

# National Council Digest

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## Council Contacts Congress

AFGE Council 220 President Witold Skwierczynski wrote to Senator Max Baucus offering congratulations on his selection as chairman of the Senate Finance Committee when the Senate convenes in January 2007. One of the first orders of business the Committee will face is the confirmation of Michael Astrue and Andrew Biggs as commissioner and principal deputy commissioner of the Social Security Administration.

Baucus was advised of the nature of the labor-management relationship at SSA under current commissioner Jo Anne Barnhart, which includes the termination of communications between the commissioner and AFGE, Barnhart's refusal to meet with the Council's executive committee during the last five years, the anti-labor contract negotiators, the agency's conclusion that conditions of employment are not negotiable, the abrogation of 25 years worth of negotiated agreements, the implementation of major programs (e.g., Disability Service Initiative, Medicare part B premium increases and EDCS) without union and employee input, restrictive work environment in the Tele-Service Centers, appointment of Milt Beever—whom the union believes is an anti-union zealot—to head the agency's labor relations office, the precipitous decline in SSA employee morale and a no-confidence vote against Barnhart at the union's national convention in August 2006.

Council President Skwierczynski asked Baucus to consider Astrue's views on labor relations during his confirmation hearings. He added that for many years SSA workers continued to provide extraordinary service to the American public despite the lack of adequate resources to do the work. Even though these workers delivered for Congress and the American people, these same employees have been under attack by SSA management.

"A new commissioner must have a fresh attitude toward the union and the SSA workforce," Skwierczynski said. "Absent such a new attitude, there will be continuing turmoil at the agency that can only detract from service and result in an agency that can no longer fulfill its mandate."

Skwierczynski also urged the Senate to vote against the appointment to deputy commissioner of Andrew Biggs, a former Cato institute analyst who supports the privatization of Social Security.

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## Was IRMMA Training the Worst—or What!?

AFGE has been raising concerns for some time about the poor training product that has become a hallmark of this agency. Introductory training courses have been reduced to IVTs instead of a class room experience. And, instead of doing all the training at once, it has become disjointed. Mentors are not available because local management won't give them any time to address their training responsibilities, requiring them, instead, to carry on their desk duties without any adjustment.

Add that to the constant, new material forced upon Field Operations employees on an almost daily basis and one wonders if Baltimore ever heard of the term "saturated?" How can one possibly become proficient with the continuous barrage of information?

To add insult to injury, some of the training product has actually gotten worse. The new IRMMA training is a case in point.

In early December, the agency distributed some gobbly-gook it called training, loaded with acronyms no one understood. If the public is having a difficult time understanding the new Medicare changes, imagine what it's like for them to make inquiries at the local SSA office where the workers don't have a clue either? Here's a sampling of training reviews:

*The training was horrible!*

*It was woefully inadequate.*

*Continued on page 3*

## Know Your Rights

*by Charlie Estudillo*

I found this in the U.S. Code of Regulations, and was reminded that management is charging AWOL or employees may be required to put in for leave if they come in after 8:45 am (or 9:00 in larger offices) or if they clock in after the start time of a staff meeting or training.

Article 31 Section 3 A of the contract states:

*Infrequent tardiness of less than one hour shall normally be excused if the reasons are acceptable.*

Article 31 Section 5 states:

*If the use of annual or sick leave cannot be anticipated, the request for approval shall be called in by the:*

- *Start of fixed shift for fixed shift employees*
- *End of morning flexband for flexible schedule employees*
- *Time an employee is required to report for training or for a scheduled work activity.*

*The parties recognize that occasionally circumstances exist, infrequent in number, when employees may not be able to call in timely as described above.*

*In the event the employee does not report during the reporting period, the supervisor will not record the leave status until the end of the scheduled shift, except for the need to process time and attendance records. If the employee's leave status has not been clarified by the end of the shift, the absence may be charged to AWOL. This will not preclude a later change in leave status for good and sufficient reasons.*

Thus, AWOL is only to be charged if the leave status is unclear by the end of the workday.

Please note that if you arrive after the start time of a training or staff meeting, it is illegal for management to require you to participate during any part of the period that has been assigned to leave. Therefore, if you arrive late and are being charged with leave from 8:15 to 8:30, management cannot force you to attend any meetings or perform any work during that period (see bold type below). Management cannot compel you to perform

work functions without compensation.

The regulation below states that management may excuse tardiness for up to one hour, without charge to leave. Certainly the first tardy should be excused without charge to leave, because "never having been tardy" is certainly "infrequent" under the contract. After that, the number of tardies within a certain time frame will depend on whether it is considered "infrequent." Management should not automatically charge leave or threaten AWOL for each and every tardy.

The best defense against being charged tardy is to call in if you think you might be late. Don't wait until you are late or know you will be late, remember you are supposed to call in before the start time of the meeting/training or the end of the flexband. The best thing is to call in on your cell phone, then if there is a dispute at some point, your cell phone bill will record the call and you can prove you called in.

If you are handed a leave slip by management for a tardiness that you believe should be excused, write *under protest* in the remarks block of the leave slip, make a copy, give it to management and see your Local AFGE Representative.

TITLE 5--ADMINISTRATIVE PERSONNEL  
CHAPTER I--OFFICE OF PERSONNEL  
MANAGEMENT PART 630, ABSENCE AND  
LEAVE, Table of Contents Subpart B, Definitions  
and General Provisions for Annual and Sick Leave,  
Sec. 630.206 Minimum charge.

(a) Unless an agency establishes a minimum charge of less than one hour, or establishes a different minimum charge through negotiations, the minimum charge for leave is one hour, and additional charges are in multiples thereof. If an employee is unavoidably or necessarily absent for less than one hour, or tardy, the agency, for adequate reason, ***may excuse him without charge to leave.***

**(b) When an employee is charged with leave for an unauthorized absence or tardiness, the agency may not require him to perform work for any part of the leave period charged against his account.**

*Charlie Estudillo is First Vice President of AFGE Council 220.*

## Council 220 Grievances, ULPs & More

### *Local 836 Files Grievance Over Union Space*

Council Rep Kirk Bigelow is representing Local 836 in a grievance over management's decision to take back office space assured the Local by a previous arbitration decision. Now the agency claims it can take the space because the matter was negotiated when the parties bargained over the 2005 national contract. There's only one problem: the agency actually did not negotiate over this subject. SSA says it needs the space, but it has other vacant space in the office that it is not using.

One wonders exactly what's going on in Des Moines.

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## IRMMA Training: *Poor*

*Continued from page 1*

*The training did not relate to real working conditions.*

*The instructors spoke too quickly.*

*This was a lot of jibber-jabber. They threw around a lot of terms that don't really enter the equation.*

*This is just another difficult work load added to the pile of complicated work. How do we do it and everything else?*

Looks like this IVT training gets *two thumbs down!*

Article 16, Section 1, Training and Career Development, offers some relief. After all, SSA is "responsible for ensuring that all employees receive the training necessary for the performance of their assigned duties." If the agency refuses to provide quality training that allows employees to perform successfully, complaints should first be raised at the local level. Individual employees may also want to document these complaints should supervisors later find employee performance deficient.

These complaints may also be sent to the AFGE-SSA National Training Committee (refer to Article 16, Section 6). Jackie Burke, RVP Atlanta, will be happy to present these complaints to Central Office management (send to [Jackie.Burke@ssa.gov](mailto:Jackie.Burke@ssa.gov)). Particularly egregious IVTs should be brought to the Committee's attention so we can maintain a record of the inefficacy of such training programs.

### *Gary Sanders to Retire*

Former Atlanta Regional Vice President for AFGE Council 220 and webmaster for the Council's web page, Gary Sanders, has decided to hang up his spurs and will leave the agency right after the beginning of the New Year.

Gary, who worked in the West Palm Beach, Florida SSA office, is married to the lovely Marilyn Sanders, who will also retire from SSA. They have a combined 63 years of service with the agency.

If you click on [www.afgec220.org](http://www.afgec220.org), you will see Gary's handiwork. In fact, he also designed the union's Atlanta regional website.

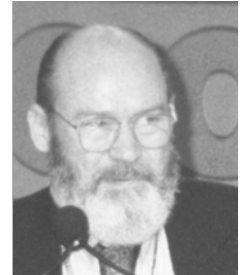
A retirement celebration will be held on Friday, January 19, 2007 at 7:00PM at Maria Scelfo's Place, 177 Rivera Avenue, Royal Palm Beach, Fl., 33411 including a buffet dinner, beer, wine, soda and set ups. Music by *BYOB*. Contact Marie Wilson (561-790-1576) for more information.

We at Council 220 will miss Gary's professionalism, intelligence, progressive beliefs and technical expertise. Good health and good luck in retirement to both Gary and Marilyn and we hope you make it back to the Ozarks!

### *Arbitrator Clarifies Award*

Barrie Shapiro issued an award over proposed remedies covering his official time arbitration decision of Oct 18, 2006. In that decision, Shapiro ruled that SSA violated the national contract when it failed to accept replacements for departed union officials who used 50% time and, further, that SSA committed an unfair labor practice by refusing to accept individual official time allocations.

In this subsequent award, however, Shapiro rejected the two proposed remedies offered by AFGE. He denied the union's request for restoration of official time hours saying that no time was lost to the "bank" and other representatives could have replaced lost 50%ers. Likewise he refused continuation of office space for Local 3448 alleging that the new designee was beyond the commuting area.



Sanders

## Still More Grievances, ULPs...

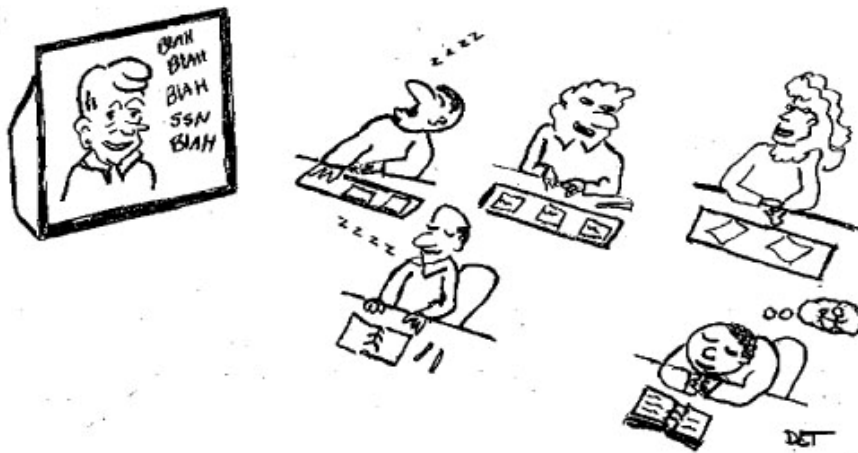
### *And Still Another Systems Sanctions Penalty Reversed*

A 32-year SSA veteran Service Representative from AFGE Local 3342 (NY) grieved her two-day systems sanctions suspension and succeeded in having an arbitrator throw out the penalty. The case involved whether or not making an appointment for a *friend* to file a claim was a systems violation.

There was much debate about whether or not the agency's instructions were clear and if SSA policy gave the employee the discretion to act on an appointment for a friend of a friend; however, arbitrator Margery Gootnick focused instead on the penalty itself and if it fit the crime.

Gootnick quoted at length from the Sharnoff decision on another systems sanction arbitration (BW-00R-0023) in which that arbitrator found:

*The Agency cannot substitute a "table of penalties" for the "just cause" standard and thereby assert that the question of just cause is not applicable to a particular penalty solely because the source of that particular penalty for a particular act of misconduct was the unilaterally instituted table of penalties.*



Darlene Tinsley

*"I used to hate IVTs. But, that was before I realized they provide such a great opportunity for catching up on some sleep!"*

Arbitrator Gootnick agreed and determined that the agency's table of penalties was still subject to the progressive discipline and just cause provisions of Article 23.

Gootnick replaced the two-day suspension with a written reprimand finding that the grievant's impeccable work history with 16 performance awards outweighed this first offense. The employee will receive back pay for the improper two-day suspension.

*SSA and AFGE Local 3342, case no. SY-2006-E-0001, 11/16/2006. Local 3342 EVP Paul Demler represented the grievant.*

### *National Grievance over "Covered-by" MOU Rejections*

AFGE Council 220 filed a national grievance over SSA's apparently unilateral termination of MOUs, Supplemental Agreements, other written agreements and past practices that pre-date the 2005 national contract. SSA has been reviewing many of these and issuing "advisory" notices to the union claiming that they no longer have to abide by these agreements because they are "covered by" the 2005 contract. Of course, the agency applies this reasoning even if the contract does not mention the issue in the new contract.

The union raises what would seem to be a logical

question: If the new contract allows SSA to unilaterally withdraw from past agreements, then what does Article 1, Section 2 and 3 mean?

That contract section says: *In order to change any conditions of employment that were in effect on the effective date of this Agreement and that are not covered by this Agreement, the Agency shall provide notice and, upon request, bargain with the Union to the extent required by law....*

Similar language requires a bargaining opportunity before MOUs and other written agreements can be changed.

SSA is attempting to eliminate all past practices even if they are not articulated in the 2005 contract. We will keep you posted as the grievance progresses.

## Fascism, the FLRA and SSA

Before you conclude that this is just another crazy union radical rant, let me urge you to read on.

Political scientist Lawrence Britt wrote an article several years ago about fascism after studying the regimes of Hitler, Mussolini, Franco, Suharto, and Pinochet (you may read the article at <http://www.globalresearch.ca/articles/BRI411A.html>) One can take exception with his findings, but they are nevertheless interesting. What makes them even more provocative is that many of these characteristics appear to be at work to one degree or another in the Bush White House.

Some of the characteristics identified by Britt are

- Powerful and continuing nationalism
- Disdain for human rights
- Supremacy of the military
- Controlled mass media
- Obsession with national security
- Religion and government intertwined
- Corporate power protected
- *Labor power is suppressed*

Of course, it is this last one that is of particular concern to union officials at AFGE. Dr. Britt says that “Because the organizing power of labor is the only real threat to a fascist government, labor unions are either eliminated entirely, or are severely suppressed.”

Labor *has* been under attack during the Bush years. Collective bargaining rights have been taken from federal workers at various agencies. Supervisors have been redefined so that companies don’t have to pay overtime pay. Businesses have been allowed to terminate health care and eliminate pensions, while government encourages them to outsource and send their plants overseas. Management abuses during organizing drives have gone undeterred. The NLRB and FLRA refuse to enforce labor laws. In fact, the FLRA, the agency that is supposed to oversee the federal labor statutes, has recently rescinded all of its advice and procedural guidance accumulated over the past three decades. By what rule does the FLRA now abide?

Apparently, the FLRA has adopted the “shoot from the hip” rule. In the alternative, it applies the “throw-whatever-crap-at-the-wall-to-see-what-sticks” rule. A case in point:

Seattle AFGE Local 3937 submitted bargaining proposals to SSA management over the relocation of the

Coeur D’Alene Field Office and also the expansion of the Regional Office of Quality Assurance into space adjacent to its current location. Neither issues were resolved during the bargaining sessions and the union sought assistance from the Federal Mediation and Conciliation Service, which sent a mediator to assist the parties.

Mediation established that the parties were at impasse and the union asked the FMCS if it was appropriate to send their original proposals to the FSIP. After being assured that this was acceptable, the union resubmitted its initial proposals to the FSIP. Thereafter, the agency filed unfair labor practice charges against the union for doing exactly what it was just authorized to do!

After an investigation by the FLRA, a settlement proposal was offered that found the union had, in fact, committed an unfair labor practice. The union refused the settlement and the case is now heading for a formal hearing.

In other words, even when a union engages in good faith bargaining and receives instruction on how to proceed from a legitimate federal authority, the FLRA now appears to support the idea that the union should be punished for having the temerity to request to negotiate over work changes and for following the instructions of federal mediators about how to process their bargaining proposals.

What’s the connection to fascism you ask? Well, in Germany, Italy, Chile and other fascist regimes in the past, the power of labor had to be diminished; the voice of the workers needed to be silenced in order to enforce autocratic rule. Deny unions their right to speak for employees in the workplace and you effectively negate the power of unions—and of workers as well.

“This is just an attempt to tie the union’s hands and make it impossible to negotiate over work changes,” said Steve Kofahl, President of AFGE Local 3937 and Seattle Regional Vice President for Council 220. “And, I think it *is* related to all the attacks against unions in general. In the private sector, they want to prevent the creation of unions. In the federal sector, where they are established, they want to eviscerate them.”

AFGE national office has assigned staff to assist Local 3937 fight SSA and, perhaps, the FLRA—which is supposed to enforce labor law. Let’s hope the administrative law judge who presides over this case is not just another soldier following orders.

An unfair labor practice hearing has been set for February 2, 2007.

## Addenda

### *Flu Shot Problems*

'Tis the season to be jolly...and have the flu if you live in some parts of the country and it is making the rounds. Accordingly, employees are encouraged to take advantage of Article 9, Section 6, Subsection A that says the agency will attempt to locate low cost/no cost local medical providers for medical services and will also provide and pay for flu shots when reasonably available.

In the Philadelphia region, however, the Grinch seems to be coming out of his cave as they are balking at the cost of the shots claiming a limit on reimbursements to \$25.

Council President Witold Skwierczynski advises that the contract does not have a spending limit. If SSA won't pay the entire amount, a grievance should be filed seeking full reimbursement.

Local Presidents who have encountered this problem should contact Witold to apprise him of the situation ([witold1@attglobal.net](mailto:witold1@attglobal.net)).

### *OGC Involved in ADR?*

Sandy Matthis, Chair of Council 220's EEO Committee, raised a concern when she learned that SSA's Office of the General Counsel was sending attorneys to participate in Alternative Dispute Resolution (ADR) meetings during the informal complaint stage. This was resolved when OCREO contacted the San Francisco regional commissioner and the national office of the OGC to advise them against using GC attorneys at ADRs since this practice violates EEOC instructions.

Contact Sandy Matthis if you learn that OGC is taking a role in ADR meetings in your region (you can reach Sandy at 619-557-6904).

### *Negotiations in Baltimore*

Union representatives from the Field served on a recent negotiating committee in Baltimore in an attempt to reach agreement on a new hardship transfer procedure. The parties were unable to reach an understanding and the matter has been submitted to the Federal Service Impasses Panel.

A bargaining session will be held on a different topic, this one having to do with employee use of personally identifiable information. SSA has been charging employees with violations of the Privacy Act

when management purges their personnel files and employees take that information home! SSA has even claimed wrongdoing by union representatives who have used information from personnel files during grievance proceedings.

Negotiations may not resolve this problem, but the union should be able to ascertain just how far off the ledge management appears willing to jump.

### *Employee Free Choice Act*

More working people than ever—some 57 million—say they would join a union if they had a chance, according to a survey from Peter D. Hart Research Associates. But employers routinely harass, intimidate and coerce workers who try to exercise their right to form a union at work. On April 19, 2005, a bipartisan coalition reintroduced into Congress the historic Employee Free Choice Act (S. 842 and H.R. 1696). The act would strengthen protections for workers' freedom to choose by requiring employers to recognize unions after a majority of workers sign cards authorizing union representation. It also would provide for mediation and arbitration of first-contract disputes and authorize stronger penalties for violation of the law when workers seek to form a union.

Union elections are unlike any other kind of elections because of the inherent coercive power that management holds over employees—the power to deprive employees of their livelihood and to control their pay, hours and working conditions.

“Card check” procedures, as described above, benefit society. Both union and anti-union advocates agree that employees are better able to overcome the obstacles to forming a union under card-check than under an NLRB election. Higher rates of unionization have also been shown to benefit society as a whole in the form of reduced inequality, higher wages and purchasing power for union members and non-members alike, a reduced gender gap, greater access to health care, greater access to pensions, lower poverty rates and higher voter participation.

Although the Employee Free Choice Act primarily will address concerns in the private sector, for the above-mentioned reasons, all workers, including federal workers, have a stake in the outcome of this legislation.

Please urge your elected officials to support the Employee Free Choice Act. Federal workers should contact their elected representatives using their home phones or home faxes.

## Help the United Steelworkers at Goodyear

Message from the AFL-CIO

### *Subject: Give Goodyear Workers a Holiday Gift Today*

While the rest of us wrap presents and plan holiday menus, more than 15,000 Goodyear employees are facing the harsh reality of holidays without paychecks. *They're out in the cold on picket lines--on the front lines in the fight for good jobs.*

Please put your holiday spirit to work today. Make a generous donation now to support them. Use the link below:

<https://secure.ga6.org/08/uswstrikefund/nX7141qM1mP-D?>

These United Steelworkers (USW) members were forced out on strike Oct. 5 after Goodyear refused to budge on its demand to close its third U.S. plant in four years. **Goodyear wants to export jobs to countries like China that pay workers 42 cents an hour, and to abandon the health care promises it made to employees and retirees.**

The striking workers are sacrificing their paychecks at the toughest time of the year—and they're doing it for all of us. If Goodyear is able to beat down its workers, win a 42-cent-an-hour workforce and jettison its responsibilities, we're all at risk.

Please give them your support. You can even make your donation in the name of a family member or friend--a perfect holiday gift. Use this link:

<https://secure.ga6.org/08/uswstrikefund/nX7141qM1mP-D?>

Goodyear isn't taking these steps in a fight for its survival--far from it. Workers and retirees accepted concessions and a plant closing in 2003 to keep Goodyear on its feet. Since then, the company's stock is worth almost five times more and top executives have awarded themselves millions of dollars in bonuses.

But Goodyear still wants more. And employers all across this country are watching to see if Goodyear will win.

If the holidays are in your heart, please take a moment to support these workers, who have been without paychecks for two and a half months on behalf of all of us. Use this link:

<https://secure.ga6.org/08/uswstrikefund/nX7141qM1mP-D?>

Thank you for your help--and very happy holidays to you and your working family.

In solidarity,

Working Families e-Activist Network, AFL-CIO

P.S. Make a donation in the name of a family member or friend--a perfect holiday gift for someone dear to you and for the struggling Goodyear workers.

# Happy Holidays