

National Council Meets in D.C.— Addresses Challenges, Strategizes Solutions

The National Council of EEOC Locals, No. 216 (the Council) met in Washington, D.C., on February 5 and 6, 2005. This meeting was timed to immediately precede the American Federation of Government Employees (AFGE) 7th Annual Legislative Conference, in order to enhance Council participation at the conference.

EEOC Chair, Cari Dominguez, Vice Chair Naomi Churchill Earp, Commissioners Leslie Silverman and Stuart Ishimaru were all invited to address the Council. The Vice Chair and Commissioner Silverman were able to attend the opening of the meeting on Saturday, February 5, 2005. Following the Commissioners' remarks, Council delegates asked questions regarding: restructuring; the budget; and the misuse of short term employees. The Commissioners responded with the familiar themes of: "doing more with less;" balancing the agency's budget shortfall on the backs of retiring employees, rather than hiring; and that the restructuring plans are in the hands of the Chair. The Commissioners appeared interested in how operations play out in the front-lines, explaining that their position often leaves them in a bubble. Both the Vice-Chair and Commissioner Silverman stressed their accessibility and their desire to "keep the dialogue open."

The business portion of the Council meeting gave members updates on the major issues facing the EEOC and the Union. The goal was to determine where the Council was in its Strategic planning. Council President Gabrielle Martin reported on her recent meeting with EEOC Chair Dominguez. Martin stated that she made it clear to the Chair that any interface between the Call Center and bargaining unit employees in the field offices must be bargained prior to

Continued on back page



Council President Gabrielle Martin (right) speaks with Congresswoman and former EEOC Chair Eleanor Holmes Norton

EEOC's Extreme Make-Over: It's Not Pretty!

By Rachel H. Shonfield, Local 3599

The way most make-over shows work is the producers find some down on his luck average "Joe" and fix up his look, his career or his house, thus starting him back on the road to success. Imagine a reality T.V. show where they do this exercise in reverse. The producers ask Joe's boss not to give him a raise in the coming year. A portion of Joe's salary is siphoned off to pay a company in Kansas, which does not specialize in Joe's work, to answer incoming calls from his clients. Then the folks assigned to fix up Joe's house, instead rent out 35% of his home to the neighbors. On this show, the "after" picture of Joe looks worse then the "before" picture. If you are Joe, his family, or his clients, it's time to

stand up and say, "hold on...what's going on here?!!!"

The reality is that Chair Dominguez is doing a not so pretty make-over of the EEOC. To warn Congress about these harmful initiatives, the National Council of EEOC Locals No. 216 joined 700 Union activists attending the American Federation of Government Employee's 2005 Legislative Conference between February 6 and 9, 2005. During the conference, National Council representatives visited over 85 Democratic and Republican Congressional offices to let them know that EEOC's restructuring plans and call center pilot are bad news for their constituents. This is a record number of visits

Continued on page 4

Are you getting calls and questionnaires routed from the National Contact Center? Please fill out the survey at www.council216.org





Gabrelle Martin, Council President

Getting What You Want

In this New Year, we need to take a few moments to reflect on what we want to happen or not happen at EEOC. After taking time to reflect,

you need to take time to prepare and be ready to act to achieve those "wants." Failure to prepare or to act means you are willing to forgo getting what you want and are prepared to fail. Preparing means knowing the issues and why the issues are important to you.

Last year, the Union wanted to be sure that the Call Center, Agency Restructuring and other NAPA based recommendations did not push through unfettered and blindly implemented without review or debate. We achieved that goal. There were a number of other issues we wanted to address and on which we made great strides. Reaching many of these goals required a plan, patience, persistence and hard work. In addition, reaching many of these goals required having a strategy and your help in taking action.

Why are these issues important to you? The Call Center is not innocuous. The work done there is your work. Call Center operators will for all intents and purposes take charges. They will screen potential charging parties and when the operators deem it appropriate they will obtain all of the information required in the 283. However, those documents cannot be signed by charging parties referred to the call center, even though they may think they have completed the intake process. If a jurisdictional question is successfully raised about timeliness for example, the EEOC has caused the public to lose their rights.

Of greater import, Call Center employees make work for you that you will have to balance in your workload. If the Immigration and Naturalization Service (INS) call center, with the same contractor, is any example, the information collected by call center operators will not be accurate. Callers will be angry with you because you will be the second person they have to talk to about the issue. For paralegals and

most likely investigators, the call center employees will interview witnesses. How will legal units protect their strategies and witnesses? How do we know that call center employees are not discussing witness interviews with respondent plants?

Restructuring will impact you because resource decisions will be made differently. We know that not being in the district office with the budget, i.e., the "money office," too often means that your resources are less than those in the money office. This impacts travel, awards and other day to day resources. Expect the bureaucracy and favoritism to be worse with a "mega" office scheme. This of course assumes that your office will still exist in any recognizable form, if it is not chosen as a mega office.

As more of your work is peeled off to give to the call center operators or sent to other offices, the greater is the jeopardy to your job. While most of your jobs are not currently on the agency contracting out list (FAIR Inventory), the less work you actu-

ally perform, the greater the chance that your job will end up being privatized

Changes to the regulations concerning compensable time while in travel status have much promise, but are not without problems. The Council is working on this issue as well.

So, for the future, we seek your continued assistance. When we ask that you talk to your legislators or send those faxes, the action you take in response is invaluable and, in fact, crucial. When we ask for your help, participation completing surveys or information about activities in your office, these are part of the Union's strategy and plan. The information you provide allows the Union to implement its strategy and plan. So we ask you to continue to take a few moments to respond and take action. After all, getting what you want is a matter of what action you are prepared to take.

We look forward to your continued help with the strategy to improve your working conditions, increase staffing levels, technology, awards, and training. For additional information on these issues, you can always check www.afge.org or the Council's website www.council216.org.



Adverse Arbitration Award Overturned by FLRA

by Regina Andrew, President, Local 3614

AFGE Local 3614 has prevailed before the Federal Labor Relations Authority (FLRA) in overturning an adverse Arbitration Award that had denied overtime pay

and damages to bargaining unit employees.

Local 3614 had filed a grievance alleging that the EEOC failed to pay overtime to Bargaining Unit employees in the Balti-

more, Norfolk and Richmond field offices. The grievance had been denied at each of the three steps of the Grievance-Arbitration procedure and Local 3614 invoked arbitration. Arbitrator Lucretia Tanner's decision ruled that, although the Grievants did perform overtime work without overtime pay, the Union did not show "that the entire Bargaining Unit has a claim to back pay for overtime worked." Exceptions to Arbitrator Tanner's decision were filed with the Federal Labor Relations Authority (FLRA) by Local 3614. The often times conservative FLRA remanded the issue back to the Arbitrator for clarification. Issuing a two-part ruling overturning this Arbitration Decision, the FLRA remanded the Decision to the Arbitrator.

The FLRA, in a two-part ruling held first that the Arbitrator failed to properly analyze employees' entitlement to Overtime pay, for both Exempt employees (e.g. AJ's and Attorneys) under the Federal Employees Pay Act, 5 USC §5542 (FEPA) and as to Non-Exempt employees (e.g. Investigators, Paralegals and Clerical Staff) under the Fair Labor Standards Act (FLSA). Barring settlement, the FLRA ruling requires the Arbitrator to review all of the evidence to clarify her Award. To do so, the Arbitrator may need to gather additional evidence (e.g. testimony).

The second part of the FLRA ruling directed the Arbitrator to consider "which employees, if any, are entitled to overtime pay, minus the value of time off already granted, because they were erroneously granted comp time in lieu of overtime pay to which they were entitled," failed to properly analyze Non-Exempt employees' entitlement to compensation for improperly forcing employees to take comp time in lieu of overtime pay. In other words, employees who have not been given the choice between comp time and overtime will receive damages for all comp time worked during the relevant time period.

With the possibility of liquidated damages and attorney fees, AFGE Local 3614 has proven once again that it can help bargaining unit employees be made whole for being overworked and underpaid by the EEOC.

Dispelling the Dominguez Myth

Contributed by Stephanie Perkins, Local 3504 Steward, Detroit

It is the position of Chair Cari Dominguez, et al., that today's generation of workers prefer contract employment, with little or no benefits, over traditional full time employment. This faulty justification is used when the EEOC replaces retiring career employees with short term hires and temps. This attitude is not unique to the EEOC. It is becoming the hot new trend in hiring practices. The following letter was written by a person who falls within the demographic the Chair has identified as preferring contract work and is being submitted in its entirety:

To Whom It May Concern:

I wanted to take the time to address my growing concern about the job market in the State of Michigan, particularly in the Metro Detroit area. As a bright, diligent, hard working and determined young woman, I am very disappointed by the lack of [stable job] opportunities, despite all of my hard work and dedication. The job market for today's college graduates is not only disappointing, but almost non-existent. Since graduating with a Bachelor's degree in April 2000, I have only been able to secure contract/temporary work. I went on to complete my Master's degree in December 2003, only to find that all of the job offers I have received have still only been for contract/temporary employment.

Considering that the U.S. job market has been stagnant in the last few years, I count my blessings and recognize that I am lucky to have secured any employment at all; however, this doesn't change the fact that I will reach the age of thirty in a couple of years and like most of my peers, it leads me to wonder what my future may hold. This causes me to become frustrated at the lack of stability and employer dedication. It is very hard not knowing when and if I will be released from my contract assignment and I find it amazing that so many employers want to offer contract and

temporary employment—yet my student loans, car payment, rent, utilities, etc., are anything but temporary. While there is no guarantee that I will have a job next Monday, there is a guarantee that there will be another bill waiting for me in my mailbox.

For the record, I want to work—I have no desire to sit at home. I want to eventually marry and start a family; I would love to pump more money into the local economy; I would love to purchase a home, but I am unable to because I do not hold steady, secure employment. As someone who is well educated, it is very disappointing and downright scary to be faced with such limited prospects. I recently decided to relocate to another state in order to find better opportunities and it was not an easy decision to make—Detroit is my home. I was born and raised here and my family is here. Most of my friends were here until they too were forced to relocate in order to find permanent, stable employment. If changes are not made, if the younger generation is not allowed the same type of employment stability as previous generations, they won't have the means to pay back all of the money they borrowed to get an education. The uncertainty of this practice will cause the current system to crash and burn.

Sincerely,
Heather P.

National Council Visits Congressional Offices Kicks-Off Efforts to Squash Extreme Make-Over

Continued from page 1

for the Council!

Before lobbying our representatives, conference attendees were briefed by Union activists and members of Congress on the issues, such as Social Security, that will have an impact on all of us either as Federal employees or working people. At our opening session, Richard Trumka, the Secretary-Treasurer of AFL-CIO, told the audience that all workers stand together with Federal employees, who are suffering the brunt of this administration's anti-Union agenda. Participants learned that despite our usual success, it will be harder this year to get Federal workers the same percent raise as the military, because of a wartime budget, which squeezes out domestic spending.

Senator Paul Sarbanes (D-MD) decried the politicizing of the Federal Service and the contracting out of Federal jobs: "It is unfortunate when you get an administration which doesn't value its employees." Rep.

Chris Van Hollen (D-MD) stated that the Department of Homeland Security's move to dismantle the civil service, end within grade increases, and close down 90% of collective bargaining will relegate the Union's influence to a "chat in the hall" with management. The Congressman wisely suggested that we should see how the "shaky" DHS plan works, before extending it to all Federal agencies in FY '06.

EEOC's issues are a microcosm of the big ticket issues AFGE is fighting in order to prevent an ugly make-over of the Federal workforce. Since Chair Dominguez instituted a hiring freeze in August 2001, we have lost over 15% of our workforce. EEOC's case backlog is climbing. Last year, the EEOC transferred a record 3,000 cases from the offices where they were filed to distant offices, which tend to close them without a full investigation. The number of onsite investigations has dropped. So has the percent of cases where the agency found cause to believe that discrimination occurred. Making a cause determination, rather than just closing a case, takes more time and more resources-

and the EEOC is short on both.

However, instead of a real make-over, like replenishing staff, the EEOC is siphoning off \$4.9 million of EEOC's funding for a privatized call center. The next phase of EEOC's destructive make-over is the agency's restructuring plan, which will be presented to the Commission for a vote in the next few months. Already EEOC has ordered its offices to cut space requirements by 35%. In EEOC's Puerto Rico office this means that part of the office space has been rented out to another Federal agency. The Birmingham office may lose its law library to decrease space. EEOC is being very secretive with its greater restructuring plans, but all arrows point to a reduction in offices. This does not bode well for EEOC's employees or for American workers, who will have less access to help when they experience discrimination on the job.

As if Council members did not have enough bad news to share during our visits on the Hill, we learned that the President's budget for 2006 does not recommend that EEOC get a raise next year. Because of inflation, this means that EEOC will be even further behind in 2006, then this year's \$6 million shortfall.

While it seems like the EEOC "after" picture is getting worse then the "before" shot, legislative action gives us an opportunity to stand up and say, "hold on...what's going on here?!!" This past year, the Union has shown that we can get Congress' attention and their help. Because of the Union's visits, letters, and calls and those of our friends in the civil rights community and in Congress, EEOC's 2005 budget authorization came with strings attached. First, EEOC is not allowed to implement any restructuring this year without Congressional oversight. Second, Congress ordered the agency not to let staffing levels fall any lower then they did in 2004. If EEOC is not going to follow these orders, then the Union is going to alert Congress that the agency is not in compliance with its obligations.

The National Council's visits to Congressional offices in Washington, D.C.



Council Legislative Coordinator Rachel Shonfield met with Congresswoman Debbie Wasserman Schultz (D-FL)

mark the beginning of this year's efforts to get the EEOC Extreme Make-Over program canceled. A successful effort requires the assistance of Union members across the country to participate and add your voices to the choir. Yours is the crucial voice! Get a group together and visit your lawmaker's local district office. If you are in a Federal building, this office could be down the hall from you. You can find talking points to discuss on your visits at www.council216.org. Also, on the Council website is a survey you should fill out about calls and questionnaires routed to you from the National Call Center. Your feedback is important.

We will also need the help of fellow AFGE members, who understand the dangers of privatization. You can find contact information for your local AFGE district at www.afge.org. Finally, join civil rights organizations and get the word out that restructuring and the call center will harm, not help, the EEOC. For more information or to volunteer to be a legislative captain for your office, please contact me at legco216@aol.com.



AFGE Civil Rights Luncheon hears California Congresswoman Linda Sanchez speak



216 Member Rebecca Stith and Rep. Dennis Moore (D-KS)



LEFT: Council member Lillian Marti and AFGE Brother Demetrios Stroubakis



RIGHT: Council Member David Skillman attended the Legislative Conference Congressional Reception mingling with many of the Congressional Representatives present

BELOW: National Council 216 Members (L to R) Stephanie Perkins; Mike Davidson; Levi Morrow, Council Treasurer; Gabrielle Martin, Council President; and Rebecca Stith at the Legislative Conference Congressional Reception



RIGHT: Diana Price of the AFGE Public Policy Department talks to a Privatization Workshop participant



Congresswoman Ileana Ros-Lehtinen (R-FL) flanked by Rachel Shonfield, Council Legislative Coordinator (left) and Local 3599 President Sharon Baker (right)

POINTS TO PONDER

- **Why** in March of 2005, we still await disclosure of the Chair's restructuring plan?
- **Why** employees learn about the status of agency restructuring plans from sources outside EEOC, but nothing from EEOC except "there is no plan"?
- **Whether** EEOC really believes that anybody is fooled into thinking that "office pairings" are anything but the first steps in restructuring.
- **Why** the agency expects employees to remain loyal and happy when promotions are withheld arbitrarily and capriciously?
- **Why** EEOC expects employees to perform work at higher levels, but refuses to pay them?
- **Why** with a \$6 million shortfall is the agency going through with the call center contract, when it can't pay the salaries of EEOC employees through the end of the year?
- **Why** the three office pilot for the call center nationwide "pilot" will run for only about a month? Not enough time to work out the expected kinks.
- **Why** the agency keeps trying to get around negotiating the impact and implementation of the call center?
- **Who** is supposed to answer calls and process intake questionnaires coming in from the call center, when EEOC offices will receive no additional staff or upgrades in Technology?
- **Why** is the EEOC ignoring the FY '05 omnibus appropriations language which requires congressional oversight before implementing restructuring?
- **Why** is the EEOC ignoring the FY '05 omnibus appropriations language which requires EEOC to not allow staffing levels to drop any lower than in FY '04?

February Council Meeting Addresses Union's Plans to Minimize Damage of Upcoming Call Center 'Pilot'

Continued from page 1

implementation. When Martin questioned Dominguez regarding the status of an agency restructuring plan, the Chair responded that no decisions have been made, but that she would like the Commissioners to have the plan by the "All Employee" meeting this March. Martin also met with Commissioner Stuart Ishimaru and discussed fears that a quick vote will be scheduled as soon as the restructuring plan is released to the Commissioners. Ishimaru has requested that the Chair provide the Commissioners with the plan and underlying data well in advance of a vote, so that proposals can reasonably be studied.

Martin also informed the Council that the agency has hired an outside consultant to study charge processing across the EEOC. The consultants have spoken to several Council officers and will be talking to managers and bargaining unit employees in various field offices. If you get to speak to the consultants, remember to stress the training and experience necessary to recognize the complex issues raised during the intake process. The Council agreed that justifying our existence will be a necessity during this administration, which is committed to privatizing government jobs.

Martin reported that a Government Accounting Office (GAO) investigation of EEOC's restructuring, the call center, and other EEOC operations is underway, at the direction of our Appropriations Subcommittee. GAO advised Martin that EEOC has not cooperated in providing the

agency's restructuring plans, even though Chair Dominguez told the Daily Labor Report, on January 18, 2005, that she is currently reviewing the final package. EEOC's obfuscations should not be a surprise, after last year when it steamrolled its call center through Congress.

The meeting also covered how the Council is addressing issues arising under the President's Management Agenda. The Council will soon be submitting its challenge to EEOC's FAIR Inventory (where each agency is required to list jobs considered capable of being privatized). The Council discussed the privacy concerns revolving around the use of a new Federal ID card. While not an immediate reality, the Council will continue to be vigilant on this issue. The Performance Evaluation Work Group is continuing to develop a new evaluation system. The Union has encouraged soliciting employee feedback during the process. The comments received have been useful to the Council members on the Work Group.

Rachel Shonfield, the Council's Legislative Coordinator, discussed EEOC's final budget and appropriations language, which

calls for Congressional oversight and maintaining staffing at FY '04 levels. She also shared the Union's plans to minimize the damage of the upcoming Call Center "pilot," including GAO monitoring and call center surveys. She noted that coordinating our issues with AFGE increases our visibility and power-base. To that end she announced that the National Council's issue paper is now a part of the materials that AFGE distributes to legislative conference participants. Also, both Martin and Shonfield were scheduled to speak during the conference to inform Union activists in other agencies about EEOC's restructuring and call center.

Many of the items on the Council's agenda were not new. These ongoing issues were addressed, in order to give Council members the current status of these matters, plan the next steps and update the Council's Strategic Plan.



Council Member Pamela Edwards poses for a picture with AFGE Women's & Fair Practices VP Andrea Brooks

National Council of EEOC Locals 216
AFGE/AFL-CIO
80 F Street
Washington, DC 20001

NON-PROFIT
U.S. POSTAGE
PAID
WASHINGTON, DC
PERMIT NO. 3070