



# Coalition of Labor Union Women

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## 2017 Issue Brief

## 115<sup>th</sup> Congress

### Official Time is in the public interest

**CLUW 2017 Legislative Request: CLUW calls on House and Senate lawmakers to reject any attempts to erode or otherwise diminish the ability of management and labor to negotiate the appropriate use of official time consistent with current statutory limitations. This includes free standing bills on this issue as well as other legislative efforts such as defunding amendments to appropriations measures.**

**Overview:** Official time is negotiated between management and federal labor unions and allows for elected federal employee union representatives to engage in representation responsibilities on behalf of employees in their agency collective bargaining units.

**Background:** By law, federal employee unions are required to provide representation for all employees in units that have elected union representation, even those who choose not to pay dues. Federal employee unions are also forbidden from collecting any fair-share payments or fees from non-members for the services which the union must provide by law. In exchange for the legal obligation to provide the same services to those who pay as well as those who choose not to pay, the Civil Service Reform Act of 1978 allows federal employee unions to bargain with agencies over official time. Under this law, federal employees who serve as union representatives are permitted to use official time to engage in negotiations and perform representational activities on duty status.

These legally permitted representational activities are limited to:

- Providing federal workers with a voice in determining their working conditions;
- Promoting efficiency and productivity by bringing critical rank-and-file issues directly to the attention of agency leadership for resolution;
- Providing an independent pathway for critical information to reach the attention of Congressional members and committees to assist in oversight responsibilities;
- Creating fair promotion procedures that ensure that selections be based on merit, so that employees may advance their careers based on objective criteria;
- Setting processes that protect employees from on-the-job hazards, such as those arising from working with dangerous chemicals, munitions, or radioactivity;
- Enforcing protections from unlawful discrimination in employment;
- Protecting whistleblowers from management harassment or retaliation; and
- Participating in improvement of work processes that save the American taxpayers hundreds of millions of dollars.

**The finer points of the law:** The law provides that the amount of official time that may be used is limited to that which the labor organization and employing agency agree is reasonable, necessary, and in the public interest. As pointed out in a Congressional Research Service report, "(a)ny activities performed by an employee relating to the internal business of the labor organization must be performed while in a non-duty status."

Activities which may not be conducted on official time include:

- solicitation for membership;
- internal union business;
- elections of officers;
- any partisan political activities.

**Tracking the Appropriate Use of Official Time:** Above and beyond local management involvement on a day-to-day level, to ensure its continued reasonable and judicious use, all federal agencies track basic information on official time, and submit it annually to the Office of Personnel Management (OPM), which then compiles a government-wide report on the amount of official time used by agencies. According to the latest OPM data on official time use, in Fiscal Year 2012 (FY12) the total amount of official time used per bargaining unit employee was only 2.81 hours! Indeed, lawmakers of all political stripes have supported official time for some 50 years because it is a cost-effective way of providing taxpayers with some level of protection from corruption, abuse, or just plain incompetence by otherwise unaccountable managers.

**Official Time = More Efficient and More Effective Government:** Through official time, union representatives are able to work together with managers to use their time, talent, and unique in-the-trenches perspective to make our government work even better. Gains in quality, productivity, and efficiency, year after year, in department after department, simply would not have been possible without the reasonable and sound use of official time. Here are just a few examples of how official time results in taxpayers savings:

- When workers and managers have a formal yet cooperative process by which to communicate, workplace problems that would otherwise escalate into costly litigation can be dealt with more promptly, more efficiently, and more effectively.
- When official time is used to bring closure to workplace disputes between the agency and an employee or group of employees, agencies avoid more costly and disruptive legal processes, such as EEOC complaints, Merit Systems Protection Board cases, or even litigation in federal courts.
- When official time is used for joint labor-management activities that enhance operational mission-enabling issues, including activities like designing and delivering joint training of employees on work-related subjects or introducing new and better work methods, the implementation is smoother and faster. A case in point is the Department of Defense (DOD), where labor and management worked together to develop a performance management system that will result in significant increases in productivity and efficiency throughout the DOD.

**Conclusion:** Official time under the Federal Service Labor-Management Relations Statute is a longstanding, honored, non-partisan tool that gives agencies and their employees the means to expeditiously and effectively harness employee innovation and know-how into mission-related challenges of an agency, as well as to bring closure to conflicts that arise in all workplaces. It has enjoyed bipartisan support for decades. Overseen by the agencies themselves on a day-to-day basis and by the Office of Personnel Management in an aggregated way, official time is efficiently used as provided by law, and exclusively for the purposes specified in statute.