



# **NEWS** RELEASE

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**For Immediate Release  
October 19, 2005**

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## **Independent Analysis of OPM Workplace Data Concludes That DHS Operating With Demoralized Workforce**

**Washington, D.C.**—An independent analysis of government survey data about the federal workplace shows that the Department of Homeland Security (DHS) has a seriously demoralized workforce which carries “significant implications for the department’s vital mission of protecting the nation,” said President Colleen M. Kelley of the National Treasury Employees Union (NTEU).

The analysis, by the non-partisan Washington-based Center for American Progress, is based on the views of some 147,000 federal employees from a variety of agencies, including more than 10,000 DHS employees, in response to questions posed by the Office of Personnel Management (OPM) in its Federal Human Capital Survey.

Among other serious issues, the Center cited as a critical factor in the department’s problems the continuing efforts by DHS to impose regressive personnel rules that would roll back employees’ collective bargaining, due process and appeal rights.

“Whatever one might think about the merits of these proposals in theory,” the Center said in its report, “it is painfully obvious that the enhanced administrative authorities that were granted to departmental administrators were handled poorly, not only to the detriment of DHS employees, but the public and in particular the taxpayers as well.”

**(MORE)**

## **DHS Employees Demoralized, Study Shows—Add One**

NTEU, which represents about 14,000 DHS employees in its Bureau of Customs and Border Protection has been leading the fight against the new personnel system and is serving as lead counsel in a federal suit. That suit has resulted in an injunction prohibiting major portions of the new regulations from being implemented.

President Kelley called the Center’s conclusions “tragic for the agency, its employees and the nation—but not at all surprising.” She emphasized that NTEU has been warning DHS that its actions in moving forward with this personnel system was having a strong detrimental impact on employee morale. This in turn, Kelley has repeatedly told the department and Congress, inhibits the ability of DHS to attract and retain the skilled and talented people this country needs for homeland security.

The Center’s report underscores the ranking of DHS as 29<sup>th</sup> among 30 federal agencies in a previous analysis of the same survey data last month by the Partnership for Public Service and American University. The Center analyzed the OPM data using two methods that took a broad look at employee responses to questions concerning their workplace satisfaction in a variety of measures—including leadership, use of their talents, reward for creativity and innovation, fair handling of workplace disputes, and others.

President Kelley has called on DHS leaders to scrap the new personnel system—key parts of it have been declared illegal as a result of NTEU’s suit—and to work with NTEU to develop a system that is fair to employees and the department, and that better serves the nation.

NTEU is the largest independent federal employee union, representing 150,000 federal employees in 30 federal agencies and departments.

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**For more information visit [www.CBPunion.org](http://www.CBPunion.org)**

**For a copy of the report, [click here](#).**

# **NTEU in the News:**

## **Selected Clips from the Media Coverage of NTEU's Second Legal Win Against the DHS Regulations**

*The following pages contain excerpts of news stories that were published from October 7-12. Generally, the opening paragraph of each story is included as well as those paragraphs that feature NTEU's position on the issue. In some cases, the complete story is available from the web site of the publication. Links to the sites are built-in to the electronic version of this document. However, some publications may limit access to subscribers or only make the stories available for a fee. In all instances, copyright remains with the original publisher.*

## **Judge rules against Homeland Security ([Associated Press](#))**

*Appeared in San Jose Mercury News, Business Week, Forbes, MSN Money, Sacramento Bee, The News Tribune (WA), San Francisco Chronicle, Guardian Unlimited, The State (SC), Kansas.com, Schaeffers Research, Myrtle Beach Sun, Kansas City Star, For Worth Star Telegram, Pioneer Press (MN), Monterey County Herald (CA), Wilkes Barre Times-Leader, Duluth News Tribune, Kentucky.com, Bradenton Herald, Centre Daily Times, Guardian Unlimited, Columbus Ledger-Enquirer, Macon Telegraph, Biloxi Sun Herald, Tallahassee.com, and San Luis Obispo Tribune.*

A federal judge ruled Friday against the Homeland Security Department in a labor dispute over proposed workplace rules that would reduce the power of labor unions at the department, which has 160,000 employees.

U.S. District Judge Rosemary Collyer said the department's proposal falls short because it leaves open avenues to unilaterally disavow lawful contracts. One provision embraced by DHS, the judge noted, says that homeland security managers may "take whatever other actions may be necessary to carry out the department's mission."

Declaring it was pleased with the judge's latest ruling, the National Treasury Employees Union said the department should work with organized labor to defend the nation rather than using its resources to defend "this unlawful system" of workplace rules.

October 7, 2005

## **Another Setback for DHS ([The Washington Post](#))**

A federal judge has ruled against the Department of Homeland Security for a second time in a case brought by unions that contend that proposed workplace rules would gut their collective bargaining rights.

U.S. District Judge Rosemary M. Collyer blocked the rules in August, saying the department's plan failed to provide for binding contracts. The department asked the judge to modify the injunction and let it move ahead with implementation of a new labor-management system.

Colleen M. Kelley, president of the National Treasury Employees Union, called the judge's opinion "a very significant win for all Homeland Security employees." NTEU lawyer Elaine Kaplan said the ruling showed that "there is no inconsistency between ensuring collective bargaining rights and protecting homeland security."

October 11, 2005

**Judge again blocks agency's new rules; Collective bargaining rights at stake**  
([Baltimore Sun](#))

For the second time in less than two months, a federal judge in Washington has blocked parts of new workplace rules at the Department of Homeland Security because recent revisions still do not afford workers collective bargaining rights.

Yesterday's ruling capped months of wrangling in federal district court over President Bush's first attempts to overhaul the inner workings of the government and root out what critics say are laziness and inefficiency.

The case is a critical one for federal workers and their unions. The rules would make government hiring, firing and pay more similar to those of corporate America. Congress will weigh this year whether other federal agencies can replicate this system, and officials at the Department of Defense, the government's largest employer, are in the process of writing similar rules.

Colleen Kelley, president of the National Treasury Employees Union, said that she hopes the ruling will encourage officials to return to the bargaining table and include workers in revising plans.

October 8, 2005

**Judge: Dept. Cannot Implement Personnel Rules** ([Congress Daily](#))

The Homeland Security Department cannot implement the labor relations policy into its personnel regulations until it reworks provisions deemed illegal, U.S. District Court Judge Rosemary Collyer said today. In August, after the National Treasury Employees Union sued DHS, Collyer struck down some provisions of the labor relations section of the department's personnel system, but upheld others. DHS asked for permission to implement the portions the judge approved, but Collyer said DHS must revamp the unacceptable portions before going ahead with the new system. Colleen Kelley, president of NTEU, said in a statement, "DHS can appeal this decision, but trying to impose an unjust and illegal system is not the answer. At this point, any responsible employer would sit down with its employees and work this out."

Oct. 7, 2005

### **District court keeps MaxHR injunction ([CyberFeds](#))**

U.S. District Judge Rosemary Collyer Friday rejected the Department of Homeland Security's request to narrow an injunction blocking its implementation of its proposed MaxHR personnel system. NTEU v. Department of Homeland Security, et al., 105 LRP 48732 (D.D.C. 10/07/05).

The agency's proposal "falls short because it leaves open other avenues whereby DHS could unilaterally and without recourse disavow lawful contracts," the judge ruled in dismissing the agency motion.

Elaine Kaplan of the National Treasury Employees Union, the lead union opposing the DHS personnel system, said Collyer could allow the DHS to "go ahead with MaxHR while the case is on appeal, ask the court to expedite the appeal process, or allow the appeal its normal course. This would probably take a year to get a decision."

The agency also has the option of promulgating new regulations with the unions that would comply with the court's decision, said Kaplan, senior deputy general counsel for the union.

October 7, 2005

### **Judge blocks DHS from proceeding with personnel system ([Federal Times](#))**

A federal judge has denied the Homeland Security Department's request to proceed with the parts of its labor-management system that she didn't specifically declare illegal in August.

In an Oct. 7 ruling, U.S. District Judge Rosemary Collyer in Washington said Homeland Security and the Office of Personnel Management, which together crafted the new personnel system, failed to show in its request how the department could move forward with new rules governing collective bargaining agreements and labor-management disputes while ensuring meaningful collective bargaining.

"How many more taxpayer dollars is DHS going to throw away defending this unlawful system? DHS should set this aside and work with us on the critical priorities facing this nation," said Colleen Kelley, president of the National Treasury Employees Union. "Our ports and borders are understaffed, employees are not receiving the training necessary to do their jobs and incoming cargo is not being inspected. That is where our time, efforts and resources should be directed."

October 7, 2005

## **Judge rejects DHS attempt at revising personnel rules ([GovExec](#))**

A federal judge ruled Friday that the Homeland Security Department's labor relations reforms cannot go forward, despite an attempt by the department to remove portions of the proposal previously ruled illegal.

Rosemary Collyer, a judge for the U.S. District Court for the District of Columbia, told DHS that its revised labor relations scheme did not go far enough in providing collective bargaining rights--specifically binding contracts--for department employees.

Collyer's ruling comes in response to a lawsuit brought by the National Treasury Employees Union, the American Federation of Government Employees and three other labor unions.

"DHS can appeal this decision, but trying to impose an unjust and illegal system is not the answer," said NTEU President Colleen Kelley. "At this point, any responsible employer would sit down with its employees and work this out. Barring that, NTEU will fight to the finish to protect the dedicated men and women who protect our country's ports and borders."

October 7, 2005

## **Judge again rules against DHS ([Federal Computer Week](#))**

The National Treasury Employees Union claimed another legal victory in a continuing court battle to block the Homeland Security Department from imposing new labor rules and pay regulations on the department's 180,000 employees.

Colleen Kelley, NTEU's president, held a press conference hours after the U.S. District Court for the District of Columbia issued a ruling favoring NTEU's position that the labor rules are illegal.

Kelley said DHS should set aside the new labor rules and pay regulations and "work with us on the critical priorities facing this nation," adding that ports and borders are understaffed, employees are not receiving the training necessary to do their jobs and incoming cargo is not being inspected. "That is where our time, efforts and resources should be directed," she said.

Kelley said DHS officials have spent two years crafting unnecessary changes in federal labor rules and pay regulations. "They are far overreaching in trying to fix problems that don't exist."

October 7, 2005

## **Federal Workers Win Again in DHS Court Challenge ([The New Standard](#))**

In a ruling hailed by federal labor unions as a key win for workers' rights, a district court judge rejected a Department of Homeland Security effort to sidestep an injunction that stopped the Department from implementing a personnel system that would not protect collective-bargaining rights.

In August, District Judge Rosemary Collyer put a halt to rules changing long-standing DHS personnel policy on the eve of their implementation over concerns that the regulations violated the Homeland Security Act (HSA), the law that created the Department.

Federal employee unions hailed the decision and expressed confidence that the legal win would provide leverage for a similar challenge to a Defense Department personnel system that parallels much of the Homeland Security program.

Terming the proposed personnel rules "unjust" and "illegal," National Treasury Employees Union (NTEU) President Colleen Kelley also warned that the Bush administration is seeking to destroy collective bargaining for federal employees. "Our longstanding offer to sit down and talk is still on the table," Kelley said in a statement. "The government's continuing refusal to negotiate is proof that these illegal regulations were designed to eliminate collective bargaining."

October 12, 2005

## **Collyer Reaffirms Original MaxHR Decision ([FPMI](#))**

U.S. District Court Judge Rosemary Collyer denied the Department of Homeland Security's bid to sever contested components from the MaxHR personnel system in an Oct. 7 ruling.

Collyer ruled on an amended version of MaxHR performance management aspects that affect collective-bargaining rights and an expansion of the Federal Labor Relations Authority's jurisdiction.

The National Treasury Employees Union has led a group of unions challenging the personnel system since it was announced.

"We won the injunction. Then the government came back and tried to limit the injunction and we won that, too....DHS should set this aside and work with us on the critical priorities facing this nation," said NTEU President Colleen Kelley.

Kelley said NTEU recognized the importance of DHS' mission and that the union remains willing to work with DHS to create a personnel system.

October 11, 2005