

# N.A.A.E.

National Association of Agriculture Employees

## NEWSLETTER



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**N.A.A.E.**

**National Association of Agriculture  
Employees**

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## **A Message from Our President**

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*Mike Randall*

With this newsletter, it is time for you to get involved in the selection of the future leadership of NAAE. Another election cycle begins. You will be choosing a new group of national officers to carry on the stewardship of our bargaining unit and hopefully a new national Contract or collective bargaining agreement, soon to be known as Green Book 3.0. (It's called the Green Book....because the cover is Green...like AGRICULTURE.)

I know what many of you did the last 20 months: some of you were being coughed on by unmasked co-located CBP officers, some were teleworking from home in the company of the Zoom-schooled kids, the dog, the cat and the family pig, some were on the front lines doing your “normal” PPQ work, some of you were volunteering with FEMA to push out the COVID vaccine, and some of you were doing a whole lot of nuthin’. While you were doing/coping whatever, NAAE was doing its best to do its thing even if rolling along on one of those phony small spare tires.

When I wrote this message in 2019, the outlook was BLEAK. We were well into the least friendly-to-organized-labor national political regimes we have experienced in my 33 years of involvement on the NAAE Executive Committee. We were left largely unscathed by the “unfriendly regime” as our Contract came up for renewal on August 31, 2020. The unfriendlys were too occupied with an election, and they were on the way out the door. It was too difficult to get a contract negotiation going in the middle of a pandemic.

A year and a half ago, we were suing the Trump Administration over its wrong-headed and contrary-to-congressional-intent (and unconstitutional) series of Executive Orders on Labor Management Relations. Those three orders, in effect, amounted to nearly a cancellation of the Civil Service Reform Act—union busting at its finest. This year, in contrast, we are participating in a Departmental Labor Management Forum and a Forum with PPQ. We now have

a meaningful part in setting the agenda for our work-life in the Agency instead of watching from the bleachers as spectators as the previous Administration would have us do.

President Biden's Executive Order on Labor-Management Relations cancelled the Trump orders over which we litigated. It also mandates pre-decisional involvement with the unions and negotiations with the unions on the so-called permissive topics—numbers, types, and grades of employees assigned to a work project and the method and means of work accomplishment. These are the topics Congress has provided in the statute that Management doesn't have to negotiate *if it doesn't want to* (and Management almost never wants to negotiate these if it has a choice). Now, Management **MUST** negotiate these topics. It is the Obama Executive order on steroids.

Thanks to COVID, we had to first postpone the NAAE National Convention. Then the Convention was cancelled. We are unaware of such a cancellation in NAAE's entire history going back to 1954. We tried two hour-long Zoom calls on Saturdays open to the entire bargaining unit with mixed results. Just like school kids, we are two years behind in providing you folks labor-management relations training either at the Convention or during the year—like the school kids, Zoom-school lessons just don't cut it. We need to get together! Try to make it to the Ft. Lauderdale Convention in May 2022 — details appear in this newsletter.

We have endured a mind-numbing (oh crud---is that a symptom?) array of continually changing and occasionally contradictory workplace safety protocols coming out of Department and PPQ headquarters while some of you have been pioneering a brave new world of telework and home workplace rules. We went from one Secretary of Agriculture, who believed he had to see you in the office to know you were really working, to a new Secretary of Agriculture (really the same one from the Obama Administration), who trusts you and **WANTS** you to telework to the maximum extent possible. We will be negotiating over a new Telework Departmental Directive that will make telework possible for everyone everywhere it makes sense given the nature of the job.

We assisted a number of unit employees with reasonable accommodations when weather and safety leave ended, and some were still enduring "long-COVID". The lessons we learned will be incorporated into a new Reasonable Accommodation Article to appear in our upcoming Green Book 3.0 Contract.

There is a long history to our Contract. It is a comprehensive collective bargaining agreement that covers most negotiable matters pertinent to our working conditions, and it took a very long time, often through contentious bargaining, to convince our managers this was the right way to go. It all started in 1992 when a rag-tag band of ne'er do well NAAE representatives met in La Jolla, California to write contract proposals. The original Green Book, signed in 2011 (yeah, 19 years later), was rolled over intact for several extra years before

a page-by-page reconsideration in 2017 resulted in its renewal as Green Book 2.0 — WITH VERY FEW CHANGES FROM THE ORIGINAL. This is your legacy, passed down from the dedicated work of NAAE union people of the past. Both NAAE and current Agency management believe that this Contract, in good measure, has worked very well for all parties. Importantly, it also shielded us from the punishment the last Administration had planned for federal unions.

The pandemic slowed down a lot of nastiness in the way of new initiatives and changes to working conditions we could have experienced in the last year of the previous Administration, but the pandemic is also slowing down some of the positive changes in working conditions we could be experiencing in the new Administration. We will promote the good changes as the pandemic abates and things start opening up towards normalcy.

***Wishing you all a healthy and happy holiday season and brighter New Year from the NAAE Executive Committee.***

## **News Shorts**

### **When is COVID Over?**

One major issue we currently are dealing with is the question as to when is COVID over? — When does the madness end? The Agency issued an edict at the beginning of COVID stating that the pandemic constituted an emergency and that it would have *carte blanche* to unilaterally change all of our conditions of employment. Well, in a number of locations Management exercised that *carte blanche* card to change tours of duty and work rules. NAAE made it clear at the outset that we EXPECT Management would, at the end of the pandemic, return all changed conditions to the *status quo* prior to this pandemic. We anticipated this sort of emergency might crop up when we negotiated the Safety and Health Article of Green Book 2.0. We are currently having a difficult time convincing Management that there can't be much of a pandemic going on now because the Agency has required everyone to return to the office. It is time to return to the pre-pandemic *status quo ante*. Stay tuned! This issue is likely to become *interesting*.

### **NAAE Unit Clarification**

Recently, NAAE file a Unit Clarification Petition with FLRA in attempt resolve a number of issues that date back to the abolishment of the old GS-436 series PPQ Officer in 2004 after the split with CBP in 2003. At that time, our professional series was composed of GS-401 SITC Officers and the GS-436 Series was all of the PPQ Officers and **all** of the Identifiers. Since then, all of the identifiers were placed in discreet numbered series 414, 430, and 434 and we

have two handfuls of job titles that belong to the GS-401 series—PHSS, PSS, PHTCO, DPC, ECS, TS, SITCO, SITCA, SOSO, to name a few. We need the Federal Labor Relations Authority to issue NAAE a new representation certificate that is easy to understand and identifies all of our bargaining unit. We anticipate that this petition will be resolved soon and this resolution will result in an expanded bargaining unit in which we can welcome another 80+ PPQ employees to the benefits of being represented in their workplace.

### **Telematics/GPS**

There has been an ongoing debate through the last two Administrations as to whether or not to equip all of our GOVs with real-time GPS tracking. The original reason given to add that accessory was to “ensure efficient use of government vehicles.” As with any “good intentioned” government program, this reason has morphed into something quite different that could be very good or very bad for our bargaining unit employees and the Agency. The Agency has made the decision to add the comprehensive “Cadillac” option package of GPS tracking and telemetry to all APHIS vehicles. Accordingly, NAAE will be negotiating a new Telematics/GPS Article with Management to insert in Green Book 3.0. While older contracts had GPS provisions that would serve to alert employees of the possibility of being monitored and tracked through their government cellphones, tablets and other GPS equipped devices, this new Article will be concerned with GPS on our GOVs. NAAE will attempt to limit the possibilities of harassment by first-line supervisors who believe it is their job to track or follow self-directed field employees in real-time during their working hours. We also are concerned about managers using the devices to keep track of “hard” braking stops or minor speed infractions, particularly when these incidents are not viewed in the context of the traffic conditions in which they occur (think stop-and-go Los Angeles freeway traffic or any large city). Telematics is a good tool, when used properly, that should find a use in assessing the vehicle’s health and assisting Management and law enforcement in the case of crimes such as vehicle theft.

Telematics should not be used to find where the employee eats lunch or as some kind of employee-evaluation tool. This should not be an iteration of “1984” in the federal workplace.

# Vaccine MANDATE

*By Mike Randall*

On September 9, 2021, President Biden signed Executive Order 14043 requiring all federal employees to be vaccinated for COVID-19. This was not a shock to many of us who had been working in the office and who had to endure an ever-changing number of safety protocols and directives instituted in the office to address the pandemic. That last governmentwide policy that the federal government proposed was testing/distancing /masking for the unvaccinated. Apparently, with the outbreak and uptick in Delta variant cases, that that was not good enough and we were given a vaccine mandate.

NAAE has been trying to address the mandate through negotiations with management at the national level; however, each iteration of the guidance issued by Office of Personnel Management and the Safer Federal Workforce Taskforce has made this job increasingly difficult, a moving target. The Executive Order, from which this mandate arises, has the force of law and, in our case, is deemed a Governmentwide regulation. A federal union can only negotiate the procedures for implementation of such a mandate on issues not directly covered by the guidance coming out of OPM or the Taskforce. The guidance has become more and more specific with each edition, further limiting what we can negotiate to ameliorate the adverse effects of the mandate

To our knowledge, the two largest federal unions have decided not to file lawsuits against the Administration on the mandate, and only the National Border Patrol Council has indicated a desire to file such a suit but reportedly has not found an attorney willing to take its case. The biggest reason for lack of legal action may be the initial assessment that such a suit is not winnable. There are 115 years of Supreme Court caselaw seeming to indicate this is not a winning prospect. However, the prospects for a lawsuit may increase to challenge specific incidents of refusal of a federal agency to grant one or both of the exemptions available for religious or medical reasons, as discussed below.

The Administration has given a “drop-dead” date of November 8<sup>th</sup> for each employee to provide proof of vaccination or request a reasonable accommodation (RA) for a qualified medical or religious exemption. It can be anticipated that discipline may begin as early as November 9<sup>th</sup> for those who ignore or do not answer the request for proof of vaccination; however, discipline will be held in abeyance for those who have filed for an accommodation and are awaiting a final decision on their request. Decisions may take a long time as the Department currently has received THOUSANDS of accommodation requests.



The Agency has asked employees to demonstrate proof of vaccination. While this may be offensive to some, it may be demanded in the form of a direct order, and refusal to comply could trigger the start of disciplinary proceedings for insubordination and possibly removal. Proof has taken the form of certification of vaccination status; certification is under penalty of perjury. We at NAAE could not legally stop Management from requiring proof. Management has already asked employees for and received “self-certification” of vaccination status in the earlier vaccination/testing efforts. Do not confuse your medical privacy rights for “HIPAA.” HIPAA is a law that prevents your doctor, hospital, or employer from *disclosing* your medical information. Showing your manager your vaccination card is not protected under “HIPAA.” The Agency may not disclose your medical information. NAAE will work to see that, whatever procedures are used, your medical information will be kept confidential.

Even if your RA request is approved because you qualify, it will be up to your local manager(s) and the governmentwide guidance they receive to determine if granting (implementing) that RA will impose an “undue burden” upon your fellow employees, the work unit, and the public you may interface with in the course of your job. There are many circumstances which could be deemed an “undue burden.” Much will be dependent upon your job and work environment. If the Agency concludes that granting that RA will impose an undue burden, it probably will deny that RA.

We do know that should subsequent issuances of guidance coming from “above” require COVID testing for the unvaccinated (and even for the vaccinated), the Department will pay for any required testing, and we have requested through our bargaining proposals that the tests be given at or in close proximity to the workstation. Any testing and travel required will be on official time. Most of our early negotiation requests have been dealt with by subsequent issuances of guidance from OPM and the Taskforce —the Administration is listening. One problem we noted recently is that certain testing facilities will not test a person unless that person has a history of COVID exposure. This pre-condition for testing will not do for a “casual” testing program. The Department was taking notes when we brought that to its attention.

Now for the unfortunate news: If you are unable to certify that you are fully vaccinated by November 8<sup>th</sup>, the Agency may proceed to start progressive discipline on November 9<sup>th</sup>. This progressive discipline would take several steps, probably including, counseling, a period of suspension, and ultimately removal. We are assured by the Department that if you have an RA request in process and the Department has yet to act, they will hold discipline in abeyance until there is a determination on the RA. However, the Agency may start treating you differently immediately to protect the workplace -- perhaps there will be mandatory weekly COVID testing until you have an answer on your pending RA. If the RA is denied, you will have appeal rights, but the guidance appears to indicate that the denial will end the abeyance of

discipline. You should feel free to call any union representative at the numbers on the back of this newsletter for guidance. Everyone has a right to due process.

Guidance for each aspect is coming out piecemeal from Office of Personnel Management and the Safer Federal Workforce Taskforce at:

<http://saferfederalworkforce.gov>

On our laundry list of items still not clarified by guidance at press time:

Will employees pending an accommodation decision be treated differently after November 9<sup>th</sup>?

What constitutes an “undue burden” on the Agency with respect to accommodating an employee?

What criteria will be used to grant Religious Accommodations?

Will there be a testing protocol for accommodated employees?

**Below are excerpts from the guidance published by the Taskforce that you may find particularly useful:**

#### OFFICIAL TIME FOR VACCINATIONS (PERSONAL AND FAMILY) AND VACCINATION ADVERSE-EFFECTS

- Employees can get **any THINK BOOSTER** COVID-19 vaccination dose on duty time.
- Agencies should grant up to 2 workdays of administrative leave if an employee has an adverse reaction to a COVID-19 vaccination dose that prevents the employee from working.

**Q: Must agencies allow employees to undertake a required COVID-19 vaccination on duty time?**

**A: Yes. To facilitate expeditious vaccination of the federal workforce, agencies must allow employees to undertake required COVID-19 vaccination doses on duty time. In most circumstances, agencies should authorize employees to take up to four hours to travel to the vaccination site, complete a vaccination dose, and return to work—for example, up to eight hours of duty time for employees receiving two doses. (If an employee needs to spend less time getting the vaccine, only the needed amount of duty time should be granted.)**

Agencies should require employees taking longer than four hours to document the reasons for the additional time (e.g., they may need to travel long distances to get the vaccine). If, due to unforeseen circumstances, the employee is unable to obtain



the vaccine during basic tour of duty hours, the normal overtime hours of work rules apply.

Reasonable transportation costs that are incurred as a result of obtaining the vaccine from a site preapproved by the agency should be handled the same way as local travel or temporary duty (TDY) cost reimbursement is handled based on agency policy and the Federal Travel Regulation.

**NEWQ: What type of leave should agencies grant to employees to cover post-vaccination recovery?**

A: An agency should grant **up to 2 workdays** of administrative leave if an employee has an adverse reaction to a COVID-19 vaccination dose that prevents the employee from working (i.e., no more than 2 workdays for reactions associated with a single dose). If an employee requests more than 2 workdays to recover, the agency may make a determination to grant emergency paid leave under the American Rescue Plan Act—if available—or the employee may take other appropriate leave (e.g. sick leave) to cover any additional absence. This policy on granting administrative leave is specific to the current COVID-19 pandemic situation and is designed to support agencies' missions by promoting the health and safety of the Federal workforce. Facilitating vaccination will minimize the administrative burdens of addressing noncompliance with the vaccine requirement.

**Q: Must an agency grant administrative leave to cover the period of time it takes an employee to accompany a family member who is receiving a COVID-19 vaccination?**

A: Yes, **an agency must grant administrative leave to federal employees who accompany any family member who is receiving a COVID-19 vaccination.**

Based on President Biden's direction that the Federal Government should work aggressively to maximize the number of people receiving the COVID-19 vaccination, the Administration has determined that, going forward, agencies must grant administrative leave to federal employees who accompany their family members who are receiving any dose of a COVID-19 vaccination. For this purpose, a "family member" is an individual who meets the definition of that term in OPM's leave regulations (see 5 CFR 630.201).

Under this policy, agencies must grant leave-eligible employees up to four hours of administrative leave per dose—for example, up to a total of twelve hours of leave for a family member receiving three doses—for each family member the employee accompanies. (If an employee needs to spend less time accompanying a family member who is receiving the COVID-19 vaccine, only the needed amount of administrative leave should be granted.) Employees should obtain advance approval from their supervisor before being permitted to use administrative leave for COVID-19 vaccination purposes. Employees may not be credited with administrative leave or overtime work for time spent outside their tour of duty helping a family member

get vaccinated. This policy applies to covered vaccinations received after posting of this FAQ on July 29, 2021.

## TELEWORK AND REMOTE WORK

**Q: Does the requirement to be vaccinated apply to Federal employees who are not reporting to the worksite (e.g., are on maximum telework or working remotely)?**

A: Yes. To protect the health and safety of the Federal workforce and to promote the efficiency of the civil service, all Federal employees covered by Executive Order 14043 and without a legally required exception need to be [fully vaccinated](#) by November 22, 2021, regardless of where they are working. Employees who are on maximum telework or working remotely are not excused from this requirement, including because employees working offsite may interact with the public as part of their duties and agencies may need to recall employees who are on maximum telework or working remotely.

## BASIC GUIDANCE ON DISCIPLINE

**Q: What steps may an agency take if a Federal employee refuses to be vaccinated or provide proof of vaccination?**

A: Employees covered by Executive Order 14043 who fail to comply with a requirement to be fully vaccinated or provide proof of vaccination and have neither received an exception nor have an exception request under consideration, are in violation of a lawful order. Employees who violate lawful orders are subject to discipline, up to and including termination or removal.

Consistent with the Administration's policy, agencies should initiate an enforcement process to work with employees to encourage their compliance. Accordingly, agencies should initiate the enforcement process with a brief period of education and counseling (5 days), including providing employees with information regarding the [the benefits of vaccination](#) and [ways to obtain the vaccine](#). If the employee does not demonstrate progress toward becoming fully vaccinated through completion of a required vaccination dose or provision of required documentation by the end of the counseling and education period, it should be followed by a short suspension (14 days or less). Continued noncompliance during the suspension can be followed by proposing removal. Unique operational needs of agencies and the circumstances affecting a particular employee may warrant departure from these guidelines if necessary, but consistency across government in enforcement of this government-wide vaccine policy is desired, and the Executive Order does not permit exceptions from the vaccination requirement except as required by law.

Agencies may initiate the enforcement process as soon as November 9, 2021, for employees who fail to submit documentation to show that they have completed receiving required vaccination dose(s) by November 8, as long as those employees

have not received an exception and the agency is not considering an exception request from the employee.

If an employee responds at any phase of the discipline by submitting proof of progress toward full vaccination (i.e., completion of a required vaccination dose), the agency should hold the discipline in abeyance to afford the employee a reasonable period of time to become fully vaccinated. In pursuing any adverse action, the agency must provide the required procedural rights to an employee and follow normal processes, including any agency policies or collective bargaining agreement requirements concerning disciplinary matters. Employees should not be placed on administrative leave while pursuing an adverse action for refusal to be vaccinated but will be required to follow safety protocols for employees who are not fully vaccinated when reporting to agency worksites.

If the employee claims a legally required exception as the reason for not being vaccinated, an agency should follow its ordinary process to review and consider what, if any, accommodation it must offer. All agency personnel designated to receive requests for accommodations should know how to handle requests consistent with the Federal employment nondiscrimination laws that may apply. If the employee's request for an exception is denied, and the employee does not comply with the vaccination requirement, the agency may pursue disciplinary action, up to and including removal from Federal service.

## TRAVEL RESTRICTIONS ON UNVACCINATED EMPLOYEES

### **Q: Are there restrictions on official travel for federal employees who are not fully vaccinated?**

A: For the limited number of Federal employees who are not fully vaccinated, agencies should generally observe the following guidance, unless it is contrary to a reasonable accommodation to which an employee is legally entitled. Official domestic travel should be limited to only necessary mission-critical trips. International travel should also be avoided, if at all possible, unless it is mission critical (e.g., military deployments, COVID-19 response deployments or activities, diplomats traveling, high-level international negotiations that cannot occur remotely). Heads of agencies should issue specific guidance to account for the particulars of their agency's mission.

## **“BURNING” LEAVE PRIOR TO RETIREMENT**

**Q** How should agencies enforce the vaccine requirement of Executive Order 14043 for employees who are running down their leave in advance of departing federal service and do not intend to return to duty before leaving?

**A** If an employee has provided notice that they are leaving their position in the Executive Branch and are on leave until the date they depart, the agency should not enforce the vaccine requirement of EO 14043.

Inasmuch as discipline may affect a significant number of employees in our bargaining unit, NAAE asks that you inform a union officer well in advance of needing union representation assistance. Personally, I am advising more than a handful of employees who have reached out to me on COVID-related issues. I have heard from some of them: “I am applying for an accommodation,” “I’m retiring,” and “Let them fire me.” There are implications for each one of those decisions. Please ask an NAAE representative what your decision may mean for you.

***NAAE encourages our bargaining unit to get vaccinated and to see to it that all eligible family members get vaccinated. Please take advantage of duty time and official time grants from the Agency in the guidance above to obtain vaccinations for you and your family, as well as time granted for any adverse reactions to the vaccine.***

***If you claim sincerely-held religious beliefs or sound medical reasons for an exemption, we will support your efforts to get those recognized and a reasonable accommodation to the extent provided by law and guidance.***

## **Checking Your Pulse**

*By Susan Kostelecky*

In a pilot program, the Biden Administration recently sent out a joint “pulse” survey to two million federal employees to collect answers to 3 or 4 questions developed by OPM, OMB, GSA. Three different surveys were sent out. The questions were about employee engagement, employee inclusion, or returning to the office. Approximately two months will be needed to analyze the survey data, before the second set pulse surveys will be sent. You can learn more about the sharing of pulse survey results at [www.Performance.gov](http://www.Performance.gov) This is not the same survey as the much longer Federal Employee Viewpoint Survey (FEVS) that is supposed to start going out on November 1. Let them hear from YOU for all surveys looking for your feedback on these important hot-button issues!

## **LM-4 Forms...Make Sure Your Local is Up-to-Date!**

*Trish Claves, NAAE National Secretary*

Each year every local branch of a federal union must submit an LM-4 form to the Department of Labor -- whether or not the local collect local dues. An "LM" form is a Department of Labor form for reporting on the status of a labor organization. Your branch, large or small, is considered a separate labor organization chartered by the National NAAE. The completed LM form will contain information on the names of the local officers and will account for the disposition of dues. Periodic submission of the local's by-laws with this form, if local by-laws exist, can make DOL a source for those local by-laws – just in case the last copy of the by-laws gets "lost" in a file cabinet.

Please take a minute to see if your local's LM-4 submissions are current. You may do so by following these instructions...

- Go to [www.dol.gov/olms](http://www.dol.gov/olms)
- Click on "Union Reports and Collective Bargaining Agreements: Online Public Disclosure Room" (under "Most Requested" heading).
- Click on "Union Search" (under "Union Reports and Constitutions and Bylaws" heading).
- Fill in the "Union Name" box with AEI. There are many blanks and drop-down boxes but you only need to fill out this one.
- Click "submit."
- Find your local/branch number on the list and click on that link with the branch number. A link to the last LM-4 filed for your local will be displayed.

Missing forms for past years? Don't delay! Just file a LM-4 for each missing year. There will be no penalty for that late-filing. You can get to the LM-4 and instructions by going back to [www.dol.gov/olms](http://www.dol.gov/olms) and clicking on "Forms and Instructions" (under "Most Requested" heading). To complete the form, you will need an estimated number of members at the end of your local's fiscal year. If you can't estimate this number, contact me [Patricia.A.Claves@USDA.gov](mailto:Patricia.A.Claves@USDA.gov) and I can help you with that. In fact, contact me with ANY questions or problems you have with the LM-4 and I'll see what I can do to help!

## **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 2022 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 port union members are willing to serve, please contact Mike Randall at 808-838-2705 or [mikeran@aloha.net](mailto:mikeran@aloha.net) .

## **The Legal Side**

*By Kim Mann General Counsel*

With all the employee-management workplace issues swirling around the COVID-19 pandemic disruption, NAAE has also been active on behalf of its bargaining unit employees (“BUEs”) in many other areas impacting conditions of employment at PPQ-APHIS. Here are just a few of the many:

- Represented two African-Americans in on-going acrimonious grievance proceedings contesting proposals to “remove” these employees from the service of the Agency, as proposed by their supervisor (the same supervisor) whose alleged discriminatory treatment of them in the workplace extends to his posting racially insensitive, demeaning photos of Blacks on his personal Facebook page along with accompanying disparaging remarks;
- Represented a BUE who grieved his 14-day suspension (for alleged misuse of government property, using his GOV not for official Agency business) because he drove his GOV, on his lunch break, to a near-by doctor’s office seeking emergency medical treatment for his fractured foot, an injury he sustained on the job a day earlier;
- Completed successful negotiations with Agency management, conducted on an expedited basis, to replace the current but technically expired national collective bargaining agreement (“CBA”) with a new three-year CBA, to be known as Green Book 3.0 (see more information below);
- Successfully petitioned the Federal Labor Relations Authority (“FLRA”) to “clarify” the scope of the bargaining unit of professional employees that NAAE represents as depicted in its now-outdated FLRA-issued certificate of representation (see more about this effort, discussed below);
- Filed a lawsuit in federal court seeking (ultimately unsuccessfully) to overturn on constitutional grounds the infamous Trump Executive Orders, since rescinded by President Biden, that were designed to hamper the ability of federal unions to represent bargaining unit



- employees while also depriving those employees of certain rights granted under federal statutes;
- Initiated negotiations with Management of an updated nationwide telework policy to expand the scope and duration of authorized teleworking in PPQ and to end the occasional Agency practice of unwarranted, inconsistent denials of telework requests; and
- Drafted and is currently negotiating national Agency policy and procedures for handling employee applications requesting reasonable accommodations under the federal Rehabilitation Act.

These are just some of the major non-COVID related issues NAAE and its National Executive Committee have been pursuing on behalf of BUEs during the past two years. Several of these activities deserve further elaboration. See below.

When the Agency notified NAAE last spring that it desired to renegotiate the expiring national CBA, Green Book 2.0, NAAE and the Agency entered into prolonged negotiations over the groundrules to govern those negotiations. While groundrules negotiations dragged on, NAAE suggested, and Agency negotiators agreed, to expedite and simplify the process of arriving at a new CBA. Skipping past the groundrules dispute, NAAE and the Agency came up with a mutually-agreed upon, greatly pared-down list of articles in the existing Green Book 2.0 that each party wanted to reopen for negotiations and a few new ones they wanted to add to the new CBA. Both sides agreed to list these to-be-resolved articles in a new CBA, keep all the other provisions of the current CBA, sign the new CBA immediately, and then “reopen” the new CBA (to be styled “Green Book 3.0”) within 60 days to negotiate the few remaining unresolved articles.

The parties’ cooperative, common-sense approach to reaching agreement on the new Green Book 3.0 may set precedence, not only for future contract negotiations, but also for resolving other management-labor disputes arising in the workplace affecting conditions of employment of BUEs. Indeed, the parties were able to resolve relatively quickly and in a similar cooperative fashion – much to the pleasure of FLRA – the next big issue on the table facing NAAE, clarification of the NAAE bargaining unit.

NAAE’s current certificates of representation, issued by FLRA some 30 or more years ago, sets out what FLRA had determined back then was the scope of the professional and non-professional employees at PPQ that NAAE represented. One of those certificates still references the old GS-436 PPQ Officer as the principal category of professional employee in the NAAE bargaining unit. FLRA recently advised NAAE and PPQ management that FLRA will not, because it cannot legally, recognize the informal memorandum of understanding between NAAE and PPQ signed in 2004 and intended to update the list of employee job description and positions included in and excluded from NAAE’s bargaining unit, in effect

nullifying their good-faith effort to self-modify the NAAE professional certificate of representation.

This summer NAAE attempted to fix this recently-discovered “legal” void in its professional certificate of representation and end the methodology previously used to identify the members of NAAE’s bargaining unit, naming a hodge-podge of constantly-evolving and frequently-changing employee positions and job descriptions included in and excluded from NAAE’s professional employee certificate of representation. NAAE filed a petition with FLRA, seeking to “clarify” its professional bargaining unit representation and to greatly simplify the position descriptions used in any new certificate. Upon reviewing NAAE’s petition and the Agency’s response to it, FLRA warned the parties that FLRA would have to hold a formal hearing to resolve any dispute between the parties over who was to be “in” or “out” of the NAAE bargaining unit, and thus to be listed on a re-described certificate of representation of professional employees. FLRA encouraged the parties to try to resolve their differences. And that they did.

Following several discussions between Agency and NAAE negotiators, the Agency agreed to meet NAAE more than halfway. It agreed to accept a broad, simplified re-description of the professional bargaining unit of NAAE, to appear in a new certificate if and when approved by FLRA:

all permanent and term professional employees of  
PPQ who are GS-12 and below, except  
management, supervisors, and employees expressly  
excluded by statute, 5 U.S.C. § 7112(B).

This gratifying accommodation from the Agency not only avoids a long, drawn-out, expensive hearing and related proceedings before FLRA, it ends up adding roughly 80 new PPQ employees to the NAAE bargaining unit and, therefore, eligible to join NAAE. The majority of these new BUEs are GS-401 Agriculturalists. The parties are, as of this date, waiting for FLRA’s official approval of their mutually-agreed upon re-description of NAAE’s professional bargaining unit and FLRA’s issuance of a new “clarified” certificate of representation containing this revised description.





# WE'RE BACK....



**NAAE CONVENTION MAY 22-25, 2022**

**Embassy Suites 17<sup>th</sup> Street- Rooms: \$159**

**1100 SE 17<sup>th</sup> St, Ft. Lauderdale, FL 33316**

**For more information contact Esther Serrano  
(954) 214-8836 or [Esther.S.Serrano@usda.gov](mailto:Esther.S.Serrano@usda.gov)**



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We are hopeful that the 2022 NAAE convention will happen and are making plans for training, teamwork, and tropical temperatures next May. Join us at the Embassy Suites 17<sup>th</sup> Street Ft. Lauderdale, FL. Meet other NAAE members from across the nation, the Executive Committee, and meet with PPQ Upper Management. A union friendly atmosphere is returning to government, and NAAE wants to ensure local chapters understand how to utilize this benefit. Rooms at this all-suite hotel have a sitting area with dining table and kitchenette, a separate bedroom, and a step out balcony. The rate includes a cooked to order breakfast and nightly manager's receptions with 2 drink tickets and light food. The hotel has a full restaurant, bar, and great outdoor seating around a beautiful koi pond as well as a large pool area with hot tub and waterfall. Enjoy South Florida's International cuisine at one of the 50 restaurants in walking distance or take the free trolley to the beach that stops in front of the hotel. After a day of meetings, it is only a 1 mile walk to the intercostal waterway to catch a water taxi, watch the mega-yachts, or view a sunrise/sunset over the water.

## GETTING TO SOUTH FLORIDA

The Ft. Lauderdale airport (FLL) is the closest airport and a \$10 Uber ride away from the hotel. Miami airport (MIA) is 45 minutes South (depending on traffic). West Palm Beach airport (PBI) is an hour North. It is logistically MUCH easier to fly into FLL. and many budget airlines fly direct to FLL.





## Compensation for Local Reps:

NAAE can compensate travel expenses (airfare, gas, etc) up to \$600 for one PPQ representative from each local chapter. (Please call a NAAE Executive Committee member if your airfare/expense will exceed \$600—we will get you there!) Unfortunately, NAAE cannot reimburse attendees for stays at the hotel or meals. However, included in the daily hotel rate is a free hot breakfast and an evening reception. We will provide morning and afternoon snacks in the meeting rooms. Most local union representatives can plan to arrive Sunday morning/afternoon (22<sup>nd</sup>) and depart Wednesday (25<sup>th</sup>). Executive Committee members can plan to arrive Saturday (21<sup>st</sup>) and depart Thursday (26<sup>th</sup>). PPQ Upper Management can plan to arrive Sunday (22<sup>nd</sup>) and depart Wednesday afternoon (25<sup>th</sup>) or Thursday morning (26<sup>th</sup>).

DO NOT USE CONCUR or THE GOVERNMENT ISSUED CREDIT CARD to make your reservations. You DO NOT need travel authorization from management. You only need to request Annual Leave approval from your supervisor. In previous years management credited back annual leave taken for the days of Joint Labor Management Training and Consultation; however, we are still in the process of negotiations for 2022. If you are interested in attending the convention, please contact one of your NAAE Executive Committee members or your Convention Coordinator Esther Serrano at (954) 214-8836 [Esther.S.Serrano@usda.gov](mailto:Esther.S.Serrano@usda.gov) and we will send you a link to make a reservation with our special rate.

### Rough Agenda

Sunday 22<sup>nd</sup> – Morning and afternoon meetings covering internal union business (Executive Committee only). Evening social mixer at hotel (all welcome).

Monday 23<sup>rd</sup> and Tuesday 24<sup>th</sup> (all welcome) - Joint Labor Management Relations Training. We would also like to hear from prospective attendees about additional training/topics they would like to see covered at the convention.

Wednesday (25<sup>th</sup>) (Executive Committee only) - Consultation with Upper Management and usher in the newly elected Executive Committee!

PLAN WITH US.... Follow us on Facebook!



## How to Join NAAE in Three Easy Steps:

1. Get Form SF-1187, Request for Payroll Deduction -- Ask any National NAAE Officer, cut out or photocopy from THIS newsletter, print it from our website

[HTTP://www.AGInspectors.org](http://www.AGInspectors.org)

2. Fill out: 1) Name, 2) S.S.# , 3) Branch Location or at-large 4) HOME Address – We need your HOME address ONLY! It is against the law for us to send an election ballot to your office. Remember, this is our only chance to get your address right for purposes of elections and newsletters.

SECTION A—Put down your branch if known; otherwise, write the name of your work station. Currently dues are \$7.50 per bi-weekly pay-period.

Please do NOT sign space on form for authorized signature—that's for the NAAE National President's signature.

SECTION B—This is for you! Please sign and date (preferably in blue ink).

The Agencies will not process a form to withdraw from your paycheck without an ORIGINAL signature (would you have it any other way???)

3. Give/send the original of your form to a National NAAE Officer or see that the form gets mailed to the NAAE National President for processing. His or her address is always on the back of the newsletter (as well as the addresses of all of the rest of your NAAE National Officers)—

Currently, National President:

Mike Randall  
P.O. Box 31143  
Honolulu, Hawaii 96820-1143

Welcome to NAAE!

Remember—No need to kill a lot of trees. We only need ONE original form to process a dues-withholding request. That old system of carbons and triplicates is history and is just a bunch of environmental pollution -- Don't be a dinosaur.

Commun Misteaks:

Some folks have tried to send their dues forms directly to Management for processing. NO!!! DON'T DO THAT. This isn't supposed to result in withheld dues, but sometimes it does (see Bad Thing #3 below). Management is not supposed to process any forms without an authorizing signature from the NAAE National President.

Bad things that happen to unauthorized forms:

1. Management hoards the unauthorized forms for about six months and then sends them back to us unprocessed, citing "no signature" as the reason.
2. Unauthorized forms are never processed, get thrown away, or otherwise "disappear".
3. Management processes the dues-withholding, NAAE never knew you joined, we lose our once-in-a-lifetime opportunity to get your home address because we never see the

form, and you are angry -- you can't vote, can't participate as a local union member, and never get a newsletter.

There are plenty of other ways to mess up dues-withholding, but we won't print them all here to avoid giving away too many of our best held secrets. Just keep to the simple directions above, and we should be able to scale most any wall USDA can build. Happy recruiting.

THE END???

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





# REQUEST FOR PAYROLL DEDUCTIONS FOR LABOR ORGANIZATION DUES

## Privacy Act Statement

Section 5525 of Title 5 United States Code (Allotments and Assignments of Pay) permits Federal agencies to collect this information. This completed form is used to request that labor organization dues be deducted from your pay and to notify your labor organization of the deduction. Completing this form is voluntary, but it may not be processed if all requested information is not provided.

This record may be disclosed outside your agency to: 1) the Department of the Treasury to make proper financial adjustments; 2) a Congressional office if you make an inquiry to that office related to this record; 3) a court or an appropriate Government agency if the Government is party to a legal suit; 4) an appropriate law enforcement agency if we become aware of a legal violation;

5) an organization which is a designated collection agent of a particular labor organization; and 6) other Federal agencies for management, statistical and other official functions (without your personal identification).

Executive Order 9397 allows Federal agencies to use the social security number (SSN) as an individual identifier to avoid confusion caused by employees with the same or similar names. Supplying your SSN is voluntary, but failure to provide it, when it is used as the employee identification number, may mean that payroll deductions cannot be processed.

Your agency shall provide an additional statement if it uses the information furnished on this form for purposes other than those mentioned above.

1. Name of Employee (Print or Type-Last, First, Middle)	2. Employee Identification Number (SSN or Other)	3. Timekeeper Number
4. Home Address (Street Number, City, State and ZIP Code)	5. Name of Agency (Include Bureau, Division, Branch or Other Designation) <input type="checkbox"/> <input type="checkbox"/>	

## Section A-For Use By Labor Organization

Name of Labor Organization (Include Local, Branch, Lodge or Other Appropriate Identification)

I hereby certify that the regular dues of this organization for the above named member are currently established at \$ _____per	(biweekly pay period) (calendar month). (Strike out whichever period is not appropriate, based on arrangement with the employee's agency.)
Signature and Title of Authorized Official	Date (Month, Day, Year)

## Section B-Authorization By Employee

I hereby authorize the above named agency to deduct from my pay each pay period, or the first full pay period of each month, the amount certified above as the regular dues of the (Name of Labor Organization):

and to remit such amount to that labor organization in accordance with its arrangements with my employing agency. I further authorize any change in the amount to be deducted which is certified by the above named labor organization as a uniform change in its dues structure.

I understand that this authorization, if for a biweekly deduction, will become effective the pay period following its receipt in the payroll office

of my employing agency. I further understand that Standard Form 1188, Cancellation of Payroll Deductions for Labor Organization Dues, is available from my employing agency, and that I may cancel this authorization by filing Standard Form 1188 or other written cancellation request with the payroll office of my employing agency. Such cancellation will not be effective, however, until the first full pay period which begins on or after the next established cancellation date of the calendar year after the cancellation is received in the payroll office.

Contributions or gifts (including dues) to the labor organization shown at left are not tax deductible as charitable contributions. However, they may be tax deductible under other provisions of the Internal Revenue Code.

Signature of Employee	Date (Month, Day, Year)	
FOR COMPLETION BY AGENCY ONLY- The above named employee and labor organization meet the requirements for dues withholding. (Mark the appropriate box. If "YES", send this form to payroll. If "NO", return this form to the labor organization.)	YES	NO



# OLMS Fact Sheet

## Labor-Management Reporting and Disclosure Act

The *Labor-Management Reporting and Disclosure Act* (LMRDA) grants certain rights to union members and protects their interests by promoting democratic procedures within labor organizations. The LMRDA establishes the following:

- Bill of Rights for union members
- Reporting requirements for labor organizations, union officers and employees, employers, labor-relations consultants, and surety companies
- Standards for the regular election of union officers
- Safeguards for protecting labor organization funds and assets

Unions representing federal employees are similarly covered by the implementing regulations of the standards of conduct provisions of the *Civil Service Reform Act*. Unions representing solely state, county, and municipal employees are not covered by either of these laws.

The Secretary of Labor enforces certain provisions of the LMRDA and has delegated that authority to the Office of Labor-Management Standards (OLMS). Other provisions may only be enforced by union members through a private suit in a federal district court. Major provisions of the LMRDA are outlined below.

### Title I – Bill of Rights of Union Members

- Union members have equal rights to nominate candidates for union office, vote in union elections, and participate in union meetings. They may also meet with other members and express any opinions.
- Unions may impose assessments and raise dues only by democratic procedures.
- Unions must afford members a full and fair hearing of charges against them.
- Unions must inform their members about the provisions of the LMRDA.
- Members may enforce Title I rights through a private suit against the union, but may be required to exhaust internal union remedies for up to four months before filing suit.
- Union members and nonunion employees may receive and inspect collective bargaining

agreements. This right may be enforced by the individual or by the Secretary of Labor.

### Title II – Reporting Requirements

- Unions must file information reports, constitutions and bylaws, and annual financial reports with OLMS.
- Officers and employees of labor unions must report any loans and benefits received from, or certain financial interests in, employers whose employees their unions represent and businesses that deal with their unions.
- Employers and labor-relations consultants who engage in certain activities to persuade employees about their union activities or to supply information to the employer must file reports.
- Surety companies that issue bonds required by the LMRDA or the *Employee Retirement Income Security Act* must report data such as premiums received, total claims paid, and amounts recovered.
- The Secretary of Labor has authority to enforce the reporting requirements of the LMRDA.
- The reports and documents filed with OLMS are public information and any person may examine them or obtain copies at OLMS offices or via the OLMS Internet Public Disclosure Room at [www.unionreports.gov](http://www.unionreports.gov).
- Filers must retain the records necessary to verify the reports for at least five years after the reports are filed.
- Unions must make reports available to members and permit members to examine records for just cause.

### **Title III – Trusteeships**

- A parent union that places a subordinate body under trusteeship must file initial, semiannual, and terminal trusteeship reports.
- A trusteeship may only be imposed for the purposes specified in the LMRDA and must be established and administered in accordance with the constitution and bylaws of the labor organization that has imposed the trusteeship.
- A parent union that imposes a trusteeship may not engage in specified acts involving the funds and delegate votes from a trusteeship union.
- The Secretary of Labor has authority to investigate alleged violations of this Title. A union member or a subordinate labor organization may also enforce the trusteeship provisions except for the reporting requirements.

### **Title IV – Elections**

- Local unions must elect their officers by secret ballot; international unions and intermediate bodies must elect their officers by secret ballot vote of the members or by delegates chosen by secret ballot.
- International unions must hold elections at least every five years, intermediate bodies every four years, and local unions every three years.
- Unions must comply with a candidate's request to distribute campaign material to members at the candidate's own expense and must also refrain from discriminating against any candidate with respect to the use of membership lists. Candidates have the right to inspect a list containing the names and addresses of members subject to a union security agreement within 30 days prior to the election.
- A member in good standing has the right to nominate candidates, to be a candidate subject to reasonable qualifications uniformly imposed, to hold office, and to support and vote for the candidates of the member's choice.
- Unions must mail a notice of election to every member at the member's last-known home address at least 15 days prior to the election.
- A member whose dues have been withheld by an employer may not be declared ineligible to vote or to be a candidate for office by reason of alleged delay or default in the payment of dues.
- Unions must conduct regular elections of officers in accordance with their constitution and bylaws and preserve all election records for one year.
- Union and employer funds may not be used to promote the candidacy of any candidate. Union

funds may be utilized for expenses necessary for the conduct of an election.

- Union members may hold a secret ballot vote to remove from office an elected local union official guilty of serious misconduct if the Secretary of Labor finds that the union constitution and bylaws do not provide adequate procedures for such a removal.
- Union members who have exhausted internal union election remedies or who have invoked such remedies without obtaining a final decision within three calendar months after their invocation may file a complaint with the Secretary within one calendar month thereafter.
- The Secretary of Labor has authority to file suit in a federal district court to set aside an invalid election and to request the court to order a new election under the supervision of the Secretary and in accordance with Title IV.

### **Title V – Safeguards for Labor Organizations**

- Officers have a duty to manage the funds and property of the union solely for the benefit of the union in accordance with its constitution and bylaws.
- A union officer or employee who embezzles or otherwise misappropriates union funds or other assets commits a federal crime punishable by a fine and/or imprisonment.
- Officials who handle union funds or property must be bonded to provide protection against losses.
- A union may not have outstanding loans to any one officer or employee that in total exceed \$2,000.
- A union or employer may not pay the fine of any officer or employee convicted of any willful violation of the LMRDA.
- Persons convicted of certain crimes may not hold union office or employment for up to 13 years after conviction or after the end of imprisonment.

### **Title VI - Miscellaneous Provisions**

- Authority is granted to the Secretary of Labor to investigate possible violations of most provisions of the LMRDA (except those specifically excluded) and to enter premises, examine records, and question persons in the course of the investigation.
- A union or any of its officials may not fine, suspend, expel, or otherwise discipline a member for exercise of rights under the LMRDA.
- No one may use or threaten to use force or violence to interfere with a union member in the exercise of LMRDA rights.

**YOUR NATIONAL NAAE REPRESENTATIVES**  
**(Your Input & Feedback Is Most Welcome) PLEASE**  
**MAIL ALL DUES WITHHOLDING FORMS TO NAAE**  
**NAT'L PRESIDENT FOR SIGNATURE**

Mike Randall  
**President/Chief Negotiator**  
P.O. Box 31143  
Honolulu, HI 96820-1143  
C/O USDA 375 Rodgers Blvd  
Honolulu, HI 96819

Work: (808) 838-2705  
Fax: (808) 838-2706  
Home: (808)239-4393  
Email: [MikeRan@aloha.net](mailto:MikeRan@aloha.net)  
Cell: 808-782-6556  
Please call AFTER 0700  
Hawaii Standard Time

Zachary Teachout  
**Communications**

Phone: (619) 661-4510

Don Anderson  
**Committees and Uniform VP**  
3509 Miriam Ave. Suite A  
Bismarck, ND 58501

Phone: (701) 250-4473  
Email: [mastadon1369@hotmail.com](mailto:mastadon1369@hotmail.com)  
Cell: (701) 527-1220

**National Vice President**  
VACANT

Work:  
Fax:  
Email:

Terrence Noda  
**At-Large VP**  
455 E. Lanikaula St.  
Hilo, HI 96720

Cell:  
Work: (808) 772-0234  
Email: (808) 933-9040

Trish Claves  
**Secretary**  
200 North Mariposa Rd B500  
Nogales, AZ 85621

Cell:  
Work: (520) 285-5404  
Fax: (520) 397-0138 U  
Email: [Patricia.A.Claves@usda.gov](mailto:Patricia.A.Claves@usda.gov)

Cresandra Anderson  
**ER VP**  
360 international Park  
Newnan, GA 30265

Work: (770)-557-4505  
Fax:  
Email: [Cresandra.N.Anderson@USDA.gov](mailto:Cresandra.N.Anderson@USDA.gov)

Paul Hodges  
**Treasurer**  
200 Crofton Rd Box 5  
Kenner, LA 70062

Work: (504)461-4225  
Fax:  
Email: [naaeph@hotmail.com](mailto:naaeph@hotmail.com)

Susan Kostecky  
**At-large VP**  
508 NC Hwy 581 South  
Goldsboro, NC 27530

Work: (919) 221-6258  
Fax: (919) 583-0035 U  
Email: [spkostecky@gmail.com](mailto:spkostecky@gmail.com)  
[susan.p.kostecky@aphis.usda.gov](mailto:susan.p.kostecky@aphis.usda.gov)  
Cell: (919) 522-6273

Willis Gentry  
**WR VP**  
520 Martens Dr.  
Laredo, TX 78041

Work: (956) 726-2258  
Fax: (956) 726-2322 U  
Email: [willis.e.gentry@usda.gov](mailto:willis.e.gentry@usda.gov)

Mark Segall  
**VP for Health & Safety**  
19581 Lee Road  
Humble, TX 77338

Work: (281) 982-9545

Dr. Esther Serrano  
**ER Assistant VP**  
Entomology Identifier  
Port Everglades  
USDA-APHIS-PPQ-FO  
1800 Eller Dr. Suite 414  
Ft. Lauderdale, FL 33316

Work: (954)233-5177  
Cell: (954) 214-8836  
Email: [Esther.S.Serrano@usda.gov](mailto:Esther.S.Serrano@usda.gov)

Kim Mann, Esq.  
**Legal Counsel**  
4601 North Fairfax Drive  
Suite 720  
Arlington, VA 22203

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**PLEASE NOTIFY THE NATIONAL SECRETARY OF AN ADDRESS CHANGE!**

This Newsletter is distributed to NAAE members & to members of the House and Senate Agriculture Committees

**NAAE National Secretary**  
**Patricia Claves**

24547 South via Montana Vista  
Green Valley, AZ 85622

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