

## **Official Time for Union Representatives**

### **Executive Order 10988, “Employee-Management Cooperation in the Federal Service,” January 17, 1962 (President John F. Kennedy), 3 CFR 521 (Comp. 1959-63)**

E.O. 10988 established broad government-wide labor relations policy in 1962 for the first time. With respect to official time for union representatives, it required that, whenever practicable, union representatives be on official time when consulting or otherwise meeting with management representatives.<sup>1/</sup> Agencies had discretion to determine the amount of official time union representatives would receive. Agencies could require that negotiations be conducted during the non-duty hours of the union representatives. In this regard, the framers of the Order wanted management to be able to require that employee representatives negotiate on their own time if the time required for negotiations became burdensome.<sup>2/</sup> No internal union business could be conducted on duty time.

### **Executive Order 11491, “Labor-Management Relations in the Federal Service,” October 29, 1969 (President Richard Nixon), 3 CFR 861 (Comp. 1966-70)**

E.O. 11491 superseded E.O. 10988. It continued the official time policies of E.O. 10988 except with respect to official time for union representatives when negotiating an agreement with agency management. E.O. 11491 specifically prohibited official time for union negotiators.<sup>3/</sup> This was based on a finding that the policy under E.O. 10988 of permitting official time for union negotiators had led to a wide divergence of practice among agencies in granting official time which resulted in inconsistent treatment of employees and, in some instances, to the protraction of negotiations over a period of many months.<sup>4/</sup>

### **Executive Order 11616, “Labor-Management Relations in the Federal Service,” August 26, 1971 (President Richard Nixon), 3 CFR 605 (Comp. 1971-75)**

E.O. 11616 amended E.O. 11491. It continued the official time policies under E.O. 11491 except that it modified that Order to eliminate the prohibition against official time for employees engaged as union representatives in negotiations with agency management.<sup>5/</sup> It permitted the parties to negotiate official time for such union representatives up to a maximum of 40 hours or a maximum of one-half the total time spent in negotiations during regular working hours. It also provided that the number of union negotiators should not exceed that of management negotiators. The change in policy was based on the finding that the present policy had some unfavorable effects on the negotiating process (e.g., difficulties in scheduling negotiating sessions, delays in completing negotiations because of a union’s inability to provide representation) although the policy had some beneficial effects such as better advance planning and preparation for negotiation meetings, and more efficient use of meeting time. The new policy was designed to enlarge the

scope of bargaining and promote responsible negotiations while avoiding undue hardship or delay in negotiations.

**Executive Order 11636, “Labor-Management Relations in the Federal Service,” December 17, 1971 (President Richard Nixon), 3 CFR 634 (Comp. 1971-75) and Executive Order 11838, “Labor-Management Relations in the Federal Service,” February 6, 1975 (President Gerald R. Ford, 3 CFR 957 (Comp. 1971-75)**

E.O. 11491 was amended twice again by E.O. 11636 and E.O. 11838. These new Orders made no change in policy with regard to official time for union negotiators.

**Civil Service Reform Act of 1978, Pub. L. 95-454, 92 Stat 1111 et. seq. (October 13, 1978)**

Title VII of the Civil Service Reform Act of 1978 provided a statutory basis for the federal labor relations program for the first time.<sup>6/</sup> It specifically provided that, except as provided below, official time for union representatives was to be determined between the parties through negotiations.

The Act removed the constraints on official time for union negotiators which then existed under E.O. 11491. It required that employees representing a union in negotiations be given official time during the time the employee is otherwise in a duty status. It continued the limitation that the number of union negotiators on official time not exceed the number of management negotiators. The Act also continued the prohibition against granting official time for internal union business. It allowed the Federal Labor Relations Authority to determine whether any employee participating for, or on behalf of a union in any proceeding before the Authority should receive official time.

## Endnotes

1. Section 9 of E.O. 10988 provided as follows:

Section 9. Solicitation of memberships, dues, or other internal employee organization business shall be conducted during the non-duty hours of the employees concerned. Officially requested or approved consultations and meetings between management officials and representatives of recognized employee organizations shall, whenever practical, be conducted on official time, but any agency may require that negotiations with an employee organization which has been accorded exclusive recognition be conducted during the non-duty hours of the employee organization representatives involved in such negotiations.

2. *Report of the President's Task Force on Employee-Management Relations in the Federal Service,* November 30, 1961, Section III.H., at page 20.

3. Section 20 of E.O. 11491 provided as follows:

Section 20. Official Time. Solicitation of membership dues, and other internal business of a labor organization, shall be conducted during the non-duty hours of the employees concerned. Employees who represent a recognized labor organization shall not be on official time when negotiating an agreement with agency management.

4. *Report and Recommendations on Labor-Management Relations in the Federal Service,* August 1969, section E.7.

5. Section 20 of E.O. 11491, as amended, now provided as follows:

Section 20. Official Time. Solicitation of membership dues, and other internal business of a labor organization, shall be conducted during the non-duty hours of the employees concerned. Employees who represent a recognized labor organization shall not be on official time when negotiating an agreement with agency management, except to the extent that the negotiating parties agree to other arrangements which may provide that the agency will either authorize official time for up to 40 hours or authorize up to one-half the time spent in negotiations during regular working hours, for a reasonable number of employees, which number normally shall not exceed the number of management representatives.

6. *Report and Recommendations on the Amendment of Executive Order 11491,* August 1969, section D.

7. The Civil Service Reform Act of 1978 created 5 U.S.C. 7131 which provides as follows:

**§7131. Official Time.**

(a) Any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this chapter shall be authorized official time for such purposes, including attendance at impasse proceeding, during the time the employee otherwise would be in a duty status. The number of employees for whom official time is authorized under this subsection shall not exceed the number of individuals designated as representing the agency for such purposes.

(b) Any activities performed by any employee relating to the internal business of a labor organization (including the solicitation of membership, elections of labor organization officials, and collection of dues) shall be performed during the time the employee is in a non-duty status.

(c) Except as provided in subsection (a) of this section, the Authority shall determine whether any employee participating for, or on behalf of, a labor organization in any phase of proceedings before the Authority shall be authorized official time for such purpose during the time the employee otherwise would be in a duty status.

(d) Except as provided in the preceding subsections of this section--  
(1) any employee representing an exclusive representative, or  
(2) in connection with any other matter covered by this chapter, any employee in an appropriate unit represented by an exclusive representative, shall be granted official time in any amount the agency and the exclusive representative involved agree to be reasonable, necessary, and in the public interest.