

NTEU 207 News

Volume 2, 11

Friday, July 23, 2004

Did you know ...

NTEU Chapter 207 has exclusive representative rights for all employees at Headquarters?

Article 1, Section 1 of the Negotiated Agreement states "The EMPLOYER recognized the UNION as the exclusive representative of the following unit employees..." What does that mean? It means that NTEU Chapter 207 and no other party or legal representative can represent an employee in any manner pertaining to his or her employment without NTEU present. In any dispute or bargaining situation, NTEU is the legal representative of the employee. And NTEU has a right to attend any meetings between the employee and management. Employees may retain an attorney if they so choose, but they may not exclude NTEU from negotiations or discussions concerning a bargaining unit employee. It also means that FDIC must bargain with NTEU over the rights of employees within the bargaining unit. If you have questions regarding Article 1, contact us at NTEU 207 HQ.

NTEU Briefed on New VASQ Building

Chapter 207 Officers were briefed Tuesday, July 20, 2004 on the details of the new office facility currently being built at Virginia Square.

The new facility will include two office towers similar to the existing structure and a multi-purpose building that will house the cafeteria and a new 500 seat auditorium. The South Tower of the new facility will offer retail space on the corner of Fairfax Drive and Monroe Streets (the corner closest to the Virginia Square Metro). For security purposes, there will be no direct access from within the building to the retail shops.

The new cafeteria in the multi-purpose building will increase seating from approximately 250 to 600. It will include a larger cafeteria, an executive dining room, seating on the main level and on a mezzanine. The mezzanine will also provide a quick take-out facility that will serve cold food and beverages.

The existing cafeteria will be converted to a child-care facility with the adjacent courtyard as the playground. (A new designated smoking area has not been determined, but will be before the changes are in place.)

The new structure will add 600 parking spaces to the garage, which will be one large open space (rather than two separate garages), and a new garage entrance will be added on Monroe Street between the North Tower of the new structure and the Student Residence. The existing garage contains 900 parking spaces, including staff spaces, those allotted to Giant employees, and spaces reserved for student visitors and temporary parking. The retail employees in the new structure will also be granted parking within the parking garage.

Included in this build out is an expansion of the Fitness Center, which will incorporate Meeting Room B, and a move of the Credit Union. This reconstruction will result in a closing of both facilities for some period of time. However, the ATM will remain operational during the closure.

Management expects to begin moving employees into the new building in November 2005 and complete the moves by March 2006. All employees from rented space at Headquarters (1717 H Street, 1730 Pennsylvania Avenue and the 801 17th Street) will be relocated to the new structure, which totals approximately 1200 staff (employees and contractors). The existing facility currently houses 600 staff and contractors.

Taxing Weekend Travel Update

The following is a message from the NTEU National President Colleen Kelly to the Chapter Presidents at FDIC:

"Although the parties have reached an impasse in negotiation over changes to the FDIC General Travel Regulations, to address the alleged taxability of weekend travel, and to provide an allowance to offset the tax impact, the FDIC is proceeding with collection of data necessary for implementation.

"In March 2003, the FDIC informed NTEU of its determination that when employees traveled home on weekends from assignments, many of these trips are personal rather than business in nature, and the reimbursement should therefore be subject to tax withholding. In response, NTEU submitted the following proposals:

1. The agency will, to the maximum extent practicable, schedule employee assignments, and employee travel to and from such assignments, in such a manner so that all employee travel will be for business reasons, and not taxable; and
2. To the extent that employee return travel on intervening weekends is taxable, the FDIC will "gross up" the reimbursement for such travel to reimburse the employee's tax liability.

"While NTEU have questioned the legal basis for the determination that many of these trips are personal, and therefore taxable, the FDIC has refused to budge on this point. However, over the last several months negotiations have continued over ways to mitigate or eliminate any adverse impact on bargaining unit employees, as raised in the original NTEU proposals. On the first point, while FDIC management has agreed to some language that recognizes that supervisors may authorize employees to return to the office to perform work, and that this may provide a business reason for the return trip, we believe that the FDIC language is still not sufficiently flexible to give supervisors adequate guidance to allow employees to perform appropriate work in the FDIC office to provide a "business reason" for the return trip. With regard to the second issue, NTEU is continuing to press for improvements to the process used to calculate the "gross-up" amount used to reimburse employees for any additional tax liability. The primary flaw in the methodology used by the FDIC is that it relies solely on the employee's FDIC salary to calculate the employee's marginal tax rate, and associated tax liability, on the additional travel-related "income." NTEU has been exploring ways for the FDIC to be able to make more accurate calculations based on the employee's actual income and appropriate marginal tax rate, taking

into account any outside or spousal income (which may move the employee into a higher tax bracket).

“Attached are NTEU’s most recent proposals on these matters. At this point, we have reached an impasse in negotiations, and we are requesting the assistance of the Federal Service Impasses Panel (FSIP) in resolving the dispute. However, despite the fact that negotiations have not been concluded, the FDIC has announced that it is proceeding with collecting data on employee weekend travel that it needs to implement its new system. It will be important to see how supervisors and employees react to the new system: if it affects employee willingness to travel, and volunteer for assignments requiring travel, and whether supervisors act reasonably in responding to employee requests to return to the office to perform work, to provide a business reason and avoid receipt of taxable income in their travel reimbursement. To the extent that there is taxable income, the outcome of our continuing efforts to negotiate the most fair and accurate gross-up process (which will not be implemented until January 2005) will also go a long way to determining whether there is any material adverse impact on employees.

“As I have noted, NTEU has consistently questioned the legal basis for the determination that these trips lack a business purpose and that portions of the reimbursement are therefore taxable. The FDIC’s determination is based primarily on a 1954 IRS Revenue Ruling, which by its terms addressed railroad employees who traveled between points on the rail line as part of their jobs. Unfortunately, there has been no more recent official pronouncement on this matter from the IRS, and it does not appear that very many employers, including those in the federal government, are treating weekend return as taxable personal trips. However, the federal sector bargaining process does not provide an adequate opportunity to challenge the FDIC’s determination on the tax issue, especially given the current composition of the FSIP. NTEU will continue to research the merits of the taxability issue and to consider the viability of any challenge to the FDIC’s determination in other appropriate forums.”

Reimbursement for Parking

Recently Chapter 207 was contacted by employees who are being advised that only if they volunteered to assist during a work event would the FDIC cover their local transportation costs, i.e. parking, tolls and mileage if applicable. The activity is not at an FDIC facility. Our research has determined the following in the Travel Regulations: Under Section 1 - Local Transportation From Official Station notes that claims for round-trip local transportation expenses should be made through petty cash (everyone has access to petty cash through ESPS).

The petty cash program notes that one of the reimbursable items is “All local transportation and parking charges incurred while conducting business on behalf of the corporation while not in travel status.”

FDIC does not pay for commuting expense. That means if a site is a regular place of business for the employee, then no transportation expenses are reimbursed. So if you work at an FDIC DC location and need to work in another FDIC DC building, you would not be reimbursed for parking. A supervisor, may for example, authorize an employee from the 801 bldg who has to be in VASQ for a meeting to travel to VASQ some way other than coming into the office as they normally would and taking the shuttle. The supervisor has to give some indication that that is approved.

If the employee is not in travel status, the site is not a regular place of business for that employee, and the supervisor authorizes the travel by metro or POV, the employee would be able to claim mileage, parking and/or metro charges.

So employees who are authorized to attend meetings outside of their normal workplace are entitled to claim expenses to travel to those meetings. This includes expenses for meetings, conferences, training, etc.

[NTEU 207 HQ](#)