



**For Immediate Release**  
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**Contact: Dina Long**  
**(202) 572-5500**

## **NTEU Suit Challenges Rules Allowing Agencies To Circumvent Merit Principles in Federal Hiring**

**Washington, D.C.**—In an important federal court suit filed today, the National Treasury Employees Union (NTEU) challenged the legality of federal regulations allowing government agencies to circumvent and undermine competitive hiring procedures that have served as the cornerstone of the merit-based federal civil service for more than a century.

The suit, filed in U.S. District Court for the District of Columbia, challenges Office of Personnel Management (OPM) rules covering the Federal Career Intern Program (FCIP)—a program implemented on an interim basis in 2000 and made a permanent hiring authority for agencies upon final OPM regulations issued in 2005.

“Over the past several years,” said NTEU President Colleen M. Kelley, “the FCIP has become the hiring method of choice for many federal agencies, often at the expense of fair and open competition,” including, in some instances, by reducing opportunities for promotion for current federal employees.

Government-wide, agencies in fiscal 2001 used FCIP authority to hire about 400 employees; in fiscal 2005, the number had grown to more than 11,000. During the same period, the number of employees hired through competitive procedures declined by approximately the same number.

This includes use by both the Internal Revenue Service (IRS), which has begun filling such key positions as Revenue Officers and Revenue Agents using the FCIP; the Bureau of Customs and Border Protection (CBP), which since 2003 has used FCIP authority as its exclusive means of hiring new CBP Officers; and the Federal Deposit Insurance Corporation (FDIC), which has begun filling most of its entry-level positions using the FCIP.

**(MORE)**

## **NTEU Suit Challenges OPM Hiring Regulations—Add One**

The FCIP program was designed as a limited, special-focus hiring effort with the aim of providing structured, two-year training and development ‘internships’ as a strategic recruiting tool.

However, NTEU’s suit alleges, because OPM placed very few restrictions on the program, its use has increased so dramatically “that it amounts to a frontal assault on the competitive hiring examination process” as the primary method of hiring for competitive service positions.

Under FCIP, agencies are allowed to hire ‘interns’ for almost any entry-level position; these vacancies are not required to be posted for internal candidates, nor are they required to be posted on OPM’s external electronic job listings web site.

After those hired under FCIP authority serve a two or three-year ‘internship,’—in effect doubling or tripling the one-year probationary period for competitive hires—agencies may non-competitively convert those employees to permanent competitive status.

“Besides the longer probation, FCIP authority is attractive to management,” Kelley said, “because it allows agencies broad discretion to target recruitment narrowly—for example, at college campuses—and then to choose among applicants without having to conform to established rating and ranking procedures.”

The clear result, however, NTEU argues in its suit, is to undermine fundamental merit systems principles, which require that selection and advancement in the federal service be determined “on the basis of relative ability, knowledge and skills, after fair and open competition which assures that all receive equal opportunity.”

Civil service law allows for exceptions from competitive examination and selection rules only where “necessary” and “justified by conditions of good administration”—neither of which apply to FCIP as established by OPM.

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