

AFGE FIREFIGHTERS COUNCIL

Serving Federal Firefighters through Knowledge and Strength



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ANTI-OFFICIAL TIME BILL RE-INTRODUCED IN 112TH CONGRESS

On January 5, 2011 Rep. Phil Gingrey, M.D. (R-GA) reintroduced The Federal Employee Accountability Act of 2011 (See H.R. 3251 introduced in the 111th Congress). Among other things, the bill would eliminate official time for all federal employees. Original co-sponsors of the bill include: Bartlett, Barton, Broun, Burton, Chaffetz, Duncan, Harper, Kingston, Latta, Mack, McMorris, Austin Scott, Stearns, Westmoreland, and Wibble. Mr. Gingrey has circulated a "Dear Colleague Letter" to all other members of the House of Representatives asking that they co-sponsor this onerous legislation.

AFGE and the AFGE Firefighters Council strongly oppose this and any other measure that would significantly impede effective union representation and we ask that you act immediately to voice your opinion by calling your Congressperson and asking that he/she not co-sponsor this bill or support it in any way.

Attached you will find a copy of AFGE's Fact Sheet on Official Time to help you explain the importance of Official Time to your Congressperson.

Unfortunately, this is probably only one of many anti-federal employee measures that will be introduced in Congress this year. And, the only way that federal employees will retain what they now have, are entitled to and should retain is to join the fight and become legislatively active. No one organization or person can win this war. It will only be won by the collective effort of all loyal civil servants.

AFGE FACT SHEET

OFFICIAL TIME

Introduction

AFGE strongly supports the right of the working and middle class Americans who make up the federal workforce to receive effective union representation. AFGE will strongly oppose any proposal that would weaken federal employee unions by curtailing, restricting, or eliminating the reasonable and judicious use of official time.

Background

By law, federal employee unions are required to provide representation for all employees in their collective bargaining units, even those who don't pay dues. Federal employee unions are also forbidden from collecting any fair-share payments or fees from non-dues paying members for the services to which they are legally entitled.

In exchange for being saddled with the responsibility of providing services to those who pay as well as those who refuse to pay, the Civil Service Reform Act of 1978 allows federal employee unions to bargain with agencies over official time. Under the law, federal employees who serve as union representatives are permitted to use official time to engage in negotiations and perform representational activities while on duty status.

Legally permitted representational activities include:

- negotiating collective bargaining agreements
- handling employee grievances, including resolving disputes through the contract, internal agency appeals, and appeals to third-party administrative and adjudicatory agencies
- meetings between labor and management officials to discuss general conditions of employment
- conducting and receiving training
- meetings with managers to improve the effectiveness and efficiency of the delivery of government services

By law, the use of official time by federal employee union representatives is limited to only those activities that are reasonable, necessary, and in the public interest. As pointed out in a Congressional Research Service report, "(a)ny activities performed by an employee relating to the internal business of the labor organization must be performed while in a non-duty status."

Activities which may not be conducted on official time include:

- solicitation of membership
- union meetings
- elections of officers
- any partisan political activities

Because the pay, benefits, and job security for federal employees are established through the legislative process, the Congress recognized that federal employee unions would need to communicate with lawmakers about these key terms and conditions of employment. Consequently, the law permits the use of official time for union representatives to deal directly with Members of Congress.

The right to use official time to communicate with Members of Congress is well-established but strictly limited. First of all, the use of official time for this purpose and then the extent to which it can be used must be negotiated with management. In addition, official time may be used only to represent federal employees on those issues directly affecting bargaining unit employees, like jobs, pay, and benefits. It cannot be used on any other issues--whether school prayer, term limits, or flag desecration.

To ensure its continued reasonable and judicious use, all federal agencies track basic information on official time, and submit it annually to the Office of Personnel Management (OPM), which then compiles a government-wide report on the amount of official time used by agencies. From 2004 through 2008, the use of official time government-wide decreased from an average of 3.7 to 2.6 hours per bargaining unit employee. Between 2007 and 2008, official time decreased by 3.3%.

Official Time Makes the Government More Efficient and More Effective

Through official time, union representatives are able to work together with federal managers to use their time, talent, and resources to make our government even better. Gains in quality, productivity, and efficiency--year after year, in department after department--simply would not have been possible without the reasonable and sound use of official time.

Private industry has known for years that a healthy and effective relationship between labor and management improves customer service and is often the key to survival in a competitive market. The same is true in the federal government. No effort to improve governmental performance--whether it's called reinvention, restructuring, or reorganizing--will thrive in the long haul if labor and management maintain an arms-length, adversarial relationship. In an era of downsizing and tight budgets, it is essential for management and labor to develop a stable and productive working relationship.

Union representatives and managers have used official time to transform the labor-management relationship from an adversarial stand-off into a robust alliance. And that

just makes sense. If workers and managers are really communicating, workplace problems that would otherwise escalate into costly litigation can be dealt with promptly and more informally. Official time under labor-management partnerships or forums is used to bring closure to workplace disputes between the agency and an employee or group of employees. Those disputes would otherwise be funneled to more expensive, more formal procedures – the agency’s own administrative grievance procedures, EEOC complaints, appeals to the Merit Systems Protection Board, and federal court litigation.

Healthier Labor-Management Relations in the Federal Government Also Produce Cost Savings in Reduced Administrative Expenses

Union representatives use official time for joint labor-management activities that address operational mission-enabling issues in the agencies. Official time allows activities such as designing and delivering joint training of employees on work-related subjects; and introduction of new programs and work methods that are initiated by the agency or by the union. As examples, such changes may be technical training of health care providers in the Department of Veterans Affairs; or, introduction of data-driven food inspection in the Food Safety and Inspection Service.

Union officials use official time for routine and unusual problem-solving of emergent and chronic workplace issues. For example, union representatives use official time when they participate in agency health and safety programs operated under the Occupational Safety and Health Administration (OSHA). Such programs emphasize the importance of effective safety and health management systems in the prevention and control of workplace injuries and illnesses.

Official time is also used by union representatives participating in programs such as LEAN and Six Sigma, labor-management collaborative efforts which focus on improving quality of products as well as procedural efficiencies.

Currently, union representatives are participating on official time to work with the Department of Defense to develop a department wide performance management and recognition system and accelerate and improve hiring practices within the department.

Conclusion

AFGE strongly opposes any proposals to erode the rights of union representatives to use official time to represent both dues and non-dues paying members of collective bargaining units. Official time under the Federal Service Labor-Management Relations Statute is a longstanding, necessary tool that gives agencies and their employees the means to expeditiously and effectively utilize employee input into mission-related challenges of the agency, as well as to bring closure to conflicts that arise in all workplaces. Overseen by the agencies themselves on a day-to-day basis and by the Office of Personnel Management in an aggregated way, official time is used as provided by law, and only for the purposes specified in statute.