



May 3, 2005

2005 EMPLOYEE SURVEY MANAGEMENT PLEA

Dear NTEU Member:

As you know, NTEU has pulled its support from this year's annual employee survey after IRS management made a number of unilateral changes to the survey. I detailed these changes in an earlier message to NTEU members available on the Members' Page of the NTEU web site.

IRS management has nonetheless decided to move forward with the survey and is now calling it an "Employee Engagement Survey." In light of NTEU's opposition to the survey, management also is scrambling for ways to encourage you to take the survey.

Lately, I have seen that several managers are personally appealing to employees in their area to participate in the survey to "help them so they can help you." But one of NTEU's biggest frustrations with the annual survey is that top IRS management continues to ignore the real feedback you have given them through narratives and continues to promote and reward mid-level and front-line managers who receive low scores on the annual survey. The results of the survey mean little to most managers and two-thirds did not hold group meetings to review survey results for their area. I can think of no reason why we should participate in a sham survey that only elicits meaningless results.

Employee satisfaction is supposed to be one of the three key components by which the IRS measures its overall effectiveness. It is clear to me that employee satisfaction, at the moment, is no longer relevant to IRS management, and I will not play along with the notion that it is. You do not have to either. Just say NO to the survey.

Although it was with some regret that I pulled NTEU's support of the survey this year, given the union's long-standing support of such an effort, your chapter president and I continue to ask that you choose not to complete this year's survey. The survey is entirely voluntary and by choosing not to complete the survey you will help send a message to IRS management that you are not engaged and supportive of the current state of affairs.

Sincerely,

Colleen M. Kelley
National President

May 10, 2005

MEMORANDUM

TO: IRS Chapter Presidents

RE: Survey Matters

I want to thank all of you for forwarding to me the many management e-mails and other communications about the Survey. As we can all see, management's messages range from virtually begging employees to take the Survey to various "inducements" such as 59 minutes of official time and raffles. I find it ironic that managers perceive that they will be adversely impacted if their employees do not participate, but there is not a word out there about managers being worried that they will be impacted if their employees' low survey scores go ignored for years. I cannot recall when I have seen management scramble as much as it has been over the last week. Had they put this kind of energy into working the Survey data, we would not be in the mess we are in today.

In any event, I want to share two memoranda. The first is a memo from John Dalrymple to me in which he alleges that NTEU was told of these changes months ago. I am tempted to respond by simply pointing out how often management puts forth that particular excuse only to be proven wrong. But, let me share some of the facts based on minutes of various management meetings that were sent to me. Apparently, once the management moratorium rendered the Service-wide Partnering Counsel (SPC) virtually useless, management had meetings with a mixture of management and NTEU chapter program leaders merely to discuss administrative matters. On November 11, 2004, this group was informed that the Commissioner and the two Deputies had made certain decisions to change the Survey process. No word of this change was ever sent to me pursuant to the Article 47 obligation to notify the NTEU National President of proposed changes nor given to Frank Ferris in his role as the co-chair of the SPC. Indeed, Frank was in almost daily term negotiation discussions with the IRS throughout November, December, January, and February where the union's plans for the future of the Survey process were discussed, but management never uttered a word about the unilateral changes they had already made through a revised contract with Gallup. Moreover, management served notice of over 50 other proposed midterm changes in early January and April without including any mention of Survey changes then. It does seem that the members of this committee were given some information that then appeared to regularly change, but that hardly qualifies as notice to NTEU.

The second attachment is a copy of a letter I sent to Beverly Babers explaining our position on our right to post our material about Surveys anywhere management does. Essentially, under existing arbitration precedent, if management uses a space to post official

material, it becomes part of the “official bulletin board” system under Article 11, Section 4. I have also explained to Ms. Babers the arbitrator precedent supporting our right to post material which is critical of management and the likely reaction should management deny our right to post and force this dispute out among taxpayers and other building occupants.

While it was my hope that we would settle our Survey differences quickly once NTEU demonstrated that it was going to stand firmly against management’s unilateral changes and efforts to manipulate scores, that does not appear to be the case. In all likelihood, this dispute is going to serve to show management how NTEU is going to react now that management has gutted the partnership process and left only traditional collective bargaining mechanisms to deal with problems.

Over the years as various cooperative effort programs have been adopted by IRS and NTEU, they have all ultimately unraveled because some key managers forgot what it is like without a cooperative relationship with their employees. They concluded that management was giving away too much to the employees and their union through any cooperative efforts, and assumed that they could just terminate those efforts, reassert some of their formal “legal rights,” and NTEU would not change the way we deal with them. In each case, we reignited cooperative efforts once we showed management that they were not “giving” us anything by working as partners. I certainly never considered cooperative efforts some “act of generosity” by management. Like any process, it flows both ways, and it is where parties create the classic “win-win” solutions to problems and reduce the need to use more traditionally adversarial methods.

Colleen. M. Kelley
National President

Attachments



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

May 2, 2005

Ms. Colleen M. Kelley
National President
National Treasury Employees Union
1750 H Street, N.W.
Washington, D.C. 20006

Dear Ms. Kelley:

This responds to your separate letters of April 27, 2005, to Commissioner Everson and to Beverly Ortega Babers, Chief Human Capital Officer, regarding National Treasury Employees Union's (NTEU) decision to withdraw its support for the 2005 employee survey. As you know, the Internal Revenue Service and the NTEU share a proud tradition of collaboration and consultation with respect to the annual survey. I was, therefore, surprised and disappointed that NTEU chose to opt out of the 2005 survey. NTEU's continued support of this vitally important employee program would have been especially meaningful at this point in time as the IRS moves to leverage its resources to meet critical enforcement goals and provide the best possible service to taxpayers.

We have every confidence in the dedication of our employees to be fully engaged in businesses designed to meet IRS strategic goals. While you have asked that we not conduct the survey at this time, we are convinced that delaying the survey's launch date would likely impact our ability to accurately measure and institute timely enhancements designed to promote employee engagement.

The IRS will, therefore, launch the annual survey today as planned. We are taking steps to reprint the survey posters and make other adjustments to remove references to NTEU's co-sponsorship. As IRS's employees are both our greatest resource and most important stakeholders, we believe it is in our mutual interest for them to be a part of the 2005 survey.

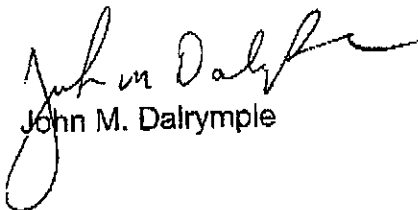
I do want to respond to several issues addressed in your letters. On December 1, 2004, we provided detailed information to Howard Schwinimer of NTEU's national staff explaining the major anticipated changes to the 2005 survey. We explained our interest in streamlining the survey process to allow for greater analysis both of prior year accomplishments and current year results. Such analyses would be used as a guide for future strategies and actions. We also noted that separate workgroup meetings would not be mandated; instead, survey results would be discussed as part of normal staff meetings. We also advised that there would be no verbatim questions. We would

have welcomed any comments by NTEU regarding the changes presented in December 2004.

We also wish to clarify that the October 2003 partnering "moratorium" alluded to in your letter involved only new partnering agreements that relate to or impact issues covered in the National Agreement or that may have cross-functional impact. Your contention that the moratorium somehow stymied the efforts of the Servicewide Partnering Council (SPC) with respect to the annual survey is misplaced. The SPC was certainly empowered to discuss any issues relating to the annual survey and would not have been affected by the limited scope of the moratorium. In fact, at least one SPC meeting in 2004 addressed issues relating to the employee survey. That discussion would have continued had NTEU not cancelled the last scheduled SPC meeting due to concerns about the management representatives at the meeting.

Finally, we remain fully committed to building effective labor relations throughout the IRS at every level based on a framework that bolsters a cooperative spirit and focuses on our respective needs and goals.

Sincerely,



John M. Dalrymple



May 5, 2005

VIA FACSIMILE AND FIRST CLASS MAIL

Beverly Ortega Babers
Chief Human Capital Officer
Internal Revenue Service
1111 Constitution Avenue, NW
Room 2413
Washington, D.C. 20224

RE: Bulletin Board Postings

Dear Bev:

I am following up on our conversation yesterday about permitting NTEU chapters to post material anywhere management posts material. Attached is the "decision" portion of a nearly 30-year old arbitration decision between NTEU and the IRS. The arbitrator was asked to determine what qualified as an official bulletin board such that the union was entitled to post its material on one-third of it. He ruled as follows:

"A review of the record indicates that management, indeed, allowed official information to be posted on the Intelligence bulletin board. ...The facts show that job notices were posted and that employer organization benefits were also posted. To allow these postings and to deny the union posting is tantamount to having an official bulletin board to which management has denied the union its contractual rights. ...The arbitrator must conclude that if a bulletin board – whether labeled "unofficial" or not – is placed in the Intelligence area, the union is entitled to one third of the space on the board." (Page 17)

This ruling has guided the parties for all these years and should remove any doubt about our right to one-third of any area in which you are going to post material, such as Survey material.

I also want to point out that we have had several arbitration victories allowing us to post a wide range of material without violating the integrity and motive standards of Section 4E. In one such case, the arbitrator pointed out that as long as our material is truthful, it can be critical and reproachful in nature. (See NTEU Chapter 50 and IRS, Greensboro, NC, Arbitrator William Murphy, 1978.) I assume that it is based on this and several similar cases that have led your current staff to write in the IRS Annotated Agreement:

Beverly Ortega Babers
May 5, 2005
Page Two

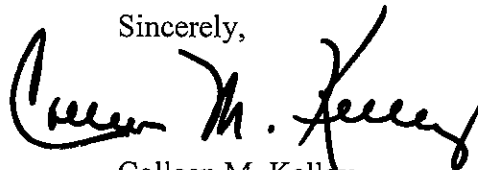
Supervisors must recognize that the union legally may, has, and will criticize management decisions in its publications. Inclusion of criticism in a publication will not, by itself, result in that document failing to meet the contractual standard. Generally, arbitrators have ruled, that to be prohibited, material must be a flagrant attack with little or no factual basis. Prohibiting material that is merely unpleasant, or is a matter of contrary opinion, unduly infringes upon the Union's right to freedom of speech. The "integrity" or "motives test" is taken from a prior Treasury Personnel Manual Chapter 711 that stated: "The posting or distribution of literature which in the judgment of management officials attacks the integrity or motives of any individuals, other labor organizations, Government agencies or activities of the Federal Government is prohibited." (See Article 11, Section 4E.)

Finally, I want to note that whenever this issue has been discussed at the national bargaining table, it has always been our impression that management realizes the benefit of allowing a wide range of material to be posted on internal bulletin boards under the Section 4E standard of not reflecting on the "integrity or motives of individuals." When we are denied the right to post internally, we nonetheless have the right to leaflet everyone who enters or leaves the building. This inevitably takes what would have been a purely internal dispute and shares it with taxpayers and employees of other agencies. Most seasoned labor relations managers realize that is far worse than allowing critical material on internal bulletin boards.

While I hope that we can settle quickly the larger dispute over the Survey, it could very well be that we are just in the initial stages of a fight that will last throughout the data collection, any effort to talk with employees, and the subsequent demand to collective bargaining over the results of the Survey. If so, I am sure that you expect us to live by the rules of contract and law as this dispute plays out. I expect the same of you and will not let any further illegal activity by management to go by without a response.

Please call me as soon as you have had a chance to read this and reach a decision.

Sincerely,

A handwritten signature in black ink that reads "Colleen M. Kelley". The signature is written in a cursive, flowing style.

Colleen M. Kelley
National President

Attachment

AWARD AND OPINION

In the Matter of Arbitration .
Between .
Internal Revenue Service .
Des Moines District .
and .
National Treasury Employees Union .
Chapter 4 .
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File : Bulletin Board Grievance
Date of Award : NTEU 75-32
August 28 1976
Arbitrator : Anthony V. Sinicropi
Hearing Date : June 23, 1976
Appearances : For Internal Revenue
Service - Thomas Borders
For NTEU - Frank D. Ferris
Grievant : Ralph Chiodo on Behalf of
Chapter 4 NTEU
Post Hearing Brief : Neither requested or
filed
Transcript : Submitted to the
arbitrator on July 7, 1976

5. Intelligence is a security area excluded from the unit and the Union has no rights to designate that area to have an official bulletin board.

6. No provable real benefit losses occurred.

7. If official announcements were posted on the Intelligence bulletin board, they were posted without Management's approval.

8. The Union is attempting to gain representational rights for Intelligence by its actions in this grievance.

IX. DISCUSSION

A review of the record indicates that Management, indeed, allowed official information to be posted on the Intelligence bulletin board. While it may not have to do so itself or encouraged or condoned it, it nevertheless had responsibility over the administration of that board and it can not be absolved from that responsibility. The facts show that job notices were posted and that employee organization benefits were also posted. To allow these postings and to deny the Union posting is tantamount to having an official bulletin board to which Management has denied the Union its contractual rights.

Other factors show that the board has, in fact, been used in an official manner. It resembles other official boards except for a sign stating that it is unofficial. Even then, the sign did not appear until at least mid-1975; a lengthy time after the bulletin board in Intelligence was deofficialized. It is the only nonofficial board on the premises and it included announcements of benefits from other employee organizations.

Benefit losses (i.e., job postings) to employees also occurred. Testimony by two Union witnesses strongly support this conclusion. The fact that unit employees work in Intelligence on a regular basis for protracted periods of time; that nonunit employees can bid into unit jobs; and that the Union can represent Intelligence employees in nonunit matters also support the Union's claim.

In essence, it seems impossible to separate the Union's influence and/or rights on Intelligence bulletin board from other boards. The creation of a sign designating the Intelligence board as unofficial is an artificial designation which has no real meaning.

Despite all of these findings, neither the contract nor any other source of authority dictates that Management must maintain a bulletin board in Intelligence. The contract merely requires that Management has no less than nine (9) official bulletin boards. It may have more than that number but certainly no less. If it has more than nine (9), the Union is entitled to one-third of the space on each bulletin board, i.e., the first nine (9) and any in excess of that number.


The fact that Intelligence is in a nonunit area is of no concern but employees work there and Intelligence employees may benefit from Union announcements. Thus, the arbitrator must conclude that if a bulletin--whether labelled "unofficial" or not--is placed in the Intelligence area, the Union is entitled to one-third of the space on that board. To put it squarely ... a bulletin board is not required in Intelligence but if one is provided in that area it must be considered an official

bulletin board and the Union is entitled to one-third of the space. If Management elects not to have a bulletin board in Intelligence, it may opt to so act and the only requirement is that it has nine (9) official bulletin boards posted in reasonable places in the Des Moines Office.

X. AWARD

In accordance with the findings above, the grievance was determined to have been arbitrable. The disposition of the substantive aspects of the grievance should be implemented as indicated in the discussion above.

August 28, 1976
Iowa City, Iowa


Anthony V. Sinicropi
Arbitrator