

# N.A.A.E.

National Association of Agriculture Employees

## NEWSLETTER

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## **A Message from Our President**

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*Mike Randall*

Hi, Folks! We've been doing a lot of good union work and it is time to fill you in on what's happening.

First, while we have been productively engaging with Management under President Obama's Executive Order on Labor Management Relations—probably some of the most challenging but pleasant dealings with Management in my almost 30 years of union involvement—then there was an election and the other guys won. While I fully realize there are some of you who voted for the other guy for one or more of the many reasons that divide us into factions, from the perspective of the employee and employee representative the election of other guy is **not a good thing**.

Looking into the old union archives to see how we dealt with the phase change to employee unfriendly conditions took me to 2001 when George W. Bush and a Republican House and Senate came to power.

That look into the past was no help. At the Clinton to Bush transition, we were dealing with biggest donkey pit of a Chief of Labor relations we ever had. This bozo had us in 10 different national negotiations simultaneous with the sixth year of national contract negotiations. We also had 10 different ground rules negotiations for the 10 national negotiations all at the same time requiring an airplane trip for each. Needless to say it was hard to keep an eye on what was going on outside the union office let alone PPQ and the Country. Oh yes, the officers were about to be downgraded back to GS-9s too. Maybe it wasn't so great under Clinton?

The Congress of 2001 came loaded for bear with an anti-labor agenda. George W. Bush promptly cancelled Clinton's Executive Order 12871 forcing "Partnership Councils" on the Labor-Management relationship (maybe this was not a bad thing, as the Partnership Councils had Management and our Union at each other's throat—at

least we were able to negotiate for official time for representing our people at the Council.) After the E.O. was gone, there was nothing to replace it. Labor Management communications was lower than whale stuff.

What about that anti-union agenda? We were saved by 9/11. What an awful thing to save us! Immediately we were thrust into the national spotlight and the debate on the making of the Department of Homeland Security. We lobbied, we learned to write letters to Congress, we testified. Maybe we made a small difference. PPQ still was torn into two parts, one part stayed and the other part was shipped off to CBP. CBP Agriculture Specialists would get pay parity with CBP Officers (at the time GS-11) and they wouldn't have to carry guns (but I hear this may change in the near future.)

There were much more important issues than smashing unions and hurting employees on the mind of that 2001 Congress. There was an effort to have DHS adopt a completely different personnel system. We spent a lot of time on that, and that effort was repelled to a great extent. I think the Republicans forgot what they wanted to do to us before the 2002 midterms.

Here's a note to file on your notepad: in 2005 there was a backroom effort to restore customs agriculture inspection and move the people (and the User Fee money) back to PPQ. This effort was surprisingly led by the Republicans in the House Agriculture Committee. The effort failed. We got involved and went up to the Hill to talk with these folks. The CBP carny folks were right behind us to testify. That time, it was the Democrats who wanted to keep inspections and the inspectors in CBP. The Dems just wanted to fix CBP so it worked right and did not seem to care about the lessening significance of agriculture inspections in the foreign scenario. Politics make strange flower beds?

Now comes the **other guy** and the Republican Congress. We do not hope for another 9/11 or some catastrophe to distract them from their Agenda. We're going to need to be ready to fight. One of the things we've learned from fighting like the big unions (NTEU and AFGE) against DHS and bad ideas from Congress is that all the politicians have strategists and rely on playbooks. For the Republicans, a good place to get a view on their idea of the "world to come" is the Heritage Foundation—a conservative think-tank. We

found that Heritage ideas for putting together DHS were followed almost verbatim from a Heritage “bible” (as well as some writings from former Senators Lieberman, Hart and Cohen....and I’m still not talking to them!)

These “money saving” ideas are just too good to make up:

Move Meat inspection to FDA

Move Forest Service to Department of Interior

Move Federal Grain Inspection to CBP

End all farm Subsidies

Glad we didn’t make this list!

How about some “Employee Friendly” concepts:

Federal Employees make too much money compared to the private sector-these employees need a pay cut.

Make employees pay 5.5% of their salaries to “pay” for their retirement benefits—and without a raise to pay for the new tax.

Federal employees get too much sick and annual leave days—let’s cut that

Don’t think that meddling with the Affordable Care Act (Obamacare) isn’t going to gut your Federal Employee Health Benefits too.

Most private retirement systems don’t have a defined benefit pension. Get rid of FERS and the defined benefit—employees can make their own retirement with the stock market.

No more longevity pay increases (step increases) unless you are some high performer or a close friend of the manager. Employees will get in to a pay grade once and can’t expect an increase.

Kill official time for unions to represent unit employees.

Make it impossible for unions to collect dues.

Vastly curtail employees' due process rights in personnel actions.

**Again, these ideas are just too nutty to make up, and these are just some of them.**

How do we know what's in the playbook? We learned a lot from fighting the DHS takeover. We learned that many of these ideas are pulled verbatim from the writings of the Heritage Foundation—a conservative think tank that holds-sway on much of this right-wing agenda.

These folks can be found at <http://www.Heritage.org> . If you really want to have a good look at the “manifesto”, go to these two documents:

A Blueprint for Balance: AA Federal Budget for 2017

<http://thf-reports.s3.amazonaws.com/2016/BlueprintforBalance.pdf>

Blueprint for a New Administration: Priorities for the President

[http://thf\\_media.s3.amazonaws.com/2016/BlueprintforaNewAdministration.pdf](http://thf_media.s3.amazonaws.com/2016/BlueprintforaNewAdministration.pdf)

Pay particular attention to items under Agriculture and Office of Personnel Management—these topics will have the greatest effect on us as federal employees.

Now, all of the bad things brought up in these position documents may not come up in Congress, but it is a sure bet some issues will. Fighting these ideas will require group effort. Max effort, no punches pulled. We will be monitoring Congress for you and you should too. If you have never written a letter to Congress, it would be a good time to exercise your rights should any of these concepts come up for consideration in Congress. We will be happy to help you draft your letter. In the meantime, I will need to find a suit that provides about 5 more inches in the waist than the last time I travelled to D.C. with a purpose.

## ***What We're Workin' On***

Below you can see lists containing the wide-ranging issues we've been working on at the National and Regional levels—The Pre-Decisional Involvement mandated by President Obama's Executive Order on Labor- Management Relations and Official Notice Items. USDA PDI comes through our presence on the USDA Labor-Management Forum.

1/14/16	Official Notice- Biosafety section of the APHIS Safety & Health Manual-6 key elements
1/14/16	Official Notice- PPQ Form 591- Notice of Alleged Baggage Violation (pre-departure)
2/9/16	Official Notice-changes to (APW) Animal Product Worksheet
2/22/16	Official Notice- Tech Utilization Guidelines (TUG)
3/14/16	Official Notice-EzFedGrants System-cooperative Agreements and Grants Software
3/17/16	FYI Department's OHRM Transforming Hiring initiatives
3/24/16	Official Notice: Federal Employee Viewpoint Survey for 2016
3/25/16	Official Notice: Changes to the Inspection Process when dealing with CBI
3/31/16	Official Notice Formal Discussion: Osama's - Town Hall Meeting
4/15/16	Official Notice: APHIS Regulated Garbage Program Manual
4/27/16	Intent to distribute Reimbursable Overtime guidance
4/28/16	Official Notice: SJ2001 and SJ2001A SITC PD
4/28/16	Official Notice: Changes to the Inspection Process when dealing with CBI
4/18/16	Official Notice: Pilot on Vehicular Telematics
5/12/16	FYI MRP 135 R Memo- Fleet Managers
5/18/16	Official Notice: WebTA 4.2
5/18/16	Official Notice: Trailer Towing Training
5/26/16	Official Notice: Rotation to monitor fumigations at an IL fumigator location
5/26/16	Official Notice: Roles and Responsibilities of the ECS, TS and RPM (NOM)
5/27/16	Official Notice: Treatment Manual Chapter 2 Chemical Treatments
6/02/16	HRDG 4630 Correction
7/21/16	Official Notice: Cold Treatment-amend the Phytosanitary treatment regulations 7CFR Part 305
7/18/16	Official Notice: PDC Dress Code Policy for BAST
9/19/16	Official Notice: RG Manual changes
9/19/16	Official Notice: PPQ Applicant Interview Travel Policy
9/19/16	Official Notice: Changes to the EPA newly revised MB labels and Treatment Manual
9/19/16	Official Notice: Alternative Treatment for Non-compliance Dunnage and WPM
10/3/16	Notice: Next Phase of ARM- Data System Update for the Union
10/3/16	Official Notice: HRDG 4630 Wounded Warrior Sick Leave
11/1/16	Official Notice: MRP Relocation Payment Policy
11/30/16	Official Notice: Reciprocal Tax Agreement Between PA and NJ will expire
12/6/16	Official Notice: Windows 10 upgrade and pilot
12/6/16	Official Notice: Changes to Hawaii and Puerto Rico Pre-Departure Manual

12/6/16	Official Notice: Domestic Technician PD SJ 822
12/2/16	Official Notice: PPQ Field Ops TOD Guide 12 7 16
1/4/2017	Official Notice: PPQ IDA Policy for BAST
1/31/17	Official Notice: Mandatory Guidelines for Drug Testing Program
2/3/17	Notice: OSEC Exemption From Hiring Freeze for Nat'l security and safety
2/3/17	Official Notice: Export Treatment Policy

1/22/2016	PDI Changes to (APW) Animal Product Worksheet
1/26/2016	HR 4360 Notification of adverse findings filed in employee personnel file
2/3/2016	Driver Authorization Form 135R
2/9/2016	PDI ExFedGrants System- Cooperative Agreements and Grants software
2/9/2016	PDI for workforce assessment (AIM) (PPQ Analysts) (Including SITC Analysts)
11/18/2015	PDI GSA Fleet Telematics Telemetry devices for GOV's
2/16/2016	PDI Release of eRecruit Customer Satisfaction Survey
4/21/2016	PDI Open Continuous Announcement- Pilot Effort
4/21/2016	PDI Request for Review Regulated Garbage Guidelines
4/7/2016	PDI Draft of APHIS Safety and Health Goals and Objectives
3/28/2016	PDI Changes to Inspection Process when dealing with CBI
4/27/2016	PDI Confidentiality Level- Peru Asparagus eliminate the mandatory fumigation
5/2/2016	PDI WebTA 4.2
5/11/2016	PDI rotation to monitor fumigations at IL fumigator location
5/11/2016	PDI Roles and Responsibilities of the ECS, TS, and RPM (NOM)
5/12/2016	PDI Molecular Diagnostic Working Group
5/5/2016	PDI Pest Survey Specialist Areas of Coverage
5/18/2016	PDI Q37 Restructure Rule Manual
5/23/2016	PDI Draft Procedures for Responding to Allegations of Scientific Integrity Misconduct DM
6/20/2016	PDI Environmental Protection Agency (EPA) newly revised MB labels
6/21/2016	Draft- APHIS Safety and Health Council/Safety Committee Charter
6/27/2016	PDI APHIS Recruitment & Hiring Initiative
6/27/2016	PDI Offer Regarding the Border Security Video Training
6/27/2016	PDI OHSEC's Security Awareness In the Workplace Video
6/28/2016	PDI HRDG 4178 Pay & Leave Claim June 2016
6/27/2016	Uniform Footwear
7/5/2016	PDI APHIS/PPQ Proposed Rule Change, Phyto Regs, Cold Treatment etc
7/6/2016	PDI EPA Section 18
7/18/2016	PDI Details and Temporary Promotions Departmental Regulation
7/20/2016	PDI Change to Domestic Technician PD (SJ 822)
7/20/2016	PDI New Position PPQ Officer (Canine Handler)
8/2/2016	PDI EPA Newly revised MB labels and Treatment manual Changes
8/9/2016	PDI PDC Guidance for Preparing Standards
8/16/2016	PDI: Departmental Directive Merit Promotion Internal Placement

8/24/2016	PDI: Consolidation of Containers parameters for WPM
8/24/2016	PDI: Alternative Treatment for Non-Compliance Dunnage and WPM
8/31/2016	PDI APHIS Safety Charter
8/31/2016	PDI: PPQ Applicant Interview Travel Policy
8/31/2016	PDI: Regulated Garbage manual changes
9/8/2016	PDI: HRDG 4630 Wounded Warrior Sick Leave
9/15/2016	PDI: Field Operations Awards Guidance
10/3/2016	PDI: ECS Realignment and Working Group
10/13/2016	PDI: Access to eOPF from an Outside Network
11/1/2016	PDI: MRP Relocation Payment Policy
11/8/2016	PDI: Fair Labor Standards Act: Coverage Determinations and Pay Claims DR 4020
11/17/2016	PDI: Civil Rights Performance Element for FY17
11/17/2016	PDI: Windows 10 upgrade and pilot
11/29/2016	PDI: Changes to HI and Puerto Rico Pre-Departure Ops Manuals
11/30/2016	PDI: PExD system (foreign requirements repository)
12/8/2016	PDI: AgLearn required Safety Courses
12/2/2016	PDI: Policy PPQ Form 371 issued by PDC
12/15/2016	PDI: Ombudsman Program for PPQ
1/4/2017	PDI: Summit Letter
1/5/2017	PDI: MOU and Changes to EAN and 429 Database
1/18/2017	PDI: Upcoming PCIT release
1/23/2017	PDI: 2016 Annual Report
1/31/2017	PDI: SITC accessing and Using data from controlled systems

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**2016 NAAE Convention—San Antonio**

By: Julie Orr, NAAE National VP



The bi-annual NAAE (National Association of Agriculture Employees) 2016 National Convention was held in San Antonio, Texas, April 10<sup>th</sup> through April 13<sup>th</sup>. In attendance were 4 agency head representatives for management (Osama El-lissy, Mike Lidsky, Keith Miller, Ron Sequeira); 2 Labor Relations representatives (Sarah Rehberg, Joanne Adams), 15 NAAE representatives and 2 NAPPQOSE representatives.

The convention started off with an internal union business meeting on Sunday to discuss the NAAE budget, resources, local issues and other various interests from union members. The next three days were set aside for training. Legal counsel for NAAE, Kim Mann, teamed up with Labor Relations Specialists, Sarah Rehberg and Joanne Adams to present joint basic labor relations training. This training included presenting employee and management statutory rights and agreements in the Green Book. This lively group of trainers kept our attention by relating the information using past and present experiences. In advance, agency head representatives were given a list of 15 questions submitted from employees in the field. Each question was addressed by the management team at the convention. On the last day, negotiation exercises were presented by Kim Mann and Mike Randall, NAAE National President and Chief Negotiator. These examples took a few scenarios and walked everyone through the step by step process for responding to agency notices and proposals. The National NAAE Safety Representative, Mark Segall, presented training on Safety, Health and the Union. In conclusion, the meeting finished with Department of Labor Considerations & Reporting Requirements and Local Problem Solving.

Congratulations to the NAAE Executive Committee for another successful and informative convention. The next one will be in the Spring of 2018. We hope to see you there!

## ***Extra! Extra! Read All About It!***

Back in the 1940s, newsboys stood on street corners selling news to passersby. For NAAE, getting the word out on what's happening is starting to feel like we are going back in time. The NAAE website, <http://www.aginspectors.org/> - is woefully out of date. Because of the current arrangement with our webmaster, it is most difficult to get **significant** content changes made. So, the NAAE EC needs YOUR **HELP!**

We have a lot of super smart members that know their way around a computer's keyboard and its programming. Are you willing to lend a hand or give some advice? And if you are not tech-savvy, but are fully fluent in any or all social media "languages", do you have any idea on how we can get news and updates out to **members only** in a timely fashion? We have tried Facebook, but have not been successful in getting many of our members as followers.

If you have any ideas on what we can do to meet our obligation and desire to keep the membership informed on current events, please contact an Executive Committee Member or EC Special Advisor at your earliest convenience. Thanks in advance for your help.

SP Kostelecky

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## ***Climbing the GS-12 Mountain Again***

At the NAAE Convention in April 2016, PPQ Deputy Administrator Osama El-Lissy told the delegates he wanted to create some new GS-12 positions. The delegates were skeptical since we have been up and down this path to GS-12s a few times before. As a result of that initial conversation, the EC requested a meeting with Mr. El-Lissy and his managers to put together a course of action. On June 16, 2016, we came together at the "GS-12 PPQ & NAAE Summit" in Riverdale, MD. The summit of NAAE and PPQ managers started early, worked through lunch and stayed late. We decided upon 2 courses of action. Working Group 1 is looking at all GS-11 Officer Position Descriptions to make sure they reflect the full extent of work currently being done, and describe it accurately. Those PDs would be reviewed, and revised - if the final version warrants a grade change. Working Group 2 is

exploring 16 different ideas on what PPQ should 1) start doing, 2) do more of/do differently, and 3) analyze overlap with current higher graded PDs. We are already working on some new draft PDs. Both groups have co-chairs of a NAAE Member and a Management representative. Both groups will rely heavily on Subject Matter Experts and “Visionaries” for guidance. Please look for future articles in the PPQ and You electronic newsletter and, on the NAAE website once it is fixed. We invite your feedback.

NAAE Chairs WG1 Mike Randall & Athena Pappas

NAAE Chairs WG2 Susan Kostelecky & Jim Triebwasser

### ***Representing NAAE on National Committees***

From time to time, NAAE likes to solicit volunteers to sit on the numerous committees they may be called upon to have a representative. Volunteering to sit on one of these committees is a great opportunity for you to get involved and make a difference in things that may have an impact on your working conditions. It's a great way to meet other BUE's, management representatives and NAPQASSE representatives on the committees as well. It's a chance for you to work cooperatively and collaboratively with all involved for the betterment of APHIS/PPQ and get involved.

If you're interested and decide you'd like to volunteer to sit on a national committee representing NAAE, there are a few things you should know.

1. Announcements for openings will be posted in the NAAE Newsletter (so make sure you read it when it comes out).
2. You represent all of the Bargaining Unit Employees while serving on the committee.
3. The commitment on the committee will most likely be a two year commitment and may require travel.
4. All information in the meeting should be kept confidential and only discussed after the national has given you permission to do so.
5. Write a brief report after each meeting and submit it to the national via include when the next meeting will be.
6. Get feedback from the committee before the next meeting.

## ***ELECTION COMMITTEE***

It's almost that time again. This fall it will be time to begin the process of choosing who will lead YOUR organization and present your issues to Management, Congress, and the public. NAAE needs several members in one location to volunteer to serve as an Election Committee to run our National Election prior to the 2018 Convention. The Election Committee chairperson will have his/her travel paid by NAAE to attend the National Convention to deliver the Election Report. If you volunteer for this important duty, you will not be alone. There is guidance all along the way with an election manual of written procedures and your National Executive Committee members to use as a resource. If you and your fellow work unit union members are willing to serve, please contact Mike Randall on 808-838-2705 or at [MERandall@hotmail.com](mailto:MERandall@hotmail.com)

## ***NAAE 2018 CONVENTION—NEED VOLUNTEERS!***

It is not too early to start thinking about our 2018 Convention. The National NAAE Convention must take place every two years after the National Election. Our Convention will take place in **2018 between April and June**. A new National Executive Committee takes charge at the conclusion of the Convention. The biennial convention is our chance to catch up on training, see each other face to face, and renew the special spirit that makes us a UNION of people who genuinely care and not some bunch of cranky employees. There will be lots of training, a consultation with our top level managers—a chance to ask **your** questions, and a guaranteed marvelous time.

Where and when will that convention be held? The **Convention Committee** headed by volunteer chairman **YOUR NAME HERE** will help your Executive Committee decide.

If you are interested in planning our convention, having your way to the convention expenses paid, and want the eternal gratitude and adulation of your union co-conspirators for a successfully executed convention, call Mike Randall on 808-838-2705 or at [MERandall@hotmail.com](mailto:MERandall@hotmail.com).

## ***The Old Union Storyteller***

*Mike Randall, NAAE President—The old union storyteller always has a thing or two to pass on to the new generation of dumpster divers..*

Dear New Unionist,

Everyone should memorize this lesson and record it for posterity and for future use for when I retire:

This is one of the “ingredients” for our overtime compensation system. Whenever overtime is not payable under Title 7, the Agency **must** pay under Title 5 for “work” done. This work may, in the right circumstances, be the return of the government vehicle. The change from older thinking (that we must bring back a GOV on our own dime) is captured in the so-called “Ellen King Letter.” This change is an attachment to AD 402.3 and to HRDG Supplement 4500A, guide of overtime interpretations that Kate Richardson (former NAAE Treasurer, 2<sup>nd</sup> VP, Chief Negotiator and Labor Grandmaster) worked on with Management years ago. Do not ever let Management “sunset” this guide! **For example: when the work ends at a distant location after the tour ends, and a vehicle and/or equipment must be returned to the duty station, the hours of pay prescribed by AD 402.3 may not compensate fully for the time it takes to complete the performance of this work. Title 5 pay must bridge this pay gap.** Most of the hard work in coming up with a guide to when Management must pay employees for bringing back a GOV was done by Kate and the Port of Seattle. While there have been changes to Human Resources Desk Guide 4550 regarding overtime pay, Kate’s work product lives on through the Ellen King letter.

There is a parable that goes along with explaining this background and how we got to where we are today:

Once upon a time, we were in heated negotiations with Mr. F (not a real name), one of the bad-cop LR persons NAAE has had to deal with in the past, and we had a USDA LR observer, Craig Lambert, in the room (not a bad thing in this instance).

We were on the subject of returning vehicles, and Mr. F. insisted that we don’t have to be paid to bring back a GOV because we are FLSA exempt employees, and bringing back a car is not “work.”

Kate presented this hypothetical scenario: if she would not be paid for bringing back the GOV, the moment she was off the clock, she'd pull over to the side of the interstate, toss the keys under the seat and walk the rest of the way home. Whereupon Mr. F. blurted out that Kate better not do this because he'd have her suspended or terminated, not necessarily joking. Mr. F. went on about the time wasted to the government when two people have to be sent back out in a car to retrieve the interstate parked GOV.

Craig Lambert softly interjected and began to dissect F's theory:

Craig asked Mr. F., "Are you going to pay these people to go out and bring back the car?"

"Hell, yes!" F. replied.

"You pay them because it is work?" Craig continued.

"Well uh...yes." Said Mr F.

"So it is work, and the car fetchers have to be paid . . . ."

"So if this work of bringing back the GOV is important enough that the employee needs to be disciplined if the car is not brought back, then the employee should be paid for bringing back the car." Said Lambert.

Mr. F. shut up ... if just for a moment. The Ellen King Letter came several weeks later.

Here is the lesson to draw from this parable of Kate's: **So ... if a task is important enough to discipline the employee if it is not done, it is important enough to pay the employee to perform the task on regular time or overtime.**

## ***The Legal Report***

By: Kim D. Mann, NAAE General Counsel

### **THE SAGA OF EDDIE LUGO**

For Eddie Lugo, a 17-year veteran of PPQ and a member of NAAE, lightning struck on June 10, 2016. On that date, he received an email from MRP-HR informing him that the Agency was withdrawing an offer his supervisor had made a few days earlier, tentatively selecting him (subject to completion of the paperwork) to fill a non-supervisory GS-12 Trade Specialist vacancy, representing for him a promotion from his GS-401 position as a GS-11 Export Certification Specialist. The Agency's stated reason for withdrawing the selection: according to the MRP email, he was not qualified for the GS-12 position because the Agency no longer recognized that he meets, or ever did meet, the basic minimum educational requirements for the 401 position he now holds and has held since 1999. This news was a stunning revelation: back in 1999, Eddie had specifically asked Agency representatives to provide a list of the college courses he needed in order to qualify to become a PPQ Officer (then a GS-436 series position), and, in reliance upon the Agency's advice, he took the designated courses, passed them, and was hired by PPQ.

When Eddie confronted MRP and the Agency with this background, MRP simply dismissed his arguments, contending that, during a recently concluded OPM audit of MRP-HR's hiring and promotion practices, OPM had discovered that MRP's long-held interpretation of the basic educational requirements for 401 position was wrong and directed MRP to correct this error. In correcting this error, MRP claimed that, because Eddie lacked a college degree, he no longer needed to accumulate merely 24 semester hours of college course credits in a combination of designated fields of scientific study leading to a major, as the Agency's long-standing interpretation of these basic educational requirements had recognized as sufficient. Instead, MRP now claimed he needed 24 semester hours of courses in a single field of scientific study leading to a major in that field, a new interpretation it claimed was dictated by OPM during its recent audit

of MRP.

With NAAE's help and support, Eddie challenged this Agency about-face, his "de-selection" for the GS-12 promotion. NAAE filed a class grievance on behalf of Eddie and all similarly situated PPQ 401s, disputing the Agency's assertion that Eddie did not meet the basic educational requirements of the GS-401 position. (He had worked as a PPQ Officer for the past 17 years and had earned "fully successful" or better evaluations during his entire career.) As he pursued his grievance, he learned that many, perhaps dozens, of other PPQ Officers like himself had been hired as GS-436 Officers prior to the split with CBP and, under the newest (June 2016) MRP interpretation – needing 24 hours in a single field of study – apparently did not meet the reinterpreted basic education requirements of the position, yet continued to work for PPQ as GS-401s decades later. He also learned that OPM, in its written report of its audit of MRP, did not find any fault with MRP's prior interpretation of the basic requirements for the 401 series when hiring and promoting PPQ employees, such as Eddie, contrary to MRP's claim in its email to Eddie.

The Agency today claims to be sympathetic to Eddie's predicament, but also claims its hands are tied. It claims that only MRP has the authority to provide relief and that MRP has informed the Agency it does not have the legal power to make Eddie eligible for any promotion in the 401 series. In other words, MRP asserts it does not have the statutory or regulatory authority to waive the missing basic education requirements – in his case, five semester hours towards a major in horticulture science. (He has seven semester hours in environmental sciences and human biology that MRP refuses to count.)

MRP's position directly conflicts with the law. OPM has government-wide statutory and regulatory authority over the hiring and promotion policies and practices of all federal agencies, including APHIS/PPQ. OPM, in a published policy intended to guide federal agencies, expressly and unequivocally states that all federal agencies have the authority to "waive" or "set aside" agency or OPM "requirements in a published standard [in order] to place an employee in a particular position, usually to avoid some kind of hardship to the employee, such as in cases of ... administrative error on the part of the agency." This express OPM waiver authority, available to PPQ and MRP, fits Eddie's situation to a tee.

Partially owning up to, or at least feeling a twinge of guilt about, its alleged "mistake," the Agency has offered Eddie and similarly situated 401s half a loaf. It allows them to keep their current jobs and

offers them an opportunity to go back to school to pick up the missing course credits at PPQ's expense and on "official time." However, the Agency adamantly refuses to recognize its power to "waive," much less willingly exercises that waiver power to set aside, those educational deficiencies. As a result, it no longer considers these 401s who have spent the past 15 plus years working for PPQ as 436s and 401s eligible for any future competitive promotions or TDYs unless and until they have cured their basic educational deficiencies.

In the meantime, Eddie remains a GS-11; the GS-12 TS position for which he was selected remains vacant; and Eddie's class-action grievance moves slowly but seemingly inevitably towards third-party resolution pursuant to what appears will be a long, drawn-out arbitration proceeding that may end up before the Federal Labor Relations Authority. Stay tuned....

THE END???

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**No! This is the beginning. We Have  
Just Begun to Fight!  
Now More Than Ever! Encourage Your Co-  
Workers to Join! Strength In Numbers!**

**Check the Webpage for Officer Contact  
Information**