



# News You Can Use

March 8, 2021

## National Federation of Federal Employees, Forest Service Council

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## From the President's Desk: Will we ever be partners again?

The past 4 years have been a very cold and inhospitable climate for federal employees and their unions. The Trump administration took aim at us in multiple ways, reducing our rights, interfering with union representation, and even interfering in ways in which agencies and unions worked together constructively. The Forest Service Council adjusted the best we could, with an eye to protecting workers' rights in the Agency. But we were surprised and dismayed with the extent to which the Forest Service backed away from collaborating with the Union. We thought the Forest Service valued partnership and collaboration with the union after more than 20 years of working together, but they sure dropped it like a hot potato when they were told they could.

Fast forward to January 21, 2021, and President Biden has now issued an Executive Order overturning the 3 worst Trump Executive Orders. The "anti-collaboration" Executive Order 13812 remains in place, although it permits collaboration when there is a tangible benefit. Surely, we anticipated that the change in administration would result in the Forest Service wanting to reestablish collaborative relationships in situations where it makes sense.

To that end, on February 1, I asked the Chief to start including the Council President on the National Leadership Council (as had been the practice for at least 15 years) and to initiate efforts to start working in Partnership again. Chief Christiansen's response was,

*"we are unable to do so at this time. EO 13812 has not been rescinded and we have not yet received direction to begin reinstituting labor-management forums or to reengage in pre-decisional involvement/ collaboration. So, for now, we must continue to operate within the limits of this EO."*

I was disappointed that the Agency is either not creative or motivated enough to find a way to do it, unless and until they get direction from USDA. The Executive Order does not prohibit collaboration; it only requires that there be a benefit. Our current Master Agreement already has provisions for a semblance of a Partnership Council.

Upon polling our Union leaders, returning to a collaborative working relationship with management was their top request for the Council to work on. We believe that *diversity* of opinion and *inclusion* of worker perspectives in agency decisions is the way to ensure an effective and efficient Forest Service. We will continue to work with the agency to ensure such diversity and inclusion.

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## Forest Service Council Updates

### National Actions to Represent You

Currently the FSC has been busy contacting Chief Christiansen in response to issues and concerns affecting FS bargaining unit employees. With the change of Administration in D.C., we are entering a more labor friendly climate, therefore the time is right to start once again moving forward to address workplace issues and concerns for all bargaining unit employees. Copies of many of these actions can be found in Pinyon here: <https://usfs.box.com/s/n7wel7543wfoltsf7i9s1xwxhis1w1ya>

**9/29/20: NFFE FSC Petition with FLRA to represent PPS employees.** As soon as the new Procurement and Property Services (PPS) centralized organization was created at the end of September, the Union filed a petition with the FLRA seeking to continue to represent employees in the new unit. We anticipate that joint stipulations in this case should be agreed to this month, with agreements that the employees in PPS should have union representation. This has taken longer than we anticipated, but for those who were previously represented by NFFE,

you continue to be represented if you have questions or concerns about your new working conditions. Many thanks to Aaron Kretzer for being the lead on this petition and to Chris Berry for coming out of retirement to assist.

**2/2: NFFE-FSC Step 1 Grievance on Notification to Job Applicants.** We withdrew Grievance based on assurances that applicants will be notified of the status of their applications in a timely manner. Article 16 requires notice of 2 days after the issuance of the referral list. This is important to ensure applicants can appeal HR decision, so let your Union know if you have not been notified. You must act quickly, as the grievance timeline is 30 days from when you find out that this has been violated.

**2/3: NFFE-FSC Request to negotiate new telework policy.** Almost 11 months of significantly fulltime (often mandatory) telework for Forest Service employees has demonstrated that telework can be a successful and productive work arrangement for many Forest Service employees. While many employees may be tired of working from home, many are eagerly anticipating that the draconian telework restrictions implemented in 2018 will be lifted. The Union believes that lifting such restrictions is in the interest of the Forest Service and the employees we represent. Doing so will include the ability of employees to maintain an appropriate work-life balance by reducing commute time, allowing them to use meal or break times to meet family needs, and reduce the need to take leave for home-related issues. Additionally, it will allow many employees the uninterrupted work time they need to focus on projects and work tasks, improving their efficiency and productivity. Management has stated that they don't believe they have to negotiate, so this will be a topic that we will work on in the coming weeks.

**2/4: NFFE-FSC COVID Information Request.** As a result of the Coronavirus pandemic, the Union has had significant concerns about ensuring that employees are not put in unnecessary risk of contracting the virus with the potential of serious side effects or death. To help mitigate those risks and assure that management is not taking actions that put people at risk, we negotiated two different MOUs, based on leaving offices due to COVID and then phased return to the workplace, respectively. This information request is a follow-up to those MOUs due to the Union's belief that the "return to work" MOU is not adequately being followed. We were surprised to see that more than 100 facilities are already in Phase 2, including 14 that are in Phase 3. Please contact a Union official, if you believe that your unit is reopening too quickly or not taking appropriate safety precautions.

**2/5: NFFE-FSC Step 1 Grievance on Supervisor Expectation Letters.** This grievance pertains to an ongoing violation occurring at various locations across the Forest Service, the most recent of which was dated January 29, 2021. Forest Service supervisors and managers are implementing "Supervisor Expectations" documents for employees in their units, largely on the advice of Employee Relations specialists in the units with multiple violations of the Master Agreement. This grievance was settled, with an agreement that Employee and/or Labor Relations will share the letters with the Union and with assurances that anyone who already has a letter will be able to grieve any actions taken as a result of the letter. (See Pinyon Box listed above to see Settlement Agreement.)

**2/9: NFFE-FSC Step 1 Grievance on COVID MOU Compliance.** This grievance pertains to an ongoing violation occurring at various locations across the Forest Service. The Forest Service has failed to comply with the negotiated agreement entitled, "COVID-19 Phased Return to Facilities" by failing to provide Council Vice-Presidents with notification of employee illness as required by the agreement. Management responded to this grievance granting relief and reminding all units of their obligation to notify the Union of COVID cases in the workplace.

**2/19: Meeting with Chief Council President.** Melissa Baumann and NFFE President Randy Erwin met with the Chief to discuss several ongoing issues, including the status of collaboration, the Forest Service attempts to

remove HRM employees from the bargaining unit, and issues surrounding the Fair Labor Standards Act grievance that NFFE has with the Agency.

**2/26: *Unfair Labor Practice regarding COVID policy.*** The Union first learned that the COVID Playbook from 2020 had been superseded by the COVID Safety Plan, when it was announced in the Leadership Corner email last week. This change in policy should have been negotiated with the Union. Management has reached out to us, and we are hoping that we will be able to begin to work with them more collaboratively on this important topic.

**2/26: *Unfair Labor Practice regarding Reference Check questions.*** The Forest Service has started using a standardized reference check form that includes the question, “Based on your direct knowledge or experience, has this candidate ever received a proposed disciplinary action as a result of misconduct, or received an unsatisfactory performance rating?” The Union objected to the implementation of the form and this question without it being negotiated with the union. We are concerned that it is being sent to people who never supervised the applicants, it includes proposed discipline, it includes *all* discipline, and there is no time limit. Additionally, this information should not be used by the hiring manager to determine who the best candidate is; instead it should be used by HRM to determine suitability. We have met with management to try to resolve this issue, and we are awaiting a response to a proposed resolution that we have offered.

**2/26: *NFFE-FSC Request to negotiate boots reimbursement.*** The budget modernization process that was implemented at the start of FY21 has caused issues with some units being very short on budget. We proposed a moratorium on denying boot reimbursements and a process for units to seek national level funding for field safety and fire boots with a goal of ensuring that there are not haves and have-nots who are similarly situated, but working on different units.

National Items in the Hopper. Stay tuned for more info!

- USDA Policy on COVID Safety
- Temporary Waiver for In-Person Recertification Training in First Aid / CPR / AED / BBP
- Admin Leave for Vaccines
- WO PPS Cutoff Contracting and Credit card Dates
- Direct Hire Authority Renewal

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## Local News of Note

***Safety First in Local 466:*** There is nothing more fundamental for Unions than protecting the safety of the workers we represent. Local 466 Steward Dwayne Wright recently reported a variety of unsafe conditions on the Daniel Boone National Forest to OSHA. The Forest was cited for the violations, and the Forest was forced to post the violations and fix the safety issues. KUDOS to Brother Dwayne for his proactive work on behalf of DBNF workers!

***Protection from Discrimination in Local 2165:*** NFFE Local 2165 along with the help of NFFE Attorney Suzanne Summerlin won a settlement for a member who filed an EEO disability discrimination complaint against their supervisor. This is a big win. Details cannot be shared, but an incredible amount of time was put into this to make sure that a fellow employee’s complaint didn’t go unheard.

***Career Ladder Backpay in Local 2138:*** NFFE Local 2138 grieved and settled a case where a bargaining unit employee in a career ladder position had not properly been promoted. Settlement included retroactive promotion and back pay with interest.

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## Grievance and Arbitration Corner

### Arbitration Cases

#### ***Local 5300 (LEI): 15-day suspension overturned***

Agency charged the employee with a variety of charges related to his participation in equestrian-related activities, including attendance at a non-profit organization's activities. This participation had previously been sanctioned and approved by the Forest Service over a period of many years. Originally the Agency proposed a 45 days suspension that was mitigated to a 15 day suspension.

**Arbitrator decision:** The Arbitrator determined that the Agency changed the rules on the employee without telling him, and then proceeded to discipline him for activities he had previously been approved to do. The discipline was overturned in its entirety.

#### ***Local 5300 (LEI): 14-day suspension overturned***

The Agency charged the employee with "Conduct Unbecoming a Law Enforcement Officer" with two specifications. The employee was a federal Law Enforcement Officer with an unblemished 30 year career, and the incident giving rise to the discipline occurred off-duty, although it was related to his agency Law Enforcement position. At arbitration, his supervisor testified that he did not think that the behavior was inappropriate, and he had never even seen the proposal for discipline. The arbitrator found that the investigation into the incident was biased and that ultimately, Employee Relations, not management, made the decisions in the case.

**Arbitrator decision:** The employee did not violate any Agency policy, and the discipline was overturned in its entirety.

#### ***Local 2165 (Chequamegon-Nicolet NF): Removal case pending decision***

In this case an employee was removed from the Forest Service for off-duty conduct involving a DUI. During the arbitration hearing, the Union argued that the employee's DUI did not significantly affect his ability to do his job, the Agency failed to assist him in any way, and the employee has been rehabilitated. The arbitrator's decision is expected sometime this month.

### Issues and Grievances Resolved

Local 1295 (Region 1): The Union was able to assist an employee in reducing a suspension from a proposed 14 day to 7 days for charges related to misuse of their government travel card.

Local 1968 (Region 6): An employee who was originally given an unsuccessful performance rating had that rating changed to Successful, due to a Union grievance that pointed out that the employee was not informed that his rating was going to be less than fully successful, and the fact that the supervisor was holding the employee to performance expectations that were not part of his performance plan. This case is part of an ongoing harassment/bullying case that was unsubstantiated in a HART complaint. But the Union knows that the supervisor is intentionally targeting this employee, and we are fighting several improper supervisory actions.

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## Know Your Master Agreement

Work Schedules and Leave seem to be where many misunderstandings of the rules occur. The Master Agreement contains specific negotiated language on these topics. Everyone is encouraged to read Article 18 Work Schedules and Article 20 Leave to be fully informed of your rights. Please reach out to your local Union representative if you

have any questions on what you've read. And if you have received a document with "Supervisor Expectations" or "Operating Procedures" that include instructions about work schedules and requesting leave, we encourage you to share them with your Union rep to be sure they comply with Article 18.

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## NFFE and IAMAW National News and Reports

[NFFE Seeks COVID Leave for All Federal Workers](#)

[After Years of Planning and Pleading, NFFE Moves Ahead with Bipartisan Firefighter/LEO FAIR Retire Act](#)

[NFFE Member Priorities Addressed on the Long Road to a New Presidential Administration and Congress](#)

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## What We Are Reading and Watching

[New information from CDC on Face Coverings](#)

[Biden Ousts All 10 of Trump's Union Busters from Powerful Labor Panel](#)

[Executive Order on Protecting the Federal Workforce](#)

[Mandatory COVID-19 Vaccinations in the Workplace: What Federal Employees Can Expect](#)

[Executive Order on Protecting the Federal Workforce and Requiring Mask-Wearing](#)

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## Find us Online

**Website:** <http://www.nffe-fsc.org/>

**Union Benefits Information:** Dues paying members may enroll in health, dental, vision plans offered through NFFE and Union plus, along with a range of other offers and benefits. <https://nffe.org/benefits/>

### **Facebook**

**Our Page:** <https://www.facebook.com/ForestServiceCouncil>. This is the official social media presence of the NFFE-FSC. Check here for announcements from the Council.

**Members Only Group:** <https://www.facebook.com/groups/NFFE.FSC/>. This is a group where union members can talk about issues affecting them in the workplace and make suggestions or ask questions about union representation.

**Officials Only Group:** <https://www.facebook.com/groups/NFFE.FSC.Officials>. This group is a place to get advice on cases union reps are working on. It is a private group, and invisible to non-group members.

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## NFFE- Forest Service Council (FSC) Officials

**Council President:** Melissa Baumann

**Council General Vice President:** Shawn Patterson

**Council Secretary Treasurer:** Renee Crawford

**Council Vice Presidents**

R1: Terri Anderson  
R2: Gerard Sandoval  
R3: Mark Pearsall  
R4: Shawn Stanford  
R5: David Alicea  
R6: Erin Kidwell  
R8: Derrick Miller  
R9: Robin McCartney  
R10: Nancy Soriano  
CCC: Brian Hickman  
Res: Val Nelson  
WO+det: Tanya Brevard

**Committee Chairs**

Civil Rights: Magdalene Luna  
Fire: Jonathan "Hoby" Miller  
Veterans: David Shanley-Dillman  
Safety: Randy Meyer  
Legislative: Lloyd "Buzz" Hettick  
Grievance: Nancy Soriano  
Negotiations: Shawn Patterson  
Recruiting: Andy Vanderheuel  
Training: Debbie Kaufman  
Communications: Erin Kidwell

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