

The Professionals Guild of Ohio



PGO UNION NEWS

May 2015

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Staples Feels Labor Heat

By Paul Henry

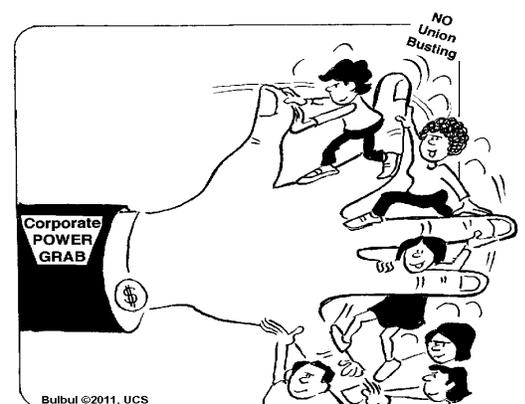
PGO Field Representative

Anti-union office superstore, Staples, may finally be getting Labor's message. As PGO has previously reported, Staples sought to take good union postal worker positions away from the United States Postal Service by having "mini-post offices" in its stores staffed by its own low wage, non-unionized work force. The labor movement, led by the American Postal Workers Union (APWU), stood up to this attempt to eliminate middle class jobs from the American workforce by calling for a boycott of all Staples stores.

Staples initially reacted by doing nothing. This Wal-Mart of office supplies thought it was immune to the labor movement's influence. Staples was wrong! After profits fell sharply, Staples appealed to the public by saying it was no longer going to open the "mini-post offices." Though it appeared Staples was reeling enough from labor's boycott to change its business plans, it was a ruse. Staples still maintained its status as an "approved shipper" meaning it would be competing with the USPS. APWU President, Mark Dimondstein, urged the boycott to continue, and it has.

Recently, Staples announced that it was considering a plan to close a thousand of its stores. Though the boycott has surely played a role in bringing this juggernaut to its knees, the fight is not yet over. Staples is attempting to acquire Office Depot, which recently acquired Office Max. This move to consolidate all office superstores into a single monopoly is being opposed by the APWU. If Staples is able to acquire Office Depot and Office Max, the choice of stores would be so diminished, that few choices to shop for office supplies would be left.

Even though it appears Staples is on the ropes, this move to monopolize the market shows it has not yet given up the fight. PGO urges you to continue the boycott, as it is doing, until Staples stops its dirty tricks and stops trying to steal middle class union jobs.



"The invisible hand of the market?????"

MCCS Management Required to Recognize Employee Experience

By Paul Henry, PGO Field Representative

Montgomery County Children Services (MCCS) was denying PGO Council 21 members experience credit for prior employment unless it exceeded at least a year of continuous service. These denials could cost workers a lot of money. A grievance was filed on a member's behalf and ultimately appealed to arbitration. Despite MCCS's insistence that outside experience should not be recognized, the arbitrator found its position indefensible and sustained the grievance.

During the investigation of the grievance and arbitration hearing, it became apparent that the county was relying on an outdated policy. MCCS cited a 2008 Promotions in Place policy that required all experience not acquired within the agency to only be counted if it exceeded a year. The problem was this particular policy had been replaced as early as 2010. Every replacement policy from 2010 on did not have the language that limited outside experience. PGO's collective bargaining agreement states only that experience is considered in determining whether a promotion in place is appropriate. It provides no limitation as was found in the 2008 policy.

The arbitrator sustained the Union's grievance ruling that a past practice based on terms which no longer exist cannot continue. This decision now allows those who have come to the agency with outside experience to actually get credit for it.



"Eat more pizza, doughnuts, and stop exercising. Just kidding! Boy, you should see your face!"

FMLA Now Covers Same-Sex Partners

By Nicole Jackson, Esq., PGO Field Representative

The Department of Labor issued a final ruling starting on March 27, 2015, that has expanded the definition of "spouse" under the Family and Medical Leave Act (FMLA). This means that same-sex spouses are now able take FMLA leave related to caring for their spouse.

Major features of the rule are two-fold. First, the Department of Labor has moved from a "state of residence" rule to a "place of celebration" rule for the definition of spouse under the FMLA regulations. The Final Rule changes the regulatory definition of "spouse" to look to the law of the place in which the marriage was entered into, as opposed to the law of the state in which the employee resides. A place of celebration rule allows all legally married couples, whether opposite-sex or same-sex, or married under common law, to have consistent federal family leave rights regardless of where they live.

Second, the definition of "spouse" expressly includes individuals in lawfully recognized same-sex and common law marriages and marriages that were validly entered into outside of the United States if they could have been entered into in at least one state.

While the rule allows for all married couples, both same-sex or traditional, common law or licensed, civil unions are not covered under FMLA. The exclusion for civil unions applied even between a man and a woman. Therefore, civil union partners cannot take FMLA leave to care for their partners.



"He's going after the cynical voter."

Know Your FMLA Rights

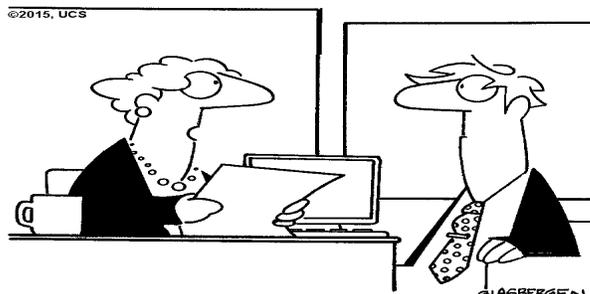
By Nicole Jackson, Esq., PGO Field Representative

Do you know your rights under the Family and Medical Leave Act (FMLA)? The FMLA went through eight years of debate, 13 votes, and two (Republican) presidential vetoes! Finally, in February of 1993, after years of lobbying efforts by unions, women's groups, and senior organizations, Congress enacted the FMLA. Amendments were added to the Act in 2008 and 2009.

The FMLA allows eligible employees to take up to 12 workweeks of unpaid leave each year for medical or family reasons, and up to 26 weeks to care for a family member who suffers a serious injury or illness while serving in the U.S. military. The unpaid leave may be taken on a continuous, intermittent, or reduced-schedule basis.

The FMLA covers both private-sector employers with 50 or more employees, and government employers, including federal, state, local agencies and schools. During absences, the employer must continue paying for the employee's group-health plan benefits, and upon recovery, employees must be restored to their original jobs or an equivalent job. An employer may not warn, suspend, fire, or deny advancement to an employee because of FMLA absences. Nor may the employer count the absences toward an attendance control policy.

To qualify for FMLA leave, employees must have worked at least 1250 hours during the 12 month period immediately preceding the date the leave is to commence. And, employees must get a certification from their doctor stating they have a serious physical or mental health condition. Intermittent leave is also available under FMLA. For example, an employee who suffers from a chronic ailment such as diabetes



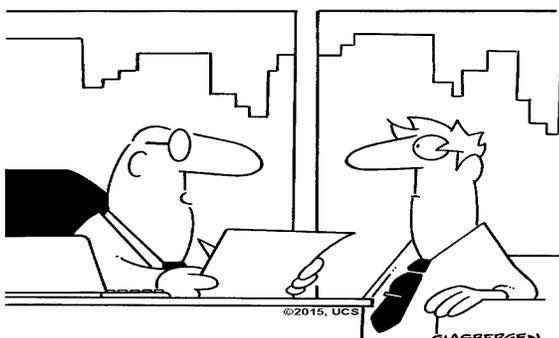
©2015, UCS
 "According to your job history, you were an Egyptian Pharaoh in a past life. Have you updated your leadership skills since then?"
 GLASBERGEN

may need intermittent leave throughout the year. Another example of intermittent leave includes attending chemotherapy one week a month, leaving work early because of migraine headaches, and missing days due to asthma attacks.

Most employers regulate FMLA leave by asking for certifications from a health care provider. An employer can request a certification without explanation if it makes its request within five business days of the employee's request for leave, or, in the case of unforeseen leave, within five business days of when the leave commences. The employer must also make the request directly to the employee or, absent a direct request, an employee does not have to furnish documentation. The initial request must be in writing, but a subsequent request may be made orally. The employer must allow the employee at least fifteen calendar days to provide the requested certification.

If a certification is inconsistent or incomplete (e.g., if the provider fails to estimate the probable duration of the leave), the employer may ask the employee to complete the form, but must allow the employee at least seven days to do so. The employer must state in writing what additional information is necessary.

Remember, if you fail to provide a certification, or if the certification does not verify that you are unable to work because of a serious health condition, your employer can disapprove a leave request. If you have any questions or concerns about your FMLA rights, contact your union steward or the PGO office.



©2015, UCS
 "You participate with enthusiasm during staff meetings and never hesitate to offer a creative suggestion or opinion. That has to stop."
 GLASBERGEN

PGO Election Underway

Ballots for the election of state PGO officers are in the mail! To exercise your right to vote for the people you want to lead your Union, you must fill out your ballot and mail it to PGO in the postage paid "secret ballot" envelope that is provided with each ballot. To be counted, your ballot must be delivered to PGO no later than June 15, 2015.

Caught in a Hostile Work Environment?

By Nicole Jackson, Esq., PGO Field Representative

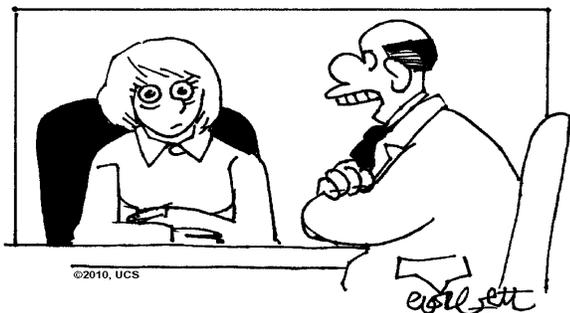
According to the Equal Employment Opportunity Commission (EEOC), a hostile work environment is a form of harassment. Harassment is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information.

The EEOC states that harassment becomes unlawful where: enduring the offensive conduct becomes a condition of continued employment; or, the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

It is important to note that petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of being unlawful. To be actionable, the conduct must create a work environment that would be hostile, intimidating, or offensive to a reasonable person. Not getting along with your boss, or being annoyed by your boss's criticism of your work are normally insufficient to rise to the level of a hostile work environment. A work environment that includes on-going offensive jokes, slurs, name calling, physical assaults, threats, intimidation, ridicule, offensive objects or pictures and interferences with work performance is likely hostile.

The first step in dealing with a hostile work environment is to inform the harasser directly that the conduct is unwelcome and must stop. You are encouraged to inform the harasser in writing so you have a paper trail of your efforts to stop the harassment. If you are unable to inform the harasser in writing, have a union steward there to witness your demands.

Keep a record of all incidents that create a hostile work environment in case you are forced to take legal



"Your work here is very good, but you are not perky enough."

action or get your union involved. Stand up to the harasser and do not allow yourself to be bullied in the workplace. Always remain professional but acknowledge that harassing behavior is creating a hostile work environment for you and/or your peers.

Have a Good Union Summer

By Paul Henry, PGO Field Representative

Even though it is not always the first thing you think of when going to the grocery store, what you buy and who you buy from can help or hurt the labor movement. Retailers such as Wal-Mart and Target are notoriously anti-union. If workers attempt to organize, the corporate bosses don't hesitate to shut the entire operation down to prevent a union from taking hold. Supporting retailers such as Kroger or Meijer shows support for the union shop stores (both are represented by the United Food and Commercial Workers). Not all items at the union retailers though are necessarily union friendly. This article provides some good choices.

If you are planning a cookout, reach for Ball Park, Boar's Head, Foster Farms, Hebrew National, and Oscar Meyer meats. Heinz, French's, and Hidden Valley offer various condiments for your barbecue. If you are thirsty Coke, Pepsi, Sprite, Minute Maid, and Bart's offer soft drinks. If you are looking for adult beverages, Budweiser and Miller offer union friendly beers.

Two food and beverage producers to avoid this summer include Yuengling beer and Driscoll's berries. Yuengling is a relative newcomer in the Ohio beer market, but its stance on unionized workers is a concern. Dick Yuengling, owner of the brewery and on Forbes list of 400 wealthiest Americans, has declared himself as a major supporter of so-called right to work. Driscoll's berries have recently come under fire for refusing to recognize workers' rights. The strawberry pickers created an independent farm worker union in 2013 called Familias Unidas por la Justicia (FUJ). Rather than working with the union, the berry farms which supply Driscoll have refused to recognize the union or meet with its leaders. Instead, thousands of dollars have been spent on PR firms and labor consultants in an effort to undermine the FUJ.

Supporting the foods that support the American union worker is just another small step one can take in solidarity with the labor movement. Have a safe and relaxing summer and thanks again for your support for PGO and the American worker.