

The Professionals Guild of Ohio



PGO UNION NEWS

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Court Limits Anti-Union Executive Orders

The President, as head of a political party and as principal executive officer of the federal government, is in a position to influence public opinion and thereby to influence the course of legislation in Congress. One of the tools a President will use to dramatically influence public policy is his power to issue "executive orders."

Presidential executive orders are formal declarations of policy to be enforced through the subsequent actions of federal agencies. Often Presidents have issued executive orders with the intent of influencing public support in favor of similar policy changes to be legally enforceable in all or most states, either through an act of Congress or through the independent action of state legislatures.

For example, Executive Order 10925 was issued by President John F. Kennedy on March 6, 1961, requiring government contractors to "take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, creed, color, or national origin."

This executive order led the way for an amendment of the Ohio Civil Rights Act of 1959 to include the prohibition of religious discrimination, and later for the passage of the federal Civil Rights Act of 1964.

It was for the purpose of motivating further anti-union/anti-employee legislation by Congress and in various states that President Trump signed Executive Orders 13,836, 13,387, and 13,389, which included the following rules:

- The imposition of a 25 percent cap on the use of official time;
- The prohibition against employees' right to petition and communicate with Congress;
- The ban on the use of official time by union representatives to prepare and present grievances;
- The one-hour per bargaining unit employee formula to be applied to set an aggregate cap on the use of official time;





- The limitations placed on unions’ use of agency facilities, such as office space and computers;
- The exclusion of challenges to performance ratings and incentive pay from the scope of the negotiated grievance procedure;
- The limitation of performance improvement periods (PIPs) to 30 days, with agencies alone having the discretion to apply longer periods;
- The direction to agencies to press for the exclusion of removals from the scope of the negotiated grievance procedure; and,
- The prohibition against bargaining over “permissive” subjects.

Several federal employee unions joined together in filing a lawsuit, naming President Trump as the defendant, for the purpose of blocking the effect of the executive orders. On August 25th, a federal judge ruled in favor of the unions, holding that these nine provisions in the executive orders conflict with the original intent of Congress.

In the words of the judge: “While . . . the President has the authority to issue executive orders that carry the force of law with respect to federal labor relations, no such orders can operate to eviscerate the right to bargain collectively as envisioned” in the federal labor-management relations statute.

President Imposes Pay Freeze

President Trump announced he would cancel a scheduled 2.1 percent across-the-board pay increase for federal workers. Trump’s proposal could possibly set up a fight with Congress, which could overturn his action.

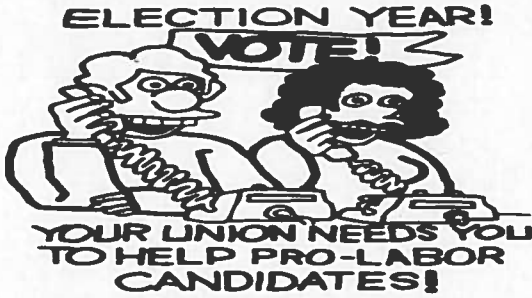
The President claims that he has the authority to propose an alternative pay schedule based on Title V of the U.S. Code, which allows the president to alter scheduled pay changes he deems inappropriate in light of “national emergency or economic conditions affecting the general welfare.” In a letter to the Speaker of the House and the President of the Senate, Trump wrote, “In light of our Nation’s fiscal situation, federal employee pay must be performance-based, and aligned strategically toward recruiting, retaining, and rewarding high-performing federal employees and those with critical skill sets.”

The Trump Administration’s 2019 budget proposal sought to freeze federal pay, but the Senate Appropriations Committee included a 1.9 percent pay increase. The House version of the bill excluded the increase. However, the two chambers are scheduled to meet and may override Trump’s move to cut pay. Without Congressional intervention, the President’s action would affect most of the 2.1 million federal employees around the nation, about 1.7 million of which live in areas close to Washington, D.C. The President’s initiative does not affect a 2.6 percent pay increase for the military.

Rep. Barbara Comstock (R-Va.) said she was strongly opposed to the President’s request. Comstock said that GOP support for federal workers should extend beyond ICE and homeland security officials. Dedicated work is also done by our civilian employees



“Could you reschedule my seminar on procrastination?”



at other national security agencies, the FBI, DEA and other law enforcement agencies, as well as the National Institute of Health where dedicated federal employees search for cures to diseases that drive up the costs of health care everyday,” said Comstock.

“President Trump’s plan to freeze wages for these patriotic workers next year ignores the fact that they are worse off today financially than they were at the start of the decade,” said AFGE National President J. David Cox Sr.

It is understood that the President is seeking to inspire actions by the states and local government, similarly freezing the pay of those employees.

Employee Rights Under the Americans With Disabilities Act

In 1990, Congress enacted the Americans with Disabilities Act (ADA). The ADA prohibits employment discrimination against qualified individuals with physical or mental disabilities. A disability under the Act is defined as “an impairment that substantially limits one or more major life activities, a record of such impairment, or being regarded as having such impairment.”

The ADA protects individuals with disabilities during the hiring process, and once hired, employers are required to provide workers with a reasonable accommodation in a working environment as long as it does not cause an undue hardship. Employers are required to provide reasonable accommodations when it comes to: ensuring equal opportunity in the job application process; enabling a qualified individual with a disability to perform the essential functions of the job; and making it possible for an employee with a disability to enjoy the equal benefits and privileges of employment.

Some examples of reasonable accommodations include the following:

- Making existing facilities accessible;

- Job restructuring;
- Part-time or modified work schedules;
- Acquiring or modifying equipment;
- Providing qualified readers or interpreters;
- Reassignment to a vacant position;
- Medical Leave.

The following would not be considered reasonable accommodations:

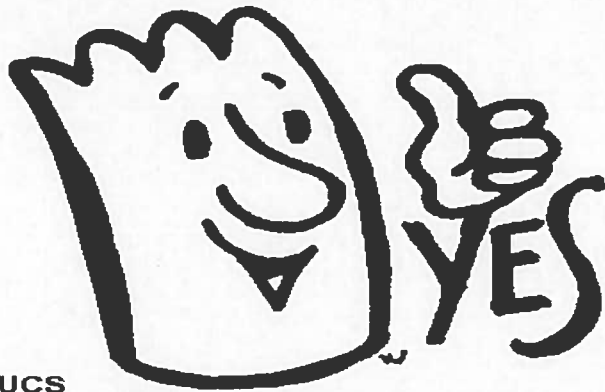
- Removing or eliminating an essential function of a job;
- Lowering production standards;
- Providing personal use items such as a wheelchair, glasses, or hearing aid if they are also needed outside of the job.

If you have a qualifying disability, in order to request an accommodation, your employer should know that you are experiencing problems because of said disability. The request does not have to be in writing, but it is always good to have documentation in case any issue arises. If the disability or need for accommodation is not obvious, the employer may request additional medical documentation in order to accommodate. An employer cannot, however, ask for documentation when the disability and need for accommodation are obvious or an individual has already provided sufficient information to establish that there is an ADA disability.

If you have a qualifying disability and believe you need a reasonable accommodation in your workplace, make sure to contact your union representative.



“Beavers, you were unconscious for fifteen minutes... I guess you know, that comes off your sick leave.”



UCS

Support For Unions On The Rise Thanks to Millennials

As we head into this Fall, there is some good news on the labor front: a clear majority of Americans like unions.

According to a new Gallup poll, 62 percent of those surveyed between August 1-12 of this year, expressed support for unions. This is a slight increase over last year's figure of 61 percent. Until last year, support of unions in the 60 percent range hadn't been seen since 2003.

Many more Democrats than Republicans support unions — 80 percent to 45 percent. A majority of Independents participating in the Gallup poll — 62 percent — also voiced their support for labor unions.

What is most encouraging is what younger people — ages 18-34 — say about unions. Their approval of labor unions is 65 percent, with just 24 percent of them expressing disapproval, and 11 percent saying they no opinion.

Looking at the Gallup poll regionally shows that 69 percent of respondents on the East Coast approve of unions, while 35 percent out west disapprove. The south came in at 32 percent disapproval.

Gallup has been polling support for labor unions since 1936, when support for labor unions stood at 72 percent. Later, in the 1950s, support for American labor unions rose to 75 percent. The high level of support continued right on through 1967, during which time union approval averaged 68 percent.

Support for unions reached an all-time low — 48 percent — in 2008, with the advent of the Great Recession. Interestingly, Gallup has found that

higher unemployment levels seems to increase dissatisfaction with unions. In 2016, 52 percent of respondents expressed their belief that labor unions are beneficial to the U.S. economy — that roughly equals the favorable numbers labor unions were pulling prior to the Great Recession.

Union Label Trick-or-Treat

Halloween is around the corner, and as you are shopping for treats, keep the following Union-friendly stores and products in mind!

Stores:

- *Giant Eagle*
- *Kroger*

Candy:

- *Baby Ruth*
- *Butterfinger*
- *Hot Tamales*
- *Mike and Ike*
- *Smarties*
- *Tootsie Rolls*
- *Russell Stover*
- *Godiva*

Have a safe and happy Halloween!



Wilson / UCS