



National Federation of Federal Employees, IAMAW, AFL-CIO



NFFE-IAM Opposes Bill to Reduce or Eliminate “Official Time” (H.R. 122)

Position: The inappropriately titled “Federal Employee Accountability Act” (H.R. 122) is a misguided bill that would eliminate federal employees’ statutory rights to official time for collective bargaining and to Federal Labor Relations Authority (FLRA) determination of the official time to be allowed for work in FLRA proceedings. This would unnecessarily lead to enormous waste of time and resources. The NFFE-IAM strongly *opposes* H.R. 122.

Under federal law, federal employee unions are required to provide representation for all employees in their bargaining units, even those who don't pay dues. Federal employee unions are forbidden from collecting any payments or fees from non-dues paying members for the services to which they are legally entitled. In exchange for the legal responsibility of providing services to those who pay as well as those who refuse to pay, the Civil Service Reform Act of 1978 incorporated the concept of “official time.” (5 U.S.C. § 7131.) Federal employees who serve as union representatives are permitted to use official time to perform representational activities during normal duty hours for all employees, regardless of membership status.

The official time law provides three separate rights: first, a right to use official time for collective bargaining; second, a right to have the FLRA determine the amount of official time that will be allowed for FLRA proceedings; and, third, a right to negotiate agreements providing official time for both collective bargaining and other representational duties—such as investigating and pursuing employee grievances, participating in labor-management forums under Executive Order 13522, and representing federal employees in discrimination cases. Under the third provision, official time is limited to the amount that the labor organization and employing agency agree is reasonable, necessary, and in the public interest. If agreement is not reached, the Federal Service Impasses Panel (FSIP) resolves the matter. Contrary to an often-heard misconception, the law prohibits, and always has prohibited, use of official time for internal union business.

H.R. 122 would eliminate the first two rights described above. As a result, *all* official time for bargaining and other representational duties would have to be established through labor-management negotiations, with disagreements resolved by the FSIP. This would be inefficient and wasteful.

First, the FLRA, not the FSIP, is in a better position to determine efficiently and accurately the amount of official time that should be allowed for the FLRA’s own proceedings. Second, because collective bargaining is a core legal obligation, the FSIP almost certainly would allow official time needed for it, if agreement were not reached. In such a case, the FSIP would have two choices. It could try to predict the time that the parties might need for bargaining, which would require wasteful return to the FSIP if the prediction were too low. Or, the FSIP could rule that, for whatever amount of time the parties actually engage in collective bargaining, official time will be allowed in that amount—which would achieve what the statute says now, but only after waste of time. Third, even if the FSIP were to allow less official time than labor and management actually need to complete collective bargaining, this would mean that bargaining would have to be finished during the union representatives’ non-duty time—evenings and weekends. This would be inefficient—and expensive, to the extent managements’ representatives would be entitled to overtime pay for these evening and weekend bargaining sessions. For all these reasons, NFFE-IAM strongly opposes H.R. 122.