

National Council Meeting Focuses on Training and Conduct

The National Council of EEOC Locals, No. 216, AFGE, AFL-CIO (the Council) was convened on August 22, 2005 by National Council President Gabrielle Martin in Las Vegas, Nevada.

The Council meetings were on August 22, 23 and 24, 2005. The agenda was full and largely consisted of training combined with the conduct of Council business.

Training

The training portion of the Council meeting was topical to the times and the issues facing the Council: Negotiating a Collective Bargaining

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Commissioner Stuart Ishimaru addresses the delegates of the National Council at its August meeting.

Responding to Opposition Congress Halts EEOC Restructuring

By Rachel H. Shonfield, Miami District Office, Local 3599

EEOC rolled the dice and lost. It was worth the risk to EEOC to steam roll through its ill-conceived nationwide restructuring plan "as is," without public feedback or change, even though the agency might get criticized for its tactics. In the off-chance that they did get caught, they would deal with the consequences. Well, in this high stakes game of truth or consequences, EEOC is facing the latter.

After a series of miscalculations, Congress has halted EEOC's restructuring plans until at least November, insisting on first getting feedback from the Govern-

ment Accountability Office (GAO). Their report is supposed to be released this fall. It is little wonder that EEOC's actions and statements with regard to restructuring have destroyed their credibility with Congress, the Civil Rights Community, and the Union. The record speaks for itself:

- May 11, 2005: EEOC releases its restructuring plan, defending the lack of a public comment period, by claiming the public has had years to comment. (Years to comment on what?)
- May 16, 2005, a.m.: Despite letters from Congress, the Civil Rights

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FedFlex—An Untaxed Benefit Your Tax-Free FedFlex Benefit—Or is it?

By Jeffrey Stern, Attorney, Cleveland District Office

Among the benefits that federal employees receive are health insurance and any flexible spending accounts (such as dependent care and medical) as an un-taxed benefit known as FedFlex. The Federal Flexible Benefits Plan enables eligible employees to pay for certain out-of-pocket expenses with pre-tax dollars. The initial FedFlex benefit, Health Benefits Premium Conversion (HB-PC), was implemented in October 2000 and was expanded in 2003 by offering the Flexible Spending Accounts (FSAs) for medical and dependent care expenses. It works like this: the employee enrolls in the FSA; determines the amount he/she wishes to contribute; that amount is deducted from your pay and put into an account. The employee then pays for the medical or dependent care and submits a claim for that amount. The employee is then reimbursed for the amount spent from his/her account. The W2 should subtract the dollar amount put into the FSA account so that the employee is taxed only on wages less the dollar amount of the FSA.

Some states, Ohio for one, have

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PRESIDENT'S VIEWPOINT



*Gabrielle Martin,
Council President*

As we come to the Fall, I am reminded that generally it is a slower time. Traditionally, the harvest will come and attention will turn to hunkering down for the Winter, with its cooler weather.

As we take time to reflect on the seeds we have sown this year, there have been a variety of experiences. With everyone's help, we were able to bring the injustices of a call center to the public and our Constituents. With your continued help in filling out the surveys, we will be able to

National Council of EEOC Locals No. 216 Officers

**Gabrielle Martin,
President**

**Michael Davidson,
1st Vice-President**

**Rachel H. Shonfield,
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**Levi Morrow,
Treasurer**

**Danny Lawson,
Secretary**

**Kathleen Harman,
Executive Assistant
to the President**

Local Presidents

**Regina Andrew
Local 3614**

**Sharon Baker
Local 3599**

**Ricardo Ceuvas
Local 3555**

**Michael E. Davidson
Local 3504**

**Johnnie Louis Johnson, III
Local 2667**

**Gabrielle Martin
Local 3230**

**Levi Morrow
Local 3637**

**Joseph Wilson
Local 3629**

continue to highlight the problems and duplication of work required because EEOC chose to pay \$5M for a message center.

In addition, we have been able to bring to the forefront, EEOC's ill-advised reorganization plan. Again, with your help, we were able to galvanize our constituents around the fact that they will suffer under the plan. We have been able to impact the budget as well as the implementation and funding for the reorganization plan. These things exemplify collective efforts and you should be proud of what we have accomplished.

But, there are other things that seem so much more important right now. Since Katrina struck, each day, I have tried to do something to help. I have donated money, made phone calls, rounded up other helpers, and checked on my family members. I also began training to assist with people who are coming to Colorado. As I scoured my closets and shelves to donate to those in need, I found holiday presents. Although I thought I was just about finished with the holiday preparations, it occurred to me that Katrina's victims cannot think that far ahead. Many are being relocated or just trying to find housing or family members from whom they have been separated. So I had to ask what more I could do to

contribute to someone else's well being. After all, isn't that what our collective activities do – benefit a greater group? There is something each of us can do.

We should remember that although most victims can only get through each day right now, the holiday season is just around the corner. We should not forget our brothers and sisters from the New Orleans office during this time.

I have heard from many of you already and praise your efforts in rising to the task of providing money, clothing, time, groceries and other things to meet the immediate needs of Katrina's victims, but it will be a long haul. The city and infrastructure of New Orleans and other Gulf communities must be rebuilt before they can go "home." In the meantime, our brothers and sisters need to know that we care. They need to know that we want to make sure that their lives are more than "make do lives." As the holidays approach, please be sure to keep all of Katrina's victims in your hearts and prayers, especially our union brothers and sisters. Give and share what you can. Let's make sure that Katrina does not rob our brothers and sisters, from the New Orleans office, as well as their families, of the holiday joys the rest of us anticipate.

REPORTS FROM THE LOCALS

Local 2667

No report submitted.

Local 3230

Many things have been happening in Local 3230. In Denver, we have an employee who transferred within the office. As a result of that, she was penalized on her performance appraisal. In the process of grieving the appraisal, we learned that the supervisor had lied in the appraisal. We were able to prove that the supervisor lied. So, keep good records.

In another case, we continue to struggle with numbers. When employees find cause cases, they not only have to fight the Respondent, they have to fight the supervisors. If we do not find discrimination, what reason is there for us to continue to exist?

In San Diego, we have a second employee who has waited for several years to obtain an answer on her request for an

accommodation. In the first case, it took the agency almost two years to provide an accommodation for an employee. The employee won the case. It looks like the second employee also is poised to win her case. You would think that the agency would learn to act on reasonable accommodation requests in at least as timely a manner as it requires private employers to act.

Throughout the local, we have had a number of employees retire or leave. Often cited is bad management and lack of staff. The proposed reorganization will not address either of these situations. I think this local is just one of several that are losing people due to a lack of sufficient staff and bad management. We expect that by the end of the calendar year, within our local, several more employees will retire or leave.

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Seattle continues to share its Director with Denver and the answer is always – consult the schedule. However, without so much opportunity for management to nitpick, more cases are being resolved.

Due to extended leave of the Human Resources Specialist in LA, the office conducted a one hour training session on basic HR questions related to leave, retirement, A very abbreviated training was provided by Headquarters staff.

San Francisco, which recently moved to a new location to downsize its space, is now spending money to acquire more space. Once again, we had to fight with management about offices for investigators.

We will have stewards training the first weekend in November.

Local 3504

Of the seven offices that comprise Local 3504, five will be victim to EEOC Chair Dominguez's reorganization plan: Milwaukee is being downgraded two steps, from a District office to an Area office; the Detroit and Cleveland District offices will be downgraded to Field offices; Cincinnati is down to four Investigators but will be given a larger geographic area when and if the reorganization becomes a reality. Cincinnati can anticipate no additional staff. The Chicago and Indianapolis District offices have fared much better. The Chicago district office director now has the responsibility for Milwaukee and Minneapolis: The Indianapolis Director oversees Louisville, Memphis, Little Rock and Nashville at present. Post reorganization, he will have responsibility for Michigan and the western half of Ohio. The reactions of EEOC employees in these offices are anger and frustration. But, these employees have not taken this lying down: many have written, phoned, faxed and visited their Congressional representatives and outside organizations concerned about the fate of EEOC offices.

During the summer, Local President Michael Davidson and Chief Steward Konrad Batog have been visiting offices within the Local. By early fall, all of the other six offices will have been visited. While in the Cleveland office, Davidson and Batog were made of a situation in

Ohio which are affecting federal employees who have enrolled in the Flexible Savings Account (FSA). In a nut shell, due to Department of Interior paycenter (which handles EEOC's payroll), error in reporting W2s to an Ohio municipal taxing authority, federal employees paid more local taxes than they should have. (See article on this on p. 1).

Davidson and Batog also attended the Detroit District Office's annual picnic. In addition, the Detroit office in collaboration with Wayne State University Law School is sponsoring a panel discussion on September 29 on "Erasing Discrimination at Work: Race Discrimination Today and Strategies for Combating It". Detroit Office Local Steward Stephanie Perkins has been involved with putting this event together. Stephanie is involved in many areas of Detroit office life. Commissioner Stuart Ishimaru will moderate this panel discussion. He will also be in the Detroit office on that day.

Speaking of Commissioner Ishimaru, he visited the Chicago District Office (CDO) on August 8, 2005 and met staff. After some opening remarks, the Commissioner asked to hear from CDO staff on questions that addressed the question "How do we move the EEOC forward?" Discussion covered the gamut of expected topics: reorganization, the Call Center, Federal sector. The Commissioner commented on reorganization in the same vein that he has been expressing right along. He closed by stating that he was always anxious to hear from EEOC employees.

Currently, two grievances are pending. One will be going to Step 3 and concerns a PAS overall rating. The grievant is seeking an overall "Outstanding" rating. The other grievance was filed by Minneapolis Office Steward Ruby Jones against the Minneapolis Area office director. It is at Step 1.

All of the offices in Local 3504 have been active in the National Council's legislative program. The Local's Legislative Committee has been the conduit for information from the Local and the National Council to members. The goal now is to increase and expand that activity.

Local 3555

The following Local Report from Local 3555 was inadvertently omitted from the last issue of 216 Works. The Editor

apologizes for the omission. However, no current report was submitted.

1. Local 3555 is concerned about the Commission's hiring temporary investigators and program assistant positions for a limited term basis. We believe the Commission has not acted in good faith in speaking with the Union pursuant to the collective bargaining agreement. Specifically, we believe the hiring of temporary employees has an impact and alters the conditions of employment by affecting bargaining unit employees. There are many questions not yet answered. Will these temporary employees have the right to collectively bargain? Can they become permanent at some point? Is this the way it will be for all new investigators going forward? If so, this appears to be an effort to weaken the collective bargaining power of the **National Council** and many other Locals across the country. There are currently positions posted in New York, Chicago, North Carolina, New Jersey, North Carolina, Baltimore, San Antonio, Miami and Indianapolis. The current investigator positions are for two year appointments and the program assistant positions are for a one-year appointment. It is not clear whether attorney, mediator and administrative judge positions will be next; it is clear this Administration wants to outsource and has started the process. The outsourcing or contracting of positions is not only affecting the Commission, but it is happening within other agencies as well. The Union's position is that this is not the most effective way to move forward. This is not beneficial for us as employees nor for the individuals we serve. The time and money the Commission would invest in a temporary investigator would not yield any payoff. More importantly, public service used to be and still is a noble profession. Whether you are an investigator, mediator, program assistant or AJ, experience matters, knowledge counts. With a temporary position you will never have an experienced individual who will be able to draw from any wealth of knowledge and experience to handle their workload. This is

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crucial in the complex case load we all deal with on a daily basis.

2. We are also concerned with the Performance Management Design Team's development of the new performance standards which will measure performance for non-supervisory employees. This will change the old rating system to a new one for each position. However, the only one we have seen is for the Investigator position. Eventually, there will be a new performance evaluation for each position and it will be carried out in the next fiscal year or thereafter. This will affect employees in all positions. Recently, the prototype for the Investigator position was completed and sent out to select individuals for feedback. There are concerns about the new rating system. The main concerns revolve around the issues of timeliness and established time frames/deadlines. We know that being held to absolute deadlines is unreasonable. Cases can always take a 180 degree turn. No Investigator should feel pressured to close a case because of an imposed deadline. It is unfair to the Charging Party who filed the complaint. Regarding outreach, many Investigators feel ill prepared to go out and start doing outreach without some training and preparation. A concern of many was the issue of training. Was the Commission going to provide training for the newly required outreach? These are all questions that are unknown at this time, but were expressed in the surveys by many who responded to the surveys.

We are concerned with the two Unfair Labor Practices pending with the Federal Labor Relations Authority regarding the EEOC's failure to bargain with the Union over a new case assessment program in the Washington Field Office. We are concerned the Commission's pre-assessment process will deny federal employees of an unbiased hearing. We were happy to see that Leroy W. Warren, Jr., Chairman of the NAACP Federal Sector Task Force contacted Congressman Serrano the Ranking Minority Member on the Commerce, Justice, State and Judiciary Appropriations Subcommittee to express his concerns. In addition, Mr. Warren expressed his

concerns about the Call Center. We also have concerns about the Call Center. We believe it cannot be effectively handled by ill trained employees who are not well versed in the statutes. While some of the calls on Intake are not difficult to deal with, many require a substantial knowledge of the EEOC enforcement guidance and EEOC policy. In speaking with some of the Investigators, many calls deal with the issue of ADA and FMLA and how they interrelate. Some of the Title VII calls on sexual harassment are not "black and white." It is unlikely that a call center can answer the majority of calls that will be coming into them. It seems like a waste of money to spend \$6 million dollars on a pilot program that is destined for failure.

Local 3599

(Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee)

The Local lost two dedicated officers, stewards and members when Andrew Abdulhaqq (Birmingham, AL) and Charles Everett (Memphis, TN.) former Presidents, retired along with other loyal union members. We have asked that they all continue their union membership after their retirement. The membership cost is very small while the benefits remain the same.

Our Local has experienced several concerns regarding how the intake process is being performed especially in relationship to the NCC. In some offices management is placing a priority on the intake unit to make sure that the inquiries from NCC take priority over walk-ins and current case charging party's call-ins. While the intake unit receives call complaints from the NCC regarding follow-up, there does not appear to be an opportunity for the intake unit to complain about the type of information they are receiving from the NCC outside of the survey that Council 216 has posted for feedback. Therefore, it is very important that the survey be completed so that the Council can provide the necessary supporting documentation regarding the NCC.

The Local is also pursuing issues in those offices that management has informed our bargaining unit members that they are not achieving their goals based on a numerical interpretation of goals usually made known to the employee on their evaluation. In some cases the employee

was not told that they were expected to achieve a certain goal even at their mid term review. This has resulted in employees not being promoted and/or placed on warning and the probability of receiving an evaluation rating that is less than expected. We are aggressively pursuing this issue.

What about those goals? Who sets them in your office? In most offices the management team holds meetings with Investigators to tell them what to do without much consideration of the Investigators' input on what actually can be done. When the investigator is not able to meet the manager's goals they are reviewed unsatisfactory. It is easy to tell someone what to do, but is it effective? Are they obtainable goals? Would it not be better to collaborate and collectively work "with" the investigator who usually knows more about the case when setting goals. Employees are being encouraged to provide input in writing about what they believe are achievable goals prior to their management meeting with hope that the parties can work together to identify achievable goals. Employees are also encouraged to conduct a self-analysis of their accomplishments and contributions and to submit their analysis to their reviewing supervisor before their evaluation.

What about the morale? We will end this fiscal year with the employees not knowing how the repositioning will affect them. Some will not know who their director will be, what position they will hold, or what their territory will look like. A major reason for this is the lack of communication from the top down and the deaf ears of our leaders to receive information from the workers to the top. This can only lower the morale of the field workers. However, if enough employees respond to matters that are affecting them at work in a constructive manner the communication blockade may be broken. We have seen evidence of this being successful with the work that has been done by the Council with our legislative branch and community and advocacy stakeholders. I want us to be mindful that we cannot expect others to do more for us than we are willing to do for ourselves. During our recent annual training the representatives were asked to bring at least two contacts other than

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their elected congressional representatives to add to the Local's mailing list to assist us in our efforts to have some input on the direction that the agency to lead us. I continue to urge the employees in the local to give feedback when asked, and provide information when you receive it that may be helpful to our mission.

Our Local held its annual training and meeting August 12-13, 2005. Each year the office representatives are asked what areas of training they feel would be useful to assist them in their representational duties. Headquarters personnel staff assisted in the training by giving an overview on the proposed performance standards, retirement, and labor relations. The personnel training topics was coordinated with Sharon Chesley and Joanne C. Riggs. National Council President, Gabrielle Martin, provided training on Impact and Implementation and the responsibilities of the Council to the Locals.

Local 3614

Exceptions to a Clarification decision by Arbitrator Lucretia Dewey Tanner were filed by Local 3614 with the Federal Labor Relations Authority. Despite very clear and specific remand instructions from the Authority, Arbitrator Tanner failed again to apply the law of the Fair Labor Standards Act to her factual findings that individuals in the Baltimore District Office worked overtime but were not compensated. In its Exceptions, Local 3614 asked the Authority to provide for the selection of an Arbitrator with a knowledge base in federal employee overtime laws to make an appropriate Award based on the undisputed material facts in this overtime case.

On November 14 -16, 2005, Arbitrator Joyce M. Klein will hear Local 3614's grievance filed on behalf of all employees in the Washington Field Office who worked "suffered and permitted" overtime by performing Agency work before the start of their workday, during lunch, after the workday ends, taking work home on weekday evenings, and by performing Agency work over the weekends and on holidays without compensation.

Local 3614 will introduce a members' only E-mail Announcement list this fall, and members of Local 3614 are urged to participate. This list will act as a non-

interactive listserv and is intended for announcements from Local 3614. We will organize the mailing list by office and, hopefully, begin to communicate with our members more efficiently and effectively. More details and directions can be found at www.afge3614.org

Local 3614 demanded negotiations on the assignment of offices in the Washington Field Office. Currently, the Washington Field Office Director continues to make office assignments on favoritism grounds.

Local 3629

No report submitted

Local 3637

As employees of EEOC and Union

members, we have observed the Agency take a different position it's relationship with the National Council of EEOC Locals and the employees the Council represent. While we are proud of the Council's achievements, we also recognize that we must be prepared for a new era in the Agency. Our first obligation to Bargaining Unit Employees is to vigorously defend employees' rights against arbitrary policies and practices.

There has been a lack of communication with the National Council and the Bargaining Unit employees regarding the issues facing this agency. The actions taken by this administration have led the Council to conclude that EEOC is being

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Helping AFGE Members Affected by Hurricane Katrina

- 1 Make A Contribution to the Federal Employee Education & Assistance Fund (FEAA)**

Donations to the FEAA Disaster Relief Fund may be made:

 - Online at www.FEAA.org
 - By sending a check to: FEAA Hurricane Fund, 8441 W. Bowles Avenue, Suite 200, Littleton, CO 80123-9501; or
 - By credit card: Call the FEAA at 303-933-7580
- 2 Make A Contribution to the AFL-CIO's special Hurricane Relief Fund of the Union Community Fund.**

The Union Community Fund (UCF) is labor's charity for working families and communities in distress. The AFL-CIO is working with labor federations in affected states and with relief organizations to target help to union members. UCF is a non-profit, 501(c)(3) public charity. Donations to UCF are tax-deductible to the extent provided by law. More information is available on the web at: <https://secure.ga3.org/08/UCF>.
- 3 Help for AFGE Members Affected by Hurricane Katrina:** AFGE members living in areas impacted by Hurricane Katrina who participate in AFGE Union Plus programs may qualify for a variety of services:

 - The Union Plus Credit Card Disaster Relief Fund is available to help AFGE members who have an AFGE credit card and who are facing financial hardship due to Hurricane Katrina. AFGE cardholders are eligible to apply for a Disaster Relief Fund grant ranging from \$500 to \$2,000. The money does not have to be repaid. To apply for a Disaster Relief Fund grant, cardholders can call the Credit Card Disaster Relief Helpline at 1-877-761-5028 to speak directly with a specially trained representative. Special Lifeline Assistance is also available to help cardholders who are behind on their Union Plus Credit Card payments to become current. Assistance may include lower rates, fee waivers and other help.
 - Union Plus Loan, Auto Insurance and Mortgage Program Participants: Disaster victims who participate in the Union Plus Loan, Auto Insurance and Mortgage programs may be eligible to receive payment extensions or other special help from the program providers.

• AFGE Credit Card Disaster Relief Fund:	1-877-761-5028
• Union Plus Loan Program:	1-800-343-7097
• Union Plus Mortgage:	1-800-848-6466
• Union Plus Auto Insurance:	1-800-294-9496
• Union Plus Credit Counseling:	1-877-833-1745

AFGE
American Federation of Government Employees, AFL-CIO

Corner

Labor Websites of Interest



Rositheriveter.org offers visitors a look back at Rosie the Riveter. Graphics on the site include this piece from a Ford Motor Company spread in Time Magazine.

www.PoliticalMoneyLine.com

See who gave what to Federal candidates.

www.holtlaborlibrary.org

A working library for labor and progressive studies accessible to the general public.

www.BigLabor.com

Union Communication Services Inc., sponsor of this site, has been publishing and distributing education, training and communication materials for unions across North America since 1981.

www.jimhightower.com

Texas populist, radio commentator, author, columnist and thorn-in-the-side of the greedy and powerful.

www.rositheriveter.org

Website honoring Rosie the Riveter as a symbol of American women's labor.

Know of a website that might be of interest to your fellow members? Send an e-mail describing any websites of interest to Mike Davidson at med3529@aol.com.

Events in Labor History

- July 1, 1892 Homestead, Pennsylvania steel strike. Seven strikers and three Pinkertons killed as Andrew Carnegie hires armed thugs to protect strikebreakers.
- July 2, 1964 President Johnson signs Title VII of the Civil Rights Act of 1964
- July 3, 1835 Children employed in the silk mills in Patterson, N.J. went on strike for 11 hour day and 6 day week.
- July 5, 1935 National Labor Relations Act, providing workers rights to organize and bargain collectively, passes Congress.
- July 8, 1842 First anthracite coal strike in U.S.
- July 25, 1890 New York garment workers win closed shop and firing of scabs after 7 month strike.
- July 26, 1992 Americans with Disabilities Act took effect.
- July 28, 1869 Women shoemakers in Lynn, Massachusetts demand pay equal to that of men.
- July 29, 1970 United Farm workers force grape growers to sign contract after five year strike.

“Why should we get involved? Why should my child learn about what happened a hundred years ago? If these children don’t understand and appreciate the struggles of their parents, grandparents and great-grandparents, they may be doomed to fight the same battles over again.”

—Fred Kaltenstein, Labor Educator

- August 8, 1903 Cripple Creek, Colorado strike begins.
- August 14, 1935 President Roosevelt signs the Social Security Act, providing, for the first time, guaranteed income for retirees and creating a system of unemployment benefits.
- August 15, 1963 170 women stage sit-in to protest employment discrimination by bank, East St. Louis, Illinois.
- August 17, 1985 Hormel meatpackers’ strike begins in Austin, Minnesota.
- August 22, 1980 Joyce Miller, Amalgamated Clothing & Textile Workers, becomes first female member of the AFL-CIO Executive Council.
- August 23, 1927 Italian immigrants Nicola Sacco and Bartolomeo Vanzetti, accused of murder and tried unfairly, were executed. The case became an international cause and sparked demonstrations and strike worldwide.
- August 24, 1970 United Farm Workers Union begins lettuce strike.
- August 28, 1963 The march for jobs and freedom held. It was here that Martin Luther King, Jr. delivered his “I Have a Dream” speech was held. 250,000 people participated in the march.
- September 2, 1916 Operating railway employees win 8 hour day.

Sauce for the goose. . .

How is it when I take a long time I am called slow, but when my boss takes a long time he’s called thorough?



An Official Site of the Union Label &
Service Trades Department, AFL-CIO

Support Good Jobs!

ShopUnionMade.org

**A unique
website
spotlighting
all union
products and
services.
Dedicated to
promoting
good jobs.**



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turned into a cosmetic, paper-processing agency rather than an effective law enforcement body. The Agency has implemented office goals which emphasize quantity while diminishing quality.

Congress, to some degree, shares responsibility for the problems of the EEOC because it has failed each year to adequately fund and staff the Agency. This has allowed the administration to carry out its regressive policies in the area of staffing, enforcement and litigation. The Agency has instituted a system which makes the processing and investigation of charges of discrimination a virtual paper pushing numbers game.

We all know that the problem of discrimination in employment has not gone

away. The National Council believes that it is necessary for Congress to act to remedy the staffing and budgetary problems of the Agency. Without such action, the public will not receive effective and timely quality service.

We are working closely with the AFGE leaders to present a united front to Congress to get the staffing and budget this Agency needs in order to carry out the mission of the Agency. We recognize that no single individual can accomplish this alone. If we are going to win, it will take an active team, members, stewards, local leaders and officers working together and united. So next time we ask you to sent a fax or write a letter, just remember there is strength in numbers.

Letter to the Editor

On Wednesday, August 31, 2005, I was invited to attend a civil rights symposium that was hosted by the Michigan Macomb County Ministerial Alliance in Clinton Township, Michigan. The keynote speaker was Senator Debbie Stabenow and an affirmative action workshop was hosted by democratic Congressman Sander Levin. The workshop provided information to attendees on how to file a civil rights complaint and to hear from four area Mayors on diversity in the region. Macomb County is one of the most segregated counties in the state of Michigan, as evidenced by recent racially hostile events such as a cross burning on a segregated couples property and the vandalism of a home that had just been purchased by a young black couple. The symposium highlighted the issues affecting the increasing diversification of Macomb County and the region.

In addition to the affirmative action workshop, a regional civil rights panel discussion was conducted and moderated by Macomb County Ombudsman John Eddings and featured Linda Parker, Director of the Michigan Department of Civil Rights; Shirley Stancato, CEO of New Detroit; Yvonne White, Macomb County President of the NAACP; Rev. D.L. Bradley, President, Macomb County Ministerial Alliance; and Betsy Kellman, Regional Director, Michigan Jewish Anti-Defamation League.

Obviously, discrimination is alive and well and an agency such as ours is needed now more than ever - yet our hands are being tied by our current management structure. Naturally, this was an opportunity that I could not miss and of course, I made the case against EEOC restructuring, specifically involving the Detroit District Office. While I have worked closely with Linda Parker of the Michigan Department of Civil Rights (who, by the way is quite alarmed about Detroit's pending status), I jumped at the chance to corner Betsy Kellman of the Jewish Anti-Defamation League and Shirley Stancato of New Detroit (a large local civil rights advocacy coalition) - and I would be remiss if I left out Nathan Lane, president of the UAW's Civil Rights Department and a good friend of mine.

My work was certainly cut out for me, but I am happy to report that all of the persons I was able to make my pitch to have pledged their support in any way they can - and I plan to hold them to that. Hopefully, by reaching out to community and political leaders, not only will our voices be heard, but there will be plenty who are listening.

*Stephanie Perkins,
National Council Delegate
Detroit Steward
Local 3504*

Catch 22 for Orthodox Jew in Philadelphia

By Regina Andrew, President, Local 3614

AFGE Local 3614 and Bettina Dunn, an Orthodox Jewish Paralegal employee in EEOC's Philadelphia District Office (PDO), are told by management in PDO that Ms. Dunn's only option for making up time missed due to Jewish holidays or Sabbath observance is to come into the office at 7:00 a.m. and to leave at 6:30 p.m. during the week. This option is not only a Catch 22 by design. It is a great hardship for Ms. Dunn, who is a single parent. Ms. Dunn has repeatedly requested that she be allowed to make up her time on Sundays. The Agency's Regional Attorney in PDO, Jacqueline McNair, has refused these requests.

Ms. Dunn filed an administrative EEO complaint regarding the denial of religious accommodations in 2004. The Union filed a class grievance in 2005 regarding the denial of the religious accommodation. Both the Union and Ms. Dunn claim that EEOC is violating Section 717 of Title VII of the Civil Rights Act of 1964, as amended, and its own Guidelines On Discrimination Because of Religion by failing to provide Ms. Dunn and other Jewish employees effective religious accommodations and by treating them differently than non-Jewish employees.

Christian employees in the Philadelphia District are permitted to work on Saturdays to make up missed time due to religious observance of Good Friday. But, Ms. Dunn, an Orthodox Jewish employee, is not permitted work on Sundays to make up time lost while observing Shavuot and other Jewish holidays. Why not? According to the Agency, Ms. Dunn can't work on Sundays because Philadelphia Regional Attorney Jacqueline McNair doesn't trust her. The Union recognizes this as the Agency's typical mud-slinging, though. This tactic is vastly apparent when one considers that McNair didn't raise Ms. Dunn's lack of accountability in the most appropriate place – her performance appraisal. There Ms. McNair rated her "Outstanding" and has received awards for her performance.

Ms. McNair knew that Ms. Dunn could not come into work earlier and work later during the week because of her parental responsibilities. Nonetheless, the 7:00

to 6:30 schedule was the only accommodation afforded to Ms. Dunn. The Agency never claimed that it would be an undue hardship to allow Ms. Dunn to earn religious comp time on Sundays, and evidence proved that other employees are allowed to work overtime and comp time on Saturdays, Sundays, and legal holidays.

The Union's counsel moved for summary judgment in Ms. Dunn's favor. The Agency did so, in kind. The Agency's con-

tract Administrative Judge ruled in favor of the Agency. The Judge's decision adopted wholesale the Agency's unsupported allegations and failed to properly analyze the strong law that exists in support of federal employees' rights to earn religious comp time. A miscarriage of justice has occurred in this case and AFGE Local 3614 has filed, and is moving to hearing, a class action Grievance over the Agency's illegal policy of forbidding religious comp time to be earned on Sundays.

POINTS TO PONDER

Why after three years of studying reorganization, is there no implementation plan?

Why, with reorganization presumably imminent, can't the chair produce a full and complete written implementation plan?

Why has the chair refused to sit down with stakeholders as a group to address their concerns?

Since when does "thinning management layers" mean hiring more supervisors and few or no "front line" employees?

Why after three years and contrary to OMB reorganization guidelines, does EEOC not have a reorganization plan for headquarters?

Isn't leaving hq reorganization to last approaching reorganization backwards?

Do more than five EEOC employees think the chair's reorganization plan is a good one?

Does paying eeo professional staff to copy, file and type make sense economical or make EEOC more efficient or effective?

How much money does eeo spend on outside contractors?

Given the shortage of professional staff, why won't the chair hire support staff?

How much time does it take to work out the "bugs" of the call center?

Isn't it interesting that HQ's rosy assessment of the call center's performance is so different from field offices experiences?

If a supervisor tells investigators that they must close "x" number of cases to be considered to have contributed to office goals, isn't that a production standard?

Is "September madness" alive and well?

Will the Chair again flaunt Congress' authority and implement her reorganization plan on October 1 even though Congress has directed EEOC not to implement the plan until the GAO report comes out?

August Meeting Wraps with Updates to Strategies; Council Ready to Meet Challenges

Continued from page 1

Agreement; Representational Duties and Labor Management Relations; Impact & Implementation Negotiations; Impasse Procedures; ULPs vs. Grievances; and, the Use of RFIs and FOIA. Interspersed with the training agenda were Council business items.

Levi Morrow, the Chief Negotiator for the Council, reported on topics including that the EEOC was in the process of stopping union dues deductions for non-bargaining unit members; that EEOC had served the Council with a Notice that, with the Collective Bargaining Agreement expiring, it wanted to negotiate a new contract.

Morrow reported that the Council is reviewing the list of employees who were allegedly “non-bargaining unit” and found that EEOC had made a number of errors in determining that most of the employees it had identified as “non-bargaining unit” were actually bargaining unit employees.

Morrow explained the processes and procedures involved in preparation for and negotiating to bargaining for a new Collective Bargaining Agreement (CBA).

CBA Vs. Impact Negotiations

There was training on the Council’s structure, the differences between CBA negotiations and impact negotiations, the role and purpose of the Impasse Panel, as well as a discussion of recent Impasse Panel cases, and contract ratification procedures.

Proper Use of Agency Equipment

Additional subjects covered included a discussion of use of the agency’s equipment. Specifically, we discussed the appropriate use of agency e-mail as inappropriate for internal union business.

- First, its use and the use of other agency equipment for internal union business is prohibited by the CBA.
- Second, the agency’s equipment is not the place to resolve internal union disputes.
- Finally, handouts on the training materials were made available, so stewards should check with their lo-

cal president or the National Council president for those materials.

Commissioner Ishimaru

On Tuesday afternoon, Commissioner Stuart Ishimaru spoke to Council members.

The Commissioner was in Las Vegas attending EEOC’s EXCEL conference on the Federal Sector. Chair Dominguez, Vice Chair Earp and Commissioner Silverman, also in town for the conference, were also invited to address the Council concerning the Reorganization Plan, but did not re-

[Commissioner Ishimaru] credited the National Council for providing a significant amount of information related to the reorganization that proved useful to him.

spond until after the Council meeting was over, indicating that they would not attend.

Commissioner Ishimaru spent the bulk of his time at the Council meeting discussing with Council delegates the hot topic of the Chair’s reorganization plan which included the notorious Call Center. His introductory remarks credited the National Council for providing a significant amount of information related to the reorganization that proved useful to him.

After a productive 45 minutes, the Commissioner excused himself and the Council returned to its agenda.

Legislative Action

Reorganization was a topic the Council spent a lot of time discussing and planning our next steps.

Rachel Shonfield, Council Legislative Liaison, reported on the Council’s legislative actions and highlighted some of the successes that the Council had realized in the last several months. She noted that an intrinsic part of the Council’s legislative program was working with civil rights groups and that, combined with contacts with Congressional representatives, accounted for the fact that EEOC was on the

defensive with the House and Senate Appropriators and various individual Representatives and Senators.

Shonfield enumerated Council successes including: two sign-on letters sponsored by Sen. Kennedy; a sign-on letter sponsored by Ohio Rep. Stephanie Tubbs-Jones (a former EEOC attorney) and an amendment on the floor of the House as part of the budget process; effective budget language from the House and especially from Senate appropriators.

Shonfield was proud to report that “the Council’s position was now the position of the Democratic Party.” But, she added, the Council was attempting to make this a bipartisan issue and just recently, a few Republicans were supportive.

Shonfield concluded by encouraging Council delegates to continue to contact Congressional Representatives, the press and constituent groups as a means to advance the fight against the Reorganization including the Call Center.

Reorganization

President Martin reported that the EEOC was attempting to schedule a meeting with the Council to discuss the Chair’s reorganization plan. The details of such a meeting were not clear and Martin was continuing to discuss such a meeting with EEOC.

Local 3599 President Sharon Baker presented information on reorganization procedures that EEOC (and any federal agency) had to go through as dictated by the Office of Personnel Management (OPM) and commented on those steps that EEOC *did not* follow.

EEOC’s Hiring Authority

Baker then talked about the use of EEOC’s hiring authority and raised the question of whether EEOC’s hiring of “term” employees was proper.

The Council meeting wrapped up by updating its Strategic Plan to meet the coming challenges. The Council next meets in February, 2006 preceding the AFGE’s Legislative Conference.

FedFlex—An Untaxed Benefit

Your Tax-free FedFlex Benefit—Or is it?

local taxing agencies. Those local taxing agencies rely on the W2 forms sent to it by federal agency payroll centers – the Department of Interior (DOI) in EEOC's case. If the W2 from DOI does not subtract the FSA dollars from the taxable salary, the employee winds up overpaying local taxes. This is what happened in Ohio.

As a result of DOI error, FSA dollars were not subtracted from the taxable income of EEOC employees in the Cleveland office, NASA employees at the Cleveland Glenn Research Center and possibly other federal employees in Ohio whose pay center was DOI.

These pre-tax “cafeteria” plans are exempt from Ohio's local income tax and reported local wages are to be adjusted by deducting the amount of such pre-tax plans, effective January 1, 2004. EEOC, through its payroll agent, DOI, failed to obey this Ohio law and overpaid its employees' local withholding tax.

What went wrong?

DOI failed to subtract FSA dollars from EEOC employees in the Cleveland District (CLDO) as a consequence Cleveland EEOC employees were denied their full pre-tax benefits in 2004 and through 2005 pay period #5. EEOC/DOI failed to reduce the reported local wages of CLDO employees by the amount of their pre-tax benefits and consequently overpaid their withholding tax to the cities of Cleveland. Cincinnati EEOC employees were apparently not effected.

The Central Collection Agency (CCA), in the Cleveland area is a local tax administration agency. It relies on the DOI generated W2 to determine local taxes of resident within its jurisdiction. DOI has acknowledged that the W2s for the period in question were in error. But, the CCA will not make refunds of the over withheld tax-free amounts to the individual employees.

Jerry Heller, Supervisor of the Corporate Audit section of Cleveland's CCA

says the problem was due to employers' failures to subtract their employees' pre-tax benefits from reported local wages and that those employers i.e. EEOC/DOI, are responsible to make the proper refunds to their employees. A DOI representative stated that Cleveland was obliged by its own tax regulations to make refunds or credits to the affected individuals. Following a series of phone calls, a higher-level DOI representative said that DOI (and several other federal payroll services) would be seeking return of the 2004 over withholdings from about twelve local taxing authorities throughout Ohio and would then make refunds to the affected federal employees. Hundreds of Ohio federal employees serviced by the DOI have been victimized by the over withholding errors of the DOI and possibly other federal payroll agents.

Is Your Withholding Correct?

If the EEOC/DOI are withholding for

your local income tax, you might want to check your pay and leave statements to verify that the correct amount is being withheld for the local wage tax.

If you are an EEOC employee working in Cleveland, and if the amount withheld for local wage tax is more than 2% of the Ohio qualified wage (or 2.1% if you work in the CIAO), you have been short-changed by EEOC/DOI you should, therefore, expect to see an upward adjustment for the 2005 over withhold by pay period 18 and should expect to eventually see a refund for the 2004 over withhold. Projected across all DOI-serviced federal payrolls in Ohio, significant monies are owing to employees by a variety of federal agencies, including EEOC.

Lessons Learned.

EEOC/DOI's error cost hundreds of federal employees significant money. The

Continued on next page

Check Your Pay Statements

If you don't check your pay statements you could wind up paying out of pocket for any overpayment you receive. It's happened to your co-workers.

There are a plethora of cases where this has happened to federal employees.

Here's a Tale of Woe

A federal employee was receiving health care but the cost was not being deducted from the employee's pay. This occurred over a several year period.

The employee was informed at a couple junctures by the agency that there was a problem. Although the employee followed the instructions on each occasion, the employee did not follow up to make sure that the problem was corrected.

Moreover, the employee did not review pay statements to verify the correction of the problem.

Finally, the employee received notice that many thousands of dollars was owed to the federal government.

In the overwhelming number of cases brought before various forums, the conclusion is that employee should have known because the resources were available to know. E.g. pay statements, for one.

The article on tax overpayment in Ohio is another case in point.

The morale: CHECK YOUR PAY STATEMENTS!

FedFlex Benefit

Continued from previous page

error was not acknowledged by the DOI until March 1, 2005 when corrected W-2's were sent out regarding the 2004 tax year. But, the error has not yet been fully remedied. The incorrect withholding was not apparent to employees from a quick view of the pay and leave statement but only emerged from a detailed analysis comparing actual withholding to what should have been expected. The tax authorities refused to make individual refunds, stating the employers had to do that job. The DOI's initial stated position was that the tax authority had to make individual refunds. The DOI did not change their position until an EEOC employee and Local 3405 escalated a complaint to the DOI and EEOC.

If this systemic error had been discovered earlier, the over withholding would have ended sooner and been remedied sooner.

Don't assume that your pay and leave statement is correct. Understand what your benefits package is and ought to be. Review your statements to make sure the deductions are correct. Ask questions until you understand DOI's answers. When the pay statement is demonstrably wrong, demand that it be corrected! If you don't get a satisfactory response, escalate the issue up DOI chain of command and consider getting the Union involved, especially if the error appears to be systemic.

If your state has a local taxing scheme similar to that of Ohio, you may be in the same boat. Check it out! (*See related story 'Check Your Pay Statements' page 10*)

Union, Civil Rights Community Work to Create a Better Future

Continued from page 1

Community, and the Union to delay the vote, EEOC tells the Washington Post that "there are no plans to cancel today's meeting."

- May 16, 2005, 2:20 p.m.: EEOC abruptly cancels meeting. EEOC Chief Operating Officer tells press that there are no plans to hold a public hearing.
- June 23, 2005: With virtually no notice and conflicting with two major stakeholder conventions, EEOC holds "public forum," i.e., Q but not A session.
- July 8, 2005: EEOC pushes forward with meeting to vote on restructuring, despite pending GAO report. Commissioner Ishimaru's motion that the EEOC delay implementation until after the Congressional appropriations process fails.
- At Present: Congressional appropriators have instructed EEOC to postpone implementing its restructuring plan until GAO issues its pending report.

EEOC's sloppy attempt to fast-track its restructuring, certainly leaves questions about the motives behind the plan. Let's call a spade a spade. A plan to downsize offices is a plan to downsize civil rights enforcement in this country. If EEOC seriously wants to improve services and allocate its funding wisely here are examples of what it could do:

- Pull the plug on its \$5 million call center "pilot." The call center employs only 36 operators, and is no more than a glorified answering service.
- Redeploy managers to the front lines. While EEOC claims that its plan will cut managers, instead it is busily filling more manager positions. Actual redeployment would be implementing a 10 to 1 employee to supervisor ratio. This would mean 100 supervisory investigators would become investigators and 25 supervisory trial attorneys would become trial attorneys. Currently there are offices with 10 inves-

tigators and 4 supervisors or 5 trial attorneys and 2 supervisory trial attorneys. With most of EEOC's workforce at the journeymen level, there is no reason for so many supervisors. Also, why do we need supervisory investigators, enforcement managers, deputies, and directors? It is time to cut these bureaucratic layers.

- Eliminate unnecessary contractors: EEOC wastes money on contract mediators for local mediations that EEOC staff could cover. EEOC is also paying outside contractors to review personnel classifications and our charge processing system.

Because Congress has put EEOC's restructuring plan on ice, the Union and the Civil Rights Community have an opportunity to try to create a better future for the agency then downgraded offices.

The Congressional budget process is not complete. EEOC's Senate Appropriations committee has weighed in with pretty good language, which expresses concerns about the restructuring plan and stops the EEOC from cutting offices or staff. Unfortunately the Senate language allows for EEOC's staffing to continue to shrink if it is due to "voluntary separation," i.e., retirement. With fifty percent of our staff eligible for retirement, this means we will continue to bleed staff. Now is the time to contact your members of Congress and ask them:

1. Not to approve EEOC's restructuring plan;
2. Support Senate Appropriations Committee language, which diminishes the impact of the plan; and
3. Insist on additional appropriations language, which calls for the backfilling of vacancies created through voluntary terminations, e.g., retirement.

Visit www.council216.org for action faxes that you, your family, your friends, and your community contacts can send out. Now is a crucial time for Congress to hear how many people are concerned about the future of civil rights enforcement in this country.

“The Five Million Dollar Question:”

Is EEOC’s Call Center Worth the Money?

Since the national call center opened this February, the National Council has had an employee survey posted on the website: www.council216.org. The results speak for themselves:

Investigator in Louisville:

The caller is Egyptian. As soon as the caller tried to explain the problem, the NCC refused to listen; told him to call our office directly; and gave him our number, which is a long distance number that created an expense for the caller. The caller commented that the reception at our office was very friendly and assuring, unlike the NCC.

Investigator in Buffalo:

Phone numbers are inaccurate, addresses are incorrect (ie: City in NY but addressed to NC). No useful information . . . Have seen no difference in reduction of calls taken locally.

Investigator in Buffalo:

Caller telephoned call center on April 2005. Inquiry was sent to the wrong office. Info was transferred to correct office, being received on July 5, 2005 . One and 1/2 months later. This is not customer service.

Investigator in Greenville:

The NCC is not saving me any time b/c I have to do the same thing (call and interview the person or send an IQ) that I would have to do if anyone just took a

person’s name and number. What a waste of time and energy.

Investigator in Miami:

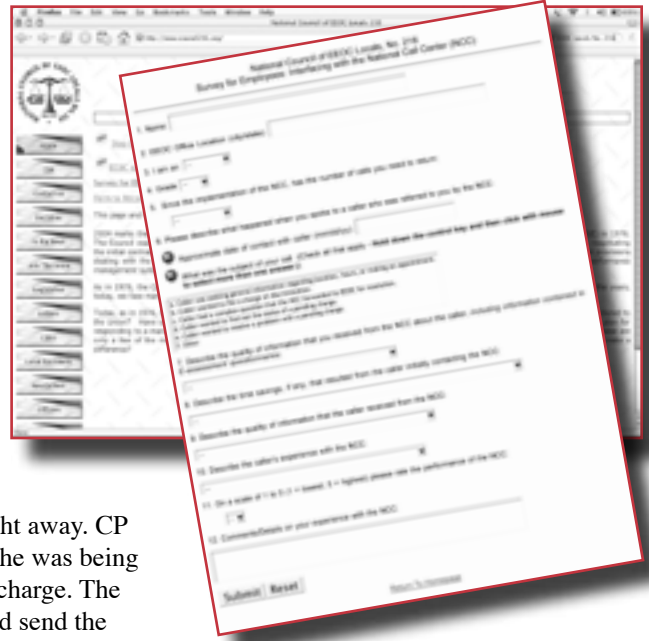
Today I received a fax complaint from a former CP. I called her and she told me she contacted the NCC yesterday. The NCC told her that NCC will be calling her back in about 2 weeks to follow up her complaint. CP told NCC that she did not want to wait 2 weeks and she would rather send her information to EEOC right away. CP told NCC that she believed she was being retaliated from the previous charge. The NCC told her to go ahead and send the information to the EEOC.

Investigator in Minneapolis:

Caller had a FMLA issue but was directed to the field office by the NCC who incorrectly told her that it was an ADA situation. She was irate when told otherwise.

Investigator in Detroit:

Since March 21, 2005, the date the NCC went nationwide, there has not been any information that has proven useful, nor did it save me or my co-workers any



time. While I understand that the call center “representatives” are not meant to be actual Investigators, their rather expensive “purpose” is questionable. Just exactly what are they doing to assist us in processing charges?or is that the 5 million dollar question?

Your input is important. Please continue to fill out the survey at www.council216.org.

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