



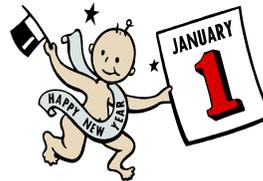
American Federation of Government Employees

AFGE Local 201 Union News

Volume 1, Issue 4

January 2005

HAPPY NEW YEAR!



What would you like to see in the next issue?

If you have ideas or talents, we would love to put them to use.

DIRECTOR TO CONDUCT SPECIAL MEETING

It has been some time since our director, Roy Higgins, has briefed us on the status of initiatives within the Agency. One January 27th, at 1:00 PM, he will be providing all DFAS Rome employees an update on issues impacting our organization and the Agency. In an effort to insure he covers the important issues effecting you, in partnership with the union, we would like to provide everyone the opportunity to submit written question beforehand to one of the centrally located AFGE 201 or Director's Action Line Boxes. These written questions can be signed or anonymous, in generic format and covering any/all topics of concern of an individual employee or for the workforce in general.

IF YOU HAVE ANYTHING YOU WANT TO KNOW, PLEASE SUBMIT YOUR QUESTION. THIS IS A WONDERFUL OPPORTUNITY TO HAVE OUR QUESTIONS ANSWERED



YOUR UNION STEWARDS:

- Roger Adkison
- Dan McKissack
- Connie Macior
- Kim Chapple
- Nasser Elmein
- Lenn Amrhein
- Michelle Emlin
- Patty Derrick
- Keith Watkins
- Cheryl LaValley

A NOTE FROM THE EDITOR

I apologize for the late timing of this issue of our newsletter. I was sick with Pneumonia and was on bed-rest at home. I appreciate all of your patience.

As always, thank you for your support!

Michelle Emlin, Editor
AFGE Local 201
PO Box 1304
Rome, NY 13440



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DON'T HAVE A COPY OF THE AFGE LOCAL 201 UNION CONTRACT?

An AFGE Local 201 public folder has been set up for us to post important Union information.

You can find a copy of the Union contract in the AFGE local 201 public folder for you to view.

If you are new and aren't sure how to use the Public Folders, ask a Union Steward. for assistance.

NATIONAL SECURITY PERSONNEL SYSTEM (NSPS) UPDATES

NSPS - Not-So-People-Sensitive

January 7, 2005

By Sharon R. Pinnock

Organizer & Labor Futurist

Local 1923

Arlington, VA

For many DOD civilian employees, the news that they will soon be under a new personnel system (the Rumsfeld-inspired National Security Personnel System) is starting to sink in. The anti-worker provisions (changes in your pay system, working conditions and appeal rights) need to be highlighted and brought to the attention of DOD leaders and members of Congress.

A 30-day public comment period will be held once the proposed regulations for the NSPS are published (within the next several weeks). If you are a DOD civilian, YOU are the public that needs to be heard from. If you're still not sure what all the hub-bub is about, check out the AFGE website, Issues & Actions tab and click on Defense Workers. This will also link you directly to the website for the AFGE DEFCON Steering Committee (www.AFGEDefcon.org) site for more DOD worker news. Or you can go directly to the NSPS website: www.cpms.osd.mil/nsps/ to see what DOD has to say about the "wonders" of the new system.

The more you know about what's about to happen to you, the better able you will be tell your members of Congress what you think. And for those of you who think you'll do better under a "pay for performance" system, you may want to check out the article in the Dec. 13th issue of the Federal Times entitled: Pay Reform Failure: How FAA's bold experiment led to inequity, poor morale (www.federaltimes.com). Under the NSPS scheme, you will most likely have a "No-Pay for Performance" opportunity!

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### DoD Outlines First Phase of NSPS

The Defense Department has announced that the first phase of its new "national security personnel system" will affect about 60,000 civilian employees starting in mid-2005. The first participants in what DoD calls "spiral one" will be general schedule employees scattered across the country and across the DoD components, with about 24,000 coming from the Army, 12,000 in the Navy and Marine Corps, 16,000 from the Air Force and the remainder from other DoD components. Introductory letters have been sent to affected employees. Two additional phases are expected in spiral one, bringing a total of about 300,000 employees under the program over roughly an 18-month period. After hitting that numeric threshold, DoD would have to certify that the system meets certain criteria set out in the law before applying it to the remainder of its workforce, including blue-collar employees, in "spiral two." A final "spiral three" would apply to employees in Defense laboratories-who already are generally under alternative personnel policies under prior law-if certain legislative changes are made.



# ELECTION RESULTS

## AFGE Local 201

**1<sup>st</sup> Vice President — DAN MCKISSACK**

**2<sup>nd</sup> Vice President — PATRICIA DERRICK,**

**Secretary — None voted in. MICHELLE EMLIN - APPOINTED**

**Treasurer — None voted in. KEITH WATKINS - APPOINTED**

**Our President continues to be ED ABOUNADER.**

**Election Committee Members; Connie Macior, Michelle Emlin, Nasser Elmein**

### **What is the Benevolent Committee of AFGE Local 201 doing for our members and our Collective Bargaining Unit?**

The Union currently has an account at Kawalski's Flower's, Oriskany Blvd, Whitesboro and will normally order items from them.

1. If there is a death in the immediate family (mother, father, spouse or child) of a Union member, a \$25.00 donation will be made to the member.
2. If a DFAS Rome non-member employee has a death in the immediate family, as described above, we will send a card.
3. If a Union member suffers a major illness (hospitalization, extended illness, etc), the Union will send flowers/fruit basket/cash valued at \$25.00 to \$35.00.
4. Funds for donations to charities/member fundraisers on an occasional basis will be made in the amount of \$10.00. This would include Red Cross/heart transplant, etc.
5. Scholarships to Union members or their spouse or child in the amount of \$150.00 based on a Lottery system.
6. Cards to DFAS members when they retire.

Member of your AFGE Local 201 Benevolent Committee:

- Michelle Emlin—Chairperson
- Ed Abounader
- Connie Macior
- Jody Olson
- Katy Olson
- Amy Balog
- Frank Aston



*Sympathy.  
Reverence  
& Guidance*



# What is a Formal Discussion?

## Overview

Formal discussion is a term contained in the Federal Service Labor-Management Relations Statute at [5 USC 7114](#) (a)(2)(A). It refers to meetings held by representatives of agency management with bargaining unit employees concerning grievances, personnel policies or practices or general conditions of employment. When such meetings are held it is the responsibility of management to notify the union in advance and give it an opportunity to attend and participate.

## Key Points

- An exclusive representative of an appropriate unit is entitled to the opportunity to be represented at any formal discussion between one or more representatives of an agency and one or more bargaining unit employees concerning any grievance, personnel policy or practice, or other general condition of employment of unit employees. [5 USC 7114](#) (a)(2)(A).
- The purpose of the formal discussion provision is to give the union the opportunity to safeguard both its own institutional interests and the interests of bargaining unit employees. *Border Patrol, El Paso*, [93 FLRR 1-1063](#).
- To qualify as a formal discussion a meeting must include four specific elements. They are: a) at least one representative of agency management and at least one bargaining unit employee in attendance; b) a discussion, that is c) formal in nature, and d) concerns either a grievance or a personnel policy, practice, or other condition of employment of unit employees. *GSA, Region 9*, [94 FLRR 1-1005](#).
- Individuals acting on behalf of or at the direction of agency management, such as an agency attorney, may qualify as representatives of the agency for the purpose of identifying formal discussions. *436th Air Lift Wing*, [101 FLRR 1-1149](#).
- EEO officials and counselors who are not part of the bargaining unit may qualify as management representatives for the purpose of determining formal discussions. [FLRA General Counsel's Guidance on the Relationship Between the Federal Service Labor-Management Relations Statute and EEO Matters](#) (January, 1999).
- The term "discussion" is viewed as synonymous with "meeting." Consequently, dialogue between the management and bargaining unit attendees is not necessary for a determination that the meeting was a formal discussion. *FCI, Bastrop*, [96 FLRR 1-1048](#).
- Conversations conducted by telephone may qualify as formal discussions. *SSA, Office of Hearings and Appeals*, [104 LRP 26001](#).
- The formality of a discussion is determined based on the totality of circumstances surrounding it. Factors taken into consideration include the number and level of management representatives in attendance, whether the meeting was scheduled or impromptu, whether a formal agenda was used, how long the meeting lasted, the location of the discussion, whether attendance was mandatory and how the meeting was conducted. *Luke AFB*, [98 FLRR 1-1150](#).
- Impromptu discussions, as opposed to formally scheduled or mandatory meetings, generally are not considered formal. *DOE, Rocky Flats*, [102 FLRR 1-1074](#).
- A discussion that begins as an informal meeting may evolve into a formal discussion triggering the union's right to be given the opportunity to attend. *Defense Depot, Tracy*, [90 FLRR 1-1519](#).
- Routine informational staff meetings that may include reminders of policies usually do not qualify as formal discussions. *VAMC, Gainesville*, [94 FLRR 1-1130](#).
- Individual performance counseling sessions do not qualify as formal discussions. *SSA*, [84 FLRR 1-1381](#).
- Discussions of performance standards applicable to employees in general may qualify as formal discussions. *SSA, Dallas*, [86 FLRR 1827](#).
- Meetings held to discuss intended or possible changes in conditions of employment, even if the potential changes are de minimis and an exercise of management rights, qualify as formal discussions. *VAMC, New York*, [93 FLRR 1-1152](#).
- The U.S. Court of Appeals, D.C. Circuit, ruled that the term "grievance" as used in [5 USC 7103](#) (a)(9) should be interpreted broadly to include complaints and appeals filed under other statutes. Interviews with bargaining unit employees to prepare them as witnesses in a hearing before the Merit Systems Protection Board are formal discussions. *NTEU v. FLRA*, 774 F.2d 1181, [85 FLRR 1-8022](#).

## What is a Formal Discussion? (cont)

- A pre-arbitration meeting to discuss an employee's potential testimony is a formal discussion. *GSA, Region 2*, [98 FLRR 1-1161](#).
- The 9th Circuit ruled that an EEO complaint is not a grievance covered by the labor relations statute and the union is not entitled to an opportunity to attend a meeting between an individual EEO complainant and agency representatives. *IRS Fresno*, 706 F.2d 1019, [83 FLRR 1-8020](#) , *Luke Air Force Base*, 208 F.3d 221, [100 FLRR 1-8002](#).
- The FLRA applied the D.C. Circuit's ruling in *NTEU v. FLRA*, [85 FLRR 1-8022](#) , and concluded that a meeting held to discuss settlement of an EEO complaint filed by a bargaining unit employee is a formal discussion. *Marine Corps, Barstow*, [97 FLRR 1-1026](#).
- Upholding a ruling of the FLRA, the D.C. Circuit held that a meeting with a bargaining unit employee to discuss settlement of an EEO complaint is a formal discussion if all elements of formality are present. However, the court concluded that if a direct conflict exists between the rights of the individual complainant and those of the union the conflict would have to be resolved in favor of the individual. *436th Air Lift Wing*, 01-1373, [103 LRP 2316](#).
- In order for the union to be entitled to notice and an opportunity to attend a meeting regarding an individual EEO complaint, the meeting must be formal. An impromptu meeting initiated by an employee was not formal. *DOE, Rocky Flats*, [102 FLRR 1-1074](#).
- Private contractors hired to handle investigations of EEO complaints are representatives of the agency and must honor union rights. *SSA, Office of Hearings and Appeals*, [104 LRP 26001](#).
- A meeting to discuss the settlement of an appeal before the MSPB is a formal discussion. *GSA*, [97 FLRR 1-1137](#).
- An oral reply to a proposed adverse action does not constitute a formal discussion. *FCI, Ray Brook*, [87 FLRR 1-1520](#).
- Formal employee orientation sessions usually qualify as formal discussions. *SSA, Chicago*, [84 FLRR 1-1703](#).
- A meeting between a supervisor and a new employee to orient the employee to the work environment, including a tour and introduction to coworkers was informal. *SSA, Region 2*, [87 FLRR 1-1557](#).
- A meeting held to discuss a last chance agreement is not a formal discussion. *AFLC, Wright-Patterson AFB*, [90 FLRR 1-1591](#).
- Despite its *AFLC* ruling, the FLRA found the agency bypassed the union when it negotiated a last chance agreement with an employee and not the union. The FLRA found no inconsistency between this decision and *AFLC*. *SSA*, [99 FLRR 1-1144](#)
- Meetings with employees to gather factual information regarding agency operations do not constitute formal discussions. *IRS*, [84 FLRR 1-1468](#).
- Meetings with employees to gather information regarding conditions of employment, e.g. general environment in the office, may be formal discussions. *GSA*, [95 FLRR 1- 1047](#).
- A meeting held to announce and discuss a reduction in force is a formal discussion. *F.E. Warren AFB*, [96 FLRR 1-1106](#).
- A union is entitled to determine who will represent it at a formal discussion. *GSA, Region 9*, [100 FLRR 1-1155](#).
- The fact that a union official received notice of a formal discussion in his capacity as an employee may not satisfy the requirement to provide formal notification to the union if it deprives the union of the right to select its own representative. *GSA, Region 9*, [100 FLRR 1-1155](#).
- Failure to send a representative to a formal discussion after receiving proper notice constitutes a waiver of the union's right. *NLRB*, [92 FLRR 1-1330](#).
- A union representative at a formal discussion has the right to state the union's position on the subject matter discussed at the meeting, but not to take charge of or disrupt the meeting. *New Cumberland Army Depot*, [38 FLRA 671](#) , [90 FLRR 1-1618](#).
- The union's active participation may be limited to some degree when the meeting concerns a statutory procedure, e.g. a deposition in a MSPB appeal, and the union is not acting as the employee's representative. *Border Patrol, El Paso*, [47 FLRA 170](#) , [93 FLRR 1-1063](#).

## HUMAN RIGHTS WITHIN THE WORKPLACE

The National Fair Practices Affirmative Action and National Women's Advisory Committee helps compose the Human Rights Committee. This committee's purpose is to study and recommend legal, legislative and administrative proposals relating to improving working conditions, with a focus on eliminating employment discrimination in the Government. Local Coordinators are the individuals that are the most significant component of the AFGE Human Rights Network. These coordinators help assure that your local Unions EEO and affirmative action needs are being served.

Local 201's Fair Practices Coordinator is Roger Adkison. Roger is principally concerned with Equal Employment Opportunity and Affirmative employment within DFAS-Rome. His primary focus is direct assistance and/or counseling to members with inquires of complaints of discrimination.

Local 201's Women's Coordinator is Michelle Emlin. Michelle is primarily concerned with any issue that has an adverse impact on women in the workforce. Michelle's main objective is to assure that the agency maintain policies and practices which are free from artificial barriers to the progress of women. Among the areas concern are childcare, gender-based wage discrimination, sexual harassment, alternative work schedules, upward mobility, career development, family friendly leave policies, health and safety matters, and leadership development.

These issues are but a few addressed by the coordinators. Actions to resolve issues may require them to pursue solutions within the agency, or seek legislative solutions. If you have any questions in reference to your rights within the workplace please feel free to contact Roger or Michelle.

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## AFGE's BONUS BUCKS CAMPAIGN JANUARY 24-APRIL 22, 2005

This campaign is about spreading the word amongst our co-workers that there is an *urgent* need to build up our union.

WHAT'S AT STAKE? We must build our union quickly and effectively so that we can counter the political agenda that;

- Strips away workers' rights to union representation.
- Rolls back Federal Employee Health Benefit (FEHB) provisions.
- Reduces federal worker pay.
- Eliminates fair treatment on the job and equal employment opportunity.
- Takes overtime pay away from hourly office workers.
- Weakens the DOD and DHS personnel system.
- Closes VA hospitals.
- Decreases customer service in the SSA.
- Weakens the role of the EEOC.



WHAT IS AFGE DOING? Here are some of our union's victories to protect government services and the rights of federal employees.

(cont on page 7)

**WE ARE WINNING BY:**

- Achieving the 3.5% pay raise for federal workers in 2005 and pressuring Congress to reject the 1.5% raise called for by the Administration.
- Developing bi-partisan alliances in Congress
- Reversing the administration’s agenda to give private contractors an unfair advantage with the federal government.
- Fighting for a pro-worker personnel system for the Department of Homeland Security (DHS) and DOD workers.
- Taking our issues to the public through an aggressive and dynamic public relations campaign.

RECRUIT A CO-WORKER BETWEEN JANUARY 24 AND APRIL 22, 2005 AND GET \$20.00 FROM THE NATIONAL UNION FOR EACH NEW MEMBER YOU RECRUIT—PLUS AN ADDITIONAL \$30.00 FROM OUR AFGE DISTRICT OFFICE!

**THERE IS POWER IN NUMBERS!**

**JANUARY BIRTHDAYS!**

- Roger Adkison**
- Joann Beasock**
- Doreen DeJean**
- Mary Ellen Drier**
- Theresa Kerber**
- Joseph Mastrogiovanni**
- Josephine Perkins**
- Ana Ruiz**
- Anatolia White**
- Janine Wilhelm**



**QUOTE OF THE MONTH:**

**“Be nice to people on your way up because you meet them on your way down”.....Jimmy Durante**

**TIP OF THE MONTH:**

**Don’t forget that your Union Dues are Income Tax deductible!**