

# NTEU 207 News

---

Volume 2, 13

Monday, August 9, 2004

## **Did you know....**

*In an investigation, management is required to talk to the person under investigation BEFORE contacting other individuals about the circumstances?*

The Privacy Act, 5 USC 552a(e)(2) requires agencies to "collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs." If you have questions about investigations or the Privacy Act, contact us at NTEU 207 HQ.

## **Overtime/Compensatory Leave**

A question was recently sent to the Chapter regarding a limit being applied to the amount of compensatory leave that an FLSA exempt employee may accrue.

The Fair Labor Standards Act (FLSA) entitles employees to compensation at the rate of time and a half for hours worked either over 8 hours in a day or 40 hours in a week. This definition is adjusted for alternate work schedules such as CWS or Credit Hours.

However some employees based on their grade and function are exempt from coverage under FLSA. Exempt employees may still earn overtime but at a limited rate of pay. If the employee's base pay is less than that of a GS 10 Step 1, the overtime rate is time and a half. If the employee's base pay is equal to or greater than that of a GS 10 Step 1, the overtime rate is one and one-half times the adjusted rate a GS-10, step 1. Additionally, an exempt employee cannot earn overtime such that they exceed the greater of the maximum rate of pay for a GS-15, Step 10 or Level V of the Executive Schedule.

As a result of these limitations, many higher-graded employees opt to take Compensatory Leave (comp time) instead of overtime. There is no limit on the hours of comp time that an exempt employee may accrue. However, the leave must be used by the end of the leave year or the hours will be paid out as overtime and would be subject to the limitations of overtime. Consequently, if an exempt employee's pay out for compensatory leave exceeded the limit of overtime allowed he or she would forfeit those hours over and above the overtime cap.

## **Notice to Employees for Union Representation**

Earlier this week, a Notice to Employees for Union Representation was sent to all bargaining unit employees. The notice stated that you are entitled to union representation during an investigation if you feel that the investigation may result in disciplinary action and you request union representation. It's important for you to know that if you are the subject of the investigation, management must notify you that you are entitled to union representation before beginning the interrogation so that you may arrange to have a representative present.

You are in fact entitled to representation at any meeting where your supervisor calls you in to discuss conditions of your employment. Such meetings are called formal meetings and management is required to notify the union that such a meeting will be held.

The rule of thumb to follow is that if you feel that a discussion with your supervisor could possibly lead to you getting in trouble, you should stop the discussion and request a union steward. Don't assume that you can make a problem go away by being forthright. If management is investigating, assume that there is cause for concern. Err on the side of caution. The moment you ask for representation, management must stop the meeting and allow you to contact the union. If a representative is not available, they must reschedule the meeting for a time (within the next 2 days) when you can be represented.

If management refuses to allow you representation, you cannot leave the meeting but you should not continue to answer questions. You may refuse to speak, but you may not leave the meeting. Do not sign anything. Management may present you with form 2200/06 with regards to union representation. This form waives your rights to representation. Do not sign it.

### **DIRM Survey**

NTEU was briefed Thursday, August 5 on the continuing DIRM Transformation. The main subject of the meeting was the upcoming Skills Assessment, which is due out end of next week or early the following week. DIRM has posted the list of competencies on the DIRM Transformation web site for employees to review and comment. This may or may not be your first but is definitely your last opportunity to provide feedback on the skills assessment. NTEU encourages all DIRM employees to review the survey and provide feedback, particularly if you see a skill or competency missing from the list. The review period begins today and closes on Tuesday, August 10. The survey itself will be posted late next week or early the following week depending on comments received. Employees will have 3 weeks to complete the survey, and NTEU encourages you strongly to take the skills assessment. It will be more difficult for management to seek to outsource positions requiring specific skills if their own survey indicates that those skills exist in-house.

NTEU did raise some issues with the survey, including the limit of 3 years for certifications. Management has agreed to revisit the limitation with C2. One other issue was the anonymity of the survey. The survey will include approximately 300 questions and is expected to take 2 hours to complete. Employees most likely will not need to answer all 300 questions because not all will pertain to their skill set. Because of the length of the survey and the time it will take to complete, a method for saving and returning to the survey at a later time was built in. To accomplish that, a user sign-on, which will be coded, and password are required. This coded sign-on will be provided by C2 directly to employees and the master record, which correlates the employee with the coded sign on will not be shared with management. This restriction was entered into the contract with C2. Again, we strongly encourage all DIRM employees to complete the survey. It will potentially help us save your jobs.

### **Training Denial**

Chapter 207 is hearing through the grapevine that employees are being asked to help pay the cost for training classes they are requesting. One employee reported that when they applied for training, they were asked if they were willing to help pay for it. Another employee reports the same situation occurred to them too. CHAPTER 207 wants to know whether other bargaining unit employees are being asked to help defray the costs of requested training. Write us and tell us your story – we won't reveal your identity to anyone. Send to: [Chapter207NTEU@aol.com](mailto:Chapter207NTEU@aol.com)

### **Monitoring You At Work**

A number of employees have contacted the union with concerns about phones, E-mail, Internet access, and workstations being monitored. The answer to whether FDIC can monitor these is yes they can and they have the legal right to do so. Management must have a suspicion of wrong doing before reviewing your phone usage or to scanning your workstation, but this equipment is the property of FDIC. If you have ever read the notice that pops up on your workstation when you log in, you should realize that you have been put on notice that your privacy on the computer and network is not wholly guaranteed. Our advice to you is to be mindful of what you do and how you use the equipment. You are allowed to use the equipment for some personal use on your own time: lunch, breaks, or after work. Make sure you follow those guidelines.

### **Special Rates Settlement**

NTEU National has been receiving a number of calls because employees are wisely questioning a request for information and their SSN to receive their settlement. NTEU has hired a company in Portland Oregon to administer the remaining distribution of the special rates case. The 800 number provided is correct, and if you wish to speak to a person at that number, choose option three and then press 'O' for operator.

Below is the special NTEU website on this lawsuit settlement for further information:  
<http://www.specialratessettlement.com/>