

AFGE BARGAINING GUIDANCE
NEGOTIATION FOR APPROPRIATE ARRANGEMENTS FOR REPRESENTED
EMPLOYEES: ACCESS TO AND OPPORTUNITY TO BECOME FAMILIAR WITH THE
FINAL REGULATIONS FOR THE NATIONAL SECURITY PERSONNEL SYSTEM

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With the “official publication” of the final regulations expected on November 1st, comes the question of when, and how employees will be able to read the rules that ultimately will affect their pay. With well over 400 pages of information to start to scour, and more to follow with an untold number of “implementing issuances” expected, locals will want to consider the negotiation of appropriate arrangements to allow DOD employees access to and time for consuming the vast amounts of information on NSPS.

While we as union activists pursue litigation and Congressional action, we also have the responsibility in helping ensure that the workforce that will be directly affected by these new personnel rules, know all there is to know about the new system.

It is appropriate to submit a demand to bargain to the agency and negotiate administrative time and access to agency information about NSPS. Regardless of our position on NSPS, we also have a responsibility in representing employees that will be affected by these new personnel rules. And, in keeping with the direction and advice of those DOD officials who have been instrumental in the design and implementation of NSPS, AFGE agrees that the employees must have some ownership in this new personnel system.

As part owner of a new system that will directly affect their pay, contributions to the mission, working conditions, grievance and appeal rights, and a host of other considerations, every DOD employee now needs to assume some of the responsibility of learning what the new personnel system designed to promote how DOD’s mission is accomplished and managed works. As these employees “exclusive representative” you have an obligation to obtain the necessary time, tools, and opportunity for these employees to become familiar with the personnel system that is intended to “challenge them and give them an opportunity to excel”.

At present, NSPS is not in effect and will not be for 30 days following official publication in the Federal Register. Additionally, NSPS will be implemented in stages or spirals so not all employees will be impacted at the same time (personnel rules). The provisions of NSPS that immediately impact on all

employees (anticipated implementation date of November 28th, 2005) will be the labor-management relations system.

All locals, should, within the requirements of their collective bargaining agreements and current statutory procedures, submit demands to bargain along with proposals to the agency on allow the opportunity for employees to become educated on NSPS. It is AFGEs' position, that in addition to the public relations approach being used by DOD, and the web based training and opportunities they are affording, that immediately, DOD employees should have access to and appropriate time to read and ask questions about the final regulations as published on NSPS and any implementing issuances that are forthcoming.

In local proposals, union officials are cautioned to not limit future bargaining or opportunity for employees in staying abreast of NSPS by making any agreement with respect to NSPS's continued design, implementation and education of the workforce with respect to the personnel system and it's vast array of rules. With the concept of NSPS being one of constant design, review, and adjustment to make sure it works right, it is reasonable to believe that the new personnel system for DOD employees will require more attention by individual employees in providing them the opportunity to be challenged and to excel in their contributions to the department.

At a minimum, we are encouraging you to seek out access and opportunity on the clock for employees to read the final regulations. Locals should take into consideration that not all employees have access to, or ability to use computers. Below is a sample proposal that locals may wish to use.

***** S A M P L E L A N G U A G E *****

In an effort to help move the employees of _____identification of bargaining unit _____ at _____name of installation/command/agency_____ towards gaining a full understanding and appreciated for the new personnel system, employees will be given the time necessary to read the final regulations contained at _____insert Federal Register volume and date here_____. The parties recognize and appreciate that the amount of time necessary to read the final regulations, and future implementing issuances and other governing directives, instructions, and information will vary by employee.

It is however important that employees be provided with an opportunity to become familiar with the regulations that will ultimately govern their employment within the Department of Defense and their continuing contribution to the mission of the organization. Knowing the rules that affect an individuals employment should be know prior to those rules affecting that employees' career or contribution of work to the employer. An important

principle in the design and implementation of NSPS has been in gaining stakeholder buy in and in having a trusted and creditable personnel system.

In keeping with these principles, each employee will be afforded ample opportunity to fully read the final regulations for NSPS. This opportunity will be provided employees between the date of publication (or date of this agreement) and the date the regulations become effective (30 days following the date of publication).

It is further understood, that many employees do not have the necessary skills or access to personal computers. In cases where, an employee desires a printed copy of the final regulations, the employer will make a copy available to the employee.

Locals are encouraged to use the words of agency officials in seeking to obtaining the time and access necessary for employees to be successful under NSPS. These catch phrases and buzz words are readily available by visiting the NSPS web site maintained by DOD. Our bargaining strategy should be one to embrace the new rules and seek to ensure that represented employees are afforded every opportunity to wrap their arms around what DOD purports to be a cultural shift in how the business of the Department is done. Below is an example of that strategy as employed by one of our locals;

In his Memorandum for Department of Defense Civilian Employees, Subject: National Security Personnel System, Mr. Gordon England stated the following:

I encourage you to follow the progress of NSPS. Two key things you can do are to learn as much as you can and to fully participate whenever you are asked. Influence the continuing design effort. Start by reading the Employee Fact Sheet attached to this letter. In the coming weeks and months, you will have opportunities to learn more about the NSPS program and to provide your feedback. Be sure to periodically review the official NSPS website at www.cpms.osd.mil/nsps.

The printed version runs for 437 pages. For employees to review this document (and others DoD will publish) will take considerable reading time. Per Mr. England's "encouragement" above, it logical for the Union to assume that employees will be given release from duty (administrative) time to do this. The question becomes how much time will be allotted to review this behemoth document and other documents that DoD will surely send promoting and selling this new system?

Therefore, as the employee's exclusive representative, we request to negotiate administrative time on behalf of all employees allowing the release from duty Mr. England clearly unilaterally determined they should receive to read,

review, question and comment on this latest product from DoD. This would carry on the spirit Mr. England touts in his memorandum.

Proposal: To start the negotiation process we propose that you allow all employees 15 hours per week of duty time to review this for the next 30 days. Pursuant to Article 7 of the NLA we request to begin negotiations. We propose to meet Monday, 31 October 2005 at 1300. If you determine this matter is non-negotiable, we require a clear statement of non-negotiability.

Thank you for your attention to this matter.

Locals should act expeditiously in submitting their demand to bargain and seek a speedy conclusion to the negotiation of this matter as the new DOD rules, become effective 30 days following publication. And while DOD has devised an implementation scheme, called Spirals, they are free to change that schedule as they see fit. This has been evident since the first announcement of the spiral implementation with frequent changes being made by DOD.

Any modification to the draft proposals, or similarly submitted proposals that take spiral implementation schedules into consideration should contain language that allow for renegotiation should the schedule change after proper notice to the labor organization.

Locals are also encouraged to continued efforts to educate the workforce about NSPS, AFGE's efforts at presenting them, and ongoing efforts made by the local to that end. Discussion with represented employees about NSPS is not internal union business but is the business of conducting labor-management relations. Locals are encouraged to work within the confines of any formal agreements that you have with respect to communicating with the workforce on this and any matter.

Locals with existing collective bargaining language that deals with employee access and opportunity to review new regulations and instruction should proceed with reminding employees of that right under the collective bargaining agreement and urge them to exercise that right.