

Council Leadership Training

by Sharon Baker, President, Local 3599



Council Trainers: Levi Morrow (Dallas); Patricia Floyd (HQ); Sharon Baker (Louisville); Gabrielle Martin (Denver); Stephanie Perkins (Detroit); Rachel Shonfield (Miami); David Skillman (San Francisco).

The hottest Ticket in Town in Las Vegas during August 11-12, 2008 was not Kid Rock, Cher, The Blue Man Group, or The Jersey Boys; it was..... Council 216 Leadership Training at the Monte Carlo Hotel, Las Vegas, Nevada. The headliners featured Gabrielle Martin, President, Council 216 and President of Local 3230; Levi Morrow, Council Chief Negotiator and President of Local 3637; Patricia Floyd, President, Local 2667; Stephanie Perkins, Delegate and Vice President of Local 3504; David Skillman, Delegate and Chief Steward of Local 3230 and Sharon Baker, President, Local 3599 as training facilitators. All of the above worked as a team in coordinating this first time training event.

The purpose of the training was to start to develop future Council leaders by providing present stewards with information that will enhance their ability to provide quality service to the membership. Training included what to do before filing a grievance, how to file a grievance, requesting information, other agencies that can be helpful, EEO, MSPB, FLRA, RESOLVE.

The material provoked a lot of discussion based upon what is actually happening within the Agency and in the respective offices. A lot of information was given to the participants to use as resource material over the two-day training period.

JoAnne Riggs, Director of Labor Relations in OHR and some of her staff participated in a discussion on Labor Relations.

The reviews from the training participants were positive. Some of the comments were: "I had a better understanding of the CBA, MSPB, EEO process"; "I was re-energized"; "I was exhausted"; "I received a better understanding of my role as a steward"; "I learned more about how to file a grievance, ULP"; "I learned that a leadership role is important".

As a union organization we are only as strong as our people who are in leadership roles. We, as individual offices, and as a whole must continue to develop our leaders. I appreciate the time and effort the Council members and participants put in what I hope to be one of many more to

continued on page 10

NATIONAL COUNCIL MEETS

The National Council of EEOC Locals, No. 216 (the Council), AFGE, AFL-CIO meeting was convened by Council President Gabrielle Martin on August 12, 2008 in Las Vegas, Nevada. This year, the Council provided training to Stewards from the various Locals prior to the start of Council business (See Article, "Council Leadership Training," page 1).

Call Center & IIRs

Following procedural business, President Martin reported on the status of on-going issues such as the internal Call Center and IIRs, staffing, EEOC Assessment System (EAS) (the on-line questionnaire now available to the public), among other topics. Council Chief Negotiator Levi Morrow, then reported that there still was no start date for negotiations on a new Collective Bargaining Agreement despite numerous exchanges between the Council and the EEOC's Chief negotiator James Lee.

Promotions Languish

Morrow also reported that Attorney, AJ, State and Local and Mediator promotions were still languishing in HQ even though ap-

continued on page 8

PRESIDENT'S VIEWPOINT: THE UN-MODEL EMPLOYER



Gabrielle Martin,
Council President

EEOC has a noble mission. Leadership at EEOC touts the agency as a model employer. Yet, EEOC leadership fails to live up to that expectation with disastrous consequences for both its employees and the public.

Here at EEOC, employees toil to ensure that the workplaces and work lives of workers subject to our jurisdiction work in environments that are free from discrimination and retaliation. Through its enforcement programs, EEOC investigates, mediates, litigates and hears cases involving violations of five different federal laws prohibiting employment discrimination. Within a year, EEOC will be responsible for enforcement activity under yet another federal law prohibiting discrimination in employment.

Since EEOC must serve the public, I question why the EEOC leadership has, for the past several years implemented systems and programs that hurt the public. Examples include increasing the time it takes to process the pending workload and frustrating and angering the public by having a bait and switch call center. Although Congress forced the closure of the ill-advised call center, EEOC's Leadership decided to implement a clone call center inhouse.

The same problems exist—having IIR staff answering calls from the public using scripts; turnover of the staff; routing of calls to offices that are severely understaffed and ill-equipped from a technology standpoint, to handle the volume generated by the in-house system of answering calls.

To add insult to injury, EEOC decided to allow members of the public to use the Internet. The Internet contacts are paralyzing the employees. As we saw with the outsourced, ill-fated call center, employees in the severely understaffed offices are further deluged. There is a growing backlog of cases, estimated at 60,000 by September 30 of this year, phone systems have limited capacity for dealing with the calls, forms sent via the Internet clog the system and arrive faster than they can be recognized in the system. Postal mail mounts and as if that is not enough, the employees must meet with the increasing numbers of people who come to EEOC offices seeking services. And we have yet to address that cases are piling up awaiting investigation.

Litigators for EEOC have their share of burdens working for this so called "model employer". Driven to litigate cases in the public interest when violations of the statues are found, the struggle continues. Shortages in staffing means that cases often sit while someone scurries to find resources to work on and process them. The courts drive the litigation process and highlight the staffing shortages. Further, the shortage of equipment, support staff, and lack of technology improvements and things like working printers, copy machines and fax machines constantly remind us that EEOC is not a model employer as it claims.

Likewise, Administrative Judges who conduct hearings on federal sector discrimination complaints, do not fare much better. The lack of support staff hinders the ability to hear cases. As a re-

sult, it takes increasingly longer for the Administrative Judges to handle the hearings. Despite the fact that the number of Administrative Judges continues to decline, rather than hire Administrative Judges to hear the cases, the EEO Leadership has decided to hire additional executive level staff for a program comprised of high level employees. The public served by the Administrative Judges, other federal employees and the federal agencies for which the employees work, are the ones who suffer. Confidence in the system is lost.

Although the Union has called on EEOC Leadership to add Support Staff and additional Investigators, Attorneys, Administrative Judges and Mediators, those calls have gone unanswered by EEOC. For over four years the union has lobbied for additional money from Congress, but EEOC leadership has declined to do likewise. Nor has EEOC addressed the staffing shortage to the degree necessary. So the cases sit, and existing employees toil under the least model of conditions.

Besides the EEOC Leadership's decision to do only limited hiring and not to promote staff, the EEOC Leadership also refuses to promote or pay the employees for the work they are required to perform. While the employees are harassed to do higher graded work, rather than pay for the promotions the money is used to train managers how to fire employees.

Employees receive few training opportunities. What little training opportunities are available are not well advertised. Too often, the selection methods ensure that a small group of people receive continual training, while most never receive training beyond when first hired. The situation with the Administrative Judges highlights the absurdity of the training situation. Because this group of employees put together their own training program, at their own expense, some supervisors were invited to participate in nation-wide training for the federal sector this year. (*See "Backdoor" page 7.*)

For years, EEOC has made a conscious decision not to hire employees or to request funding to address the staffing shortages, equipment upgrades or supply issues. The results for both EEOC's employees and the public have been and continue to be a disaster. Like sweatshops and child labor camps, EEOC abuses its employees. While EEOC does not "profit" in the same sense from its exploitation of its employees as employers do from sweatshops and child labor camps, the penalty paid by both EEOC employees and the workers is too great and makes a mockery of the laws we are entrusted to uphold.

As employees we must continue to stand together, as we did on the call center and federal sector proposal debacles. In addition, we must participate in the political process to ensure that we have a place to turn to seek the necessary funding to address the numerous ills from which we now suffer. Each year with your assistance, we get closer to a budget that forces EEOC leadership to hire the staff and to provide the necessary equipment and training for employees to serve the public in a timely and efficient manner.

GAO REPORT ON EEOC IS A MIXED BAG

By Rachel H. Shonfield, Local 3599

Ongoing concerns regarding the EEOC's rising backlog prompted the agency's Senate oversight committee to order the Government Accountability Office (GAO) to conduct a review. On June 23, 2008, the GAO publicly released its report "EEOC: Sharing Promising Practices and Fully Implementing Strategic Human Capital Planning can Improve Management of Growing Workload."

The good parts of the report echo the union's battle cry that we have lost 25% of our staff. It also acknowledges that a growing workload, backlog and less staff mean that our mission could be compromised. The GAO report documents that over the last four years "the number of total charges handled per investigator increased by 22 percent, the average number of days taken to close a charge increased by 34 days, and the number of open charges at the end of the fiscal year increased by **82 percent** (emphasis added)." These troubling statistics reflect deteriorating service to the public.

The report also criticizes EEOC's failure after four years to develop and implement a strategic human capital plan.

The bad part of the report is its questionable claim that there are magical ways EEOC can manage the workload that negates the loss of staff. Moreover, GAO is very upset that EEOC is not identifying these techniques and sharing them for the benefit of its offices. Ironically, the GAO report can be faulted for the same crime. The report is extremely vague on precisely what promising practices it is talking about. There are only a handful of practices cited. Of those, the report does not clarify whether or not they are considered promising. For instance, the report keeps as a secret which of these is a promising practice to be shared:

- The Atlanta office emphasized that all charges that individuals wish to file should be accepted.
- The Milwaukee office focuses on screening during the intake process.

Here is an example of a practice that the report hints is a good one:

- In the Las Vegas office, charges have been transferred to the San Diego and Honolulu offices to reduce the pressure from a large workload.

Imagine if this presumably "promising practice" that the union has opposed was replicated agency-wide. Charges would be transferred from one overworked office to another like the game of "hot potato." Consider that the Las Vegas office is one of our newest offices, added only in the last couple of years. Why didn't the EEOC choose to staff it properly, so it wouldn't have the "pressure from a large workload?" Instead the agency set it up to fail by only staffing it with a total of 7 employees.

As you know, there aren't many times that the Union agrees with the EEOC ad-

ministration. In this instance, the EEOC's response to the GAO report is spot on:

Had EEOC been able to maintain its investigative staff at the 2004 level (734 investigators) with an average productivity rate of 105 charges per year per investigator, the agency's workload at end of 2007 would have been 33,602 instead of 55,232. While the GAO study proposes, but then dismisses any correlation between factors it suggests (average workload, percentage of high-resources charges, or percentage of 180-day closures) and inventory, we believe the correlation between inventory and staffing cannot be ignored.

Better late than never the agency is admitting that bleeding staff impacts the ability to stay on top of the backlog. Unfortunately, the GAO report could perpetrate the myth that there is a magic silver bullet to reducing the backlog, other than the obvious need to staff up.

A Confirmation Surprise

The EEOC has a fifth Commissioner for the first time in a couple of years. The announcement of the June 27, 2008 Senate confirmation by a voice vote was a surprise. Barker was sworn in on July 18, 2008 and fills the EEOC Commissioner seat held by Naomi Earp prior to her ascension to the EEOC Chair position in September 2006. Barker will serve for the balance of that five-year term which ends on July 1, 2011.

Ms. Barker was nominated by President Bush on March 31, 2008. There was scant biographical information available on the prospective Commissioner. Sources revealed that Barker was a management attorney. She is a former in-house counsel with the Mobile, Alabama public school system. The Daily Labor Report (DLR) reported that "In addition to defending private companies, she has defended [Alabama] state departments and agencies in discrimination lawsuits and has

also represented [Alabama] in discrimination actions." Barker has also been an assistant district attorney for four years and a judge for one year.

Prior to Barker's nomination, Justice Department attorney David Palmer had been nominated by President Bush. "Palmer," according to a DLR article, "withdrew from consideration in August, 2007 after opposition by Senate Democrats derailed his nomination."

Barker's confirmation was a surprise coming so close to the presidential election. The conventional outlook is that confirmations now "unduly bind a new president with those appointments."

Barker joins Chair Naomi Earp, and Commissioners Stuart Ishimaru and Christine Griffin. Vice Chair Leslie Silverman left the EEOC at the end of August when her present term expired.

LEVI'S OUTLOOK



by Levi Morrow, Chief Negotiator

There are always a lot of issues that the Council is dealing with the EEOC about. My intention here is to highlight those issues of significance. In this issue, I will focus on three issues: the status of the arbitration on classification/overtime; promotions that are held up in HQ; and, the denial of bargaining unit rights to IIR employees.

Update on Council Litigation: The FLSA Grievance

The second phase of the Fair Labor Standards Act arbitration case was completed in May of this year. The first phase of this arbitration considered the issue of whether the EEOC could reclassify Investigators and Mediators from “non-exempt” to “exempt”. The Arbitrator has said “No!” The second phase considered the issue of whether the EEOC had liability for overtime worked by EEOC employees over the past several years. At the conclusion of the four hearings on the overtime issue the Arbitrator originally directed the parties to submit final briefs by August 22. But, EEOC requested an extension. The Arbitrator granted this request and set October 15 as the new due date for the briefs. We are unhappy with the delay and hope that the arbitrator will issue a decision sooner rather than later after the submission of briefs. If the Arbitrator rules in the Union’s favor on whether the EEOC is liable for the extra hours worked by its employees, then the final step shall be to determine what the remedy will be.

If the Union does prevail, it is *possible* that only those Investigators and Mediators who can produce records of any/all extra hours worked will receive compensation. The Council has long advised employees to keep such records. If it shakes out that such records are needed, you will be informed. Then, you must submit them quickly.

Contract Negotiations

For the last couple of years, through agreement by the parties, we have been operating under the terms of the now expired collective bargaining agreement. The

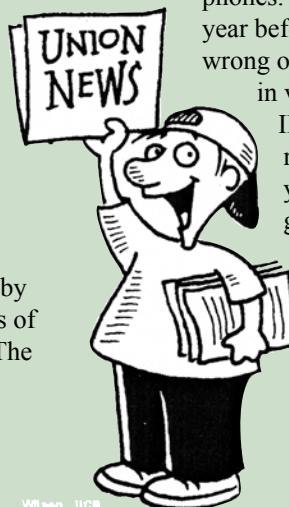
EEOC some time ago informed the Council that it wanted to start negotiations on a new contract. The first step in that process is to negotiate Ground Rules. Ground Rules define how negotiations for a contract will be done. We have exchanged proposals and several counter proposals with EEOC but have not made any progress nor have we reached agreement on Ground Rules for a new labor agreement. The Agency needs to remember that it is called negotiations for a reason. At this rate, there will be no new contract this year.

Promotions

Promotions can often be a problem. But, in the case of most field and Headquarters bargaining unit employees, there is a career ladder and positions descriptions which at least define the issue. However, some positions may obtain a GS 14 level (Attorneys and AJs) or a GS13 level (Mediators and State & Local), but those levels are not defined as part of the “career ladder”. The process requires that those employees receive recommendations from their supervisor and approved by the appropriate manager and then forwarded to Headquarters. Typically, there they languish for, perhaps years. The Council has fought this battle many times before. Headquarters considers these to be “unbudgeted promotions”. Typically, the Chief Financial Officer will not approve these promotions to hard working employees. In past battles on this issue, the Council has been relatively successful. We have won in arbitration on this issue in the past. This demonstrates the EEOC’s priorities and how EEOC regards its dedicated employees.

IIRs and AWS

This is primarily a message to our IIR bretheren: as **bargaining unit employees you are entitled to select an Alternate Work Schedule (AWS)**. EEOC’s position is that you are not because you were hired to man the phones. EEOC may also tell you that you have to wait one year before you will be allowed to select an AWS. This is wrong on both counts. By taking this position, EEOC is in violation of the contract. Here’s what to do: If any IIR wants to work an AWS, they should submit a request to do so. If the request is denied, inform your Steward or Local President. The Council is going to be taking action on this.



Wilson UCB

RACHEL'S REPORT

We Need A Bigger Budget and More Staff: How Do We Close the Deal?

By Rachel H. Shonfield, Council Legislative Coordinator

Employees at EEOC are stretched so thin we're at a breaking point. Twenty-five percent of our colleagues have left and have not been replaced. There's more work coming in the door and fewer employees to divide it between, so individual workloads are higher than ever. We're the last ones standing and yet we are being punished for our survival skills.

Now, without any forethought or added resources, EEOC opened the floodgates by letting the public file questionnaires online. Filling these out without guidance, the public just tends to check off every basis and type of discrimination. The questionnaires are of little help to investigators, but are another job that has to be completed by our dwindling staff.

Why then won't EEOC hire up to its staff ceiling? EEOC has approximately 200 vacancies that Congress gave it the funding to fill, but EEOC refuses.

The good news is that Congress gets it. EEOC's Congressional oversight committees had this to say when appropriating the agency's FY09 budget:

From the House:

With the workload increasing drastically, staff levels, particularly among frontline staff such as investigators and attorneys, have been inadequate to reduce or contain the backlog. Consequently, the Committee recommends an increase of \$9,545,000 to begin addressing this problem...

From the Senate:

The Committee is also concerned with EEOC lagging in filling frontline staff including investigators. Many of these FTE positions have remained unfilled for over 1 year despite increased need and growing backlog. The Committee further directs EEOC to submit a plan within 60 days of enactment of this act to the Committee outlining what steps the EEOC is taking to filling those positions...

The House also would like EEOC to report back on improving the in-house call center, so that it can be more useful to our staff and actually help the public:

The report should also include a cost-benefit analysis of hiring higher credentialed employees for the call intake function, which might provide more substantive assistance to callers and resolve a greater number of calls at the first point of contact.

The best news is that after five years of frozen budgets the House would like to increase EEOC's budget by \$21 million and the Senate by \$12.6. A bigger budget will mean more staff, more envelopes, more copiers, and more money for travel for our cases.

So how do we close the deal? Because it's an election year the budget process is probably going to be like the proverbial can kicked down the road. That still cannot deter us from urging Congress to increase EEOC's budget and staff. The Council anticipates a formal outreach effort to Congress in the fall in which we will need your help. It takes a local constituent like you to get your Congressman or Senator to take action. So please act quickly to help make calls to Congress when you get word from the Union.

Also, register to vote and register your friends. Check www.afge.org for Congressional voting records to see who supported legislation that makes a difference to Federal workers and to union members. We are more likely to get help for the EEOC from members who support our issues.



Rachel Shonfield,
Legislative Coordinator

National Council of EEOC Locals No. 216 Officers

Gabrielle Martin,
President

Michael E. Davidson,
1st Vice-President

Rachel H. Shonfield,
2nd Vice-President

Levi Morrow,
Treasurer

Danny Lawson,
Secretary

Kathleen Harman,
*Executive Assistant
to the President*

Local Presidents

Regina Andrew
Local 3614

Sharon Baker
Local 3599

Kevin Berry
Local 3555

Michael E. Davidson
Local 3504

Patricia Floyd
Local 2667

Gabrielle Martin
Local 3230

Levi Morrow
Local 3637

Joseph Wilson
Local 3629

National Council of EEOC Locals No. 216

**303 East 17th Avenue,
Suite 510, Denver,
Colorado 80203
Tele: (303) 866-1337
www.council216.org**

You Do the Math:

CASELOAD INCREASES + LOW STAFFING = HUGE BACKLOGS



Michael Davidson,
1st VP

In by-gone days, EEOC had about 1,000 more employees than we have at present. But, over the last ten years or so, staff has declined precipitously. The major downward impetus in staff is due to the four to five year-long hiring freeze instituted by then EEOC Chair Cari Dominguez in 2001. That hiring freeze accounted for the loss of more than half of the 1,000 employees lost. During

those years, rather than hiring, Dominguez urged EEOC employees to “do more with less.” The subliminal message was work more, i.e. longer hours (without compensation), produce more. Even when the hiring freeze was ostensibly lifted, hiring was not done at a pace to assure that EEOC field offices throughout the country would be replenished.

The touted 2005 EEOC “Restructuring” (also a Dominguez initiative) was supposed to realize more front line staff. That didn’t happen. Then, EEOC was to fill 200 field positions in FY2006. That didn’t happen. And it still hasn’t happened. In fact, the last time we were able to lay our hands on data from EEOC regarding staffing levels, that information revealed that terminations and hires were running pretty close. In some months, terminations exceeded new hires.

Since January, 2008, there have been vacancy announcements for 83 bargaining unit positions and 23 vacancy announcements for non-bargaining unit positions. (Bear in mind that a posting for a position is not necessarily equivalent to an employee being hired.) Of the 83 bargaining unit positions posted, 25 of those were for Investigators in 18 offices. Of the 83 bargaining unit positions posted, 18 were for OAA positions in 13 offices. No ISA postings were done.

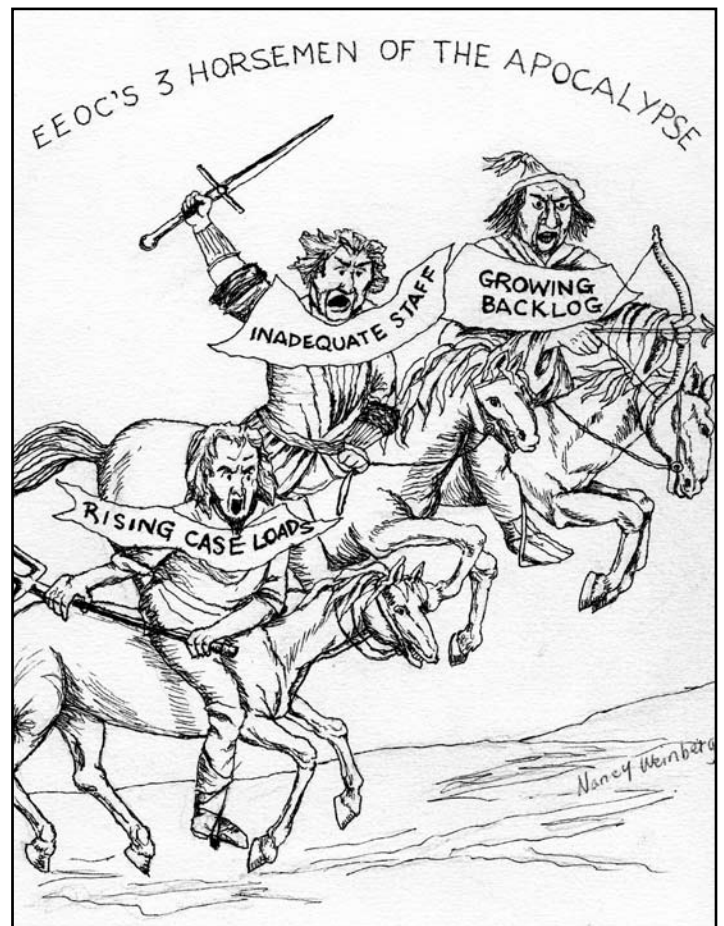
Investigator positions, OAA positions and ISA positions, are the core positions at EEOC. It’s where the brunt of the EEOC’s work gets done; it’s where backlogs originate. The Dominguez legacy is, and the Earp legacy will be that they left the agency decimated; that they had opportunities to make us more effective and failed; that they were mandated by Congress to improve field staff levels and ignored the will of Congress.

Likely, EEOC will claim that they simply did not have the monies to hire more staff. Yet, they had money to blow on the boondoggle of the National Call Center to the tune of \$4.5 million dollars a year; they had money to contract with consultants at the drop of a hat; they had money to waste on an arbitration over classification and overtime where they are clearly wrong. Will we ever know the exact amount of money that EEOC puts

to frivolous uses rather than applying monies to the all-important matter of staffing?

“Doing more with less” only works for so long before it turns into “doing less with less”. That is where we now find ourselves. Of course we have a huge and burgeoning backlog. It was predicted and predictable.

If EEOC receives greater government funding in the next FY, EEOC has demonstrated that it cannot be relied upon to use that money wisely. Congress is hip to EEOC’s fiscal irresponsibility and frustrated in dealing with it. Strong Congressional oversight of EEOC is needed to make it tow the line. Hiring of field staff needs to be executed and at a level that brings every office to the point where it can serve well those who come to EEOC. Hiring one or two employees for a limited number of offices will not do. It is reminiscent of the story of the boy who plugged holes in the dike. Just as there were too many leaks for the boy to stave off flood, there is too little hiring (and too many employees leaving) to whittle down case loads and reduce the backlog.





Sept. 1, 2008:
114th Labor Day

In 1894 the United States Congress passed legislation that made Labor Day a federal holiday, and President Grover Cleveland signed the bill into law. That year, railway workers in Pullman, Illinois, had gone on strike to protest wage cuts. Cleveland sent in

federal troops to end the strike. Strikers were killed, and their leaders were jailed. Congress and the president hoped to pacify labor with the holiday

Peter J. McGuire, a carpenter and union leader, generally receives credit for suggesting a holiday to honor workers in 1882. McGuire chose the September date to give workers a holiday midway through the long stretch between Independence Day and Thanksgiving.

The first Labor Day observance was held in New York City on September 5, 1882.

For some time Labor Day remained a time not only to commemorate labor's contributions but also to draw public attention to the plight of workers and the struggle of labor unions to improve working conditions.

Excerpted from "Labor Day," Microsoft® Encarta® Online Encyclopedia 2008

Federal Sector Changes Through the Backdoor

Federal sector, the venue through which federal employees have employment discrimination claims addressed, has been under scrutiny for years. It has been the subject of Commission meetings. Many proposals have been generated from a variety of sources, both internal and external to EEOC. Those proposals have run a gamut that has included eliminating federal sector at EEOC altogether, allowing telephonic hearings, considered a triage system that would categorize cases, to the most recent proposal of changing the EEOC internal reporting structure and creating more federal sector managers. Throughout each stage, the National Council of EEOC Locals, No. 216 (the Council), AFGE, AFL-CIO has been involved.

The federal sector change process on EEOC's part has not been characterized by "transparency". Often, EEOC has not brought employees or the Union into the process. Administrative Judges (AJs) have felt estranged from the process; the Union has led the charge, through its sources and resources. It has been able to ferret out the particular ideas under consideration, circulate them and solicit reactions and other ideas from bargaining unit AJs, various Commissioners and their respective staffs, the American Federation of Government Employees (AFGE), and external groups in the civil rights community with regards to the federal sector. It has been instrumental in forming coalitions and planning actions over federal sector issues.

Most recently, a Supervisory Administrative Judges Workgroup (SAJW) submitted recommendations concerning federal sector. The proposal recommended that direction over and supervi-

sion of AJs be altered. Currently, District Directors supervise AJs in the field and EEOC's Office of Field Programs (OFP) oversees federal sector in HQ. The SAJW also recommended that a position of Chief Administrative Judge along with five Regional Administrative Judge positions be created. These positions would likely include support staff for each of those positions making for a hefty price tag to implement this proposal. In an announced June Commission meeting, the Commission was going to consider this proposal. EEOC Chair Earp appeared to be in support of the SAJW proposal in its entirety. Commissioners Ishimaru and Griffin had reservations about aspects of the proposal, as did Vice Chair Silverman. As a result, the Commission meeting was abruptly canceled with no explanation. While these tableaux were being played out, the Union continued to busy itself unearthing details of the latest plan under consideration and circulating it to AJs, analyzing that plan, soliciting input and communicating with the players.

Feedback from AJs in the field concerning the SAJW proposal varied significantly. A number of AJs favored the creation of an independent Chief Administrative Judge to oversee federal sector; opinion as to whether AJs should be housed in the Office of Field Programs (OFP) or the Office of Federal Operations (OFO) was more controversial. A number of AJs expressed concern about the wisdom, not to mention the cost, of creating additional supervisory positions five Regional AJ positions. The Council had its own reservations. The Council felt that in the face of low staffing throughout the EEOC and the failure of EEOC to promote attorneys, AJs, Mediators and State & Local

employees, the expense of creating more bureaucratic layers could not be justified.

The debate over the SAJW proposal seemed to be in limbo once the Commission meeting to discuss this proposal was canceled. However, recent events have resurrected the idea of creating a Chief AJ and, eventually, five Regional AJs. About two weeks ago www.usajobs.gov, the website where government jobs are posted, listed a vacancy announcement for the position of Chief Administrative Judge at EEOC. This, as is typical of the EEOC, was done with little or no fanfare or discussion. The game plan in this instance is to bring the Chief AJ on board and then, at a future date post for the five Regional AJs. What other plans does Chair Earp have for federal sector that she has not yet revealed? It is not out of the question that the Chair will attempt to execute federal sector reorganization through backdoor changes to federal sector i.e. without a Commission vote.

At least the EEOC is consistent in that it continues to deal with federal sector issues, as with so many other issues, in secrecy. And once again, the Council must rebuke the EEOC for its methods; once again the Council calls for a transparent process in considering what works and what doesn't for the federal sector. Time and time again, the EEOC produces flawed results because those who make the decisions in HQ simply do not understand how the work in the field is done and because it has chosen to lock knowledgeable field employees who do the work out of the process and discussion at the front end.

So, this installment of the federal sector story becomes another instance which demonstrates the chinks in the armor of the alleged "model employer" – EEOC.

POINTS TO PONDER

- Did you know that Labor Day is celebrated in Canada as well and on the same day?
- Will this be the year that EEOC receives a significant infusion of budget monies? Or . . .
- Will a Continuing Resolution keep EEOC at level funding for the sixth year?
- If EEOC does receive a budget increase for FY09, can it be relied upon to follow Congressional mandates?
- When an Investigator has 300+ cases (as in Chicago), how can the public be well served?
- Why has a new Commissioner, Constance Barker, been appointed given the proximity of elections?
- Is it sound planning at this point in time to allow the public the ability to go on-line and submit questionnaires to EEOC with staff levels so low and the backlog so high?
- Would a model employer consistently hold up promotions for deserving, hard-working employees as EEOC done for the last several years?
- Which is the bigger number: employees leaving EEOC or newly hired employees?

Budget, Collective Bargaining Among Topics at Council Meeting



Council members met August 12th in Las Vegas, NV. During the meeting, members adopted a new budget and strategized on issues including: collective bargaining, the call center and federal budget issues.

Continued from page 1

proved by field management. The Council has submitted the problem to its attorney for review. Morrow finally reported that the arbitrator's decision on the recently concluded arbitration hearings regarding whether EEOC has liability for overtime worked by bargaining unit employees would probably not be issued until early next year.

Morrow, also the Council's Treasurer, gave a financial report to the Council and presented a budget for the next year. After discussion, a budget was adopted.

Committee Reports

Council delegates then heard reports on a variety of projects and from various committees including a status report on the next issue of *216 Works*, the Council newsletter, a report from the Arbitration Committee, a report from the Website Committee and a report from the Training Committee. Other topics discussed were the evolution of how FOIA work will be processed and related problems with FOIA requests, eligibility of IIR employees for participation in Alternate Work Schedules and the role of IIR leads.

Legislative Report

Rachel Schonfield, the Council's Legislative Coordinator, reported on the current activities of the Council which focused on EEOC's budget and the Council's efforts to get the best possible budget language from both the Senate and House Appropriations Committees. (See Rachel's Report, p. 3)

Council Budget

The topics of budget, staffing and the backlog were updated and plans for addressing these issues were discussed. Michael Davidson, Council 1st VP, presented a summary and analysis of the Vacancy Announcements posted from January, 2008 to the present.

The final Council business was the updating of the Council's Strategic Plan.

The next Council meeting will be in early 2009 and will coincide with AFGE's Legislative Conference.

CALL CENTER: The Next Generation

Let's review: In the beginning there was the National Contact Center (NCC). The NCC was the ill-advised result of a contract with a non-government contractor, employing non-federal employees to answer calls from the public to EEOC. Then EEOC Chair, Cari Dominguez hyped the NCC as a technological improvement aimed at ramping up EEOC's customer service and relieving EEOC employees of answering calls from the public. Relieving EEOC employees of phone responsibilities would allow them, according to the Dominguez gospel, to be more productive. The NCC cost millions per year and did none of what Dominguez promised. Ultimately, the EEOC was disconnected from any direct contact with the public. EEOC could only be contacted by its inept surrogate, the NCC. The NCC took bad messages and forced EEOC employees to replicate work. Rather than relieving employees of work, it created more work. In short, it was a disaster and a costly one at that. This was the opinion of nearly every EEOC employee whether bargaining unit or non-bargaining unit.

After about a five year run first under Dominguez and then under present Chair Naomi Earp, Congress had been so sufficiently educated by the National Council and its coalition organizations about the debacle of the NCC that Congressional Appropriations Committees language forbade EEOC from future spending on the NCC. With this handwriting on the wall, a four member Commission split in July, 2007 on whether to continue the NCC. (Chair Earp voted for retaining it.) Although attempts were made to resurrect the NCC, these failed. The NCC finally closed in December, 2007.

Let's recall that EEOC employees had been answering calls from the public since it opened its doors in 1965. During those years, the public got advice from experienced EEOC personnel. In 2001, Dominguez instituted a five-year hiring freeze. With staffing declining as a result of employees leaving and little hiring being done, answering phones became problematical. Dominguez' solution was the NCC. The better remedy would have been

to resume hiring and to do so in adequate numbers. We also know that approximately \$22 million dollars was budgeted and devoted to the NCC. This figure does not include the countless staff hours devoted to the NCC.

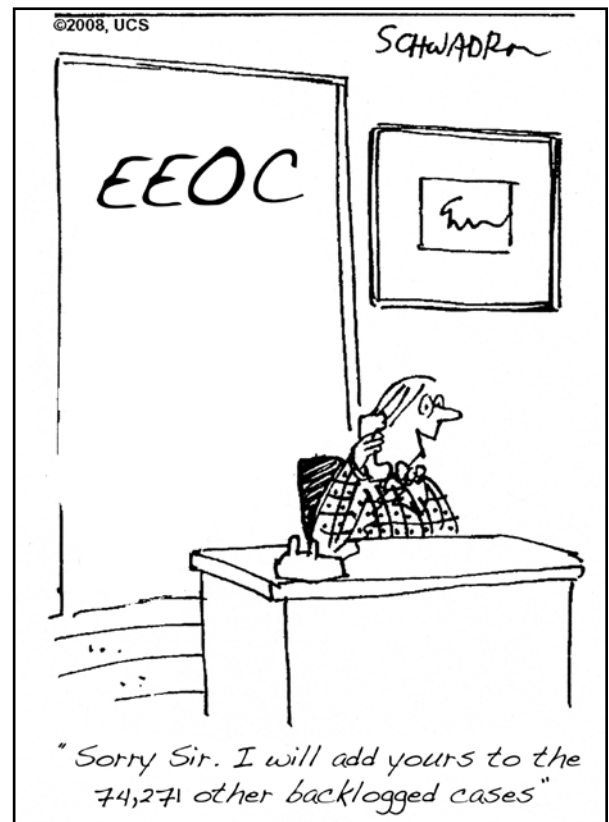
Once the demise of the NCC was evident and that an internal call center would replace it staffed by EEOC employees, the National Council again, as in the past proposed that the new call center be staffed by ISAs. The Council believed that presently employed ISAs possessed the basic skills and knowledge about EEOC to be of assistance to the public – something that the non-federal “telemarketers” of the NCC had not been. Unfortunately, the EEOC was hell-bent on cloning the NCC. EEOC created new titles, Information Intake Representatives (IIRs), GS5s, and GS6s (IIR Leads) instead of higher credentialed staff (like ISAs). EEOC wants the IIRs, like their predecessors, to continue to read off of scripts. EEOC does not anticipate training IIRs so that, eventually, they would be able to provide substantive answers to callers. On the other hand, the Council continues to urge EEOC to do just that.

The good news is that those employees working the phones are now federal employees. The other good news seems to be that IIRs take better messages than their predecessors.

That's about where the good news ends. The IIRs are spread across the fifteen districts. They answer to many masters including the IIR Leads; a supervisor in the office where IIRs are located; the Kansas City EEOC office where call center supervisors are located. Unfortunately, in a number of offices, IIRs are not being integrated into the fabric of the office often under the excuse that IIRs need to be manning phones. In the distant past we did have employees who did phone

work. They were part of the office. That some IIRs may be isolated is an artificial barrier. EEOC has taken the position that IIRs, although bargaining unit employees, are not entitled to the bargaining unit perk of Alternate Work Schedules (AWS). By creating a “Lead” position, EEOC has created a position that is neither fish nor fowl. “Leads” are required to perform tasks that are traditionally non-bargaining unit in nature: reporting on problems they observe with the manner in which IIRs perform their job, providing feedback on IIR to the supervisor for performance evaluation purposes, tracking attendance, etc.

As long as there is a call center, the Council will focus on providing needed training for IIRs so that the public is served in the best manner possible. The Council will also continue to watch dog over the ongoing saga of EEOC's call center operations with an eye to shaping it to serve the public in the best possible manner.



EEOC Electronic System Rollout Floods Offices

On June 9, 2008, EEOC rolled out the EEOC Assessment System (EAS). The EAS is an electronic system on EEOC's public website (www.eeoc.gov) where the public may fill out information on-line germane to charge filing process with EEOC. The EAS first determines whether the user is within EEOC jurisdiction; if so, then the user may then proceed to complete an on-line questionnaire. Upon appropriate completion of the questionnaire, the user clicks on a "submit" button. The information obtained through the on-line questionnaire is ultimately routed to the EEOC office most likely to have geographical jurisdiction and onto IMS, EEOC's database. Charging Party information is automatically imported into the "Charging Party" section of IMS. However, Respondent information is not imported into the "Respondent" section of IMS. That must be done by the assigned Investigator. The assigned Investigator must then do everything necessary to either produce a charge for a Charging Party to sign or otherwise properly dispose of the matter.

Who can argue the virtues of harnessing technology to facilitate the accomplishment of work? But, efficient utilization of technology requires that the technology actually does assist the organization in doing its work. In order for the technology to be an effective tool, there are prerequisites: the subject task(s) must be thoroughly understood; and, once a prototype is developed, it should be field tested before it is rolled out for general use. It should go without saying that adequate staff is needed to process the work generated.

The EAS was rolled out with little notice or direction to field offices. As far as we know, it was not subjected to any sort of field testing; we doubt whether the developers had working knowledge of how this work was done in the field; and, there was not adequate staff *before* the EAS was implemented.

Originally, a HQ memo directed on-line EAS forms to be processed within seven days. However, once the National Council questioned the seven-day directive, it was rescinded and field offices were advised to

process the EASs "promptly". The Council also noted that the implementation of EASs created a preference toward internet users and that the expected torrent of EAS forms into offices would be impossible for understaffed offices to handle.

The Charge Receipt process varies from office to office. That being the case, it is unlikely that there will be a uniform method utilized in handling the EASs from office to office. Therefore, the Council has authorized each Local President to negotiate the Impact and Implementation of those procedures on an office-to-office basis.

EAS has been in place for several months. Reports from field offices reflect that offices are being inundated. Compounding that are other factors which add to the influx of EAS submissions: a user can submit multiple EAS forms all on the same set of circumstances; a user can submit an EAS questionnaire and call the internal call center on the same set of circumstances; a user can do both of the proceeding and call the local EEOC office for an appointment on the same circumstances. The result is that one potential Charging Party may have multiple numbers in IMS all on the same circumstances. Weeding out those repetitive IMS entries is time consuming and labor intensive.

Our overarching concern is whether this is a good tool given the state of EEOC. EEOC is tremendously understaffed and not making even minimal progress to achieve staffing of field offices to anywhere near adequate levels. Employees are being stretched beyond the limit: Case loads are increasing in virtually every office. Charge filings are up. EEOC is projecting an increasing backlog. So, the question becomes, "Is this the time to roll out this EAS technology given that early indications are that it will only add to the burden on each office and on every employee?" It is also a disservice to the public to create the impression that EEOC has the ability to process these on-line submissions in a timely manner.

We believe that EEOC has (not for the first time) put the cart before the horse by implementing this on-line process while field offices are staff starved and already overloaded. Working out the bugs of the technology is smarter than bugging employees with unreasonable workloads. But, even "good" technology is rendered irrelevant if it outstrips the ability of staff to process work. The credo should be: first, hire, hire, hire: then, add on technology. EEOC bosses need to worry less about a "legacy" and more about what will make EEOC a truly model employer



Council Training Re-Energizes Membership

Council Legislative Coordinator, Rachel Shonfield leads a training session discussion

Continued from page 1

come training events. As one participant said, "This is an each one, reach one and teach one type of training." Each participant was encouraged to take what they learned back and teach other members and practice what they have learned.

Sharon Baker proposed the idea of Council training organized it and coordinated the various presentations. The Council appreciates her efforts. Training such as this is necessary to keep the Council strong and as a means to develop future Council leadership. —Ed.

Barbara Hutchinson: *Someone You Should Know*



Barbara Hutchinson is an attorney that the National Council has retained on a number of occasions to arbitrate issues that have arisen. Most

recently, she arbitrated the classification/overtime grievance on behalf of the National Council. -Ed

Barbara Hutchinson was born and raised in Braddock, Pennsylvania, a strong union town, and was the youngest of nine children. Hers was a close knit family. Her parents stressed the importance of family and education. Her father was a master plasterer and always spoke favorably of unions despite the fact that he was excluded from the plasterers union because of his race. Barbara says, "I inherited a union 'gene'. My father would say that the only choice for working men and women was to join together to increase their power for better wages and living conditions. I didn't plan to enter the labor movement; it just happened through a progression of jobs and as a result of my personal commitment to stand up for what was right and just."

Barbara's first full-time job was in 1968 as a Government Intern for the Pennsylvania Liquor Control Board in Public Relations. After completing law school at the Dickinson School of Law, Barbara next worked for the Pennsylvania Workers Compensation Bureau. Moving to Atlanta in 1973, Barbara worked for a small, all female law firm. At this firm she engaged in general practice but focused on workers' compensation. The firm's orientation was women's rights and civil liberties. "Margie Hames, one of the few female lawyers in Atlanta, at the time, was a great influence on me."

Barbara came to the EEOC in 1976 in the Atlanta office as a lawyer doing pattern and practice cases and class cases. She joined Local 3599. She became a steward. She met Ed Watkins, founder of the National Council, and John Sturdivant, who later would become AFGE President. Barbara became more involved and, in 1980, ran for and was elected to AFGE's

Women's Department as its Director. "I think I did some good work there." In 1981, Barbara was elected to the AFL-CIO Executive Council. After running for AFGE National Secretary-Treasurer in 1988, Barbara left AFGE because, "I felt a need to move on in my life."

"My election to the Director of the Women's Department was an enlightening experience. Prior to moving to Washington, D.C., I had no clue as to the power and influence that the federal government has on the daily life of its citizens. My experience with AFGE and the AFL-CIO brought to me the reality that for those persons earning a paycheck, you must have a voice in this society. The voice which truly speaks for those persons is the Union. Yes, unions come with good and bad, but on balance, the Union is the only entity whose sole focus is the improvement of the lives of persons who earn a paycheck."

Barbara began a private practice in Washington, D.C. in 1989. "I have litigated many cases for the National Council. Among those are three bargaining unit-wide cases all of which I prevailed. I try not to take cases which I do not believe stand a good chance of winning. I try to assess the pitfalls in advance."

In Barbara's view: "I believe the labor movement will experience a renaissance with the expansion of capitalism throughout the developing world. The same issues that galvanized workers in the United States to form Unions are conditions which are replicating themselves worldwide. I believe unions in the United States and Europe are uniquely positioned to seize the opportunity which is beginning to be presented by the globalization of the economy."

In her limited leisure time, Barbara reads, swims and follows politics.

KNOW YOUR COUNCIL MEMBERS:

Regina Andrew, President, Local 3614



Regina M. Andrew has been the President of Local 3614 of the AFGE for six years, elected to that post in May 2002. Born in Malden, Massachusetts, Regina was raised in Texas. She graduated from the University of Houston in 1984, earning a Bachelor of Science in Political Science. In 1988 she graduated from Temple University School of Law in Philadelphia, Pennsylvania. After graduation Regina served as Law Clerk to the Honorable Charles A. Lord in the Court of Common Pleas in Philadelphia.

In 1990 Regina began her current position as a Trial Attorney at EEOC, prosecuting employment discrimination cases in Maryland. During that time she has tried cases and won successful jury verdicts and litigated several prominent class employment discrimination cases in Maryland. Regina has used her legal skills and experience to represent the members of Local 3614 in various grievance proceedings. Regina lives in Upperco, Maryland with her husband and three sons, ages 15, 12, and 9.

Regina likes traveling especially in the Western United States; she likes hiking in the mountains; and, she likes biking with her family. Regina trains in martial arts, specifically Tae Kwon Do. "I also like birdwatching with my hubby. But, What I enjoy most is sitting on my front porch 'watching my corn pop up in row...and my children grow where the green grass grows.' This lyric comes from one of my favorite songs, 'Where the Green Grass Grows' by Tim McGraw."

"I know all this sounds corny, but it is me. Very simple, and proud to be."

Rep. Tubbs Jones: EEOC Employees Mourn The Loss Of A Colleague and A Champion

United States Representative Stephanie Tubbs Jones (D-OH), a great friend to the National Council, died on August 20, 2008 from an aneurysm at the age of 58. Tubbs Jones came from a working class family. She went on to earn a law degree from Case Western Reserve University. During her career she had been a prosecutor and a municipal court judge. She had also been an EEOC Trial Attorney in the Cleveland EEOC office.

In 1998 Tubbs Jones became the first female African American elected to the U.S. House from Ohio. In Congress, Tubbs Jones served as Chair of the House Ethics Committee and on the powerful Ways and Means Committee.

Stephanie Tubbs Jones was a hero to EEOC employees. She was one of the first Representatives to throw her congressional weight behind issues that the National Council was fighting like the

contract call center and decreased staffing and funding for the EEOC. Over the course of the last several years, she sponsored two "Dear Colleague" letters, each signed by over one-hundred members of Congress, and two amendments, which cast a spotlight on these concerns. Because of her background working for the EEOC and her unquestioned leadership on EEOC issues, her colleagues paid attention. With the critical help of Tubbs Jones and her dedicated staff, the unlikely success was achieved of ending the contract call center and bringing the public's calls back in-house.

Gabrielle Martin, Council President, stated, "The Council is forever indebted to the Congresswoman for her commitment to preserving the EEOC as an effective enforcer of civil rights for this nation's workers." Rachel Shonfield, Council Legislative Coordinator, commented, "Stephanie Tubbs



Stephanie Tubbs-Jones

Jones was indeed our champion. She understood first hand the mission of the EEOC and how issues like the contract call center and declining numbers of EEOC employees detract from that mission."

The Council extends its condolences to the Representative's son, Mervyn Leroy Jones II, sister Barbara Walker, her family, friends and her tireless legislative staff.

**National Council of EEOC Locals 216
AFGE/AFL-CIO
80 F Street
Washington, DC 20001**

NON-PROFIT
U.S. POSTAGE
PAID
WASHINGTON, DC
PERMIT NO. 3070