

March 23, 2006

MEMORANDUM

TO: IRS Chapter Presidents

RE: Flexiplace Reporting Through SETR

SUMMARY: This is background information on the WebSETR flexiplace issue and what NTEU is doing.

Management recently announced that it was going to begin requiring employees to report through SETR how many hours they spent on flexiplace during the pay period. This is an issue that first arose last year and, after dealing with management at that time, we received the following e-mail message:

From: Cronin Rich
Sent: Thursday, December 09, 2004 10:28 AM
To: &HCO Embedded HR Directors
Cc: Guidt Terry P; Roberson Sharon S
Subject: New Flexiplace (Telework) Tracking Indicators in WebSETR
Importance: High

In reference to the December 1, 2004 memorandum (attached) on the New Flexiplace Tracking Indicators in WebSETR, please immediately suspend updating WebSETR for Telework codes pending further discussions regarding its use.

Further information and guidance will be issued as it becomes available. If you have questions, please call Lori Hart at (202) 283-1760.

Richard J. Cronin
Director, Personnel Field Services
OS:HC:PS

When we started to hear about this once again over the last week or so, we contacted IRS management to remind them of their previous commitment and received the following e-mail response.

From: Pabotoy Barbara [mailto:Barbara.Pabotoy@irs.gov]
Sent: Tue 3/14/2006 5:27 PM
To: Frank Ferris
Cc: Buggs Robert B; Riordan Daniel T; Cronin Rich; Patti Eanet
Subject: Flexiplace

Frank — in response to your concerns on flexiplace tracking, you are quite correct that this is a Service-wide initiative. You are also correct that this was discussed with NTEU in late 2004. However, as expressed then, the Service does not feel it has an obligation to negotiate over tracking flexiplace, as it is required by law, further the National Agreement already provides that the employees will provide the information, and we are utilizing an accurate and sensible means to collect the information. I realize that NTEU does not share this opinion, but this was expressed by my office through conversation and e-mails from a member of my staff, Mr. Robey Hatfield. The referenced e-mail from Rich Cronin was not due to lack of fulfilling our requirement to negotiate with NTEU over the issue, but to ensure an accurate and workable means was available to track this information. We now have that means.

While Mr. Cronin may have decided to postpone the previous implementation of this tracking system for the reason Ms. Pabotoy cites, that was never expressed to us. As far as we knew, our demands that this change be bargained were the cause. Moreover, we are unaware of any “law” which requires that flexiplace time be tracked, and we can find nothing in the National Agreement that requires employees to report this time hour-by-hour. Not surprisingly, Ms. Pabotoy was unable to cite either the statutory or contract provisions she is relying upon. Regrettably, this is typical of the exchanges that we have with management these days and the primary reason that the number of national grievances are skyrocketing.

It appears that nothing will stop management from implementing this change. As you can see, they are going to assert that the change is *de minimus*, or, if it is not, it is covered by the agreement. Even if that defense fails, they will rely on some yet to be identified statute.

I am considering filing a national grievance to not only address the obvious unfair labor practice (ULP) here, but also to pursue a Privacy Act violation. We have six months to file a ULP grievance, which gives us the option of bundling this unilateral change with others to file a “pattern and practice” charge and pursue a very strong remedy.

Please let Katherine Tijerina of the Negotiations staff know of any adverse impact employees’ encounter.

Colleen M. Kelley
National President