

NTEU 245 Bargaining Unit Meeting Notes
Thursday, February 19, 2009
and
TPAC Meeting Follow-up
Friday, February 20, 2009

For bargaining unit members who were unable to attend the Bargaining Unit Meeting held on February 19, 2009, the following are notes from the meeting that are intended to keep you advised of NTEU 245's response to the Office's recent production bonus cap (instituted February 13, 2009).

Howard Friedman, President of NTEU 245, provided information and then opened the floor to questions.

Howard first praised the members of the bargaining unit for their overwhelmingly positive response in dealing with the production bonus cap and in assisting the Executive Board (E-Board) with proposals for proactive strategies to deal with case inventory issues. Howard further thanked the E-Board for its quick and multi-faceted response to management with respect to the multiple proposals aimed at preserving case inventory.

Management anticipates that the case inventory at the end of the quarter will be between 40,000 and 60,000 cases.

Upcoming actions intended to protect case inventory are largely being driven by the E-Board's proactive position. For example, the proposed list of work projects and details was provided to management and appeared to be viewed in a positive manner. Management did note, however, that NTEU 245 will be required to provide a waiver to the standard notice requirements with respect to certain work projects if such work projects are to be implemented quickly. The E-Board is prepared to provide the necessary waiver.

The E-Board also suggested several quality bonus programs. Management seemed to like some of the ideas, but we are not hopeful that the proposals will be acted upon quickly.

Management is focused on the PAP model and is not willing to give an adjustment for the required 3.5 hour customer service training. Similarly, management is unwilling to move off the PAP model with respect to annual and sick leave adjustments to production.

The E-Board is concerned that management will not provide reassurance that the production bonus cap is not the beginning of the road to a RIF (Reduction in Force). This is of particular concern given the very specific questions raised at the All-Hands Meeting (January 22, 2009) regarding bonuses and RIF prospects, to which management responded that bonuses were fine. Moreover, management's response to questions about a potential RIF were essentially deemed unfit for discussion. The E-Board is very

concerned that management “doesn’t get it.” Specifically, management does not seem to appreciate the level of concern of the examining corps and the corps’ perspective on the similarities between the current situation and the events which culminated in the 2002 RIF.

A number of questions from the bargaining unit were entertained. A summary of those questions and answers follows:

1. With the most recent PAP, the production levels are set rather high. Does management share this view?

No, management’s view is that a high percentage of attorneys attain outstanding production, indicating that the levels are not set too high.

2. Does the E-Board have the numbers that management has used in its forecasting models?

The E-Board has the numbers that were handed out at the All-Hands Meeting. The E-Board has analyzed these numbers and made its own calculations and management tells us that our calculations are incorrect. The E-Board is working on an Information Request to obtain all numbers used in management’s forecasting models.

3. How quickly will details be initiated?

Management has stated that details and work projects will be initiated as quickly as possible. The E-Board (along with assistance from members of the examining corps) has provided a multitude of excellent suggestions for work projects and details.

4. Will Trademarks be paying the salaries of those placed on work projects and details?

Yes.

5. If management would agree to alter the PAP during this time of concern regarding case inventory, is it possible to revert back to the PAP once any crisis is averted?

Yes.

6. When the E-Board asked for adjustments to Annual and Sick Leave, how was the request made? Inside or outside the model?

The E-Board feels that management should move away from the model at this time to enable those with leave to take the leave without penalty with respect to production. This would directly impact case inventory in a positive manner.

Management has repeatedly stated that this is a “non-starter” in that this essentially amounts to a reduction in the production requirements and that management will not agree to pay the same money for less work. The E-Board also proposed adjustments within the model, i.e., for leave taken in excess of the time factored in the model.

7. What if management does “get it” and its numbers are correct and the actions taken and proposed are adequate?

The E-Board would be happy if this turned out to be the case. However, past experience and current concern with respect to management’s forecasting capabilities, particularly in view of management’s change in position regarding bonuses -- from January 22 to February 13 (a period of three weeks) – gives us cause for concern.

8. Has the E-Board considered advising examining attorneys to increase production and then take leave?

The E-Board cannot tell you how to do your job.

9. Will those placed on details receive production adjustments?

Yes, attorneys on details and work projects will receive production adjustments for the time spent on those details and work projects. In the past, examining attorneys have been responsible for their amended docket, however.

10. Is management aware that many more people likely had questions at the All Hands Meeting, but were afraid to voice their questions for fear of retribution? Is management aware that some examining attorneys feel unable to keep up with legal case studies and legal review because of the high production requirements?

We cannot say what management is aware of regarding employees. We have requested that training time be given for review of case studies and other legal materials for examining attorneys. So far, management has not agreed to this.

11. Is management aware that creating a cycle of hire/fire/hire is not cost-effective and depletes the examining corps of experienced attorneys?

This would seem to be clear, but management has been intent on continuing to raise the number of examining attorneys, despite the union’s concerns and requests that the work be accomplished by the attorneys already on staff.

TPAC Meeting Follow-up:

At the Trademark Public Advisory Committee (TPAC) meeting on Friday, February 20, 2009, the Office indicated its willingness to meet with the bargaining unit about

concerns. Management also seemed willing to explore the use of an objective third party to review numbers in response to NTEU 245's expressed concern over the accuracy of the numbers used for projections.

So far, management has indicated that details will be forthcoming, but they do not seem to be interested in doing much else at this time.