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Johanne L. ...
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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20540**

FILE: B-156287

DATE: March 23, 1977

MATTER OF: General Services Administration - Request
for Increased Administrative Leave for
Union-Sponsored Training Program

DIGEST: Noting the expansion of the Federal Labor
Relations Program, GSA requests GAO to
authorize an increase of administrative
leave allowed employee-union represent-
atives to attend union-sponsored labor
relations training courses of up to 40 hours
from the approximately 8 hours currently
permitted by our decision B-156287, July 12,
1966. Because agencies have authority under
our decision B-156287, September 15, 1976,
to utilize official time for joint agency-union
sponsored training programs, we feel that
increased administrative leave for union-
sponsored training is unwarranted.

This action is in response to a letter dated September 19, 1975, from Mr. G. C. Gardner, Assistant Administrator for Administration, General Services Administration (GSA), for an advance decision concerning the maximum amount of administrative leave that may be authorized employee-union officials to attend union-sponsored training courses.

Currently administrative leave for this purpose is governed by our decision B-156287, July 12, 1966 (hereinafter referred to as our 1966 decision), and subchapter S-11-5F, chapter 630 of the Federal Personnel Manual Supplement 990-2. Our 1966 decision reads in part as follows:

"We have agreed [with the Civil Service Commission] that administrative leave may be granted to an employee representative incident to his receiving information, briefing and orientation relating to matters within the scope of Executive Order No. 10988 and of mutual concern to the employing agency and the employee in his capacity as an organization representative. Such matters could include statutory or regulatory provisions relating to pay, working conditions, work schedules, employee grievance procedure, performance ratings, adverse action appeals, as well as agency policy and negotiated agreements pertaining thereto. Our

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mutually agreed upon conclusion in this area is predicated upon there being an advantage to the agency as well as to the employee organization concerned that employee representatives be knowledgeable in matters concerning the basic statutes, regulations and agency policy and negotiated agreements affecting employee rights, appeal procedures, etc. We have further agreed that if it is administratively determined that a session conducted by an employee organization is designed primarily to advise, orient, and brief employee representatives regarding such matters, neither our Office nor the Civil Service Commission would interpose any objection to the agency, within its discretion, granting administrative leave to the employee while so attending.

"On the other hand, if the primary purpose of the employee's attendance is to train or inform him concerning solicitation of memberships and dues, other internal organization business, or representation of the employee organization in the art of collective bargaining negotiations, there would appear to be no proper basis to support an administrative determination that the attendance of the employee is in the interest of the agency. Therefore, our opinion is that in such cases no proper basis now exists for the granting of administrative leave.

"Also, it has been agreed that an agency properly may grant administrative leave only for such short periods of time--ordinarily not to exceed 8 hours--that are reasonable under the circumstances. We believe that statutory authority would be necessary to enable agencies to grant administrative leave for extended periods during which employee representatives receive organization sponsored instruction or briefing." (Emphasis supplied.)

The GSA points out that since the above-quoted decision was issued in 1966, the Federal Labor Relations Program has vastly increased in size, scope and complexity. The number of Federal employees represented by labor organizations has grown dramatically. A number of new Federal agencies have been established and existing

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ones expanded to administer the program and resolve disputes. The number of administrative decisions and regulations governing the program has continued to grow. As a result GSA states that these factors require greater competence on the part of the agency and union officials. Agencies have met this need by expanding the number and length of labor relations training courses and specialty workshops that their labor relations personnel attend.

On the other hand, GSA indicates the above-quoted decision has restricted the training opportunities available for employee-union representatives. For this reason GSA requests whether it would now be proper for management officials, at their discretion, to grant up to 40 hours of administrative leave for employee-union representatives to attend union-sponsored training courses that meet the criteria set forth in the above-quoted decision.

We have solicited the views of the Civil Service Commission on this request for increased administrative leave as we did on the issues covered by our 1966 decision. The Chairman of the Commission, Mr. Robert E. Hampton, responded to our request in a letter dated January 4, 1977, which reads in part as follows:

"* * * notwithstanding the growing complexity of the Federal employee labor relations program, the current limitation on the use of administrative leave for union sponsored training appears to be functioning properly. As noted, this success may be due to the fact that agencies have used appropriate discretion in granting such administrative leave and have viewed the 1966 guidance as not imposing an absolute eight-hour limitation but rather as a guideline of time to be granted normally. On that basis we do not believe any change is required in the guidance furnished in 1966. Nor do we believe that general authorization of increased administrative leave for union-sponsored training such as the 40 hours proposed would be in keeping with the maintenance of a reasonable policy with respect to union self-support and independence. However, we believe that the increased complexity of Federal employee labor-management relations with an increased use of negotiated grievance procedures; the rising instances of union-management joint committees to deal with

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EEO, health and safety, drug and alcohol abuse, productivity, and other subjects; and the growth in the interplay of the supervisor and union steward as a problem-resolution mechanism, warrants a change towards more cooperative undertakings on matters of mutual concern.

"We believe that joint efforts will be mutually beneficial and in the public interest. For example, authorizing official time for the joint briefing of supervisors, managers, union stewards and other union officials on subjects related to the administration of the agreement could have positive impact on the efficiency of government operations. Accordingly, rather than granting additional time for union sponsored training or altering the basis for granting administrative leave for such training, we propose that greater benefits can be achieved by mutually agreeable joint endeavors. We believe that such efforts, as contrasted to increased agency support for union sponsored training, will improve the bilateral relationship, improve the problem resolution potentials of the labor-management relationship and promote efficiency of agency operations. Such joint undertakings would deal with relationships arising under a negotiated agreement or on related matters of mutual interest and concern rather than technical skills courses relating to a union's internal organization and representational concerns, i. e., how to negotiate, how to process an unfair labor practice, etc.

"It should be noted, that we are not dealing with the existing practice whereby management is trained directly by their Federal agencies or by the Civil Service Commission's Labor Relations Training Center and Regional Training Centers in skills courses or other labor relations subjects in which a management approach is presented and in which union representatives are not involved as trainees.

"Based on the above, we propose that you not change the guidance given in 1966 concerning authorized administrative

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leave for union sponsored training, but that agencies be advised that reasonable amounts of official time may be authorized for union representatives engaged in joint union-management endeavors of mutual benefit and concern. The determination of appropriate amounts of reasonable time for such joint undertakings as contrasted to union-sponsored training, should be made in accordance with the principles and guidance in your recent decision on representational functions. (#B156287 and FPM Letter 711-120 of October 14, 1976 'Guidance and Advice on the Use of Official Time for Employee Representational Functions')

We share the Commission's views, as quoted above. In this connection, our 1966 decision should not be considered in a vacuum but must be considered in conjunction with our decision in the Matter of Official Time for Employee Representational Functions, B-156287, September 15, 1976. This later decision held that agencies could grant their employee representatives official time for representational purposes pursuant to guidelines contained in Federal Personnel Manual (FPM) Letter 711-120, October 14, 1976, "Guidance and Advice on the Use of Official Time for Employee Representational Functions," promulgated by the Civil Service Commission. The guidelines contained in the FPM letter defined with specificity the term "representational functions," which theretofore had been subject to a wide range of interpretations among agency and union officials. Under our decision and the aforementioned FPM letter, the amount of official time permitted is to be determined by balancing the impact on employee performance and efficiency, effective conduct of the Government's business; and the rights of employees to be represented. Under these guidelines agencies may authorize reasonable amounts of official time for employee representatives to engage in joint union-management endeavors of mutual benefit and concern including joint union-management sponsored training programs. The new agency authority to use official time for employee representative training should serve to reduce the requirement for agencies to authorize administrative leave for employee representatives to attend union-sponsored training programs.

In view of the fact that agencies have authority to accommodate the training requirements of employee-union representatives through joint union-management sponsored training programs on official time we

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have concluded that the restrictions set forth in our 1966 decision on the amount of administrative leave for employee-union representatives to attend union-sponsored training courses should not be modified.

Deputy

R. K. ...
Comptroller General
of the United States