



September 7, 2004

VIA FACSIMILE AND FIRST CLASS MAIL

The Honorable Robert C. Bonner
Commissioner
Bureau of Customs and Border Protection
1300 Pennsylvania Avenue, N.W.
Washington, DC 20229

Re: Outside Employment Approval Requirement--
Political Activity

Dear Commissioner Bonner:

I am calling upon you to issue an immediate clarification that CBP employees in the Long Beach/Los Angeles ports do not need to file a Request To Engage in Outside Employment in order to exercise their constitutionally and statutorily protected right to volunteer their off-duty time to work on a political campaign.

It has just come to my attention that a supervisor at the Los Angeles/Long Beach Seaport recently stated, during a muster of Port employees, that employees had to file a formal Request (Customs Form 3031) to engage in any sort of volunteer activity, including political activity. Shortly thereafter, two employees similarly were told by the Acting Assistant Port Director for Los Angeles Airport, Katie Woodson, that they were required to obtain prior approval for political activity. The two employees duly filed a Form 3031 on August 30; the next day, one received a call from Lori Cole in the Office of the Assistant Chief Counsel to ask for details concerning her intended political activity on behalf of Senator Kerry. The employee heard nothing further from Ms. Cole and did not receive the requested authorization. On September 2, an NTEU assistant counsel contacted Ms. Cole, and they spoke further on September 3.

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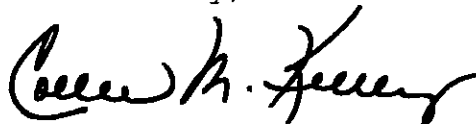
Ms. Cole appears to be investigating the situation, but the bottom line is that the employees are still waiting for approval for their political activity, per the instructions of their manager.

It is an intolerable infringement of employees' constitutional rights to require them to obtain prior approval before engaging in lawful, off-site political activity. Forcing employees to apply for approval--and disclose details about their intended activity to a curious supervisor or a reviewing authority--creates an impermissible chilling effect. Many employees are understandably hesitant to reveal their personal political views and activist inclinations to agency management, and will censor their own activities instead of pursuing formal agency approval. In addition, the approval process itself operates as a total bar to political involvement for the duration of the process, until approval is granted. Any delay impermissibly interferes with employees' constitutional and statutory right to engage in political activity, off-duty and off-site. Here, of course, employees have already been forced to wait over a week, with no end in sight.

I urge you to take immediate steps to clarify CBP's policy. If the problem is an isolated misinterpretation of the requirements of CBP's outside employment policy, supervisory and bargaining unit employees in the Los Angeles/Long Beach area should be informed that they are free to engage in partisan political activities consistent with the Hatch Act without prior approval from CBP. If, however, the Los Angeles area supervisors accurately represented current CBP policy, that policy must be corrected and notification of the correction sent to all CBP employees at the highest levels.

I look forward to your immediate attention to this pressing issue.

Sincerely,



Colleen M. Kelley
National President

Attachment

cc: Robert M. Smith, Chief, Human Resources Management