Union Rights Article

Section I: General Provisions

A. Employees shall be protected from restraint, interference, or coercion, in the legitimate exercise of their rights and responsibilities as designated representatives of the Union.

B. Within the confines of laws, rules, and this Master Collective Bargaining Agreement (MCBA), the Union has the right to designate representatives of its own choosing.

C. No Recording Protected Union Activity: Except as provided in this MCBA, no recording will be made without mutual consent of any conversation involving Union activity

D. Bargaining unit employees, including employees serving as Union representatives, have the following rights:

1. to form, join, or assist any labor organization, or to refrain from any such activity, freely and without fear of penalty or reprisal, and each employee shall be protected in the exercise of such right;
2. to act for a labor organization in the capacity of a representative and the right, in that capacity, to present the views of the labor organization to heads of agencies and other officials of the executive branch of the Government, the Congress, or other appropriate authorities; and
3. to engage in collective bargaining with respect to conditions of employment through representatives chosen by employees.

E. The Union has the right and obligation to represent all employees in the unit. The Union has the right to present its views to the Agency regarding grievances, working conditions, and conditions of employment~~, workplace issues matters of concern~~, either orally or in writing. The Agency will advise employees of their right to representation consistent with this MCBA.

~~F.A. To the extent not prohibited by law, the Union may elect to attend EEO complaint settlement meetings when sufficient elements of formality are present, unless the complainant requests that the union not attend. In these cases the Union is not entitled to attend such meetings.~~

~~1. The Local President or designee will be notified of such meetings.~~

~~2.~~1. ~~Where the Union does not attend a settlement meeting, and the settlement agreement impacts bargaining unit working conditions, (e.g., grants, promises, or gives priority consideration for a promotion, reassignment, training, etc.) the settlement agreement will contain the following statement: "This settlement agreement is subject to review for compliance with negotiated agreements between the EPA and AFGE. Accordingly, it will be forwarded to the appropriate~~

Commented [BJ1]: EPA: 5 USC 7103

Commented [HJ2R1]: 14)"conditions of employment" means personnel policies, practices, and matters, whether established by rule, regulation, or otherwise, affecting working conditions, except that such term does not include policies, practices, and matters—
(A)
relating to political activities prohibited under subchapter III of chapter 73 of this title;
(B)
relating to the classification of any position; or
(C)
to the extent such matters are specifically provided for by Federal statute;

Commented [HJ3R1]: White House Task Force on Worker Organizing and Empowerment, Report to the President, Recommendation 1, p.17 ("[W]hen federal employees organize a union, they should have an effective voice in workplace issues through their union and federal management should work closely with these unions to solve workplace issues in a manner that advances agencies' missions and produces high-performance workplaces.")

Commented [CR4R1]: What "workplace issues" expand not covered by "working conditions and conditions of employment?"

Unions cannot attend regular performance assessment meetings or staff meetings, for example.

Commented [HJ5]: what is not covered in employee rights is the union's right to ensure substance of the settlement is not inconsistent with previous actions

~~Local President for a ten (10) day period of consideration. If AFGE alleges the settlement conflicts with any negotiated agreements between the EPA and AFGE, or other non-discretionary requirements, you will be notified." For meetings where the employee is not represented by the Union when the employee is faced with the prospect of an Agency-initiated adverse action (including all suspensions and more severe actions) the Union retains has the right to receive the documents demonstrating that the Agency has abided by the procedural requirements of the Discipline and Adverse Action Article of the MCBA upon request. Further, the union has the right to receive copies of settlements to ensure consistent treatment among employees.~~

~~3. Settlement agreements shall be sent to the Local President via e-mail or a similar means that permits verification of receipt.~~

~~4.~~F. ~~Any challenges by the Union to EEO settlement agreements will be filed with the EPA Office of Civil Rights. The parties agree that all EEO complaint and settlement information must be kept confidential.~~

G. New Employee Onboarding

1. The Union will be afforded the opportunity to participate in the onboarding process for bargaining unit employees.
2. The Union will be given an opportunity to address new employees at these sessions for up to ten (10) minutes.
3. The Union may provide employees with appropriate union-related materials electronically.

~~The Parties aAgree that further details will be subject to local bargaining. At a minimum, the Agency agrees to the following:~~

~~5. When new employee onboarding sessions for new employees are scheduled by the Regional office or the Shared Service Center, the appropriate Local(s) will be given notice ten (10) workdays prior to the session. The notice to the appropriate Local(s) will include the number of employees who are expected to attend the orientation.~~

~~6. Prior to the scheduled reporting date of prospective employees, the Local President will be provided information electronically regarding prospective employees. The information provided will contain, at a minimum, prospective employees' names, position titles, divisions, reporting dates, official duty station and grades, but will be sanitized to conform to the requirements of the Privacy Act.~~

~~7. All new employee onboarding sessions will be held at locations determined by management and the following provisions will apply to all sessions:~~

~~a. The Union will be provided a up to thirty (30) minute period for new employee onboarding sessions in whatever manner the sessions are provided (i.e. electronic, telephonic, or face-to-face). This time will normally be provided immediately preceding a break.~~

Commented [BJ6]: EPA: covered by Employee Rights

Commented [OPM7]: AFGE
From Employee Rights as agreed on 01-26-2023

Commented [CR8R7]: Agency:

Union suggests this get its own letter because it covers more than EEO.

Commented [CR9R7]: Agency:

Union concerned this language does not include potential settlement agreements.

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Commented [CR10]: Agency:
Suggest we put this in a "Definitions" Article.

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Commented [CR11]: Agency:

This is not a procedural option we are aware of.

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Commented [HJ12]: Should we make this subject to local negotiations? I the practice varies from local to

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Commented [CR13]: Agency:
Ask SMEs about notice possibility.

Commented [CR14]: Agency:
Talk to SMEs about whether we can alert the Unions to who will attend these meetings.

Commented [CR15]: Agency:
Union concerned about timing of Union participation.

b. The local parties will agree upon the time that the thirty (30) minute period described in subsection E1, above, will occur on the schedule. No Agency representatives will be present during the period of time that the Union representative(s) meet with the employees. The Union may distribute copies of the Agreement, provided by the Employer, during this session. If not, copies will be distributed by the EPA.

c. If an employee will not be included in a group onboarding session, the appropriate Local will be afforded up to thirty (30) minutes to provide the employee a on per employee for a Union onboarding session. . If no onboarding session is held or the Local did not receive notification under subsection 1Bas explained above, the appropriate Local will be afforded thirty (30) minutes to meet with the employee during duty time.

8. The Agency will include with its commitment letters the following AFGE links or their equivalent:
www.Joinafge.org
www.afge.org
www.afge238.org
https://intranet.epa.gov/ohr/emprelations/

9. The Agency will maintain an up-to-date intranet site with AFGE contact information. The Agency will maintain an intranet link in the first drop-down menu of the EPA@Work site (or its successor) of the current AFGE MCBA and AFGE contact information, and relevant AFGE contacts on the home page of every regional or office EPA intranet site.

10. The Office of Human Resources will notify the Union of any employee being hired into or transferring into a bargaining unit office, or any employee being removed from the bargaining unit list. This information will be provided electronically on a biweekly basis and include a list of the names of all new or transferred employees including:

a. Their positions, work locations, divisions, email address, phone number, and supervisor;
b. Whether the employee is on a full time, part-time, seasonal, or intermittent work schedule;
c. Whether the employee is serving on a term, temporary, career, career-conditional, or excepted appointment;
d. The geographic locality of each employee that is used to determine the appropriate locality pay;
e. The grade and step and pay structure; and
f. For employees being removed from the bargaining unit list, the reason for their removal.

The Office of Human Resources will provide electronically on a biweekly basis:

g. For employees leaving the Agency, whether the employee was retired or separated from the Agency;
h. Whether the employee is continuing to be carried in non-duty status;
i.

Commented [HJ16]: Agree to delete c

Commented [HJ17]: VP task force
Contact information:

"OPM should release guidance encouraging agencies to periodically inform bargaining unit employees of their legal rights under federal labor law, including their right to join a union and provide contact information for the union's designated representative."

Commented [OPM18R17]: AFGE
Agency looking into this...exploring linking to internal intranet page w/union reps

Commented [CR19R17]: Agency

We distribute contact information of BUEs regularly. Can this be used to send out this information and avoid our legal concerns?

Commented [BJ20]: EPA: covered in Employee RIghts

Commented [CR21R20]: Agency:

Union to propose language re more prominent placement of Union lists. Agency interested in considering.

Commented [CR22R20]: Agency:

Still looking at this but erasing for now for clarity.

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Commented [CR23]: Agency:

The current BUE movement report does not include this information. Not sure whether a report can be generated including this information, but the agency will look into whether such a report can be generated or included into the report.

Commented [CR24R23]: Agency:

Ok with a. Looking into b., but deleting for now.

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~~G. Weingarten Rights~~

~~1. Agency or the Inspector General shall inform the Union three days in advance on any meeting if Weingarten Rights will be read.~~

~~2. Security clearance meetings shall be covered by Weingarten Rights.~~

~~The Agency shall inform the Union when an employee is subject to a security clearance inquiry. Such notice will include the identification of the employee.~~

Section II: Formal Discussions

A. The Union shall be given the opportunity to be represented at any formal discussion between one or more representatives of the Agency and one or more employees in the unit of their representation concerning any grievance or any personnel policy or practices or other general conditions of employment.

B. To the extent not prohibited by law, the Union may elect to attend EEO complaint settlement meetings when sufficient elements of formality are present, unless the complainant requests that the union not attend. In those cases the Union is not entitled to attend such meetings. The parties agree that all EEO complaint and settlement information must be kept confidential.

~~B. For regularly scheduled formal discussions, the notice and a meeting agenda will be provided no less than five (5) workdays in advance. Designation of the Union's meeting representative and the reporting of the Union Representative's time will be in accordance with the Official Time Provision of this MCBA.~~

~~C. For non-recurring formal discussions, the Union will be provided with reasonable notice (i.e., generally not less than five (5) workdays notice) unless circumstances preclude such notice. Where a shorter notice period is necessary, the Agency will notify the Union as soon as practicable that a formal discussion will be conducted.~~

~~D.~~C. Notice to the Union of a formal discussion will be sufficient if provided to the ~~Local President~~designated Union point of contact (in accordance with the Recognition and Unit Description article)~~(i.e., the one whose bargaining unit members will be attending the discussion)~~ and includes ~~the name of the management representative(s) conducting the discussion, an agenda, if one exists and/or~~ ~~containing~~ the general subject of the discussion and the location and time of the discussion.

~~E. A representative for the Local will provide the name of the designated AFGE representative who will be attending the meeting to the manager or HR office that transmitted the notice.~~

~~F. The Agency will identify the Union announce the name of the Representative in the meeting (if any) atat the beginning of the meeting.~~

Commented [OPM25]: AFGE
Agency stated the Union doesn't have a right to this information. The employee can involve the union.

Commented [CR26R25]: Weingarten is covered by Employee Rights.

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Commented [OPM27]: AFGE
Agency to look at case law

Commented [CR28]: Agency:

Internal security procedures are not negotiable, and we may not even know when this happens. It may come from a third party.

Commented [CR29]: Agency:

Union to consider whether this is considered under the Employee Rights Article – this section was written with an eye towards the broader Union Rights associated with Formal Discussions.

Agency reread Employee Rights and noticed this was not directly addressed as we initially conveyed. Proposing reiterating standard in ICBA.

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Commented [CR30]: Agency:

We haven't had timelines in the past on these. Why are they needed now?

G. Any minutes and presentation documents prepared by the Agency for the meeting and shared with bargaining unit employees will be provided to the Local president who received the notice. This does not obligate the Agency to take minutes of the meeting or prepare documents for the presentation.

H. For the purpose of determining Union representation rights and in addition to the formal discussions referenced above, including but not limited the following, are examples of formal discussions:

1. new employee onboarding sessions, both group and individual;
2. presentations by a representative of the Inspector General and/or Labor Relations at training sessions, and
3. "last chance" meetings and any settlement discussions regarding the last chance agreement.

I. At any formal discussion held pursuant to this section, the Union representative will be identified. The representative may ask relevant questions and may make statements, including the Union's position with respect to the subject of the discussion.

J. At the conclusion of the formal discussion, the Union representative may inform employees that if any of them wish to discuss the meeting topics with them further or in private, the employee may contact the Union, in accordance with the Employee Rights Article of this MCBA.

K. The Agency will provide the Union with up to thirty (30) minutes to meet with impacted employees without managers present following all formal discussions.

L. In the case of formal discussions conducted in accordance with this Article, the management official will delay the discussion until a Union Representative is available if circumstances (e.g., workload, employee safety) permit. The Local and managers are encouraged to discuss possible ways to resolve scheduling conflicts.

Section III: Labor Recognition Week Public Service Recognition Week

A. The Union will be given the right to annually celebrate Public Service Recognition Week to recognize our bargaining unit employees' contribution to public service during the first week of May. Agency will recognize one (1) week of each year, the week of May 1st annually at the national level as Labor Recognition Week. During that week, Locals may use the Agency's Employer's cafeterias, break rooms and snack bars to set up exhibits to publicize the contributions of its bargaining unit members to public service and the federal labor movement organized labor, particularly AFGE, to society. The Union may use the Agency email system, bulletin boards, meeting rooms and other Agency facilities and platforms to communicate with employees. Employees may attend such events on duty time.also be made available in accordance with this MCBA.

Commented [OPM31]: AFGE
Agency doesn't like these examples

Commented [CR32R31]: Agency:

Formal discussion are on a case-by-case basis. Not sure the utility of this section.

Commented [CR33]: Agency:

To come back with language on this.

Commented [CR34]: Agency:
Agency concerned about all hands meetings getting held up. Union concerned about discipline cases where there are no reps available. Parties to consider alternatives.

Commented [HJ35]: Looked this up- it looks like an nteu event, but not sponsored by an agency. What about public service recognition week?

Commented [BJ36]: EPA: can't favor one union over another

Commented [OPM37R36]: AFGE
Agency recognize Public Service Recognition Week

Commented [CR38R36]: Agency:

We can't do this.

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~~B. The Agency will notify employees of Labor Recognition Week through a mass mailer jointly prepared with AFGE Council 238 to all employees at the start of the week informing them of activities including non-duty time permitted for these activities.~~

~~C. Consistent with workload and staffing needs, the Agency shall make every reasonable effort to grant employees one (1) hour of time to participate in Labor Recognition Week activities.~~

~~D. Locals shall be provided with official time to prepare and conduct Public Service Labor Recognition Week activities.~~

~~Section IV: Agency Publications Section IV. Information Sharing~~

~~The Union shall have the opportunity to submit information to be published in Agency newsletters, routine emails such as This Week at EPA, electronic bulletin boards and the opportunity to present information at All Hands meetings.~~

~~The Union shall have the right to include articles in EPA's newsletters. The number of articles will be limited to one-half (1/2) of the issues. Such articles shall be limited to general topics, as opposed to individual cases or disputes between the parties and shall be subject to the "posting" rules of the use of Agency Facility Article.~~

~~Section V: Agency/Union Annual Meeting~~

~~The Agency shall meet annuallywill provide, with Council 238 a link to the Agency's final budget within 7 days of it becoming available. The Union may request a meeting to address questions regarding the final budget. in March of each year to review and discuss its budget, annual business and staffing plans and any transition/ reorganization issues. A copy of the initial approved budget, a full description of each line item and the annual financial operating guidelines will be provided during this meeting. Thereafter, upon request and/or when the budget is revised, the Agency will provide additional Agency wide budget briefings to Council 238. These meetings shall be conducted on official time and will include any changes and/or reprogramming of funds to the annual budget.~~

Section V: Surveys

~~A. Prior to surveying bargaining unit employees, the EmployerAgency will provide the Union with a copy of the survey document at least five (5) business days in advance and allow the Union an opportunity to comment on it. The Union will receive a copy of any survey results including the underlying raw data obtained unless there are privacy concerns. In the event there are privacy concerns, the Agency will provide the Union with an explanation of those concerns and discuss how best to share the results. A copy of any local survey, which is intended to be distributed to bargaining unit employees by~~

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Commented [BJ39]: EPA: can't materially support a union like this.

Commented [CR40]: AFGE:
Union to provide examples of what they are referring to here. The Union notes DRAs issue newsletters. Agency to consider alternatives.

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Commented [OPM41]: Consistency?

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Commented [CR42]: Agency:

Union to come back with something

Commented [OPM43R42]: AFGE
Union willing to agree this is not an exclusive meeting with AFGE

Commented [CR44R42]: Agency:

This is based on an NTEU contract with IRS. Many Treasury dep't union can negotiate over salary, so budget may be relevant, but is not at EPA.

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Commented [CR45]: Agency:

We often don't have the raw data and are unclear why it would be needed.

Union expressed concerns about agency spin on issues. The Agency is ok with sharing #s, but not "raw data" like with employee names etc. Parties to consider.

~~the Agency, will be provided to the appropriate Union Local for comment at least fifteen (15) days in advance of distribution to bargaining unit employees.~~

Section VII: Communication, ~~and~~ Information Sharing, and Information Requests

~~A.~~

A. The Union shall have the right to communicate ~~directly~~ with Bargaining Unit~~(s)~~ employees. In accordance with GSA and Agency facilities and cybersecurity rules, regulations, and policies, the Union may use Agency email systems, physical and electronic bulletin boards, desk drops, phones, signage etc., to communicate with employees.

B. **Surveys** – Prior to surveying bargaining unit employees regarding conditions of employment, the Agency will provide the Union with a copy of the survey document generally three (3) business days in advance and allow the Union an opportunity to comment on it. The Union may, upon request, receive a copy of survey results obtained unless there are privacy concerns. If requested by the Union, the Agency will provide the Union with an explanation of privacy concerns.

C.

~~B.~~D. The Agency shall annually inform the employees of their right to Union representation. The Union has a right to inform employees of their right to Union representation.

E. The ~~Office of Human Resources~~ Agency will notify the Union of any employee being hired into or transferring into a bargaining unit office, or any employee being removed from the bargaining unit list. This information will be provided ~~electronically~~ on a biweekly basis and include a list of the names of all new or transferred employees including:

1. Their positions, work locations, divisions, email address, phone number, and supervisor;
2. Whether the employee is on a full time, part-time, seasonal, or intermittent work schedule;
3. Whether the employee is serving on a term, temporary, career, career-conditional, or excepted appointment;
4. The geographic locality of each employee that is used to determine the appropriate locality pay;
5. The grade and step and pay structure;
6. For employees being removed from the bargaining unit list, the reason for their removal; and
7. Employees separating from the agency.

~~C.~~F. Information Requests

~~1. Upon receipt of an information request from AFGE, the Agency will notify the~~

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Commented [CR46]: Agency:

Union means they can email employees on their agency-provided email.

Commented [CR47]: Agency:

Why was this added?

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Commented [CR48]: Agency:

We often don't have the raw data and are unclear why it would be needed.

Union expressed concerns about agency spin on issues. The Agency is ok with sharing #s, but not "raw data" like with employee names etc. Parties to consider.

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Commented [CR49]: Agency:
Union interested in reason for the separation – retirement vs. separation. Agency expressed concerns over privacy.

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~~Union of the Labor Relations Office assigned the request, including the contact information of the Labor Relations Specialist responsible for complying with the request.~~

1. Union information requests must be sent to Agency representatives (or their designees) according to the contacts identified in the Recognition and Unit Description Article.
2. The Agency will normally inform the Union within five (5) work days of receipt of an information request that it has received the request. ~~whether information requested under 5 USC § 7114(b)(4) will be supplied and if the Agency intends to respond by the due date identified in the request.~~

~~2.~~3. Upon request by the Union the parties will meet to discuss the status of the request and challenges or concerns with obtaining the information.

~~3.~~4. The Agency will comply with its statutory obligation to respond to requests in a reasonable amount of time. ~~If the Agency anticipates it cannot meet the five (5) day timeframe, it will contact the Local Union Representative who filed the request to discuss the request, including any issues with responding to the request (e.g., if the Union has provided a particularized need).~~

~~4. Where the Agency has determined to supply such information and a grievance is involved, the Union may either move forward with the grievance or may request an extension of time to file or appeal to the subsequent steps in the grievance process.~~

5. ~~At the Union's election, other time periods for filing, processing or proceeding with any matter will be held in abeyance in accordance with the provisions of this Agreement~~MCBA.
6. The Agency will respond to information requests in a similar manner to the numbering or subject matter designations used in the original request.

~~6.~~7.

~~D. The Agency will provide a notice and link to any final versions of Agency Orders, Directives, Manuals and issuances relating to personnel policies, practices, procedures and matters affecting working conditions.~~

~~E. The Agency will provide the Union with a notice of all proposed reorganizations, realignments, and restructuring of any organizational unit within the Agency at least 30 days prior to the start of drafting of a functional statement and/or crosswalk.~~

~~F. The Agency will provide a notice of any reorganization, realignment and/or restructuring of any organizational unit including a copy of the functional statement, employee crosswalk, report documenting any change in series, classification and/or bargaining unit status of any employee(s), staff to supervisor ratios and physical moves of staff. Notice will be provided to the Union before such a package is submitted to EPA Headquarters office and/or Congress.~~

G.

~~H.~~

Commented [CR50]: Agency:

Not sure why this is needed. Could get confusing.

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Commented [OPM51]: AFGE
Need to confirm consistency with TA'd Grievance Article

Commented [OPM52R51]: AFGE
TA's Grievance Article does not address

Commented [CR53R51]: Agency:
It is not addressed because the Union dropped it. We are not going through this again.

Commented [OPM54]: AFGE
Need to confirm consistency with TA'd Grievance Article

Commented [OPM55R54]: AFGE
TA's Grievance Article does not address

Commented [OPM56]: AFGE
Why is this problematic?

Commented [OPM57R56]: AFGE
Union ok to delete IF B 4&5 accepted

Commented [CR58R56]: Agency:
They are unrelated and 4 & 5 were already negotiated thoroughly.

Commented [CR59]: Agency:

Agency sees this as part of midterm. If it's non-negotiable we wouldn't have share it.

Commented [OPM60]: AFGE
This is not covered in Mid Term...this is a request to PDI

Commented [OPM61R60]: AFGE
Union ok to delete IF B 4&5 accepted

Commented [CR62R60]: Agency:
Covered by Midterm.

Commented [OPM63]: AFGE
need to clarlify
What happens when it's a HQs reorganization?

Commented [OPM64]: AFGE
Agree to delete AFGE
Union ok to delete IF B 4&5 accepted

Commented [CR65R64]: Agency:
Covered by Midterm

~~I. Annually, the Human Capital Officer of the Agency or designee, will provide AFGE at the national level with electronic organizational charts for each organizational unit showing the chain of command.~~

~~J. The Agency will furnish to the Union, or its authorized representatives, upon request, and to the extent not prohibited by law, data concerning the Bargaining Unit(s) which:~~

~~1. Is normally maintained by Management during the regular course of business;~~
~~2. Is reasonably available and necessary for full and proper discussion, understanding, and negotiation of subjects within the scope of collective bargaining; and~~
~~3. Does not constitute guidance, advice, counsel or training provided for management officials or supervisors related to collective bargaining.~~
~~4. Information requested will be provided to the Union within a reasonable time. The Agency will respond to an information request so that the information is received by the Union in a timely manner for the Union to use for the expressed purpose.~~
~~5. This information request authority does not impact in any way the separate authority the Union holds to request information under the statute.~~

Section VIII. Representatives and Official Time

A. The Parties share the responsibility to ensure that official time is used effectively, efficiently, and is appropriately accounted for. Subject to this MCBA, the use of approved time by a Union Representative in the conduct of their representational duties shall be charged to official time.

B. Whenever the term "Representative" is used in this Article, it shall include those identified per the Recognition and Unit Description Article, including any retirees designated by the Union. Retirees are subject to all security policies and procedures applicable to non-EPA employees entering Agency workspace. ~~Local Presidents, Local Vice Presidents, Chief Stewards, Assistant Chief Stewards and any other employees authorized by the Union in advance to act on its behalf.~~

~~B.~~ The Union may designate Representatives to act on its behalf. Nothing in this Article prevents a union representative from requesting official time for a matter involving a geographical location different from their Official Work Location. ~~in accordance with the following:~~

C. ~~Each AFGE Local shall be authorized to appoint and assign Representatives as the Local deems appropriate. There is no limit on the number of employees who may serve as Representatives. The number of representatives should be generally proportionate to the number of employees represented. All Representatives must be bargaining unit employees or Agency retirees in good standing. Retirees serving as Representatives are subject to all~~

Commented [CR66]: Agency:

These are available online.

Commented [OPM67R66]: AFGE
These are not available for every office within EPA...want this provided once a year...down to the Section level

Commented [CR68R66]: Agency:
The agency fully intends to keep org charts up to date and the Union aware of reorgs.

Commented [CR69]: Agency:

This just recites the legal standard, cutting out particularized need. This would grind the agency to a halt. There are reasons we have the particularized need legal standard to ensure the agency can function, and to ensure employee privacy.

But then says it isn't affected by the statutory right? Why would you need the statute? And what is the significance of saying the separate authority is unaffected?

Commented [OPM70R69]: AFGE
Union researching

Commented [CR71R69]: Agency:
This recites the statute and has created a lot of confusion among Union reps seeking information, claiming this creates a separate obligation. We prefer to avoid that confusion.

Commented [OPM72]: AFGE
agree to delete

Commented [CR73]: Agency:
If we cannot define who representatives are, then we cannot reach an agreement on official time.

Commented [BJ74]: Parties think will work with unit recognition definition

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Commented [BJ75]: [10:27 AM] Owens Powell, Marie (she/her/hers)
1.
1.The Union shall make the sole determination as to ...

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Commented [CR76]: Agency:

We do not intend to tell the Union how to organize itself, ...

Commented [OPM77R76]: AFGE
Union suggests remaining silent. The issues will determine the # of representatives

~~security policies and procedures applicable to non-EPA employees entering Agency workspace.~~

~~1. The Union shall make the sole determination as to where its Representatives may best be used (e.g., across the Council and/or sharing between Locals).~~

D.

~~C.~~E. ~~Official time shall be granted for only the following meetings and activities:~~In accordance with 5 USC 7131(d), Union Representatives ~~shall~~, ~~be~~ may be ~~granted~~ eligible for official time ~~for when acting in a representational capacity. participation in meetings with the Agency and any other activities~~ as reasonable, ~~and~~ necessary, and in the public interest This includes requests for training at the local and national levels, ~~in accordance with applicable law, rules and regulations. described below (including official time to travel to and from such meetings as specified in this MCBA).~~

1.

~~D. Employees expressly designated by the Union shall be allowed official time as Union Representatives for as provided under 5 U.S.C. 7102, including other matters reasonable, necessary, and in the public interest.~~

F. ~~The use of official time is may be appropriate for use by employees who are Union Representatives for attending Union-sponsored trainings, meetings, conferences etc., if agreed to by the parties The use of official time including attending union-sponsored training by bargaining unit employees who are Union representatives at the local level is an appropriate matter for local level discussions and/or bargaining. Existing procedures will be maintained.~~

~~E.~~

F. Notwithstanding any other provision in this Agreement, any activities performed by Union Representatives relating to the internal business of the Union shall be performed during the time the Representatives are in nonduty status.

G. The AFGE Council 238 President and the Executive Vice President shall be granted 100% use of official time.

1. When employees are newly elected or appointed to the position of President or Executive Vice President of Council 238, the Union will notify the Agency.
2. When a President or Executive Vice President official leaves office, they will have a right to return to work in their position of record.

H. In the event the position of record no longer exists, they shall be assigned to a comparable position at the Agency in the same locality and commuting area to the extent possible.

~~Full Time~~ Five 100% official time positions will be maintained at Headquarters, and one 100% official time position will be maintained in Region 5. ~~for local level union officials mashall be in accordance with~~

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Union concerned it does not include specificity about grievance representations.

Commented [BJ79R78]:

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Commented [BJ80]: Agency: added this instead of union's provision below about training

Commented [CR81]: Agency:

How are they expressly designated? We have a paragraph above to address this so the Agency is aware who is expressly designated.

Commented [CR82]: Agency:

This is just about all Union activity pre-approved.

Commented [OPM83R82]: AFGE
Union ok with deleting IF agreement on paragraph above

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Commented [BJ84]: Agency: the only training is the national training

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Commented [BJ85]: Agency: redundant

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Commented [CR86]: Agency:

Union interested in discussing locality etc. Agency concerned if the organization moved, then the employee would have to move. Union to propose language.

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Commented [BJ87]: Agency: we can add other existing agreements too

existing local MOUs and agreements. ybe negotiated at the local level at the request of either Party. . The Parties agree the following are reasonable:

1.

i.a. Locals that represent up to 200 bargaining unit employees will have the equivalent of one half (½) time Representative.

ii.b. Locals that represent between 201 and 500 bargaining unit employees will have the equivalent of one (1) full time Representative.

iii.c. Locals that represent 501 to 900 bargaining unit employees will have the equivalent of two (2) full time Representatives.

iv.d. Locals that represent 901 to 1,200 bargaining unit employees will have the equivalent of three (3) full time Representatives.

v.e. Locals that represent 1,201 to 1,600 bargaining unit employees will have the equivalent of four (4) full time Representatives.

Locals that represent more than 1,601 bargaining unit employees will have the equivalent of five (5) full time Representatives.

vi. Present practices will be maintained.

I. For any situation where the Agency refuses to release a Representative and/or an employee to use official time under this Article, the Agency will provide the Representative and/or the employee with a written explanation for the denial of time (i.e., the reason(s) and/or rationale for the denial, including any data, etc., as appropriate), if requested.

H. Union Representatives will inform request official time and obtain approval to use official time from their immediate supervisor prior to conducting representational activities when using official time and will record such time in the Agency timekeeping system (currently People Plus). When it is necessary for a Union representative to leave their workstation for representational purposes, the employee will inform their immediate supervisor when and where they need to go and provide the supervisor with a telephone number where they may be reached when practicable. In the event that a pressing job-related need precludes the immediate excusal of the Union representative, the supervisor will inform the employee of the earliest time they will be permitted to leave the work site. The employee will report to the supervisor upon their return to the work site.

J.

L. Any Agency employee, regardless of Union title who is designated to act for the Union as a Representative is may be approved entitled to work use official time.

M.L. Overtime and Compensatory Time: Employees serving as Union Representatives may not earn compensatory time or overtime for representational activities. Union Representatives can work overtime or compensatory time to perform Agency work per the Agency Work Schedules Article.

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Commented [CR88]: Agency:

Sometimes these numbers may be justifiable, and sometimes they won't. Better to leave it to the locals to figure out.

Commented [OPM89R88]: AFGE
Union has seen the Regions to be uncooperative

Commented [OPM90R88]: AFGE
Union will provide approximate numbers

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Commented [OPM91]: AFGE
Union suggest ICBA language which has worked

Commented [OPM(92R91]: AFGE
Agency does see that many Union Reps reporting to the work site…need to know what to expect from employees

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Commented [BJ93]: Agency: see how this works with def of representatives

~~N.~~M. Telework and Remote Work. Union Representatives, who otherwise meet the criteria set forth in the Telework and Remote Work Articles of this MCBA, may perform Union activities while at the Alternate Work Location and/or the Remote Work Location.

~~Section IX. Union Training~~

~~The use of official time for attending local union-sponsored training by Union representatives is an appropriate matter for local level approval. The use of official time for attending national union-sponsored training by Union representatives is an appropriate matter for national level approval.~~

~~Official time will be authorized for the attendance of Union Representatives at any training event provided by AFGE Council 238. The Union will provide the Agency with a copy of the agenda upon request.~~

Section X. Union Travel and Per Diem

A. The parties jointly commit to the following principles as the foundation for a productive and cost-effective labor management relationship:

1. When the parties agree, the Agency will pay for Union travel and per diem.
2. Consistent with this MCBA, the Parties will schedule meetings as efficiently as possible, including consolidating meetings when appropriate and holding certain meetings virtually.
3. The parties are committed to reducing the amount of travel used for representational activities.

Section XI. Agency Commitments

A. On the second Thursday of October each year, the Parties will meet to discuss issues for which training of Agency managers and Union Representatives, and bargaining unit employees, could be beneficial. Upon agreement of the parties, the parties will jointly provide this training to Agency managers and/or Union Representatives .

~~B. Semi-annually, the Agency will provide data to AFGE Council 238 on resolved and pending unfair labor practices, grievance filings, 4711 complaints and EEOC claims. Such data shall include but not be limited to: Local/Organization, subject matter, supervisor name, status and ultimate resolution (if any) and any other available and useful~~

Commented [BJ94]: Agency to look at ICBA language

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Commented [CR95]: Agency:

This is a blank check and hasn't been needed.

~~data points.~~ ~~Within thirty (30) days of~~ ~~On the second Thursday of October each year, receiving this information, the Parties will meet to discuss any noted trends identified through a review of Unfair Labor Practices (ULPs), Grievances, 4711 complaints and EEOC claims. The Parties will discuss possible and strategies for resolution. Nothing in this paragraph shall limit the Union's right to request information or a briefing for information affecting the Union's representation of the bargaining unit.~~

Section XII. Union Use of Agency Facilities, Equipment and Resources

A. ~~Generally~~, Union use of Agency facilities, equipment and resources is a matter ~~Subject to~~ for local ~~level~~ discussions and bargaining. ~~tThe Agency will provide office space, and equipment and furniture for the Local Unions. The provision of any Agency controlled facilities, including union office space and equipment, is a matter for local level negotiations. , which will consider the effect of remote work or telework on reducing needed space. Such facilities, equipment and resources include but are not limited to secure office space, electronic and regular mailboxes, telephones, smart phones, bulletin boards, meeting rooms, office equipment (including a desk and chairs), office supplies, internet access, IT support, and access to review laws, rules and regulations as the Agency maintains. Existing agreements are maintained.~~

B. ~~If the Council level Union representative(s) are Remote or Teleworkers, the Agency will provide facilities, equipment, and resources upon request.~~ ~~If the Council level Union representative(s)~~ If the Council Union President and Council Union Executive Vice President are not Remote or Teleworkers (more than 50%), T~~t~~he Agency will provide a workspace and standard agency equipment ~~for the Council Union President and Council Union Executive Vice President~~ at the President's and Vice President's respective Official Agency Worksite(s).

Section XIII. Union Officials and Telework/Remote Work

A. 100% Official Time Union Representatives

1. With the exception of those prohibited from teleworking under 5 U.S.C. Section 6502(a)(2), those who have not completed telework training as required under Section 6503 and/or where there are issues raised by the safety checklist, AFGE-represented employees, certified by the parties as a Union representatives, authorized for 100% official time, are considered eligible by the Parties for either a Remote Work or a Telework arrangement without subjection to an analysis of their position of record (POR) with the Agency.

2. For the duration of their incumbency in the 100% Union representative position, they may perform representational duties, while on official time, consistent with law and regulation from remote or

Commented [CR96]: Agency:

The Union wants the Agency to tell the Union how often the Union is suing the Agency, and then suggest ways the Union can stop suing the Agency?

Commented [CR97R96]: Current agency proposal in DEIA:

Annually provide a copy of the MD-715 report and a briefing explaining the report. The briefing will include discussions ~~on the status of each Reg on/Off ce~~ on the state of EEO at ~~the Reg onal/Off ce level as well as~~ the Agency.

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Commented [CR98]: Agency:

Modified language in 1-11 discussions with the Union.

Commented [OPM99R98]: AFGE
The need for office space is not proportionate to the number of people in the office

Commented [CR100]: Agency:

We have an agreement on this

Commented [BJ101]: Agency: who are you referring to?

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alternate work locations, under either a signed Remote Work or Telework Agreement.

3. Once no longer in a 100% official time union representative status, the Remote Work or Telework Agreement is cancelled and any Remote Work or Telework must be reapplied for under the negotiated article unless a Remote Work or Telework agreement was in place for the employee's position of record prior to 100% official time. In those cases, the employee's previous agreement will generally be reinstated unless, per the parties' agreement, relevant changes have occurred. Further, for an employee returning to their position of record after being on 100% official time, if other employees in their work group were asked to recertify their agreements while the employee was on 100% official time then, upon an employee's return to their work group former 100% official time officials may be asked to recertify their agreements at the discretion of their supervisors.

B. Less Than 100% Union Representatives

1. AFGE bargaining unit employees who serve as Union representatives on other than a 100% basis may apply for Remote Work or Telework under the negotiated articles and their eligibility will be based on their Agency position of record.

2. For the duration of their incumbency in the union representative position, employees may perform representational duties, consistent with law and regulation while on official time, from remote or alternate work locations under either a signed Remote Work or Telework Agreement.

C. General

1. All Union representatives desiring Remote Work or Telework arrangements are required to submit to their supervisor as provided in the Remote Work or Telework Articles a completed application for Remote or Telework, which must include: a completed Remote Work or Telework Application/Agreement; a completed Employee Self-Certification Safety Checklist for the remote work/telework location; an attached copy Employee's Approved Schedule; and a copy of evidence of Remote Work/Telework Training taken by the employee.

2. Unless herein stated otherwise, the rules and regulations governing Remote Work and Telework and contained in the Parties' Telework and

Remote Work Articles continue to apply to all Union representatives performing representational duties from Remote or Alternate Work Locations. This includes, for example, changes in AWL or RWL

3. Commuting Expenses to Official Agency Worksite:

a. For a Union representative who has become a remote worker or a teleworker when traveling to their assigned official agency worksite for union representational responsibilities, the Agency will pay/reimburse employees for transit benefits for that employee to the extent transit benefits are available for similarly situated employees.

b. For a Union representative who has become a remote worker or teleworker and normally does not use transit benefits and whose RWL or AWL is outside the local commuting area, travel to their assigned official agency worksite solely for Union representational responsibilities will not be paid/reimbursed by the Agency unless the Agency initiates the request.

c. For a Union representative who has become a remote worker or teleworker who travels to the Official Agency Worksite at the Agency's request will be reimbursed the cost of travel available for similarly situated employees.

d. For an Agency employee recalled due to Agency needs arising from the employee's position of record, nothing in this agreement supersedes the parties' Telework or Remote Work agreements and any Agency obligation to pay for/reimburse employee travel.

4. If management determines a Remote Work union official who relinquishes their elected/appointed union position is ineligible for remote work, the agency is not obligated to pay relocation costs.

AFGE Council 238 Executive Board officials who are remote workers are not entitled to office space at official agency worksites. AFGE Council 238 Executive Board officials should follow standard procedures to obtain conference room space when they choose to come into the building.

~~B. The national level and local Union representatives may use Agency-controlled facilities, equipment and resources for recruiting and membership drives.~~

Commented [CR102]: Agency:

Internal union business

Commented [OPM103R102]: AFGE
White House Task Force on Worker Organizing and Empowerment - Report to the President - February 2022

"The federal government will also provide greater access and information to unions seeking to represent and BUILD MEMBERSHIP among the federal workforce. Examples include

[one of the examples] Four agencies, including the GSA and DOI - will eliminate barriers to union organizers being able to talk with employees on federal property about the benefits of organizing a union.

[another example] - OPM will launch a set of strategies that will remove unnecessary barriers in federal workplaces that impeded unions' ability to organize federal workers and INCREASE THEIR MEMBERSHIP."

Section XIII. Savings Clause

Nothing in this Agreement ~~shall be interpreted in a manner that will~~ waives employee rights under 5 U.S.C. 7102 of the Statute or the Union's rights under Title 5 Chapter 71 of the U.S. Code.

Commented [CR104]: Agency:

Why are we covering issues in an agreement if the Union is declining to agree these issues are addressed by the agreement?

Commented [CR105R104]: Agency:

Union just wants to ensure statutory employee rights are not waived. Agency concern is above. Agency can consider alternative language.