

November 19, 2007

Mid-Point Update On Collective Bargaining Negotiations Agency Positions at the Table On Major Issues

1. The agency is unwilling to create substantive rights for employees if those rights would restrict the discretion of the supervisor. See, for example, items 2-7 below.
2. The agency will not agree to treat all employees fairly and equitably, as they are currently required to do. For performance issues, the Agency will not agree to apply standards uniformly for all employees under the same performance plan. For disciplinary issues, the Agency will not agree to treat similarly situated employees in a similar manner.
3. Under the agency's proposals, a primary examiner can be fired for two patentability determination errors.
4. The agency is refusing to give junior examiners credit for their work when it is turned in. The agency says that junior examiners are responsible to make sure that their work is turned in with enough time to be reviewed and corrected if the examiners want credit for the work even though there are no guarantees if or when a supervisor will review the work.
5. The agency wants each supervisor to determine the appropriateness of an employee's dress in the workplace – 450+ different dress codes. The Agency wants supervisors to “encourage” employees to dress less casually, i.e., a new dress code. Supervisors' time would be far better spent making sure examiners' work is timely counted.
6. The agency does not want the supervisor to have to warn an employee that he/she is being questioned for possible disciplinary purposes, as they are currently required to do.
7. A recurring theme of the Agency is that the supervisors should not all be held to follow rules and apply standards fairly and uniformly because all 450 or 500 of them cannot be expected to make consistent decisions. This, in an agency in which all 5,500 or so patent examiners are expected to apply the patent laws and the MPEP in a consistent manner or face disciplinary action for not doing so.
8. The agency will not agree to provide private offices for employees GS13 and above, as they are currently required to do. In fact, it will not even agree to provide offices as opposed to cubicles or other arrangements.

9. The agency wants to limit POPA's interaction with its members by limiting our use of e-mail to contact the bargaining unit. Their position is that the bargaining unit should check the union website without any prompting from POPA.
10. In cases involving EEO issues, the agency wants to force employees to use the EEO process only. This means that much of the process would be out of the employee's or POPA's control.
11. For cases involving reasonable accommodations to assist employees in performing their duties, the agency wants to have up to nine weeks to provide an accommodation **AFTER** an employee has documented that he/she is disabled. In the meantime, the employee continues to suffer.
12. The agency does not want to allow employees to telework two days per week.
13. Management is refusing to commit to giving training time to primary examiners working at the Alexandria campus who are answering a disproportionate amount of questions due to the loss of significant numbers of primaries to the hoteling program.
14. The agency wants ground rules for mid-term negotiations that would hinder or prevent POPA from adequately representing employees' interests.