

Executive Order #13836

CBA, and other agency agreements with collective bargaining representatives, often make it harder for agencies to reward high performers, hold low-performers accountable, or flexibly respond to operational needs. Many agencies and collective bargaining representatives spend years renegotiating CBAs, with taxpayers paying for both sides' negotiators. Agencies must also engage in prolonged negotiations before making even minor operational changes, like relocating office space.

- 1) Agencies are to ensure employees are accountable for their conduct and performance on the job
- 2) must aim to reduce the cost of agency operations, including with respect to the use of taxpayer-funded union time
- 3) Agencies with at least 1,000 employees represented by a collective bargaining representative shall participate in the Labor Relations Group. Agencies with a smaller number may, at the election of their agency head and with the concurrence of the OPM Director, participate in the Labor Relations Group.
- 4) Agencies shall prepare a report on all operative term CBAs at least 1 year before their expiration or renewal date. The report shall recommend new or revised CBA language the agency could seek to include in a renegotiated agreement that would better support the objectives of section 1 of this order
- 5) Agency reports shall be deemed guidance and advice for agency management related to collective bargaining and thus not subject to disclosure to the exclusive representative or its authorized representative.
- 6) A negotiating period of 6 weeks or less to achieve ground rules, and a negotiating period of between 4 and 6 months for a term CBA under those ground rules

Executive Order #13837

Federal employees should spend the clear majority of their duty hours working for the public. No agency should pay for Federal labor organizations' expenses, except where required by law. Agencies should eliminate unrestricted grants of taxpayer-funded union time and instead require employees to obtain specific authorization before using such time. Agencies should also monitor use of taxpayer-funded union time, ensure it is used only for authorized purposes, and make information regarding its use readily available to the public.

- 1) Agencies shall strive for a negotiated union time rate of 1 hour or less
- 2) Employees may not engage in lobbying activities during paid time, except in their official capacities as an employee.
- 3) Employees shall spend at least three-quarters (75%) of their paid time, measured each fiscal year, performing agency business or attending necessary training
- 4) Any time in excess of one-quarter (25%) of an employee's paid time used to perform non-agency business in a fiscal year shall count toward subsequent fiscal years.
- 5) No employee, when acting on behalf of a Federal labor organization, may be permitted the free or discounted use of government property or any other agency resources (offices, meeting space, reserved parking spaces, phones, computers, and computer systems)
- 6) Employees may not be permitted reimbursement for expenses incurred performing non-agency business
- 7) Employees may not use taxpayer-funded union time to prepare or pursue grievances (including arbitration of grievances) brought against an agency under procedures negotiated
- 8) Employees may not use taxpayer-funded union time without advance written authorization from their agency
- 9) Any employee who uses taxpayer-funded union time without advance written agency authorization shall be considered absent without leave and subject to appropriate disciplinary action. Repeated misuse of taxpayer funded union time may constitute serious misconduct
- 10) As soon as practicable, but not later than 180 days from the date of this order, each agency shall develop and implement a system to monitor the use of taxpayer-funded union time to ensure that it is used only for authorized purposes; internal union business, lobbying, political activities prohibited.
- 11) Each agency shall submit an annual report to OPM on:
 - i) the purposes for which the agency has authorized the use of taxpayer funded union time, and the amounts of time used for each such purpose;
 - ii) the job title and total compensation of each employee who has used taxpayer-funded union time

- iii) the total number of hours each employee spent on these activities and the proportion of each employee's total paid hours that number represents
 - iv) the free or discounted use of government property, the total value of such free or discounted use
 - v) any expenses the agency paid for activities conducted on taxpayer funded union time; and
 - vi) the amount of any reimbursement paid by the labor organizations for the use of government property.
- 12) Each agency shall implement the requirements of this order within 45 days of the date of this order
- 13) Any agency that is party to a collective bargaining agreement that has at least one provision that is inconsistent with any part of this order shall give any contractually required notice of its intent to alter the terms of such agreement and either reopen negotiations and negotiate to obtain provisions consistent with this order, or subsequently terminate such provision and implement the requirements of this order, as applicable under law.

Executive Order #13839

The Federal Employee Viewpoint Survey has consistently found that less than one-third of Federal employees believe that the Government deals with poor performers effectively. Failure to address unacceptable performance and misconduct undermines morale, burdens good performers with subpar colleagues, and inhibits the ability of executive agencies to accomplish their missions. This order advances the ability of supervisors in agencies to promote civil servant accountability consistent with merit system principles while simultaneously recognizing employees' procedural rights and protections.

- 1) Employees should be retained based on the adequacy of their performance, inadequate performance should be corrected, and employees should be separated who cannot or will not improve their performance to meet required standards.
- 2) This order advances the ability of supervisors in agencies to promote civil servant accountability consistent with merit system principles while simultaneously recognizing employees' procedural rights and protections.
- 3) Supervisors and deciding officials should not be required to use progressive discipline.
- 4) Conduct that justifies discipline of one employee at one time does not necessarily justify similar discipline of a different employee at a different time
- 5) Agencies are not prohibited from removing an employee simply because they did not remove a different employee for comparable conduct.
- 6) Agencies should not require suspension of an employee before proposing to remove that employee
- 7) When taking disciplinary action, agencies should have discretion to take into account an employee's disciplinary record and past work record, including all past misconduct -- not only similar past misconduct.
- 8) Agencies should prioritize performance over length of service when determining which employees will be retained following a reduction in force.
- 9) Agency heads shall endeavor to exclude from the application of any grievance procedures negotiated
- 10) Agencies shall not agree to erase, remove, alter, or withhold from another agency any information about a civilian employee's performance or conduct in that employee's official personnel records