

## Broken Systems and Broken Promises



*By Gabrielle Martin, Council President*

When Dr. King dreamed, I am certain it was not about counting widgets. It was not about being more concerned about looking good, it was about fighting to do the right thing. It was not about how many calls were made, or how fast papers were filed, it was about being efficient and effective in the pursuit of civil rights. Yet, at EEOC, it has become those things. EEOC's new plan to reduce inventory and processing times is broken. It merely victimizes the public.

Under EEOC's public Priority Charge Handling Procedures, "C" cases are rare cases. Typically, when a charging party insists on filing, these charges are dismissed following intake because EEOC does not have jurisdiction due to lapse of time, insufficient number of employees or the charges are self-defeating on their face. Yet, EEOC now requires offices to categorize more of them as Cs for the

purpose of artificially reducing processing times. While EEOC claims that more scrutiny is given to cases at intake, penalizing charging parties, especially those without an attorney, is not the answer. Why should the public be penalized because they do not have the answers to questions EEOC is supposed to investigate?

Further, evidence of EEOC's intended sleight of hand lies in new performance plans which contain numerous artificial and unexplained timeframes and deadlines constructed to increase these dismissal rates. EEOC's District Complement Plans, implemented late last Fall, further support increasing the dismissals out of intake or within the next thirty days. The ink on the charge is barely dry before the dismissal papers are prepared. The more cases dismissed at intake, the more EEOC wants to claim processing times are reduced. Yet, all that happens is that civil rights are subverted for statistics in the hope that the real inefficiencies of the process are masked.

Rather than artificially dictate how many cases should go into its various triage categories to increase the number of cases dismissed in intake, EEOC should focus on an efficient intake system. For years, the Union has proposed intake units designed to have the public contact the agency, get questions answered and charges filed. EEOC steadfastly resists such an efficiency, as its backlog of cases skyrocketed.

Maybe the public can take solace. EEOC treats its employees no better than it treats the public. Despite many fewer employees and much more work, EEOC

conducts business as usual. The Union has had to fight to get working equipment like scanners for intake so that employees can try to get the mounting work completed.

The agency constantly implements new systems and programs which do not interface with existing systems. It often takes a year to 18 months before the systems talk to one another while employees struggle through. E-mail systems down, different offices using different protocols, e-mail boxes constantly flooded with multiple e-mails from the same person. Facing months of this, simple things like changing passwords or preserving e-mail from the old system, are major disruptions to the work.

EEOC needs to walk the walk. EEOC must stop overruling medical requests for accommodations and timely address them. EEOC must stop using tap on the shoulder and word of mouth processes for training and other details. After all, EEOC beats its chest in press releases when other employers use these processes. EEOC must train its employees and managers on protocols for EEO claims and stop joking about it in staff meetings and trainings. When equipment arrives, have it assembled faster. Follow up on accommodations to make sure they are working, instead of using the unsatisfactory accommodation to fire employees.

Most employees come to work at EEOC because they believe in the mission of civil rights. None signed up to process and discard widgets. For the sake of Dr. King's dream, EEOC's broken models need to be fixed.

# Union Files ULP Against EEOC for Failure to Negotiate I & I of New Performance Plans

*Sharon Baker, Council 216 Chief Negotiator*

Does anyone understand EEOC's convoluted new performance plans? One of the Council's major concerns is the bizarre numbers and percentages used. For instance, investigator requirements include: "Demonstrates use of correct Theory(ies) of discrimination, Models of Proof, and Priority Charge Handling Procedures 88% of the time." Or, ironically falling under the heading, "Commitment to Justice" is this dismissal requirement: "C charges are properly identified 90% of the time during intake, and dismissed within 20 calendar days of assignment."

When we asked management officials, HR and Subject Matter Experts (SME), about the basis for the numbers/percentages, no-one could give an answer. Could it be that because the plans are to be written in the SMART format (Specific, Measurable, Aligned, Realistic and Time-bound), for "Measurable" that they blindly chose a percentage point? Often the percentage is the only distinguishable difference between plans in a job series written for different GS levels.

The percentages are a backdoor way to evaluate work based on numbers rather than quality, and undercuts SMART goal "A" (Alignment) with agency goals. Likewise, the agency misused SMART - goal "S" (Specific). Employees get unobtainable laundry lists of tasks to be checked off, rather than descriptions of work with a

purpose. Another misstep is that plans were written without interaction with the employee, contrary to EEOC Directive 540.008. Without this step, SMART goal "R" (Realistic) is ignored and the standards fail to match the work actually being performed.

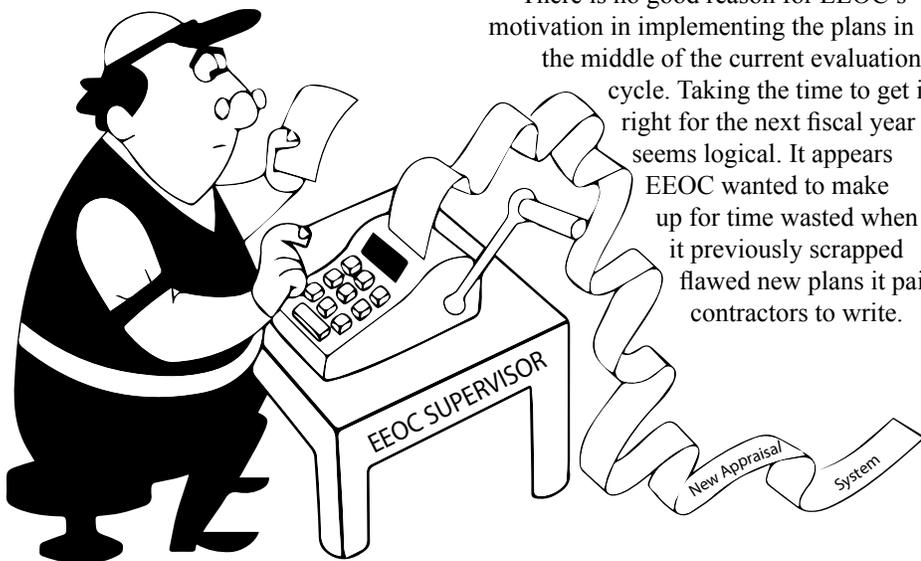
EEOC stubbornly stood on its right not to negotiate the plan contents with the Union. While the agency allowed me as the Chief Negotiator and Gabrielle Martin, President Council 216 to provide comments regarding some, but not all, of the plans, it was a wasted exercise. The HR representatives did not have a realistic understanding of how work is being performed. When we were able to speak with the writer (SME) of the plans, they often agreed with the nonsensical presentation. In some cases, a few changes were made. Most of the time, the agency failed to provide the SME. While we hoped that the HR representatives would properly convey our comments to the SME, that does not appear to have happened. Unfortunately, there were too few plans where the Union's constructive feedback was used. Once, we spent hours discussing plans with the SME; before the phone was in the cradle, the affected employees were sent unrevised plans. Another time, after long discussions we were sent "Final Plans," with a note that our input was considered, but few of our comments were actually accepted.

There is no good reason for EEOC's motivation in implementing the plans in the middle of the current evaluation cycle. Taking the time to get it right for the next fiscal year seems logical. It appears EEOC wanted to make up for time wasted when it previously scrapped flawed new plans it paid contractors to write.

Since the release, the Union continues to raise concerns, which we are told will be corrected next year. That leaves some employees on the wrong plan. For example, I pointed out that the OAA plans incorrectly assume all the work is done for the Intake Unit. This call actually had an SME, who agreed that was not a correct assumption. HR's response to our suggested fixes was, review them in the next review cycle (2018). OAAs should not have to wait to be evaluated under a plan based on their actual work. Nor should any jobs be changed through the performance plans. Employees in HQ are on plans for field employees who perform drastically different work. Paralegals and Legal Techs appear to have had their plans reversed. These changes and errors leave employees vulnerable to poor performance reviews.

It is the agency's prerogative to draft lousy, nonsensical performance standards, but that does not negate the Union's right to bargain accommodations for Impact and Implementation (I&I). Management's claim in the training that "The Commission has met its bargaining obligations," is an "alternative fact." As a result of the agency's refusal to negotiate I & I, the Union filed an Unfair Labor Practice. We will keep you up to date on those proceedings.

As it stands today, the plans are out. The Performance Handbook states that it is the responsibility of the supervisor to: "Provide clarification on any aspect of the employee's performance plan upon request." So you should ask questions regarding the list of activities in each critical element until you and your supervisor are clear on what it means and how it will be evaluated. Ask them to be specific about application of the numbers/percentages to your work and the reports they will be relying upon. Make sure that your first 5 ½ months of work is accurately valued and your accomplishments recongized. And get it all in writing, since the agency's response to yet another broken system is that they will fix it along the way.



# EEOC Doubles Down on Its Flawed Digital Initiative

Despite continuing problems with Phase 1 of EEOC's new Digital Charge System (DCS), the Phase 2 roll out is underway. DCS is like Frankenstein's monster, built by cobbling together different systems onto the obsolete IMS platform. EEOC's flawed approach to going digital has created a slow, lumbering, erratic monster that frontline staff must wrestle to get their work done.

First, DCS is not user friendly. Staff must go back and forth between screens and entering redundant information into: DCS, IMS (legacy), IMS (Next Gen), ADOBE, and Word. Groupwise emails must be converted to PDF and uploaded.

Second, DCS crashes a lot. If you take notes in IMS that often shuts down. Switch to Word, then that may say it has

a virus and shut down. When the system stalls or hangs up, you have to manually shut down and sign back into everything.

Third, DCS was obviously designed by someone who would never use it. Navigating the digital file is difficult. More selection criteria are needed for placing documents in DCS. It is hard to review long position statements in PDF. EEOC claims that using DCS to email documents saves time, but getting the employer's HR department email address is a huge time-suck. CPs rarely have it. Tracking it down requires computer research and multiple phone calls. Some employers refuse to give their email address, others refuse to use the DCS portal.

Feeding the monster is the most burdensome part about DCS. In addition to

juggling their huge workloads, staff are required to scan and upload all hard copy documents (intake questionnaires, CP evidence and correspondence) into DCS. Worse, EEOC did not furnish scanners. Thanks to Union efforts, EEOC later sent some scanners, but many offices, like New York, never got any.

Now, DCS Phase 2 is landing with a thud in five pilot offices: Charlotte, Chicago, New Orleans, Phoenix, and Seattle.

Pilot office employees report that the webinar training was inadequate. They suggest a hands-on DCS computer training would make more sense. Also, the training did not hit on obvious problems that are occurring, like CPs coming in without their DCS passwords.

So far, Phase 2 efficiencies are elusive. The appointment system has bugs. CPs are not completing the lengthy online questionnaires that were intended to help investigators prepare for interviews. CPs keep calling to ask for their User ID. Technical snafus often impede the investigators from accessing completed questionnaires. When CP information does come through, it's another ordeal of going between screens and systems to review it. Oddly, CPs must use a second computer to digitally sign the charge. Management's plan was for staff to take CP to a computer kiosk in the lobby for signing. To avoid a bottle-neck, the Union has pushed for second computers in intake rooms.

The Union negotiated a memorandum of understanding (MOU) to assist with the Phase 2 impact. The MOU addresses: training; appointment schedules; equipment; impact on employee evaluations; leave, etc. If you don't have the MOU, ask your Steward.

EEOC plans to roll out Phase 2 nationwide this fiscal year, claiming DCS "streamlines" and "saves resources, including staff time." There is no evidence that an actual time-study was done to support their claims. EEOC has just turned a blind eye as its DCS creation wreaks havoc on staff. EEOC should send DCS back to the drawing board in favor of a seamless digital solution that actually creates an efficiency.

## Hiring Freezes Hurt Veterans



*Hiring freezes are particularly hard on veterans. Last year it was reported that vets made up 44% of new full time Federal hires. More than 623,000 vets work in civilian Federal jobs. The Federal government is the lead employer of vets and the lead employer of disabled vets. But when freezes and budget cuts halt hiring, vets are cut off from applying. This is a loss to the government workforce and the public we serve. Vets bring with them a wealth of life experience, leadership and communications skills, and dedication to mission. We thank all of our veterans for their service, including the vet profiled below, who was hired in EEOC's Birmingham office a few months before the freeze.*

Richard "Ray" Grooms is still proudly serving our country. Ray first served in the Marines, before returning to civilian life as a firefighter in Atlanta. After 9-11, he was inspired to join the Army, where he was promoted to the rank of sergeant. In Afghanistan he worked as a Kiowa avionics tech. From the front lines of the battle field, Ray maintained the mechanical and armor systems of the helicopters. Ray left the Army with a medical discharge after being wounded in Afghanistan.

After the military, Ray attended Concordia University School of Law in Idaho. Following graduation he went to work as a public defender. Ray says, "helping the disenfranchised, that's what led me to EEOC." In the Army, Ray gained experience investigating discrimination complaints as the EEO rep for his regiment.

When Ray saw the multi-location vacancy announcement for EEOC, he narrowed his search to the South to be closer to family. Ray joined EEOC's Birmingham District Office as an investigator in October 2016. Ray is pleased to be working at EEOC, "We do a really good job here. We are making lives better."

Ray is also a proud Union member. He says, "As a military member we were not afforded the protection of a Union, which would have been nice. My family from Alabama had been coalminers, so I knew from them that the Union can protect you. When coworkers said there is a Union, I went to our steward and joined."

Ray and his wife, Heather, have three children: a son 21, a daughter 15, and another son 9. Ray hopes hiring resumes soon, because he has a friend, who he knows would like an opportunity to apply and work at EEOC.

# Council 216 On the Hill



*Rep. Yarmuth (KY) and Anderson*



*Rep. Wasserman Schultz (FL) and Shonfield, with AFGE Social Security reps*



*Rep. Levin (MI) with Fizer-Jordan and Perkins*



*Rep. Adams (NC) and Barrett*



*(L-R) Blueford, Rep. Wittman (VA), and Bashaw*



*Andrew, Sen. Kaine (VA), and Blueford*



*Rep. Johnson and Knight*



*(L-R) Andrew, Rep. Doyle (PA), Barber*



*Rep. Connolly (VA) and Blueford*



*Norken and Rep. Brown (MD)*



*Martin and Senator Gardner (CO)*

## AFGE's 2017 Legislative Conference

All eight Locals attended AFGE's 2017 Legislative Conference in Washington, DC, this past February. President J. David Cox energized participants about how AFGE will respond to the fight ahead.

A cadre of inspirational lawmakers relied on their own personal backgrounds to articulate their support for Federal workers and AFGE. Rep. Bishop (UT-R) was a high school teacher and a faculty rep with AFT before going into politics. He believes fighting for the Federal workforce is not a partisan issue.

Sen. Duckworth (IL-D) told us she would have bled to death serving in the military, if another injured soldier had not held the perimeter. She noted that 40% of AFGE are veterans and she will stand shoulder to shoulder to protect veterans and the VA.

Sen. Hirono (HI-D) shared how her family lived in perilous poverty until her mother got a job where fellow workers decided to organize. As a union family they had a stable income and were able to buy a small track house.

Rep. Steny Hoyer (MD) told us how he supported our fight for pay parity that resulted in a 2.1% increase. Rep. Connolly is fighting for a 3.2% Fed pay increase this year.

Our small but mighty Council visited the offices of over 150 lawmakers. We visited members of the House and Senators from both sides of the aisle. We explained the important work we do at EEOC, but how the hiring freeze is making short-staffing worse. We discussed local issues that affect service to their constituents and union recommended efficiencies. Now it's your turn to plan a visit to a local office and bring our issues home.

# AFGE Legislative Conference: First Timers' Perspectives



## **Jadhira Rivera, Local 3555**

This year's 2017 legislative conference was my first and hopefully not my last! It was exhilarating to meet members from across the nation. We had the opportunity to connect with stories about our shared experiences as EEOC staff and union members. It was a reminder of how similar our struggles are, from limited resources to increased demands. Armed with our new found fellowship, we went to Capitol Hill to advocate on a uniform platform, requesting the support of our elected officials for Federal working families. During a two-day period, I, along with my Local 3555 President, Richard LeClear, and Shop Steward, Renee Toback, met with the aides from 14 different senators and representatives. We received an overwhelmingly positive response from all the offices we visited. In a nutshell, it was an amazing experience.

## **Michelle Harris, Local 3599**



As a first time Union Steward, I had no earthly idea that my duties would also include going to Capitol Hill to speak with my state's representatives. I was somewhat intimidated with the tasks, but I like a challenge. I had the pleasure of speaking with various representatives from Alabama and Mississippi. I now have a whole new perspective of how Congress works. I learned that no matter your political affiliation, there is common ground on both sides. I am persistent and hopefully I can continue to carry on the good works of this organization and advise our representatives of the importance of this agency and the overall importance of Federal employees. As a Veteran who has been allowed to continue her career as a public

servant, the experience was an honor.

## **LaShae Williams, Local 3637**

My first time representing my Local on the Hill was a mixture of emotions. At first, I wasn't sure if I had what it takes to be explaining why Federal workers are a major asset to the current administration. It was President Cox and Congressman Elijah Cummings giving amazing energetic speeches, that reminded me why I signed up to be a dues paying union member years ago. I used their fighting spirit to fortify my confidence while presenting the AFGE's talking points and adding personal stories with the staffers of the members of Congress. However, the true confidence grew when I arrived at the offices that wouldn't return my requests for an appointment. If it wasn't for the motto of Augusta Thomas, AFGE's WFP Vice President, "She Sat, so We Could Stand," I wouldn't have found the courage to enter an office that I felt I wasn't welcomed in.



## **Marietta Blueford, Local 3614**

I had the distinct pleasure of attending the AFGE 2016 Legislative Conference.



Prior to the conference, my basic knowledge was that the Union filed grievances, complained of unfair labor practices, and management negotiations. I learned that although EEOC is small, we shared the same experiences as those I met from VA, EPA, Social Security, and Federal Prison: too few staff, too many responsibilities, small minded managers and an uncertainty of the future. I also learned that we all faced a frustrated public, due to delays in processing time, yet, we

each possessed a sincere desire to do our jobs well. I learned that AFGE has been fighting on our behalf with Congress and was instrumental in getting Congressman Connolly to sponsor a bill recommending a 3.2% pay increase. AFGE has been fighting to protect our health benefits, retirement, and our right to collective bargaining. AFGE has vehemently opposed the Holman Rule, which allows the House of Representative to attach a Federal employee's name to an appropriations bill and reduce their salary to one dollar without any recourse. I came away from the Conference vowing to be more politically active, engaged in my community and more vocal with my view. Lastly, I learned that we, the EEOC bargaining members, are not alone in our fight. We are AFGE. I am proud to be a union member.



*Rep. Lewis (GA) with Knight*

## **Laurence Knight, Local 3599**

When I was asked to be a member of my AFGE Local's team traveling to Washington, D.C., I was honored. Our team's important mission was to engage in dialogue and garner support from our elected officials in the Congress and the Senate on issues facing Federal employees. My first task was to make appointments. That was an eye opening experience! I had no idea Congressional offices would see a regular citizen. To actually get them to agree to meet with me to discuss the issues, was a rush! Going on the "Hill" came next. This was my chance to drive our purpose home. I sat down with Congressmen, Senators, and their staffers to speak up on behalf of all EEOC employees. It was very rewarding to bring up issues such as the hiring freeze and our budget, and the significant impact

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it has on their constituents and the morale of all Federal employees. The highlight of my trip was talking with a living history icon, Congressman John Lewis. He is very pro Federal workers and working class people and united with us in the struggle. All in all, it was a great experience. I am so grateful for the opportunity and if ever asked again, I would proudly serve.



*(L-R) Toback, Rep. Serrano (NY), LeClear*

### **Renee Toback, Local 3555**

I always enjoy “helping people understand” issues and encouraging appropriate action so going on the Hill was quite enjoyable. Fortunately, I’ve given up on foot-punching thin soled fancy shoes so I was not in agony walking (forever) on the beautiful but very hard marble floors. As a resident of the “blue” northeast, most visits involved a meeting of the minds and our primary impact was to draw attention to our issues. The highpoint was getting positive feedback about our Federal issues from a Republican staffer from upstate New York. That she gave us her consideration felt like a step in the right direction.

### **Bonus Bucks Extended!**



All members should encourage a non-member to join, so we build our strength. We now are in a bonus bucks program extended until June 1, 2017. Get a new member to sign up and both of you receive \$100. Also membership benefits include life and other insurance, credits cards, mortgage programs, purchasing things from cars to travel and other benefits. Talk to your local president for details.

## **Everyone of Us Must Step Up Now to Stop Attacks on Feds and Unions**

**By Rachel H. Shonfield, Local 3599**

Federal employees and their unions are under attack. Calls to “drain the swamp” are talking about your job. Eliminating due process rights for terminations means if you find yourself out of management’s favor you will have virtually no recourse if they decide to remove you. Attacks on union “official time” will take away your union reps, who negotiate schedules, telework, intake, DCS, impact of new performance standards, and sit at your side in disciplinary meetings.

This is not a drill. This is a five alarm fire and the flames are already licking at your heels. AFGE is not just prognosticating about threats to your job and rights. The House has already passed a bill curtailing appeal rights at the VA. The match is lit for it to go government-wide.

This is not about protecting the public from a few bad apples. It is an absolute fallacy that Federal employees cannot be fired. They can be and they are - but with transparency and due process. Consider the loss of institutional knowledge if an agency head could clean house based on party affiliation or management could fire for no reason at all. Our merit based civil service system protects employees and the public from politicization, corruption, and cronyism.

The House will vote soon on a bill that would eviscerate Federal unions by effectively getting rid of union representatives. The bill punishes shop stewards and others for using official union time to represent employees. It sets arbitrary per person, per day, per lifetime caps on official time. If a union representative uses more official time, that overage won’t be credited towards retirement. Folks cannot be expected to represent their coworkers when it puts their retirement in jeopardy.

Then there are the potential threats of the FY18 budget. While EEOC was not included in the “skinny budget,” according to the summary tables “other agencies” will face a combined 9.8% cut. This is only conjecture for now, but a 9.8% cut to EEOC’s budget would be devastating. Theoretically, this would slash EEOC’s budget from \$364.5M to \$328M. This



*Rep. Ros-Lehtinen and Shonfield*

would be EEOC’s lowest budget since FY07, a year EEOC’s backlog jumped 38%. Also, consider that a smaller cut brought about by sequestration in FY13 led to EEOC instituting furloughs.

Furloughs, or even worse RIFs, are further reasons you want to ensure you still have a Union.

In 2013, EEOC’s initial plan was to furlough staff whose names fell in the first half of the alphabet on Tuesdays, and the second half of the alphabet on Thursdays. Thanks to Union negotiations, staff could pick their furlough days and spread them out or consolidate them. More significantly, the Union waged a successful campaign to stop a second phase of furloughs.

It is no coincidence that Federal unions are being chased by pitchforks and torches at the same time as efforts to strip Federal employees of due process rights and proposals to slash and eliminate agency budgets. Unions are the frontline defense to protecting your livelihood.

As soon as you are home and off the clock- go to the [www.AFGE.org](http://www.AFGE.org) and learn how to make a difference. Do this today- there is no time to spare. Raise awareness and ask your friends and family for their urgent help. Collective strength as always is the union’s key to victory.

# Reorg: A Word with the Power to Strike Fear

Reorg is a word with the power to strike fear in the hearts and minds of Federal employees. However, it is also an opportunity for the agency to take stock. For EEOC, there are a number of issues of concern it can address.

Staffing Issues- EEOC's top heavy management structure wastes resources. The resulting 1:5 ratios result in micro-management and bottlenecks which add time to the work processing. For example, investigators who see charging parties and triage the cases are often second-guessed to manipulate PCHP categories to increase dismissals. EEOC should increase the ratio to a minimum of 1:10 and reduce its SES

and other staggering layers of management to more efficiently use staff, remove bottlenecks and provide better service to the public. Intake – The staple of EEOC's existence, intake drains numerous resources. EEOC pulls its Investigators off-line to obtain basic information. Depending on office size, at least three months of each work year are devoted to intake, increasing the backlogs and processing times. EEOC should adopt the Union's Intake plan to use paraprofessional employees to conduct the intake and obtain basic case related information. EEOC should fold IIR staff into the dedicated intake unit for a more seamless process and to resolve

perpetual understaffing and turnover of IIRs that results in unacceptable telephone wait times. Administrative Work -EEOC must focus hiring on paraprofessional and administrative staff to free up investigators, mediators, attorneys, and AJs to focus on their substantive tasks. EEOC needs to use its VTC capability to cut travel, and broaden telework to save on rent. Instead of reliance on furloughs or RIFs, EEOC needs to plan now for smart ways to address potential cuts.

## LERD Should Change Course or Change Name

Labor relations are at an all time low, due to the disappointing conduct of OCHCO's ironically named Labor and Employee Relations Division (LERD). The CBA preamble states that "the public interest is best served through the maintenance of constructive and cooperative relationships that are based on mutual respect between labor organizations and the management officials." However, EEOC's LERD operates with disregard and disdain of employees, their Union, and the CBA. LERD fails to respond to grievances, ignores Union documents requests, and refuses to negotiate impact and implementation. LERD supports terminations, ignoring inconvenient facts and evidence of retaliation, or consideration of lesser consequences. LERD opposes amicable settlement attempts, costing the agency valuable resources by pushing issues to costly formal proceedings. LERD's delays and dilatory tactics undermine collective bargaining. Employees and the public are the losers as LERD scuttles Union recommended efficiencies. We cannot always agree, but we should be able to rely upon established processes. We hope to be able to report in the future that LERD has adopted a more productive approach to its "relations" with labor and employees.

## POINTS TO PONDER

- What are the sources of the bizarre requirements in the new performance standards?
- How will management measure employee performance to determine progress against the bizarre % requirements?
- Would MLK think EEOC's new performance standards further civil rights?
- Why did the agency issue new performance plans that don't meet SMART guidelines?
- When will NYDO and other offices ever get scanners?
- Is EEOC's plan to deal with limited funding, to go on a firing spree?
- Will EEOC resort first to furloughs or RIFs if its budget is cut?
- Why does EEOC promote leave as an accommodation for the public, but not for its own staff?
- When will EEOC turn its "workplace civility training" on itself?
- Will EEOC use DCS Phase Two Pilot results to make improvements or just spread the pain nationwide?
- Why does EEOC fail to answer RFIs, grievances or Demands to Bargain?

### National Council of EEOC Locals No. 216 Officers

Gabrielle Martin, *President*

Rachel H. Shonfield, *1st Vice-President*

Stephanie Perkins, *2nd Vice-President*

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Dayna Deck, *Local 3629* • Cecil Warren, *Local 3637*

### 216 WORKS

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C/O Denver District Office #410, 303 E. 17th Avenue, Denver, CO 80203

ATTN: Gabrielle Martin, President

Phone: 1-303-866-1337

e-mail: [Prezc216@gmail.com](mailto:Prezc216@gmail.com)