

NTEU Chapter 207 News

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Flexibility Legislation Update

Below is the text of a message from NTEU National President Colleen Kelley to the FDIC Chapter Presidents. "Last month, FDIC Chairman Donald Powell mentioned in congressional testimony that he had asked his staff to draft a legislative proposal to provide the FDIC with authority for additional flexibility to implement changes in personnel policies and procedures, including changes in the process for conducting any reduction-in-force (RIF) and to increase the role of employee performance in this and other personnel decisions. "The FDIC has now completed an initial draft of this proposal, which it has submitted to the Office of Management and Budget (OMB) for review and comment. NTEU has obtained a draft copy, although it was not provided by the FDIC, and a copy is also being circulated among employees by e-mail. Although FDIC senior management has made a commitment to discuss these issues with NTEU before submitting the legislative proposal to Congress, they have thus far indicated that they are not yet ready to have this discussion with us. We expect to hold this meeting sometime in the next couple of weeks.

Did you Know...

Management cannot contract out any work currently performed by bargaining unit employees without negotiating with NTEU.

Article 17, Contracting Out

When management desires to contract out work currently performed by bargaining unit employees, it must notify NTEU and conduct a fact finding session, during which management must provide the union with information necessary to determine that contracting out the work is "the most practicable, efficient, and cost-effective" solution. This protection also gets extended to work not currently being conducted in-house by bargaining unit employees when the FDIC has determined it has excess employees in positions that require the same or similar knowledge skills and abilities as those being sought in the proposed contract.

If you see or hear of work being contracted out that you believe is or was recently been performed by bargaining unit employees, please contact us at NTEU 207 HQ.

"The draft proposal that we have seen contains several provisions that raise serious concerns, such as elimination of collective bargaining over employee pay and benefits, changes in RIF procedures, increasing use of term (as opposed to permanent) appointments when hiring new employees, and significant reduction of an employee's substantive and procedural rights to appeal a disciplinary action or removal. I hope that by the time NTEU concludes its discussions with FDIC senior management, these and other objectionable provisions will be removed from the proposal. NTEU does not object to an attempt to improve the effectiveness and efficiency of the FDIC; however, we will strongly oppose any effort to give FDIC management any additional authority to make unilateral decisions without appropriate involvement of FDIC employees through their elected union representatives, or any proposal which would reduce important employee rights to due process and fair decisions."

U.S District Court Dismisses NTEU's Lawsuit Challenging A-76

Below is an excerpt from a letter to Chapter Presidents from NTEU National President Colleen Kelley.

"A federal district court judge has dismissed NTEU's lawsuit challenging changes to the definition of inherently governmental functions contained in OMB Circular A-76, which governs contracting out decisions in the federal government.

"The lawsuit, filed last summer, alleges that OMB has illegally directed agencies to apply a definition of 'inherently governmental functions' that is narrower than that contained in the Federal Activities Inventory Reform Act of 1998."

The judge in the case dismissed the lawsuit on the basis that to date NTEU was unable show that employees had been harmed by the changes. While A-76 does not apply to FDIC employees per se as we are protected under Article 17 of the Negotiated Agreement, the definitions of what is "inherently governmental" does affect the types of jobs that may be contracted out. Historically management has been barred from contracting work that is defined as "inherently governmental," which means that the work is a core function of the agency. This protection arose from the desire to prevent conflicts of interest when pursuing the business of the agency. For example, FDIC would be barred from contracting Bank Exams and work on the Call Report, because these functions are core to the business of FDIC.

NTEU believes that the decision by the judge is flawed and is evaluating what their next steps will be.

National Grievance Filed Over Denial of Use of Official Time

NTEU National Filed a National Grievance March 18th in response to FDIC's blanket denial of Stewards use of Official Time while working on Union issues. FDIC issued a statement denying stewards the ability to use official time while teleworking. When working on union issues, steward charge their work hours to specific codes designated for union activity. These hours are referred to as Official Time.

NTEU asserts that the agency's blanket denial of the use of official time while teleworking violates articles of the Negotiated Agreement as well as 5 U.S.C. section 7116(a)(1),(2) and (8). "Denial of use of official time to union representatives engaged, or seeking to engage, in telework is not supported by either the express terms or by the bargaining history of the Agreement."

CSA Group Grievances

NTEU Chapter 207 continues to seek participants for the Group Grievances filed over the inequitable distribution of CSAs. The Chapter filed five CSA Grievances, which management has consolidated to four. Those categories are 1) employees who had multiple acting supervisors and who were competing with acting supervisors for an award; 2) employees who worked with or for another employee received a CSA in the bargaining unit pool based on duties performed as an acting supervisor; 3) employees who worked with or for another who started the year as a supervisory employee but ended the year in the bargaining unit and received a CSA in the bargaining unit pool

based on duties performed as a supervisor; 4) employees on extended detail during the year; and 5) FDIC's failure to meet equitable distribution of the awards based on negotiated demographic pools. If you feel you were unfairly denied a CSA based on one of these conditions and are interested in being named as a grievant, please send a message to the NTEU 207 HQ mailbox..

NTEU is here to support you! Contact us [NTEU 207 HQ](#)