually reassign him or her to a manager that "looks like them." That is to say, they get a female to fire a female, a black to fire a black, etc. A number of managers have clawed their way to the top, by participating in such unsavory practices.

Under the previous President Bush, OARM tried to bust the union. I was President then and they took away my official time and put me in a job I was unqualified to perform to set me up for failure. Our union reached out to our environmental and citizen group partners. These citizens barraged the Administrator and the Congress with angry letters. When the smoke had cleared, our Union got 4 FTEs and a bank of 3,000 hours and OARM Assistant Administrator Charles Leslie Grizzle, quit to join the Heritage Foundation. This before it had even sunk in to the electorate, that George H.W. was going to be a one term President.

Under this President Bush, I am once again President and once again, OARM seems bent upon busting the union. But like institutional racism, this 21st century union busting is far more sophisticated. Here's how it works. Out of one end, management talks about partnership. But out of the other end, the unions are subtly undermined. With issues such as People Minus, PARS, the Potomac Yards move, the unions are made to look ineffective and not involved. But as you may discern from above, we ARE involved. For instance asking for bargaining a full two years BEFORE the actual move is not exactly behind the curve. But instead of bargaining, we received tons of briefings and conference calls. Bovine manure by the tractor trailer load folks.

It's time to break from the company union mold. There is no partnership on the Agency level. They try to keep us busy with busy-work, meanwhile quietly putting the screws to employees and employee rights. The current Labor Relations chief, the current Labor Relations staff are the worst I have seen in my 30 years at the Agency, in my 17 years as a senior union official. Yet they seem to enjoy the full support of Assistant Administrator Luis Luna. When they screw up to the degree that might earn a program employee a PIP and a PAP and maybe even firing, nothing happens. Is it condoned or is it purposeful on the part of top EPA leadership? Either way, it is unacceptable.

We have a number of advantages over what we had in 1989-1990. We now have an organized national EPA union coalition. Some of those folks may be reading this now. How about it fellow Presidents? Are we going to continue to be flim-flammed or are we going to Congress, our fellow citizens, and the media?

Meanwhile, collective bargaining in general languishes. NTEU is set to bargain on PARS in late March at the earliest. Collective bargaining on a 4/10 work week/maxiflex and a supplement to the Generic Move Agreement have been on hold for months, years! "You're doing a heckuva job Rubin."

PARS Grievants Lining Up in the Hallway

Not really, but it just seems that way. Chief Steward Rosezella Canty-Letsome informs me that there are now more PARS grievances than all grievances of the last 6 months. (I would guess "year.") Particularly if you have a "Minsat" or "Unsat," you need to file a grievance or you may get fired.

Some Good Managers

Now that I've finished wagging my finger at some bad management practices and some bad managers, how about a tip of the hat to some good managers. Most or all of these managers have at least one thing in common, they do Interest Based Bargaining—a concept apparently not grasped in OARM. Pam Barr, Ed Ohanian, and Mike Moore get a tip of the hat for trying to find refuge in their programs for a couple of employees trying to escape a hostile work environment in OPP.

Acting Assistant Administrator Susie Hazen for resolving an OPP grievance at step 3, DESPITE the subterfuge of LR's Melissa Hatfield. Although Ms. Hatfield twisted the grievance responses to cover up the fact that management had not spoken the truth about false AWOL charges, Ms. Hazen was still able to forge a deal with the Union.

Ed Ohanian for resolving a personnel dispute without a grievance needing to be filed. Ed's secret, as the really smart managers know, he did not call Labor Relations, instead, he called the Union and we were able to work out the problem using Interest Based Bargaining.

Mike Shapiro, Deputy Assistant Administrator, Office of Water. Mike scheduled a general with me to discuss any problems we might be having in OW. Such a proactive approach is a sign of superior management skills. To his delight, I informed him that there were no problems thanks to his managers like Ed and Pam, reported above. We both agreed to pick up the phone if either of us sees any problems coming in the future. I also asked Mike what he could do to get the moribund HQ Partnership Council back on track, considering that OARM has once again dropped the ball. He promised he would try.

Rich Lemley, Director OAM. Rich has always been immediately responsive to all our requests involving the Potomac Yards move and other issues.

Marty Monell, Office of Pesticide Programs. Marty has been responsive on Potomac Yards issues and has always tried to include union representatives in on PY work groups.

Renee Wynn, OWSER. Taking over for the retired Dev Barnes who was not so responsive, Ms. Wynn has been very active in getting OSWER up to speed on the PY move. Ms. Wynn, new in this position, has been very responsive to the unions.

Manager Minus

The nomination for this edition's Manager Minus Award goes to a manager not at Headquarters but in the EPA Region 9 office in San Francisco – Gerardo Rios. Mr. Rios is the Chief of the Region 9 Air Permits Office, and we nominate him for his skills (or rather apparent lack thereof) in conducting PARS performance reviews of his staff. When it comes to PARS performance reviews, Mr. Rios just doesn't get it. In the written performance review of one of Mr. Rios' employees, Mark Sims, Mr. Rios made many very negative statements about Mr. Sims' performance, including the following jewel of a statement we find of particular note – “It is very important for Mark to consider relying less on others to think for him, and to take full responsibility for his projects.”

Not only is Mr. Sims a 19-year EPA employee who always received Outstanding performance ratings under the old 5-tier performance system, Mr. Sims also just happens to be the Chief National PARS Negotiator for the Engineers and Scientists of California (ESC) Union at EPA Region 9. We find Mr. Rios' statement to be puzzling for several reasons. We know Mark to be not only a dedicated hard-working employee who takes his duties seriously but also to be a person, in our experience, who is quite capable of thinking for himself. We greatly wonder what EPA management gains by personally insulting Mr. Sims in his PARS performance review, especially considering that EPA management and ESC are currently engaged in PARS negotiations. Perhaps EPA management is sore that they lost the PARS ULP ESC filed against them. We can only surmise that EPA management does not want to reach a negotiated PARS agreement with ESC any time soon. Naturally, ESC filed a grievance on Mr. Sims' behalf. It also seems to us that Mr. Rios' performance evaluation of Mr. Sims is a classic example of how NOT to conduct a PARS evaluation, especially considering that management has stated all along that the express purpose of PARS is to improve employee performance, not to destroy employee morale.

We encourage Assistant Administrator Luis Luna to personally look into this matter. Perhaps Mr. Luna can encourage Region 9 management to spring some funds to send Mr. Rios to some basic PARS training.

Potomac Yards Move Representatives

If you have any issues with the Potomac Yards moves, the three NTEU 280 representatives are: Stewards Pat Jennings and Jim Goodyear for OPP, and VP Linda Barr for OSWER.