



INTERNATIONAL FEDERATION OF PROFESSIONAL & TECHNICAL ENGINEERS AFL-CIO & CLC

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2020 IFPTE Issue Brief

116th Congress

Federal Employees are in the public interest

IFPTE 2020 Legislative Request: IFPTE calls on lawmakers to reject all attempts to eviscerate the already fragile due-process protections of federal workers and their Unions, as well as efforts to diminish the ability of management and labor to negotiate in good faith the appropriate use of Official Time, consistent with current statutory limitations. This includes defunding Executive Orders (EOs) 13836, 13837 & 13839, and passing free standing bills such as S. 3146 to block the ability of the Federal Services Impasses Panel's (FSIP) ability to unilaterally impose harmful contracts on unions.

Overview: The merit system principals of due process and fairness are the critical foundation that guarantee taxpayers a federal government free of political patronage, with a workforce whose number one objective is to serve the best interest of the American public. In addition, official time, established by Statute, is negotiated between management and federal labor unions and allows for elected union representatives to engage in representation responsibilities on behalf of employees in their collective bargaining units.

Official Time (EO 13837): By law, federal employee unions are required to provide representation for all employees in units that have elected union representation, even those who choose not to pay dues. Federal employee unions are also forbidden from collecting any fair-share payments or fees from non-members for the services, which the union must provide by law. In exchange for the legal obligation to provide the same services to all employees regardless of whether they pay dues or not, the Civil Service Reform Act of 1978 establishes a right to use Official Time to perform these official mandated representational duties, with Agencies and Unions instructed to negotiate over the appropriate use of Official Time. Under this law, federal employees who serve as union representatives are permitted to use Official Time to engage in negotiations and to perform other representational activities on duty status on behalf of the employees they represent in an effort to increase the efficiency and effectiveness of the federal workforce.

These legally permitted representational activities are limited to:

- Providing federal workers with a voice in determining their working conditions;
- Promoting efficiency and productivity by bringing critical rank-and-file concerns directly to the attention of agency leadership for resolution;
- Providing an independent pathway for critical information to reach the attention of Congressional members and committees to assist in oversight responsibilities;
- Creating fair promotion procedures that ensure that selections be based on merit;
- Setting processes that protect employees from on-the-job hazards, such as those arising from working with dangerous chemicals, munitions, or radioactivity;
- Enforcing protections from unlawful discrimination in employment;
- Protecting whistleblowers from management harassment or retaliation;
- Preserving technical integrity by reporting improper interference, corruption, or political influence, and
- Improving work processes that save taxpayers hundreds of millions of dollars.

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The finer points of the law: The law provides that the amount of Official Time that may be used is limited to that which the labor organization and employing agency agree is reasonable, necessary, and in the public interest. As pointed out in a Congressional Research Service report, “(a)ny activities performed by an employee relating to the internal business of the labor organization must be performed while in a non-duty status”. Thus, the argument that Official Time is taxpayer funded Union time is false and malicious, designed to deceive the public.

Activities which may not be conducted on official time include:

- solicitation for membership;
- internal union business;
- elections of officers;
- any partisan political activities.

Official Time = More Efficient and More Effective Government: Through official time, union representatives can work together with managers to use their time, talent, and unique in-the-trenches perspective to make our government work better. Gains in quality, productivity, and efficiency, year after year, in department after department, simply would not have been possible without the reasonable and proper use of Official Time. Here are just a few examples:

- When workers and managers have a formal yet cooperative process by which to communicate, workplace problems that would otherwise escalate can be dealt with, more amicably, more promptly, more efficiently, and more cost effectively.
- When Official Time is used to bring closure to workplace disputes between the agency and an employee or group of employees, agencies avoid more costly and disruptive legal processes, such as EEOC complaints, Merit Systems Protection Board cases, or even litigation in federal courts.
- Official Time is used to partner with management to develop and administer health and safety education programs for hazardous materials. This is to the benefit of workers and taxpayers, and is particularly important at such federal facilities as our nation’s public shipyards.
- When Official Time is used for joint labor-management activities that enhance operational mission-enabling issues, including activities like designing and delivering joint training of employees on work-related subjects or introducing new and better work methods, the implementation is smoother and faster. A case in point is the Department of Defense (DoD), where labor and management worked together to develop a performance management system that will result in significant increases in productivity and efficiency throughout the DoD.

Due process protections for federal workers (EOs 13836, 13839) –These EOs signed by President Trump on May 25th, 2018 direct agencies to reopen collective bargaining agreements and impose unfavorable terms on federal workers, while encouraging agencies to adopt policies that erode fairness concepts such as progressive discipline, performance improvement plans, seniority, and grievance filings for performance appraisals. The result of the EOs will be to frustrate the ability of labor and management to collaborate to the benefit of the employees and the taxpayers and will instead foster a work environment ripe for distrust and inefficiency. Given that judicial resolution will take too long to prevent serious and potentially irreparable harm at many federal Agencies, IFPTE urges legislation to overturn all three EOs.