

THE TECHNICIAN

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Duty • Dignity • Dedication



ACT Persuades NGB to Drop Requirement

That State Guards Seek to Exclude Removals from Negotiated Grievance Procedures

ACT General Counsel

By: Dan Schember

The National Guard Bureau's July 2021 draft of its proposed adverse action Instruction—CNGBI 1400.25, Vol. 752—included a requirement that State Guards “endeavor to exclude from the application of any grievance procedures negotiated under [the collective bargaining law], any dispute concerning decisions to remove any employee from Federal service for misconduct or unacceptable performance.” By this provision, NGB sought to perpetuate a similar requirement of Trump Executive Order 13839, which Biden had repealed.

When removals are excluded from grievance procedure coverage, the Merit Systems Protection Board becomes the only neutral third party that can hear removal appeals. Trump had combined his Order—the title of which said it was “Consistent with Merit System Principles”—with failure to appoint MSPB members, so that the Board lacked a quorum to decide cases.

On August 16, 2021, ACT—exercising its 5 U.S.C. § 7113 national consultation rights—recommended that NGB drop the Trump-inspired requirement that State Guards always seek to exclude removals

from grievance procedure coverage. In support of its recommendation, ACT cited a Federal Service Impasses Panel decision—SSA and AFGE, 2019 FSIP 019 (May 29, 2019)—that had rejected the exclusion on the ground that the agency had not met its heavy burden to “establish convincingly” that the exclusion is warranted in the “particular setting” of the agency. ACT said, “National Guards cannot satisfy this burden; and the Instruction should not command all of them to try fruitlessly, over and over again.”

Two days later, on August 18, NGB adopted ACT's recommendation.

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LM REPORTS DUE BY MARCH 31ST

&

990N'S DUE BY MAY 15TH

ELECTION 2022

NOMINATIONS NOTICE FOR ACT'S BOARD OF DIRECTORS

Nominations open April 1, 2022 and will close May 16, 2022

As of **April 1, 2022** The Election Committee will begin accepting Nominations for the positions of National:

Executive Vice President
Secretary
Vice President SE
Vice President SW

Only written nominations will be accepted electronically. All nominations must be date stamped by the e-mail server not later than **May 16, 2022**. To be eligible for office a nominee must have been a member in good standing and on the membership rolls since July 1, 2021.

When submitting your nomination, include the name / home mailing address / chapter name and number / e-mail address of the nominee as well as your name / home mailing address / chapter name and number / e-mail address. This complete information is necessary in order to validate the nomination. Failure to provide this information could result in a nomination not being validated. Prior to submitting your nomination, it is advisable to confirm that the individual is willing to accept the nomination.

All nominations are to be e-mailed to 2022 ACT Election Committee at the following e-mail address:

2022.ACT.ELECTION.COMMITTEE@actnat.com

Once nominations are validated, the Election Committee Chairman will contact the nominees by e-mail to obtain acceptance and biographical information which will be printed in the ACT Technician newspaper prior to the ballot being e-mailed to eligible ACT voters.

Missouri Work Schedule Change

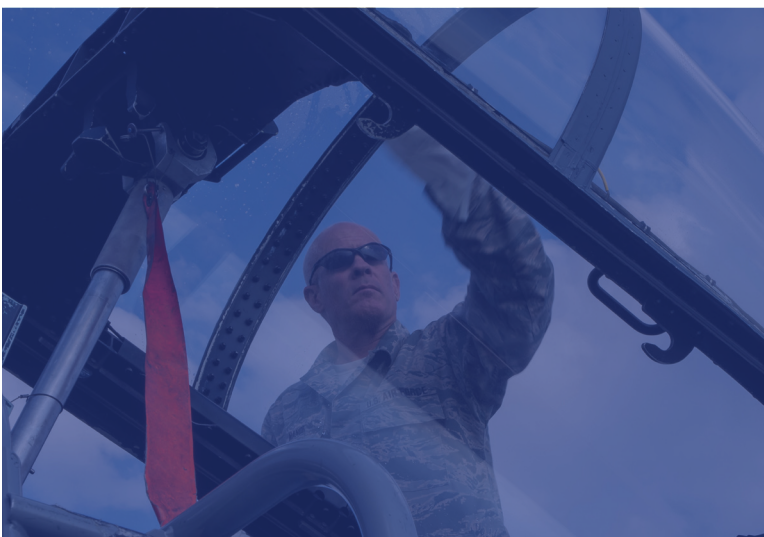
By: Lee Hedrick
Central Region Field Rep

When I took the job as the Field Representative for this region my first assignment was to help Missouri I&I bargain a whole agency Work Schedule Change, from compressed schedules to a 5x8 schedule, driven by The Adjutant General. I went into that first meeting believing it would be a conversation with input from us to help determine how to use the work schedule to better the lives of the employees as well as enhance the completion of that state's mission. It quickly turned into this decision has been made and now we want the union to help us sell our wonderful idea.

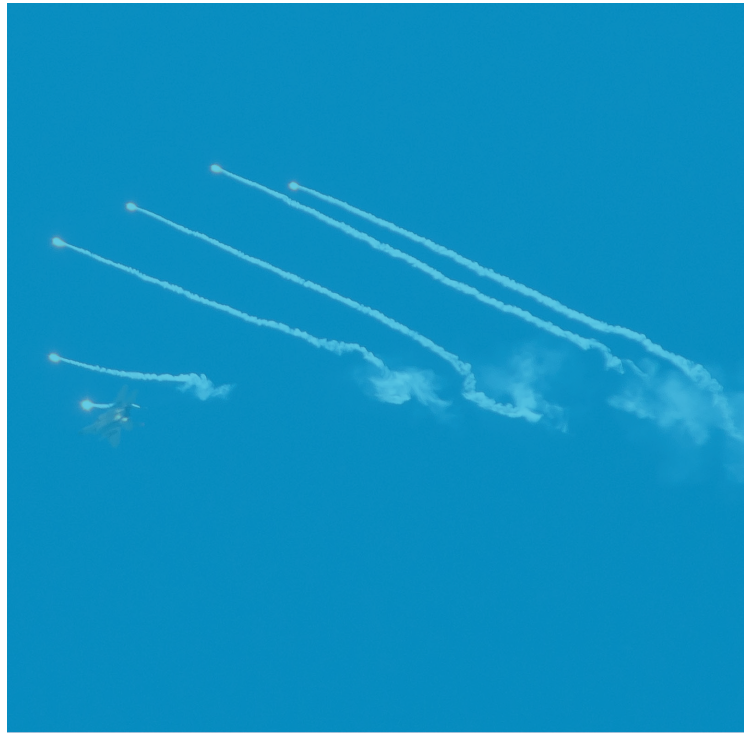
The employees and their chapter leadership were not sold on the idea of one schedule fit all ideologies and we sang every tune you can: cheaper operation expense, more days off throughout the year helps mental and physical fatigue, assists in less leave being taken and less compensatory time being earned, more productivity time for maintainers, and anything else we could think of to try and swing the leadership back into a compressed schedule for some. We asked where the failure points were and what parts of the mission were not successful to which we got some rationale, but not satisfactorily to go to the members



and say we were failing and they truly believe this will fix it. They gave the reasoning of it helps us synergize with our partners within the state, it will provide a better work/homelife balance, or it's needed to provide better support of the M-Day/DSG soldiers/airmen. In some conversations outside of the negotiation meetings, we don't want to create haves and have not situations between Technicians and AGR. It was a disheartening situation to be dealing with.



Ultimately Missouri Title 32 Technicians, Bargaining and Non-Bargaining, lost the opportunity to have 52 days a year off from work. The leadership commented on traditional M-Day/DSG people working a similar traditional work schedule and I offered up the comment of why would you understand that is a challenge for them then treat a Technician, who also happens to be an M-Day/DSG drilling individual and not want to treat them better than civilian employers do? My thought is why not do everything in your power, afforded to you by law, to make their work lives as good as possible? Why not give them those 52 days off a year by not scheduling work those days? Why not make your full-time workforce so happy they encourage other drilling people to apply and want to work for you? I know when I was still drilling with the guard, people at my unit was always envious that I had a day off after drill to rest and recover before going back to work. Why wouldn't any TAG want to find a way to make that work to give their dual status employees a reprieve?



Ultimately it came down to because 32 U.S.C. §709 allows the Adjutant General to set the schedule, Missouri will not budge on their decision at this time. The small victory we got was they know they cannot force their Title 5 Employees to change, without a compelling need and proper negotiations, so those individuals have not been impacted. If you are reading this and live in Missouri, I am sorry we couldn't find a good compromise that helped the mission as well as you. Your Chapter President did everything they could to show them the negative impacts this could have on you. If you are a Title 5 Employee there and they did change your schedule, contact a representative immediately and we will work on getting you any of the approved Work Schedules you want to work. We can't promise you the moon but maybe we can deliver a moon rock to you. If you are from any other state facing this same dilemma, I hope you have better luck than we did. We know this type of work is complex and one work schedule does not fit all. I would hope your state has data points that show a failure and a plan to address that specifically. This is a holistic approach to a specific problem, the old punish them all because of a few, and the state in question failed to show us in real time why this change was needed.

ATTENTION

All ACT Members

If ACT National does NOT have your current personal email address (not .mil)

You will NOT be able to vote in the upcoming election scheduled for August 1 - 31, 2022

Please send in your email address to
ACT National
to the following email address

admin@actnat.com

to update your membership email
address

THANK YOU!

COURAGE



Travis Perry
National Field Representative, Northeast Region

Recently, I've felt a little defeated. I've had a few cases in my region recently where an employee, mentally exhausted and beaten down, has given up and resigned. When that happens, as your rep, it tends to take the wind out of your sail a bit. I never, never blame the employee. Each one has typically been through a whirlwind of hell, a toxic work environment...a target on their back. And it can feel a daunting task, taking on the behemoth called "the agency".

In the midst of all of this, an employee has to attempt to maintain professionalism at work and then keep it together at home; possibly as a single Mom or Dad, maybe there's trouble at home as well – a

pending divorce, special needs children, the health of a loved one.

Reflecting on this has led me to cherish, and be thankful for, those who do manage to weather the storm and still stand up and say, "this is not right! I will not stand for this!". Imagine the courage this takes. Some of you don't have to imagine...you've been in those boots and you've walked that long mile.

Courage. One of the definitions in the Oxford Dictionary is, "strength in the face of pain or grief". That's a pretty fine way of defining it. I like another unofficial definition. Like many, I had to read *To Kill a Mockingbird* by Harper Lee in

high school. While the book is dated, there were some important lessons in it that stuck with me. I have always kept a copy. Within the book, Atticus Finch says, regarding courage:

"I wanted you to see what real courage is, instead of getting the idea that courage is a man with a gun in his hand. It's when you know you're licked before you begin but you begin anyway and you see it through no matter what. You rarely win, but sometimes...you do."

-Harper Lee, *TKMB*

If you are an officer or steward at your chapter, you provide a valuable service to your fellow employees... "part-time". You do your best to be aware

and knowledgeable of changes in conditions of employment impacting your fellow employees. You represent them to the best of your ability, often with help from the national field reps and legal counsel. Regardless, it's not your primary job. You sacrifice your time to do what's right. You help your brothers and sisters in a time of need. That takes courage - not everyone is lucky enough to work in an environment where this sacrifice is condoned, let alone encouraged. Management

fortunate ones work in a positive, supportive environment. The unfortunate work in a toxic, spiteful environment. The rest are somewhere in between. Whatever your situation is, remember there is someone you can talk to to hopefully help improve your situation. Your chapter officers and stewards. Your National Field Representatives. Your National President. Your National Board. As a member of ACT, you should never feel there isn't someone you can

talk to about your situation. From your shop steward to the National President, you can pick up the phone, text, or email any of us. We'll do whatever we can to help within the bounds of the law. Sometimes just talking about a situation can do wonders. Just to have someone listen helps put the pieces together and organize your thoughts. Maybe that's as far as it needs



doesn't get it right all of the time and the officer and stewards are there to point that out. To stand in front of a colonel and tell them they are wrong and to show them why takes courage. A majority of us have served; confronting a superior just feels out of place, but you do it anyway. You as an officer or steward, are the first person an employee can and should go to about whatever issue it is they have. For your Regional Rep to best assist an employee, it is so important to have that connection "on the ground". Someone to be there physically with the employee to listen, to assist, to advise. The Regional Reps need you and we can't thank you enough for being that officer or steward who is making a difference.



to go. Maybe together we'll discover more needs to be done.

We are a union. We're stronger together. We're stronger when we help each other. Find that courage to speak out for yourself and your fellow employees. You have support in ACT. There is courage throughout ACT. We thank you all for your membership, your officer and stewardship. For YOUR courage.

As employees, we sometimes feel like we're the underdog. Maybe a lot of the time. The



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT
Washington, DC 20415

Federal Prevailing
Rate Advisory
Committee

7 April 2022

Ms. Felicia Neale
National President
Association of Civilian Technicians (ACT)
12620 Lake Ridge Drive
Lake Ridge, VA 22192

Dear Ms. Neale:

This letter confirms your appointment as the principal member of the Federal Prevailing Rate Advisory Committee (FPRAC) to represent the Association of Civilian Technicians. Mr. Stephen Landis and Mr. Travis Kielty will remain alternate representatives to the Committee.

The work of the Committee provides a vital aspect of Federal Wage System policy administration. During its more than 49 years of operation, the Committee has developed a climate of labor-management cooperation that is a credit to its members and the interests they represent.

Your willingness to serve on this important Committee is much appreciated, and essential to FPRAC's mission. The attendance of members at FPRAC's monthly meetings is essential to ensure that the views of all members are represented in deliberations and that there is a quorum necessary for the Committee to efficiently conduct business. I have attached a copy of the Committee's operating rules for your information.

Sincerely,

A handwritten signature in black ink that reads "Janice R. Lachance".

Janice R. Lachance
Chair
Federal Prevailing Rate Advisory Committee



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