



Newsletter

Contract Re-Negotiations Begin

As most people know, when the federal government made the decision to merge PPQ-APHIS portion of the USDA and the border operations portions of the INS and Customs into what is now CBP/OFO, new hires were left without any contractual protections from 2003 until 2011 when NTEU and CBP, after negotiation, mediation, and arbitration, final came out with a new Collective Bargaining Agreement covering all CBP/OFO employees; legacy and new hires.

Well, 3-years have passed since that agreement was finalized and it is time for the agency and NTEU to enter into negotiations on that document. NTEU National has solicited Chapter Presidents and other Union leaders for input on problems with the current contract and suggestions for changes, additions, and/or deletions. In response, Chapter President Albright forwarded a list of 53 separate items to be addressed by the negotiating team. This list of items included:

- ◆ Suggestions for changes to uniform wear policy and the addition of items such as a “hooded” raincoat and boonie hat to the authorized uniform items list;
- ◆ Require the agency to provide information on shift staffing numbers, use of “rotators” and other relevant information during the B&R solicitation process;
- ◆ Require the agency to assign managers to hear grievances who are actually empowered to resolve the grievance and not just there to take notes;
- ◆ Remove the word “infrequent” from the article allowing shift trades;
- ◆ Establishing a meaningful consequence other than “next available slot” when management does not properly assign employee development opportunities;
- ◆ Allow employees to file blanket request to be excused from overtime on their RDOs;
- ◆ Require the agency follow merit promotion standards for all temporary promotions to managerial positions.

For a complete list of items, go to the [Announcements and Upcoming Events](#) section of the Chapter website.

Hopefully, we’ll see at least the majority of these items in the new contract. Also, hopefully, the negotiations won’t be as arduous as they were the last time around. Chapter leaders will keep you posted on how the negotiations are going through e-mail and the chapter’s website. Also, if you have any questions, feel free to contact one of your representatives.



Issues and Grievances Blaine Area Port

Grievance Updates:

- ◆ After lengthy consultations with NTEU legal counsel, the issue of Title 5 violations resulting from the agency scheduling officers to work 1600-Midnight on Saturday and then continue working Midnight to 0800 on Sunday (16-hours straight without OT) were determined to be covered by a national grievance already on file. NTEU 164 has proposed that language be inserted into the next contract to address this situations.
- ◆ The issue of CBP making unilateral changes to the B&R process in Blaine is also being addressed by a national grievance.
- ◆ The grievance regarding management's shifting of employees out of their bid shifts, and locations, to cover for the Beyond the Borders initiative has been accepted for arbitration by NTEU. A hearing date is pending.
- ◆ NTEU legal counsel withdrew from the arbitration regarding employees who lost a large amount of A/L due to CBP's decision to confiscate restored annual leave. While the local chapter is disappointed at this turn of events, NTEU National cited legal technicalities which, unfortunately, limited any meaningful remedy.
- ◆ NTEU was able to successfully resolve the issue of the "no talking" policy at the front counter at the Peace Arch at the third step of the grievance process. Talking at the front counter is OK so long as it is not offensive and does not interfere with work needing to be performed.

Negotiations Update:

- ◆ As part of a national movement to pre-clear freight in Canada, CBP installed a clearance booth in the truck parking lot just across the border from the Blaine Cargo facility. CBP and NTEU engaged in a series of bargaining sessions, which resulted in significant safety concessions granted by CBP, including the installation of a duress alarm and siren, guarantee to rotate officers through the position, portable telephone, a promise to let U.S. based medical emergency personnel respond to medical emergencies even though the facility was in Canada, etc. The pilot has now ended and CBP has indicated they have no intentions of bringing it back. No monetary losses, so no need to pursue. The NTEU Buffalo Chapter has been advised of issues that we faced in Blaine.
- ◆ Permanent AWS proposed for Friday Harbor. Discussions continue. As of the date of writing this (3/3/14), CBP LER seems insistent on demanding flexibility provisions not contemplated in the contract.

New Grievance:

- ◆ Two favorable settlements were reached on the eve of arbitration regarding personal disciplinary matters .
- ◆ NTEU 164 is currently representing several employees in the disciplinary process. Such representation by a lawyer would cost an employee at least \$350 per hour, if a local attorney skilled in such matters could even be located. Most attorneys want no involvement in federal matters such as OWCP, administrative personnel issues, etc.



Issues and Grievances

Blaine Area Port (continued)

New Grievances (continued):

- ◆ During Thanksgiving of 2013, CBP failed to follow the contract by refusing to grant holiday excusals; even after acknowledging that certain work units were overstaffed. No resolution could be reached through the grievance process, as CBP is of the opinion that they can make assignments whenever and however, regardless of the contract to which they are a party. Arbitration is pending.
- ◆ Preclearance return rights. NTEU 164 has recently helped several officers get to the ports that their seniority entitled them to, after CBP attempted to limit their options to undesirable and unwanted locations for their return to the U.S.

New Negotiations :

- ◆ CBP and NTEU are in the beginning stages of bargaining over the new Nexus Enrolment Center under construction at the Birch Bay Mall. The parties are waiting for a site survey to be completed by CBP IA.
- ◆ Physical Fitness Time. NTEU and CBP have negotiated a program to grant up to 3 hours of physical fitness time per week during duty time. Employees at the larger ports are very much enjoying this negotiated benefit. NTEU 164 will propose contractual language to national to make it easier for employees in the smaller ports to participate more fully.

“Without labor nothing prospers.”

NTEU SAYS: KNOW YOUR RIGHTS!

Request Union Representation before making any oral or written statements.

As a CBP Employee, you are entitled to have an NTEU representative with you whenever you are asked to make a statement, either written or verbally, about a matter that you reasonably believe could lead to discipline (Article 22, Section 6). Even if you are told you are just a “witness”, you are entitled to union representation if you feel you could be subject to discipline.

However, you **MUST** request representation. You are entitled to Union representation during interviews conducted by Internal Affairs and OIG. You are also entitled to Union representation where a Supervisor, Chief, or other manager is asking you questions about something that may lead to discipline. If you are told that you are not allowed to have a representative, you are entitled to be given the reason why in writing (Article 22, Section 6(C)). But, again, you **MUST** ask for this.

So, before you answer any questions, request Union Representation.

WHEN IN DOUBT REQUEST REPRESENTATION!





Issues and Grievances Sumas Area Port

Grievance Updates:

- ◆ There are no grievance issues from this area to update at this time.

Negotiations Update:

- ◆ The new AWS agreement for Sumas has been implemented and seems to be working as intended. The program is currently in the “pilot” phase, and a review of agreement will be conducted after the summer traffic season.
- ◆ NTEU is still assessing the desire and feasibility of an AWS for Lynden.

New Grievances:

- ◆ NTEU has submitted a request for information regarding a “take down” at the Sumas POE. It is NTEU’s belief that management did not handle this situation properly. A grievance will be filed if the provided information demonstrates that one is warranted.

“All labor that uplifts humanity has dignity and importance and should be undertaken with painstaking excellence.”



Issues and Grievances Vancouver Pre-Clearance

Grievance Updates:

- ◆ As an unannounced sideline to installing Automated Passenger Control (APC) kiosks in Vancouver, CBP also removed two primary booths. This caused officers assigned to APC traveler processing to have to stand in the stream of exiting passengers, without any separation between themselves and the public. A grievance was filed and CBP has committed to installing separators dividing the offices from the public and to installing anti-fatigue mats. NTEU will vigorously oppose the removal of more primary booths.

Negotiations Update:

- ◆ Nothing to update as of this issue.

New Grievances:

- ◆ Nothing to update as of this issue.

Issues and Grievances

Oroville Area Port

Grievance Updates:

- ◆ NTEU is still awaiting the decision from the arbitrator regarding the issue of officers from the Oroville POE not being appropriately compensated while being required to travel to and work at the Ferry POE.
- ◆ Grievances regarding violations of 5 USC 6101 continue to be filed and forwarded for arbitration. To date, all are being held in abeyance awaiting the outcome of action being taken at the National level. Grievances regarding the right of employees to receive copies of complaints (Article 31) have been stymied by the fact that the issue in question is being resolved before the Article 31 grievance can run its course. The Chapter has asked that clarifying language on this issue be added to the next version of the Collective Bargaining Agreement.

Negotiations Update:

- ◆ Attempts to provide employees with schedules that meet the agency's needs and provide for improved quality of life for the employees continue to be turned away out of hand by management. While local stewards at Frontier were able to put forward scheduling ideas and suggestions that resulted in a good mix at that port, proposals for Danville and Oroville have flatly rejected by Oroville management with unsupported claims regarding cost and required staffing. A grievance has been filed on behalf of the Officers at Danville based on the "inequity" of their schedules compared to other ports in the Oroville area.

New Grievances:

- ◆ As previously noted, local stewards have filed a grievance under Article 2 (Fairness and Equity) for officers at Danville based on the fact that their's is the only port in the Oroville AP that does not have "long weekends" built into the schedule. This inspite of the fact that NTEU has provided several options that would do so. UPDATE: The Step 3 meeting with the DFO was encouraging, with Ms. James committing to having a third party assess the agency's schedule and NTEU's proposal to see if long weekends are feasible or not.
- ◆ Stewards at Oroville have filed a grievance for the "rotators" at that port over the agency's failure to abide by a May 2011 grievance settlement agreement which guarantees employees in the Oroville AP a schedule which allows them to predict their RDOs for B&R year. Management at Oroville has been assigning the officers on the rotating shift in a way that does not provide any predictability. Additionally, the issue of inequity was again brought up as some "rotators" appear to get far more long-weekends than others.
- ◆ NTEU successfully represented an employee who was issued a letter of reprimand for allegedly failing to follow "port policy" and not conducting "required" secondary checks. During the grievance process neither the issuing manager, nor their superior, were able to demonstrate that the actions of the employee were in any way a violation of any written policy or directive. The agency conceded these points after the Step 2 grievance meeting and the LOR has now been removed from the employees record and all copies have been destroyed.
- ◆ NTEU presented two Oral Replies for employees faced with suspension. While the results have not yet been received, NTEU is confident that a persuasive case was made to dismiss the charges against one employee and to mitigate those against the other to either an LOR or counseling letter.

