



AFGE Local 3313 Spotlight



American Federation of Government Employees Newsletter Volume IV, Issue 2 (July 2019)

Federal Workers Brace, as a Storm Approaches



Hello brothers and sisters. First, I'd like to greet you in solidarity and wish you a blessed day. Our Union is bracing for a storm that forecasters fear is aimed directly at the Federal workforce. AFGE is calling on Congress to protect Federal employees in the face of hurricane force winds designed at destroying employee freedom to join a union, and the rights to address and resolve sexual harassment, racial discrimination, retaliation against whistleblowers, workplace health/safety, and reasonable accommodations for workers with disabilities.

The U.S. Court of Appeals issued a decision greenlighting President Trump's union-busting executive orders by ruling that the U.S. District Court for the District of Columbia did not have jurisdiction to rule on President Trump's May 2018 union-busting executive orders. The district court had ruled in favor of the unions, striking down the bulk of three anti-worker executive orders. AFGE President, J. David Cox Sr. said:

"The decision is mistaken about the jurisdictional question, wrong on the law, and jeopardizes the rights of Federal employees across government. We will fight this decision using every legal tool available to us."

We must stand together and resolve to demonstrate to the world that the Federal employee provides a great service to society. Time and again, politics have favored corporate profitability over the regulations generated by Federal employees designed to preserve public safety, human life, and our environment. The Union needs you to recruit your co-workers to join AFGE Local 3313. The Union is strengthened by its membership; the more members we have, the more resources will be made available for professional legal support, and the more likely Congress will stand with us and not against us as we forge a formidable voting coalition.



In Solidarity
Eugene Johnson
AFGE Local 3313
President

AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES
LOCAL 3313 OFFICERS

PRESIDENT

Eugene Johnson

VICE PRESIDENTS (VP)

Gary Shoemaker (Executive VP)

Jennifer Rodes (VP for OST)

Kay McIver (VP for PHMSA)

Sheila Wilson* (VP for FMCSA)

Derrell Lyles (VP for NHTSA)

Cynthia Cox-Grollman (VP for FTA)

TREASURER

Tahnesha Hawkins

SECRETARY

Constance Moore

SEARGENT AT ARMS

Eugene Kinard

*Denotes Past AFGE 3313 President

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AFGE Local 3313 Lunch and Learn (August 13th)

AFGE Local 3313 will be hosting a general membership meeting, *lunch and learn* on August 13th, in the **DOT Conference Center Rooms 8, 9, & 10**; scheduled for Tuesday, August 13, 2019, from 12:00 noon to 1:00pm. An AFGE national representative may join us to discuss AFGE's role in dealing with the current political climate. Help us recruit. In doing so, both the new member and the recruiter will get \$60 for every new member that signs-up! AFGE is only as strong as its membership—our success depends on you!



FLSA Overtime Grievance

Throughout many years of hard work by your Union and its lawyers, the Union and ultimately, the U.S. Department of Transportation (DOT) reached a Settlement Agreement in which the DOT paid a lump sum amount to the Union (\$5.5M) to cover all claims of alleged damages relating to the Fair Labor Standards Act (FLSA) grievance. The next step was to calculate the individual payments to be made to eligible Bargaining Unit employees (BUEs) from the Final Settlement Fund proceeds. The DOT took several months to provide a significant amount of data to the Union's legal representation. This information was assembled, reviewed and processed, in conjunction with large amounts of other materials already on-hand, to determine and identify all those eligible to receive a payment from the Final Settlement and the amount of each payment. The payment formula has been finalized, all calculations completed, and the employee settlement payments are now ready to be made.

Eligible employees should be on the lookout for an official legal notice from **Calvin Brown and Associates** either through email or postal mail in the upcoming weeks. **Not all covered BUEs are eligible** to receive a payment from the Settlement. To be eligible, an employee **MUST** have been in the bargaining unit while in a covered position for at least four quarters during the grievance period (July 30, 2012 through October 4, 2018), **and must file a completed Proof of Claim once they receive the official notice.** BUEs who previously opted out or indicated they did not want to participate (collectively referred to as Non-cooperative participants) and did not provide an affidavit in support of a claim are ineligible to receive a payment from the Settlement. The Settlement includes all current and former BUEs who held a bargaining unit position for four or more quarters during the:

- (a) Grievance period (from July 30, 2012 through October 4, 2018) while employed by the:
- Federal Motor Carrier Safety Administration (FMCSA);
 - National Highway Traffic Safety Administration (NHTSA); and
 - Federal Transit Administration (FTA).
- (b) Grievance periods as specified below with the:
- Pipeline and Hazardous Materials Safety Administration (PHMSA), from May 5, 2013 through October 4, 2018;
 - Office of the Secretary of Transportation (OST), from July 30, 2012 to October 4, 2018.
 - The Bureau of Transportation Statistics, which joined the bargaining unit as part of the Office of the Assistant Secretary for Research and Technology, from February 9, 2015 to October 4, 2018; and
 - The Office of the Assistant Secretary for Transportation (OST), Professional BUEs, from January 1, 2015, to October 4, 2018.

An explanation of compensation below describes how the allocations were grouped and the corresponding eligibility criteria.

	Category	Amount	Settlement Fund Balance	Explanation/Rationale
A	SETTLEMENT FUNDS	\$ 5,500,000	\$ 5,500,000	October 2018, settlement amount.
B	LEGAL FEES	\$ (1,650,000)	\$ 3,850,000	Attorney fees contracted at 30 percent of settlement.
C	ACCOUNTING/IMPLEMENTATION/DISTRIBUTION	\$ (150,000)	\$ 3,700,000	Payment to Accounting and Distribution Firm.
	NET SETTLEMENT FUNDS		\$ 3,700,000	
D	CT/OT Back pay	\$ (451,180)	\$ 3,248,820	Compensatory time/Overtime (CT/OT). Calculated allocation to BUEs that were miscoded as exempt from FLSA and did not receive the appropriate compensation.
E	SPOT/IOT	\$ (2,192,500)	\$ 1,056,320	BUEs who provided affidavits claiming <i>suffered and or permitted overtime</i> (SPOT) and induced overtime (IOT) (Overtime that was not paid, but work was directed). Allocation calculated based on 60 percent of the Net Settlement Funds (\$3.7M), less a smaller SPOT/IOT allocation (\$27.5K) for certain non-cooperative participants (F).
F	SPOT/IOT (Non-cooperative participants)	\$ (27,500)	\$ 1,028,820	Eleven BUEs that asked to be excluded, but previously provided information that could have been used if the case went to arbitration were awarded \$2,500.
G	CONVERSION FROM FLSA EXEMPT STATUS	\$ (281,000)	\$ 747,820	Awarded \$1,000 to 281 BUEs that the Agency agreed to convert to non-exempt as part of the 2015 partial settlement.
H	COMPENSATORY TIME ELECTION (CTE)	\$ (5,000)	\$ 742,820	Awarded \$500 to 10 BUEs who were forced to take comp time and not allowed to take OT and submitted an affidavit to that effect.
I	GENERAL - QUARTERLY	\$ (742,820)	\$ -	The remaining settlement proceeds will be equally distributed amongst all eligible BUEs, based on the number of covered quarters during the Grievance timeframe.

- A) Parties grievance settlement amount (\$5.5M).** Includes liquidated and payroll damages, interest, the DOT's share of taxes, and the employee's share of taxes.
- B) Legal Fees (\$1.65M).** The amount contractually obligated and paid to Snyder and Associates for legal and information collection services, and allocation protocols.

C) Implementation/Distribution (\$150K). The amount contractually obligated and paid to Calvin Brown and Associates to facilitate the notification, accounting, and distribution roles.

Note: All allocated categories to BUEs are divided 50 percent back pay, and 50 percent liquidated damages (this distinction will impact your taxable liability). The -DOT's matching portion of certain taxes is being paid on your behalf but will not be displayed in the amount of the check you will receive.

D) Compensatory Time/Overtime (CT/OT) Back Pay (\$451K): The Settlement distribution provides for employees who were miscoded as exempt from FLSA to receive a payment if they were not already paid directly by the DOT. These amounts have been calculated by reviewing the -DOT's records and other related data.

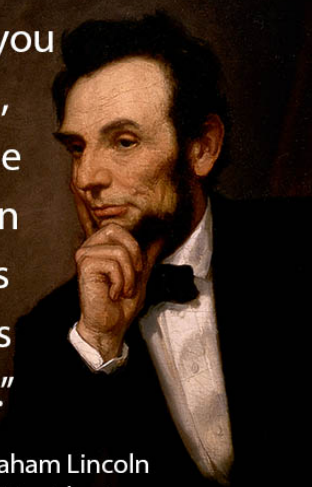
E) Suffered or Permitted Overtime/Induced Overtime (SPOT/IOT) (\$2.19M): BUEs who provided the Union's lawyers with claims/damages information, will receive an allocation based on 60% of the net settlement fund amount available for distribution.

F) Suffered or Permitted Overtime/Induced Overtime (SPOT/IOT) Non-cooperating participants (\$27.5K): Non-cooperative participants who provided Snider & Associates with a spot/induced overtime damages affidavit, as reviewed and approved by Snider & Associates and the Union, will each receive \$2,500.

G) Conversion from FLSA Exempt Status (\$281K): 281 employees who were miscoded as exempt and provided Snider & Associates with a liability/exemption status survey are eligible to each receive \$1,000.

H) Compensatory Time Election (CTE) (\$5K): The Union paid forced compensatory time damages of \$500 to employees who provided Snider & Associates with compensatory time non-election forms as reviewed and approved by Snider & Associates and the Union. Half of the payment was allocated to exemption status overtime damages back pay and the other half to liquidated damages/interest for exemption status damages. Non-cooperating participants are not eligible for these payments.

I) General/Quarterly (\$742.8K): The remaining Settlement proceeds will be equally distributed amongst all eligible BUEs, based on the number of quarters during the applicable grievance timeframe. Eligible BUEs are those employees who provided Snider & Associates with a SPOT/IOT damages affidavit as reviewed and approved by Snider & Associates and the Union. Non-cooperating participants are not eligible for these payments.



"If any man tells you
he loves America,
yet hates labor, he
is a liar. If any man
tells you he trusts
America, yet fears
labor, he is a fool."

Abraham Lincoln
U.S. President



The Union is Not Always Required to Represent Non-Members

The U.S. Court of Appeals and the Federal Labor Relations Authority (FLRA) ruled that the Union has no duty of fair representation in cases where employees have an appeal route provided by statute that does not require the Union's involvement. For example, employees may appeal suspensions of more than 14 days, demotions, and removals to the U.S. Merit Systems Protection Board without involvement of the Union. Likewise, employees can challenge illegal discrimination, denials of workers' compensation benefits, or retaliation for whistle blowing without the assistance of the Union. In these areas, employees are provided access to appeal mechanisms through statutes. Wherever employees have a statutory appeal option, AFGE's authority is not exclusive; therefore, AFGE is not legally required to provide representation. AFGE may exclude non-members from contract ratification votes.

Assertion of Weingarten Rights

Under 5 USC 7114(a)(2)(B), agencies are not required to inform employees of their right to union representation if they inform their employees annually of their Weingarten rights as required under 5 USC 7114(a)(3). Recommend BUEs respond with the following statement if they believe they are entering a formal meeting that may include an investigation and possible discipline.

Weingarten Statement

I believe this discussion could lead to my being disciplined. I therefore request my AFGE representative or officer be present to assist me at the meeting. I further request reasonable time to consult with my AFGE representative regarding the subject and purpose of the meeting. Please consider this a continuing request; without representation, I shall not participate in the discussion. I shall not consent to any searches or tests affecting my person, property or effects without first consulting with my AFGE representative.

Membership - You get a voice on Capitol Hill by Joining AFGE

Without Union members, you have no voice and no advocate. With AFGE, you are part of a strong Capitol Hill lobby. Lobbyists employed by AFGE National, the largest Federal employee Union, work with other organizations to defend our pay, benefits and job security. Through lobbying, AFGE has saved jobs and stymied adverse legislation from passing. AFGE strengthens our voices through a powerful grass roots lobby. The more you participate at the grass roots level, the more likely we will win the fight.

AFGE Members Get Access Membership Benefits

Members have access to college scholarships, college test preparation discounts, insurance savings, free budget and credit counseling and 10-15% discounts on almost everything. Visit www.afge.org or call 1-888-844-2343 to learn more. A benefits flyer can be found at:

<https://www.afge.org/globalassets/documents/flyers/afge-membership-flyer.pdf>

The Rehabilitation Act of 1973

Makes it illegal to discriminate based on disability in Federal jobs and in programs or contracts receiving Federal funds. The standards for determining employment discrimination under the Act are the same as those used in the Americans with Disabilities Act. Although the DOT's Office of Civil Rights has local jurisdiction, you can work through the Union to settle the matter as a reasonable accommodation in many cases.

Contact your Union Representative

Union Office	Name	E-mail
President	Eugene Johnson (FMCSA)	afge3313president@gmail.com
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Visit our Website - <http://www.afge-local3313.org/>

