

## Council Makes Our Voices Heard on Capitol Hill

By Rachel H. Shonfield, Local 3599,  
Miami District Office\*

Have you ever gotten bad service and asked to speak to the person's boss? That's exactly what your Union representatives were doing from February 8 - 11, 2004. Representatives from seven of our eight Locals spoke with EEOC Chair Cari Dominguez's boss, Congress, to urge oversight of the radical changes she is pursuing at the EEOC. We joined 700 union activists attending AFGE's 2004

Legislative Conference in Washington, D.C.

The National Council had eleven members participating in the Conference. Our delegation worked smartly to maximize the impact of our lobbying trip. We made appointments weeks ahead of time, targeting the chairs, members, and staffers of the relevant committees (which have EEOC oversight) as well as other Congressional Representatives. The Union followed the advice of Nat Lacour, American Federation of Teachers (AFT) National Vice President,



*The Secretary-Treasurer of the United Food and Commercial Workers enlightens the Legislative Conference on the grocery strike in Los Angeles. Afterward, money was collected for the strikers Hardship Fund.*

who spoke at the conference's Civil Rights Luncheon and advised, "We have no permanent friends or permanent enemies, only

permanent interests." With that in mind, the Council group met with representatives on both sides of the aisle, Republicans and Democrats. Overall, we estimate that information regarding EEOC was put in the hands of at least 50 members of Congress including Rep. Nancy Pelosi, D-CA, House Minority Leader; Rep. Robert Andrews, D-NJ, Ranking Member on Employer-Employee Relations subcommittee; Rep. Ileana Ros-Lehtin, R-FL, Government Reform; Eleanor Holmes Norton, government Reform Committee, D-DC; Sen. Tom Daschle, D-S.D., Senate Minority Leader; Sen. Arlen Specter, R-Pa., Appropriations, Government Affairs, Judiciary; and, Sen. Paul Sarbanes, D-Md., Budget Committee

The Chair's Office of Communications and Legislative Affairs (OCLA), regularly communicates with Congress, regarding the projects and programs for which she is requesting funding. It is crucial that Congress hears from the Union about employee concerns and the pitfalls of the Chair's plans.

The Council group educated Representatives and Senators, regarding the negative impact on costs and customer



*Debra Moser, delegate from Local 3637 and Stephanie Perkins, delegate from Local 3504 met with Rep Marion Berry (D - AR)*

## 2004 Election Year Activism

By Joseph Wilson, Local 3629, St. Louis Office

The 2004 elections for President and Congress will have a major impact on the future of the federal government and the future of all federal employee's careers. As we have all seen over the last few years, the Bush Administration has shown little or no respect for federal employees and the critical work that we carry out for this country. We have seen the elimination of long-standing civil service

protections and union rights for federal employees in the Department of Homeland Security and the Department of

Defense, which together make up nearly half of all federal employees. Here at EEOC, we have also seen Chair Dominguez's continued efforts to diminish the discrimination protections of all federal employees through her proposals to eliminate or severely reduce the

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## PRESIDENT'S VIEWPOINT



*Gabrelle Martin,  
Council President*

EEOC, like many federal agencies, is under attack. Typically, the realization that one is under attack is sufficient to mobilize the troops to fight against outside forces and rally to save the day. What happens, though, when the attack comes from within? Our current Chair, Cari Dominguez, and her Chief Executive Office, Leonarra Guarraia, have embarked on a reign of terror designed to destroy civil rights in the employment arena.

Upon their arrival, Chair Dominguez and Ms. Guarraia at EEOC froze hiring, making it nearly impossible to get the work done. How then, one might ask, is Chair Dominguez able to send memos praising our efforts and congratulating employees on the work they have accomplished?

As we all know, the goal is to meet the numbers. Cases are closed even though questions remain whether there was discrimination. If it is the end of the quarter, or the end of the fiscal year, EEOC offices dump cases. There is no other way to describe what happens. Mediators rush to settle cases so they have

high numbers, Investigators are instructed to close cases immediately, so that the office can reach its numerical goals, Federal Sector Hearings staff are instructed to use their summary judgment powers to close more cases, once again, to meet the numbers. In one office, the Federal Sector hearings supervisor told staff that for this fiscal year -FY04- the only thing that matters is quantity. Apparently, there is no concern for quality. Legal unit staff must scramble to find cases to litigate, in order to meet the numbers quest.

Further eradication of rights is evident in the plan for the federal sector. Employees await the final proposal on the Chair's efforts to eviscerate the hearings process. Given the current state of affairs, where the focus is on reducing access and programs, and shifting resources from the office performing the work, to some other office, merely overseeing the work. While this issue is on the EEOC's regulatory reform agenda, there is no timeframe identified.

As for investigative staff, the ranks have dwindled. While employees cannot leave for various reasons, many have left due to the policy of meeting numbers in any way we can. Many employees come to this agency because they believe in the mission. Many stomach watching the reduction of the mission to pushing paper.

Is there an area where the Commission shines? Mediation-many charges settle and private counsel have made a living forcing everything they can into mediation. The results are confidential. No one knows what EEOC is doing, other than producing a number- quite the antithesis of what occurs in litigation. In the not so recent past, the Commission made much ado about publicizing the work that we do. Now, the emphasis is on a program that secretes away information. With mediation numbers increasing, how do we know whether we are having an impact on law enforcement?

One place we can look is behind the numbers. The cause finding rate is down, which is compatible with the dumping of cases. Without careful review of the cases, we cannot make a finding of discrimination. Given a cursory review, however, we can dismiss cases and make a case for doing more work with less. The fact that the cause rate has decreased is even more glaring when you consider that the inventory rate has remained constant. How to explain this? Just ask the staff.

So, where will civil rights be in a few years? Will EEOC exist as a viable law enforcement agency, or just as an information agency? As we just celebrated the birthday of Martin Luther King, Jr. and as we approach the remainder of this year, let us continue our rally to keep civil rights alive!

## LOCAL REPORTS

### Local 2667

No Report Submitted.

### Local 3230

Employees in the Phoenix and Denver offices of Local 3230 have known for months that the Directors are going to retire. Those two offices were without a Director as of as of COB January 30, 2004. As recently at the week of January 26, 2004, employees had received no concrete word as to what will happen in those offices. There are concerns about the leadership abilities of the Deputy Directors in those offices. In particular, there are concerns about the strength of the leadership in Phoenix, which now officially manages the former Albuquerque District Office. Perhaps by press time, we will

have heard from the Chair advising us of her last minute decisions as to leadership in those offices. In Denver, the concern has to do with the management style of the Deputy. Questions about decisions on cases involving issues that, though covered under the statutes, do not happen to fit his mood of the moment or his quest for an outstanding rating.

In San Diego, we resolved an Unfair Labor practice involving Weingarten rights with a posting. This is another office without a permanent Office Director.

In Albuquerque, we are working on resolving intake issues. The loss of staff and the intake workload make it difficult to get all of the work done. So far, there are no new hires on the horizon. The employees in the office are under stress to perform their duties at the same time that

management has condoned a hostile work environment.

The San Francisco office moved to ocean front space, but refused to negotiate with the Union over offices for investigators. The FLRA has begun its investigation of this issue.

Because of the Chair's willingness to change the rules for her CORE award group size, the Union steward in the San Francisco office did not receive a core award for work on a litigation case. By the way, the Union steward continues to perform monitoring work on the settlement.

Rumors abound that the Oakland office will move to San Francisco. Management asserts that it is looking into how to

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## LOCAL REPORTS

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maintain a presence in Oakland to serve that community, without having to pay rent for an office there.

### Local 3504

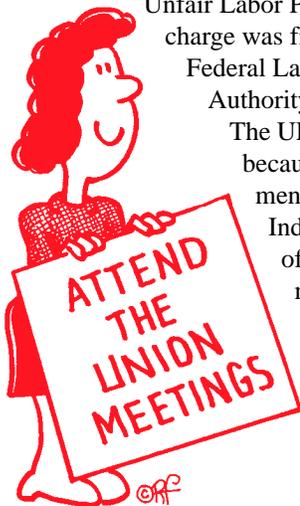
Changes made by Headquarters have affected Local 3504. The director of the Cleveland office has been permanently reassigned to direct the Dallas and Houston offices; the director of Detroit is, for the present, directing the Cleveland and Cincinnati offices. The Indianapolis director, in addition to the Louisville Area Office, is now, for the present, directing the Memphis office. (Neither the Memphis nor the Louisville offices are within the jurisdiction of Local 3504.)

Local President Michael Davidson and Delegate Stephanie Perkins attended the AFGE Legislative Conference in Washington in early February. After being briefed by AFGE attendees were armed with information and lobbied Congressional Representatives. Davidson, Perkins and other members of the National Council of EEOC Locals placed particular emphasis on issues relevant to EEOC employees.

Subsequent to the Legislative Conference, Local 3504 is planning on capitalizing on the momentum and kickoff a Local 3504 Legislative Committee. The Local wants to encourage individual members to become more politically active. Experience has shown that the constituents of Congressional Representatives have the greatest impact.

In December, 2003 an Unfair Labor Practice (ULP) charge was filed with the Federal Labor Relations Authority (FLRA).

The ULP was filed because management of the Indianapolis office implemented some changes which affected Investigators without bargaining the impact of



those changes. The Local also has grievances pending on denial of leave and production standards. Grievances on job duties and a PIP did not prevail. An arbitrator's decision is due on compensation for the delay of granting a reasonable accommodation.

Several months ago Local 3504 members voted on a dues increase made necessary by the increase in AFGE per capita dues approved at the AFGE Convention last August. The dues increase passed. The Local went from a two tiered structure to a five tier structure. Local members also approved a budget for the next year.

Members of the Local have been introduced to a relatively new member benefit. Members can have a computer analysis and projection of their federal employee benefits. This projection gives the employee an estimate of what their retirement benefits (e.g. FERS, CSR, TSP) will be at various ages in order to assist the employee in determining when they may retire and what their retirement income will look like. This benefit has resulted in recruiting a handful of new members.

The Detroit office participated in a Lunch-n-Learn organizing drive. The result was the recruitment of four new members. The Local hopes to begin a strong membership drive in February.

Recently in Chicago, voter registration training was being done. A member of the Local took the training. Thereafter, the Local member was able to register individuals in the Chicago office as well as at other locations including at other offices of other Locals. This is a non-partisan activity allowed by the Hatch Act.

Local 3504 has had a spate of retirements in recent months with more coming up. Our numbers continue to be depleted.

Before the holidays, Local 3504 sent a donation of the United Food and Commercial Workers Hardship Fund for the striking grocery workers in Los Angeles. Perhaps other Locals would like to follow suit.

On a sad note, Detroit Investigator Janet Edwards passed away. Janet was a longtime union member and served as alternate steward for several years.

### Local 3555

The U.S. Equal Employment Opportunity Commission ("Commission") continues to articulate public propaganda which purports to invite Union participation and input regarding Commission operating changes in field offices located throughout the country. It is the Union's sad duty to report that Commission invitations to participate are nothing more than public window-dressing. A case in point is the recent (and to our knowledge) the first reported office-sharing agreement between the Commission and the U.S. Department of Labor; an agreement negotiated and finalized without Union knowledge, much less Union participation.

It is no secret that contractual negotiations between federal agencies involve a host of individuals, on a myriad of managerial levels and usually takes a substantial period of time in which to receive official government approval. However, in the case of the Commission's San Juan, Puerto Rico, Area Office, it appears that Management was able to quickly negotiate and approve, in absolute secrecy, an office space, lease-sharing agreement with the U.S. Department of Labor.

At no point in time was the Union notified about on-going negotiations and the Union was never "invited" to participate on behalf of the Commission's bargaining unit employees located in the San Juan Office. Indeed, other than rumors and innuendos, the first and only notice to the Union in this matter was the unannounced, physical appearance of Department of Labor employees at the Commission's San Juan Office to basically check office seating arrangements.

Such flagrant, non-inclusive behavior on the part of Management not only severely undermines Commission propaganda, but also required the Union to file a formal complaint with the U.S. Federal Labor Relations Authority. The Union wonders whether or not the Authority will be able to obtain a reasonable explanation as to 'why' the Union was completely 'shut-out' of the San Juan Area Office episode. Only time will tell. In the meantime, stay-tuned! No doubt more secret Commission deals and

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decisions are yet to be discovered. Let's hope the Union can discover them before it's too late.

On a happier note, the Union congratulates Chief Shop Steward (& Senior Investigator) Ms. Elaine Pinion on her well deserved retirement from the Commission's Newark, New Jersey Office. Over several decades of federal service, Ms. Pinion contributed her time, acute talents and overall hard work to encourage and advance the Union's cause. The Union cherishes Ms. Pinion's service and her selfless efforts. While Elaine elects to pursue other endeavors at this time, she will always stay close to our collective hearts!

### Local 3599

Local 3599 is really filing those grievances as usual. The stewards in Local 3599 keep themselves busy filing grievances because we believe in handling the problems of our employees. Our first commitment is to our union and bargaining unit members. This past year, our Local filed more grievances than any other Local. One of our stewards has had great success using the Resolve program to settle a first step grievance. In fact, in our Local newsletter in December, we wrote an article encouraging our stewards to use Resolve for first step grievances.

- The Birmingham District office filed one grievance, the Nashville area office filed one grievance, the Memphis District office filed one grievance, the Charlotte office filed two grievances, and the Savannah Area office filed one grievance. A ULP was settled growing out of a Nashville grievance.
- A telecommuting agreement was issued for the Birmingham District Office. Currently our Local is conducting an arbitration on a grievance in the Miami District office.
- A serious health and safety issue has arose in the Charlotte District office when abestos was found at extremely high levels in the District Director's office. GSA is working with the office to try to determine if there is abestos in the walls and ceiling of the building. The majority of the bargaining unit

wants to leave the building so hopefully this will happen in the very near future. Our Local President has filed a grievance over the matter.

- Our Birmingham and Jackson offices were placed under the Atlanta office Director and our Nashville and Memphis offices were placed under the Indianapolis office Director. Our Executive Board does not have a crystal ball but most of us think that we are starting to see a shift to the 10 to 11 mega District offices being talked about. We are very concerned about the bargaining unit members in these offices and will be following through on investigating the impact of these moves.

### Local 3614

- A three-day arbitration concerning overtime for employees in Baltimore, Richmond, and Norfolk concluded February 3, 2004. **Arbitrator Lucretia Dewey Tanner** will decide whether or not employees are entitled to overtime and how much. EEOC, while acknowledging that its budget issues preclude overtime pay to workers forced to take compensatory time instead, is denying liability or its impact on employee morale. Arbitrator Tanner is expected to issue her decision in mid-March 2004.
- A four-day arbitration concerning retaliation against a Baltimore EEOC Investigator concluded October 1, 2003. Grievant was denied a career ladder promotion and issued a formal reprimand after she complained about what she and other African American Investigators perceived to be race-based discrimination in EEOC's Baltimore office. **Arbitrator Nicholas Zumas** is expected to issue his decision in the case in mid-February 2004.
- EEOC, in its recidivistic style, continues to violate the Union's right to be present during formal interviews of employees in the bargaining unit. Two unfair labor practice charges were filed on January 21, 2004, when the Union learned that Agency Attorney
- **James Sober** interviewed employees in the bargaining unit – the very same behavior which caused the Federal Labor Relations Authority to charge

EEOC with unfair labor practices in June 2003. EEOC refused to settle the June 2003 FLRA complaint because it would not agree to a posting informing employees that the Union, as their exclusive representative, is entitled to prior notice and the opportunity to be represented at formal discussions with bargaining unit employees concerning any grievance, personnel policy or practice, or other general condition of employment.

- With no notice to the Union, Norfolk Area Director **Herbert Brown** issued notice of workplace changes. He created an enforcement team consisting of an investigator "team leader" and two other investigators. Denying changes, management maintains that there are no differences in the duties of the newly created enforcement team and muses that "team leader" was really just a poor choice of words. The Union met with the new and temporary acting district director **Marie Tomasso** about management's bypass of the Union and demanded to negotiate neutral criteria and equal opportunity for all investigators to perform leadership roles in the Norfolk Area Office.
- An unfair labor practice was settled, requiring EEOC to post a FLRA notice on all bulletin boards in the Washington Field Office and to distribute the notice to all its managers in the Office of Field Management Programs. The Union's ULP concerned a bypass of the Union when EEOC issued its decision to terminate directly to the employee without ever notifying the employee's Union representative, who had been previously designated to EEOC as the employee's Union representative.
- For more information about Local 3614 activities, news updates and calendar events, including the next Union meeting in your office, go to [www.local3614afge.org](http://www.local3614afge.org)

### Local 3629

There have been some changes in the officers for Local 3629. Due to Walter Raisner's retirement from the Commission in September 2003, former First Vice President Joseph Wilson assumed the position of President. Melvin Kennedy

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## LOCAL REPORTS

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was appointed as First Vice President to fill the remainder of the unexpired term for that position.

The St. Louis District has also faced the loss of a number of investigators over the last few months. In addition to Walt Raisner's retirement from his investigator position, three other investigators (and union members) have also retired or left the Commission since September. In addition to other investigators who have retired or resigned from our District over the last couple years, the District's investigative staff is at drastically low levels.

Unfortunately, our decreasing investigative staff continues to face increasing workloads, increasing performance "goals," and increasing micro-management. The Union has been making efforts to try to get Management to reduce some of their unnecessary requirements placed on investigators, such as Management's mandatory and arbitrary requirement that all new inquiries be processed in 30 days or less. Investigators are also regularly hounded about taking too many charges, as well as keeping their inventories at 25 charges or less. Finally, District investigators continue to be subjected to the requirement that they

complete the notorious "Analysis and Disposition Memo" on every single inquiry or charge that they are assigned. Almost all District employees, investigators and attorneys alike, agree that the "A & D Memo" is unduly time-consuming and unnecessary, particularly considering our reduced staff levels.

Based on the above mentioned factors, the Union sent a memorandum to Management on October 30, 2003, to provide official notice pursuant to Section 31.05 of the CBA that the amount of workload will be more than investigators will be able to complete in a 40 hour work week. The Union requested that Management make the necessary changes in expectations and goals in order for investigators to complete their workload assignments in a regularly scheduled work week. Although the Union did meet with Management about

these concerns, to date Management has not made any significant changes that would allow investigators to complete their work in a 40 hour work week. In light of this, the Union will be closely monitoring how Management evaluates investigators during this fiscal year.

In August 2003, the Union settled an Unfair Labor Practice involving Management's refusal to provide documentation (performance reviews of comparable employees) related to an employee's grievance. On June 19, 2003, the Federal Labor Relations Authority found that the EEOC "committed an unfair labor practice in violation of 5 U.S.C. §7116(a)(1), (5) and (8)" and issued a Complaint and Notice of Hearing. The Union settled the matter prior to the hearing.

### Local 3637

No Report Submitted.

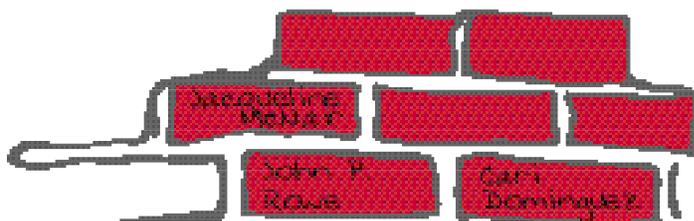
## NAACP Federal Sector Task Force Meets

The National Association for the Advancement of Colored People (NAACP) Federal Sector Task Force met on January 17, 2004 at the Georgetown University Conference Center. Among the agenda items addressed was EEOC reform. Joe Henderson, an American Federation of Government Employees (AFGE) attorney presented an overview of the attacks on federal employees. Among the concerns expressed by Henderson was the erosion of federal employees' EEO and union rights. Other panelists gave their perspectives on these issues. Later in the program Carlton Hadden, EEOC's Director of the Office

of Federal Operations attempted to counter the view presented by Henderson and other panelists. Greg Reeves, President of Blacks in Government (BIG) emphasized the importance of federal EEO rights and the impact changes would have on those rights. Culminating this portion of the program the meeting heard from four complainants, federal employees, who filed EEO complaints. They shared their experiences with the federal sector EEO system which included harassment and retaliation.

Other topics in this meeting included Offshore Outsourcing and Its Impact and Privatization.

## ...And, the Brickhead nomination for this issue is...



The Local 3614 President nominates the Philadelphia District Office Regional Attorney, Jacqueline McNair, for a Brickhead Award. McNair has refused to allow the Trial Attorneys in the Philadelphia District Office to telecommute. Administrative Judges in the Philadelphia District Office are allowed to telecommute on a frequent, informal basis in conformity with the Collective Bargaining Agreement, which provides for as many telecommuting days per pay period as "a supervisor may approve." See, Article 34, Section 34.08.

The Union urges the Philadelphia District Office Regional Attorney to try cutting the proverbial "umbilical cord" anchoring professionals to an outdated work environment. In addition, the Union urges that every manager, especially SES candidates, try some virtual management training, posthaste."

**"Make a career of humanity and you will make a greater person of yourself, a greater nation of your country, and a finer world to live in." —Dr. Martin Luther King, Jr.**

# Political Activity and the Hatch Act

Michael E. Davidson, Chicago

Life under the Bush Administration has made it abundantly clear that federal unions and employees must become more politically active. Despite restrictions, federal employees retain the right to engage in partisan political activity. While federal unions have encouraged their members to engage in political activity this must be tempered with educating federal employees of what is permissible and what is not. The uneducated could conceivably and unwittingly find themselves in violation of Hatch Act restrictions and subject to punishment that

## “Action News”: cyber political activism

Action News, an AFGE web page, is a state of the art free email delivery system that will provide you with regular updates on the status of legislation and upcoming votes in Congress; sample letters, leaflets and phone scripts on topical issues, point-and-click emailing capability to members of Congress or various publications around the country. It doesn't get more convenient than this. Enter your zip code and you can find out who your representative is and how to contact them or obtain a listing of publications.



To sign up, go to [www.afge.org](http://www.afge.org), click on the Action News icon and follow the prompts. It is recommended that this subscription be done a home computer. (Don't do any of this on government equipment).

ranges from removal from service to, *at a minimum*, a 30 day suspension without pay. Federal employees should look to the Hatch Act for guidance. Knowing the restrictions will allow us to engage in political action and stay out of harms way.

The Hatch Act (5 U.S.C. §§ 7321-7326), as originally passed in 1939, limited the political activity of federal employees, employees of the District of Columbia and certain employees of state and local governments. The Hatch Act was amended in 1993 to broaden those rights. Presently, The Hatch Act, while limiting when and where federal employees *can* engage in partisan political activity, specifically provides that federal employees retain the right to speak out on political subjects and candidates.

The ins and outs of The Hatch Act, with all its nuances and interpretations, are intricate. This article will hit the highlights. The Office of Special Counsel (OSC) is responsible for investigation reports or complaints of Hatch Act violations. In depth information can be obtained through the OSC either on their website ([www.osc.gov](http://www.osc.gov)) or by calling. If OSC determines that a federal employee has violated the Hatch Act, OSC files a complaint with the Merit Systems Protection Board (MSPB). The accused federal employee has an opportunity to contest the charges. This may involve a hearing before the MSPB. It is the MSPB which rules on the allegation.

The general rule of thumb is that *partisan* political activity **cannot** be done while on duty, while on government property or with government property. So, for example, soliciting, accepting or receiving political contributions is impermissible while on government property even if off duty. However, soliciting, accepting or receiving political contributions is permitted if both individuals are members of the same federal labor organization or employee organization and the one solicited is not a subordinate employee and as long as this is not done on government property or with government equipment. Most Federal Employees retain most of the same rights and freedoms as ordinary citizens except while on

duty or at a government facility. In sum, partisan political activities is permissible. One only has to be aware of when and where it is permissible.

Political activity is necessary and is crucial to our survival as federal employees. We simply have to know how it can be done. To that end, be aware that Federal Employees **cannot** wear political buttons on duty or be candidates for public office in **partisan** elections. But, Federal Employees **can**: be candidates for public office in **non-partisan** elections; register and vote; assist in voter registration drives; express opinions about candidates and issues; contribute money to political organizations; attend political fund-raising functions; attend and be active at political rallies/meetings; join and be active in political clubs/parties; sign nominating petitions; campaign for or against candidates in partisan elections; make campaign speeches for candidates in partisan elections; distribute campaign literature in partisan elections; or, hold office in political clubs/parties including serving as a delegate to a convention. While Federal Employees (with certain exceptions) have these rights, they can **NEVER** do so on government property or with government equipment. However, the Hatch Act does not prohibit lobbying Congress on issues that affect government workers.

In some instances there are either exceptions or fine points. For example, “the Hatch Act does not prohibit ‘water cooler’ type discussions and exchanges of opinion among co-workers concerning the events of the day (including political campaigns).” Federal Hatch Act Advisory: FHA-29.

The prohibitions described above obviously make it difficult for federal unions to communicate to federal employees partisan political information and for federal employees to engage in partisan political activities.

Such action is crucial and both Federal Unions and Federal Employees must forge ahead and overcome this obstacle.

Particular circumstances warrant obtaining additional information. The best source of information is the OSC website or by calling OSC at 202-653-7143.

# Federal Employees, Families Have a Stake in Elections

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Federal Sector Hearings process. Based on all of the anti-employee initiatives being implemented or proposed throughout the federal government, including at the EEOC, it is clear that the attacks on our rights, benefits and jobs will continue.

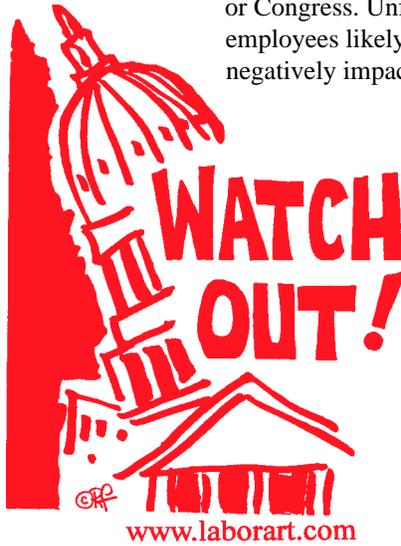
Some federal employees often choose to avoid the “political process” because they may feel that “it does not impact me.” Some employees also still hold to the myth that it

does not matter who is in the White House or Congress. Unfortunately, federal employees likely have been more negatively impacted by the anti-union

and anti-government policies of the current Administration than any other group. All federal employees and their families have a major stake in who is elected to federal political offices.

It is more critical than ever this election year

that all union members get involved in the political process. As union members, we should all feel an obligation to do what we can to help ensure that the rights of all our fellow union members are protected. Your involvement may be as limited, but important, as getting out to vote on election day and encouraging all your coworkers, friends and family to vote. You can also volunteer for a particular candidate’s campaign, offer to drive others to the polls on election day, or assist with voter registration drives. However small your involvement, it may be critical in preserving your rights and career as a federal employee, as well as making sure that the important mission of the EEOC continues.



## NLRA—The Employee Free Choice Act

The National Labor Relations Act (NLRA), passed in 1934, established the legal rights of employees to form unions, negotiate benefits, pay, safety standards and working conditions. The NLRA created the National Labor Relations Board (NLRB). The NLRB is the governmental regulatory agency for labor relations in the private sector. It conducts representation elections, regulates the process and rules on Unfair Labor Practices. Once an effective protection for

employees engaging in union activity, things have changed.

Prior to the passage of the NLRA, union organizers and sympathizers were threatened, beaten, blackballed, fired and even killed. With the NLRA, the climate for union activity improved drastically. However, presently employers, faced with the prospect of union organizational drives, block such efforts with threats, coercion and intimidation which takes a

variety of forms. According to research done by Cornell University’s Kate Bronfenbrenner, one-quarter of private sector employers fire at least one worker during a campaign to form a union.

In response to the throw-

back to the “bad old days” that preceded the passage of the NLRA, Sen. Edward Kennedy and Rep. George Miller introduced the Employee Free Choice Act (EFCA) in Congress. The proposed legislation, S. 1925 and H.B. 3619 would allow employs to freely choose whether to form unions by signing cards authorizing union representation, private mediation and arbitration for first contract disputes and establish stronger penalties for violation of employee rights when workers seek to form a union and during first contract negotiations.

More than 25 Senators and 100 Representatives have signed on as co-sponsors of the Bill. Those wishing to express an opinion can write, email or call their Congressional representative. U.S. Senators can be reached at 202-224-3121; U.S. Representatives can be reached at 202-225-3121.

Additional information about this Bill can also be obtained at [www.thomas.gov](http://www.thomas.gov) or at [www.aflcio.org/aboutunions/voiceatwork/d10.cfm](http://www.aflcio.org/aboutunions/voiceatwork/d10.cfm). The latter site, for example, shows which Senators and Representatives supports the ESCA and much more information.



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# National Council Meets in Washington, D.C.

By Rachel H. Shonfield, Local 3599, Miami District Office

The National Council of EEOC Locals, No. 216 (the Council) met from February 7 -8, 2004, in Washington, D.C. The Council's meeting agenda included many of the burning issues within the Commission, including the Restructuring Work Group, the National Contact Center, and the status of negotiations on pending programs.

The day before our meeting, a National Council delegation met with Chair Cari Dominguez. In response to questions, the Chair confirmed that the agency will be hiring non-bargaining unit "temp" Investigators, whose term cannot exceed four years. The Chair's rationale for hiring in this manner is to allow the agency "flexibility" as opposed to "cradle to tomb" employees. In regards to the Restructuring Work Group, the Chair stated that its non-binding report is due on March 3, 2004, but she would not elaborate on her own time frame for action.

During the first day of the Council meeting, Gabrielle Martin, Council President, explained that the National Council is not on the Restructuring Work Group because, by doing so, the agency contends that the Council would waive its statutory right to bargain over the final plan before it was implemented. In

addition, Martin stated that the Restructuring Work Group was forced to limit its review of the agency's structure to the predetermined result of picking 10 "mega offices." Even then, the Chair was not obligated to accept the Group's recommendations. Finally, the agency wanted to dictate who, from the Council, would be on the Work Group. The Council's position is that the agency cannot select who is going to represent the Union.

It was reported to the Council that the Agency is moving forward with its plans for a National Contact Center. The Chair would like to make a determination on a contractor by this summer. The Council was also informed that HQ has been working behind closed doors on developing an E-filing system. Along with the contact center, the Chair will use E-filing to justify reducing "brick and mortar" offices. The Memphis office once piloted a system where CP's filled their charges out on computers in the lobby. Invariably CP's would check off every box and the investigator would have to redo it, which wasted everyone's time.

Levi Morrow, Council Chief Negotiator, gave an extensive report at the Council meeting. Morrow shared the good news that the Memorandum of Understanding (MOU) has been finalized on the Staff Development and Enhancement Program

(SDEP). Six slots will be available, this round, for the target position of Investigator. Offices will bid for the training slot, by providing a mentoring plan. Employees from any office can apply.

Morrow continued by reporting that the MOU has been completed regarding Union/management negotiations on office space (which applies when offices move to new space and allows for five or more days of telecommuting). The MOU will be available on "insite."

Morrow updated the Council on the agency's push to implement a new performance appraisal system, which will include four rating tiers and revised Critical Elements. A new system would not be implemented before next year. Gabrielle Martin and Levi Morrow are among those in this Work Group, which will be sending out a survey to get feedback.

Morrow concluded by reporting that negotiations will begin shortly regarding the move of the Washington Field Office into the HQ building. The negotiating team will include representatives from the affected offices in Locals 2667 and 3614.

The Council meeting included a draft proposal to provide financial assistance to Locals for arbitrations from the Arbitration Committee, formed at a recent Council meeting. After some discussion, it was decided to have the Arbitration Committee incorporate additional points and submit a final proposal to the Council at the next meeting in August. Two other committees were formed. One was formed to research whether there are more inexpensive ways that *216Works* can be produced, without sacrificing its high quality professional appearance. The newsletter, which is printed in a Union shop, is distributed nationally to our members and also to Congress and constituent groups. The second committee will present options at the next Council meeting regarding upgrading the capabilities of the current Council website.

The Council discussed that while HQ has a "shelter-in-place" plan - a plan for emergencies - most offices do not. Health and Safety Committees in each office should address this important issue.

The meeting closed with Dottie Bruton, retiring member and EEOC union pioneer, noting the talent on the council and encouraged unity as we face these difficult.

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## Lessons From the EEOC *'The Model Employer'...*

On December 31, 2003, just by happenstance, Regina Andrew, Local 3614 President, noticed two litigation-sized boxes clearly marked "**Shred-It Destroy**" sitting next to the paper shredding bin in the copy room. Incredibly, the boxes contained original Time and Attendance Sign-In/Out sheets—evidence requested by the Local for its overtime arbitration scheduled for January 21 and 22, 2004.

Regina immediately told Tracy Spicer, Supervisory Trial Attorney, about the boxes of files. Tracy was in charge of the Baltimore DO in the absence of Gerald Kiel, Regional Attorney. Regina also attempted to hand deliver a letter requesting that the original documents be

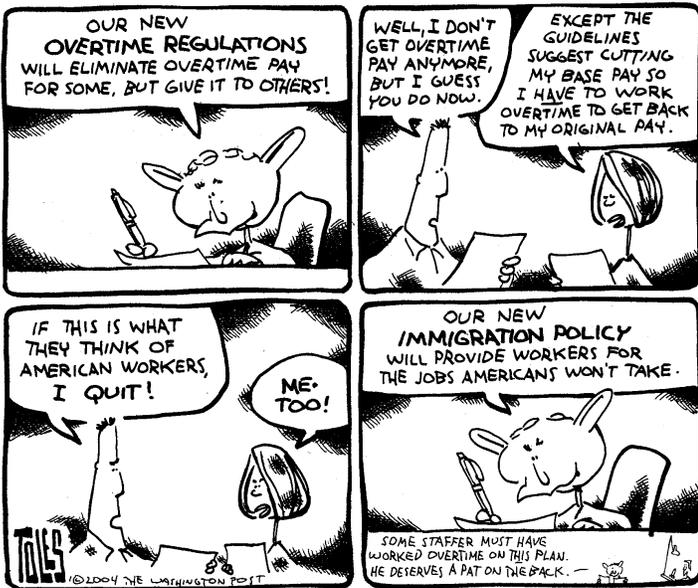
preserved and that copies be produced to the Union. Unbelievably, Tracy refused to accept the letter. Regina then e-mailed the letter to Gerald Kiel. He opened the e-mail but did not respond.

Michael Snider, the Local's attorney in the arbitration, notified Jim Sober, the OGC attorney representing the Agency in the arbitration, about the files being set for destruction.

Regina also reported the situation to the Office of the Inspector General.

Despite the notification, the files were destroyed! The Chair wants EEOC to be the "Model Employer"?! What kind of model? . . . Perhaps her vision is not trickling down? . . . But then, perhaps it is?

## POINTS TO PONDER



- Why is it that, until the last minute, the Chair refused to meet with the Delegates of the National Council, despite invitation?
- Why must employees in the Field provide a direct dial phone number in Group Wise, but many employees in HQ do not?
- Why is it that the Commission refuses to hire employees who return to school while working for the Commission into open positions commensurate with their education?
- Why is it that the Commission trend is to hire outstanding scholars who do not stay with the Commission for more than a few years?
- Why is it that the Chair wants us to believe that she makes decisions by the seat of her pants? Is it because she never wants us to know her plan for destruction of the Commission?
- Why is it that the Chair creates a reality – such as office Directors managing two offices - and then denies that she is making changes to the Commission's Field Structure?
- Why is it that over a year after the NAPA recommendations, the Chair has not proposed a comprehensive plan to deal with the recommendations?
- Why is it that any time the Chair empanels a work group, the group seems to be sworn to secrecy and members will provide only vague responses about what the work group is doing?
- Why is it that EEOC insists that no one here at EEOC is performing the work to be done by contract employees at the Contact Centers? Is it an admission that we do not hire support staff and have to pay high level professional staff to answer the phones? Is it because EEOC wants to create a Call Center to discourage people from enforcing their rights?
- When is the Chair going to address the NAPA recommendations pertaining to the structure of Headquarters?
- Why are there more SES employees in Headquarters reviewing work and fewer SES employees in the Field where work takes place?
- Why does the Chair tell EEOC employees that we are in a hiring freeze, but any time the Agency needs to hire a supervisor or manager, there is an exception to the freeze?

## Doing More

*sung to the tune of "Me and Bobby McGee"*

Beaten up by Reagan, we had a lot to learn  
 Bush left us feelin' faded as our dreams  
 When Clinton got elected, we thought we'd have our turn  
 But every administration has its schemes  
 They'll all claim to work "in the people's interests"  
 But mostly, it's really nothing new . . .  
 With partnership and reinvention time, we thought it'd all be fine  
 So we did everything we could do  
 Feelin' good is easy when staffing's on the rise  
 But nothing - I mean nothin- is a guarantee  
 Productivity is another term for "get 'em out the door"  
 They'll contract out your job if you don't do more  
 . . . contract out your job if you don't do more  
 From Arkansas wonder to the son of Tennessee  
 You know Al tried to show us he had soul  
 From Maine to California, he spoke of what could be  
 It looked like Ralph and W.'d be out-poll'd  
 But all that changed in Florida on a single voting day  
 A 5-4 split, and a different cast . . .  
 I think beyond my workn' time to when I fade away  
 Like Robert Reich, to tell the truth at last  
 Feelin' good is easy when staffing's on the rise  
 But nothing - I mean nothing - is a guarantee  
 Productivity is another term for "get 'em out the door"  
 They'll contract out your job if you don't do more  
 . . . contract out your job if you don't do more

# Labor-Management Council: Status of Projects

In September, 2003, the Labor-Management Council, created in the contract (Article 7) negotiated the previous year, met in Headquarters for several days. This Council was created to allow the National Council of EEOC Locals, No. 216 (the Union) and EEOC Management an opportunity to exchange views, address and, optimally, resolve outstanding issues. A number of projects were identified for concentrated effort. This summarized the status of those projects:

## Mou Regarding the Surveying of Bargaining Unit Employees

A couple of proposals have been exchanged between the Union and HQ Management. To date, HQ Management has refused to agree to provide the Council with an opportunity to preview surveys to be done by the bargaining unit.

## Reassessment of the EEOC Order Regarding the Agency's Harassment Policy

Originally, Management proposed to eliminate its Harassment Order (EEOC Order No. 560.005). Management's logic was that, between the CBA, Federal Sector procedures and the RESOLVE program, the Harassment Order was not needed. The Union opposed this. Management has proposed a MOU whereby the Order would be eliminated. This was *not* what was discussed at the LM meeting.

## Development of a New Performance Evaluation Instrument

A Work Group was created and is currently working on devising a new performance evaluation instrument. The Work Group has reviewed the performance standards used by other agencies. One agency made a presentation to the Work Group. The Work Group has agreed that the new instrument will consist of four tiers but has not come to a conclusion on the Critical Elements. The Work Group is scheduled to meet again in about a month.

## Evaluating Telecommuting

Some offices have completed local negotiations on a Telecommuting program and others have not. It was agreed that

there is a need to understand why offices have not reached an agreement and, where there is an agreement, how Telecommuting is operating. No progress has been achieved on this project.

## Staff Development Enhancement Program (SDEP)

The SDEP replaces the Career Development Program. A Work Group has been meeting and the procedures have been agreed to by the agency and the Council. Next, the Work Group will select the host offices. All intern positions will be "Investigators". Once applications are received and ranked, office Directors will review them, conduct interviews and make a recommended selection. The Work Group will make the final selection.

The Labor-Management Council also discussed other topics including IMS (problems and solutions); Communication between the Commission and the Union and employees; E-Learning; Production Standards, Privatization/Outsourcing; and, Updating Position Descriptions.

## Members of the Labor-Management Council are:

**Union:** Michael Davidson, Rachel Shonfield, Debra Moser and Pat Floyd. Gabrielle Martin, Union President, and Levi Morrow, Union Chief Negotiator, also participated.

**EEOC:** Angelica Ibarguen, Joann Riggs, Lee Guarraia, James Lee, Corlise Wright and Daniel Rueben.

# Overtime Pay Threatened



Excerpted from [www.aflcio.org](http://www.aflcio.org) and [www.cwa-union.org](http://www.cwa-union.org)

For generations, the Fair Labor Standards Act (FLSA) has required employers to pay most workers time-and-a-half for more than 40 hours of work a week.

The Bush administration and Republican leaders in Congress are now proposing changes in the FLSA that would erode the 40-hour workweek and could deny overtime pay to millions of America's workers. And, that is the tip of the iceberg.

The 'Family Time Flexibility Act' (S. 317), introduced in the Senate last February, claims to promote "family values" by giving workers more time off to be with their families. However, the reality is that the bill would increase the power of employers and reduce the income of vast numbers of workers. S. 317, for example, would permit employers to "pay" workers who work overtime with compensatory time instead of with money. This Act also ends the guarantee of overtime pay after 40 hours of work- the

current standard. Under the provisions of S. 317, an employee would have to work 80 hours to be eligible for overtime pay. These changes would be a major step backward for working families who struggled so hard to win the 40-hour workweek, the weekend and other job protections.

The House version, H.R. 1119, is the clone of the Senate version with at least one significant difference; unlike the Senate version, the House bill does not contain the provision of S. 317 which allows an employer to have employees work 50 hours in a work week without paying overtime as long as the worker does not work more than 80 hours during a two week period.

As if that weren't enough, the Labor Department is giving employers tips on how to avoid paying overtime to millions of workers who might become eligible under new rules which may be finalized soon. Among the options the Labor Department lists are, for example: cut workers' hourly wages and add the overtime to equal the original salary, or raise salaries to the new \$22,100 annual threshold, making the employee ineligible.

# Council Stepping Up Legislative Activities

*Continued from page 1*

service that will result from relying on e-filing of discrimination charges and a national contact center, staffed with scripted telemarketers, and. We stressed that the money could be better spent on updating our telephone systems and replenishing the staff we have lost due to the Chair's three-year hiring freeze. Moreover, we let Congress know that the Chair's plan to plug this staffing hole by sprinkling 100 Investigator "temps" nationwide, with terms not to exceed four years, will endanger customer service. As our ranks are shrinking, the last thing we need is to lose permanent career EEOC employees to privatized contractors and revolving door temps.

The Council delegates also updated Congress on the Chair's recent "office pairings," and her plans to identify "mega district offices," and reduce other offices. We let Congressional Representatives know how important it is for their constituents to have fully staffed community based offices.

Of course, the Union made the case to Congress that the Chair's leaked proposal for gutting the EEO federal sector process by eliminating investigations and hearings was unjust, unnecessary, and would glut the Federal Court system with complaints presently handled by EEOC Administrative Judges.

To be effective, Legislative Action cannot just happen once a year. The National Council and its member Locals have been stepping up our legislative activities. Gabrielle Martin, Council President, has successfully made our interests the interests of national AFGE as well as a number of outside groups. During the year, AFGE has issued press releases and lobbied on our behalf, as well as including an EEOC fact sheet in the materials each Legislative Conference participant received. At the annual meeting of Local 3599, Union members signed action faxes requesting oversight hearings. Other action faxes went out during the year from the National Council and members in other Locals. National

Council press releases resulted in news stories exposing the Chair's restructuring initiatives and putting her on the defensive. The Council is also reaching out to constituent groups, like NAACP and Nine-to-Five. During the year the National Council will be following up on the valuable Congressional contacts we made this trip.

Here's what you can do this election year, so that Congress hears directly from its constituents as well as from the Union and not just the Chair: 1) Go to [www.AFGE.org](http://www.AFGE.org) to sign up for AFGE Action News and join AFGE PAC, the group that is working for your 4% annual pay raises and to preserve your civil service protections; 2) Go to [www.council216.org](http://www.council216.org) to download a position paper that you can send to your representative; 3) Visit your representatives' district offices and discuss the issues in person; and 4) pick a legislative captain to spearhead activities in your office. Let's exercise some muscle to protect our jobs, our offices, and civil rights for Federal and private sector employees!

*\*Rachel coordinated the Council's work at the AFGE 2004 Legislative Conference. To the degree that the Council was successful is due in no small part to Rachel. -editor*

## Holding the Line for America's Health Care

Three giant corporations, Safeway, Kroger and Albertsons, are attempting to eliminate health care benefits at work for 70,000 Southern California supermarket workers.

If they succeed in destroying affordable health care, every worker in America will be at risk of losing their health benefits.

The UFCW members on strike against Safeway/Vons and locked out by Albertsons and Kroger/Ralphs are holding the line for America's health care.

Some of the grocery workers have sacrificed their homes, others their cars. They're putting their livelihoods and their families on the line to protect not only their health care benefits, but the health care benefits of all workers.

If Safeway has its way, children will go without medical care, families will be forced into poverty, and people will be moved from work to welfare for their health care protection. The company is asking for such dramatic takeaways that if they win, workers will lose everywhere.



*Seventy-thousand Southern California grocery workers started the new year on picket lines as the strike by the United Food and Commercial Workers against Safeway, Kroger and Albertsons dragged into its fourth month with no signs of a settlement*

## Exploding the ‘There is No Plan’ Myth

The infamous NAPA study was released in February, 2002. As all of us are all too aware, the most severe recommendations concerned the reduction, downgrading and/or closing of EEOC Offices around the country. Other NAPA recommendations discussed in the report included a National Call Center which is going full speed ahead despite the cost and the dubious return. And, this during what Dominguez described as, “. . . an extremely tight budget situation . . .”. Relocation of offices was another NAPA Recommendation as a cost cutting measures.

Since the release of the NAPA report, EEOC Chair Dominguez has been reiterating that the Commission has no plan; that employees will not lose jobs; that nothing is decided. Such statements do not square with actions that the Commission takes. Neither has the Commission provided accurate information to its employees nor the National Council of EEOC Locals, No. 216 (the Council). Things change and employees and the Council learn of such changes only after the fact. Is this the action of a model employer?

Case in point: Since last month there have changes in the leadership of a number of EEOC offices. Directors are being shifted and are directing the operations of two or more offices. In December, the Cleveland District Office

director was moved to Dallas and is also directing the Houston Office; the Detroit Director will also be overseeing Cleveland and Cincinnati Offices; the Indianapolis Director, in addition to current responsibility for Indianapolis and Louisville, will oversee Memphis. More recently, the Philadelphia Office Director will also assume responsibility for the Baltimore Office; and, the Atlanta Director will also be in charge of the Birmingham Office. The Directors of the Phoenix, New Orleans and Denver Offices have retired. But, as of now, no replacement Directors have been named.

So what does it all mean? Are these moves a step to create mega-EEOC Offices? Is it the first step towards downgrading or closing offices? Can we seriously believe that the Commission has no plan? Consider the political landscape: the EEOC did not do well with its budget (so what else is new?) thus putting restructuring in jeopardy; Bush has already announced austerity budget measures for all but a select few government agencies in 2005; Dominguez is fully committed to a National Call Center as a “top priority” (Some sources have stated that Dominguez has said that money is no object in reference to a Call Center. Where will that money come from?).

The more we learn, the more reason there is to assume the worst. A Restructuring Work Group was originally tasked

with making four recommendations to the Commissioners: 1) recommend whether, in light of the NAPA study, budgetary and management considerations, the Commission should reduce the current number of district offices; 2) assuming there should be such a reduction, where should EEOC locate the 10 or so “mega” district offices; 3) recommend how the remaining field offices should be distributed to maintain a presence in the current area; and, 4) recommend how a “mega” district office should be structured. Does this sound like an objective analysis of EEOC structure, needs and changes? One cannot help but wonder whether the Commission has followed the directive from Congress to report to it before taking any restructuring steps.

In the face of these developments, the National Council, among other steps, is bringing these maneuvers to the attention of Congressional leaders. It was a topic raised when Council members lobbied in the Capital on February 10<sup>th</sup> and 11<sup>th</sup>. The often-times clandestine tactics of the Commission highlights the need for bargaining unit members to visit, write, call, e-mail and/or fax their Congressional Representatives and have their friends, neighbors, relatives and co-workers do the same. Members, to be most effective, should do this consistently. The Council’s experience is that engaging in that political activity does yield results.

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