

**American Federation of  
Government Employees,  
Affiliated with the AFL-CIO  
Council 260**

8601 Adelphi Road, RM 1920  
College Park Maryland, 20740-6001

(301) 837-0901  
<http://www.afgecouncil260.org>

Date: April 11, 2012  
From: Darryl Munsey, President, AFGE Council 260  
Subject: National Safety & Health Committee  
To: Frances Austin, HTL

### STATEMENT OF GRIEVANCE

This statement is to notify the National Archives and Records Administration (NARA) that the American Federation of Government Employees (AFGE) is invoking the negotiated grievance procedure as outlined in Article 24, Section 8 of the National Agreement between NARA and AFGE. This grievance procedure is being invoked to address a violation of Article 12, Section 2 of the National Agreement, and violations of all other applicable laws, rules, and regulations. The violation relates to the improper efforts of management members of the National Safety and Health Committee to constrain the bargaining unit representative in its choices of non-management appointees to the committee.

Description of Violation: During its deliberations about the National Safety & Health Committee charter on March 13, 2012, the duly appointed members of the committee voted on whether a voting member of the national committee could simultaneously serve as a voting member of an establishment (“local”) health and safety committee. While the committee voted overwhelmingly to accord full committee membership to members who also happen to serve on a local committee, one management representative (Safety and Occupational Health Manager Bruce Zaczynski) insisted that dual voting membership was improper and indicated that he would bring the question to the attention of the Designated Agency Safety and Health Official (Business Support Services Executive Charles Piercy) for final determination. (Although committee members voted overwhelmingly to permit voting membership in the committee regardless of simultaneous service on a local committee, we contend that holding a vote on the subject was inappropriate since AFGE has exclusive right to appoint nonmanagement members.)

During deliberations on April 10, 2012, two management representatives—Security Officer Kevin McCoy and Mr. Zaczynski—insisted that the charter for the National Safety and Health Committee preclude members from being full voting members of both national and establishment committees.

Basis for grievance: According to Article 12, Section 2 of the National Agreement, “The Parties will continue to maintain the occupational safety and health committees in existence as of the effective date of this Agreement.” Section 2 also provides that “All (Safety and Health) committees will be established and/or operated in accordance with 29 CFR 1960.” 29 CFR 1960.37(b)(2)(i) states that “Where employees are represented under collective bargaining arrangements, members shall be appointed from among those recommended by the exclusive bargaining representative.” E.O. 12196 further specifies that, “Where there are exclusive bargaining representatives for employees at the national or other level in an agency, such representatives shall select the appropriate nonmanagement members of the committee.”

Management appointees are infringing upon AFGE’s exclusive right to select full members of both national and local committees. No law, regulation, or executive order precludes dual service. Even if the old national committee charter included language barring voting membership in both national and local committees, this provision itself was violative because it interferes with AFGE’s exclusive right to appoint bargaining unit members as it sees fit.

Although these management representatives are attempting to deny voting rights and not membership rights *per se*, we contend that the ability to vote on an advisory committee is part and parcel of full committee membership. Moreover, a nonmanagement member’s inability to vote interferes with his or her duty to “represent all employees of the establishment,” as required by 29 CFR 1960.37(b)(2). These management representatives intend to either (a) restrict the pool of nonmanagement employees from which the bargaining unit representative may choose; or (b) restrict the ability of nonmanagement committee appointees to fully participate in a joint labor-management committee. Neither action is permissible.

Proposed remedy: That Messrs. McCoy and Zaczynski respect the right of the exclusive bargaining unit representative to appoint non-management members to be full committee members without constraint, and that they otherwise continue their service on the joint committee in a manner consistent with 29 CFR 1960 and E.O. 12196.

Sincerely,

DARRYL MUNSEY  
President  
AFGE Council 260