

October 24, 2006

MEMORANDUM FOR DEPUTY COMMISSIONERS
DIVISION COMMISSIONERS
CHIEFS
NATIONAL TAXPAYER ADVOCATE
DIRECTOR, RESEARCH, ANALYSIS & STATISTICS
DIRECTOR, OFFICE PROFESSIONAL RESPONSIBILITY

FROM: Beverly Ortega Babers /s/*Beverly Ortega Babers*
Chief Human Capital Officer

SUBJECT: Employee Organization Policy

The Employee Organization Policy clarifies the conditions under which the Service will support attendance in an official capacity and at the agency's expense at subject conferences. These guidelines apply only to organizations covered by paragraph A.2. of the attached Employee Organization Policy.

The Learning and Education Division, Human Capital Office, announces a schedule of approved conferences by October 1st for each fiscal year. This enables the business units to plan and budget for employee organization conferences and training events in a manner that meets business needs and provides equitable support for employee organizations who have received approval for support from the Agency. Business units will retain responsibility for deciding on individual attendance, within overall policy and budget limitations, and subject to workload considerations.

If you or your Human Resources (HR) staffs have any questions, please feel free to contact Kathy Welch, Labor Relations Specialist, Workforce Relations Division, at (559) 454-6584.

Questions about the application of this policy from individual employees and/or managers should be directed to your HR staffs.

Attachments (2)

INTERNAL REVENUE SERVICE EMPLOYEE ORGANIZATION POLICY

A. GENERAL PROVISIONS

1. **Purpose:** This policy affords guidance on providing support to and consulting with voluntary employee organizations. The policy applies to those organizations described in section A.2. and is intended to assist in the application of Executive Order 11491, 5 CFR §251, and departmental and agency policies. Other legally permissible support not addressed by this policy, if any, will be considered on a case-by-case basis.

(All previous policy memos are superseded except where noted.)

2. **Coverage:** This policy covers organizations, associations, and fellowships - or chapters thereof - whose membership is exclusively, or predominantly, composed of current Internal Revenue Service (IRS) employees, except as excluded below (hereinafter "employee organizations"). Such organizations may represent military veterans, professional, religious, social, fraternal, or recreational interests; the interests of minorities, women, or persons with disabilities; or civic, consumer or charitable interests and will be divided into two (2) groups.

Group #1 will consist of military veterans, professional, religious, minorities, women, or disabled interests.

Eligible for: Higher level of support from the Agency (includes meeting rooms, interoffice mail, IRS Newsletters, government supplies, attendance at conferences, travel expenses).

Group #2 will consist of social, fraternal, civic, recreational, consumer and charitable interests.

Eligible for: Lower level of support from the Agency (includes meeting rooms, interoffice mail, IRS Newsletters, government supplies)

Exclusions from Policy: This policy does not cover Service relationships with the National Treasury Employees Union (NTEU), organizations of former IRS employees, any organization whose membership is primarily composed of IRS supervisory or managerial personnel with whom the establishment of a consultative relationship is required by 5 CFR §251.201 (e.g., Professional Managers Association (PMA), Senior Executives Association (SEA), and the Federal Managers Association (FMA)), or any organization with whom the Service's relationship is established or prescribed by statute, regulation, or other law.

3. **Status of Covered Organizations:** The Service has in the past provided support to, and has consulted with, employee organizations such as those described above. On occasion, the Service's determination that it would consider an organization's request for support or consultation has been informally termed "recognition" of the organization by the Service. The Service will continue to provide support, and afford consultation, to covered organizations as guided by this policy, however, the term "recognized" is no longer used to characterize covered organizations for whom support or consultation has been or will be considered or for whom such support or consultation has been afforded in the past. This change in terminology is consistent with the regulation and executive order underlying this guidance, which grants no special status to organizations that the Service provides support, or with which it consults, to advance its mission. The distinction in terminology is also necessary because the words "recognition of" or "recognized" are considered to be terms of art to describe the labor-management relationship that the Service has with NTEU under 5 USC Chapter 71. See Section E.1. The level of support and or consultation afforded any organization will be determined by the Group assignment and other factors as set forth herein.

4. **Interpretation and Authority:** The Director, Workforce Relations Division, is authorized to resolve any issue concerning this policy or its application. The Director, Workforce Relations Division, is authorized to designate other appropriate offices whose programs are under his/her supervision (or such offices as are not under his/her jurisdiction with the consent of those offices) to resolve issues arising under this policy or its application that are of unique or particular interest to those offices, subject to the review and approval of the Director, Workforce Relations Division.

B. QUALIFYING FOR SUPPORT OR CONSULTATION

In accordance with 5 CFR §251, an employee organization seeking support from the Service, as described in subsection D.1., or seeking to consult with the Service, as described in subsection D.2.:

- (1) must be a lawful, nonprofit organization;
- (2) must not discriminate in terms of membership or treatment because of race, color, religion, sex, sexual orientation, national origin, age, handicapping condition, parental status, or genetic information;
- (3) must not assist or participate in a strike, work stoppage, or slowdown against the Government of the United States or any agency thereof or impose a duty or obligation to conduct, assist, or participate in such strike, work stoppage, or slowdown; and
- (4) must not advocate the overthrow of the constitutional form of Government of the United States.

These are the basic regulatory standards that must be met to be considered for support or consultation. Moreover, for the Service to afford support or consultation, the organization must ensure that its activities are conducted in a manner that, in the judgment of the Service, does not undermine the efficient and effective operation of the IRS. With respect to any specific request for support or consultation, the organization or requesting member must also demonstrate that the Service will derive a benefit from providing support to, or consulting with, the organization.

The determination of whether to provide support to or to consult with an employee organization in any instance will be made by the Service in its sole discretion. In determining whether to provide support to, or to consult with an employee organization in response to a specific request, and the level of support or consultation to be approved, the Service will consider such factors as:

- (1) type of employee organization (Group #1 or #2);
- (2) availability of resources;
- (3) regularity and volume of requests;
- (4) benefits to be gained by the Service or its employees through the support or consultation; and size of the employee organization (including the number of IRS employees).

In determining whether it will derive a benefit from providing support to, or consulting with, an organization in any specific instance, the Service may consider, among other things, the goals, objectives, and overall mission of the organization in light of the Service's mission and programs. Any organization that fails to comply with 5 CFR §251 or meet the standards in this policy is subject to denial of agency support or consultation.

C. RESPONSIBILITIES AND COMMITMENTS

1. Organization Responsibilities and Commitments:

- a. The responsibility to organize, manage, and operate employee organizations will be that of the organization and its membership.
- b. In order to allow determinations under section B above, employee organizations must submit to the Director, Workforce Relations Division, its constitution and bylaws which must indicate that the organization subscribes to minimum standards of fiscal responsibility and employs

democratic principles in the nomination and election of officers. In addition, national employee organizations will submit a listing of current chapters with the IRS location and point of contact for each chapter. Any changes to the constitution, bylaws, or chapter information will be submitted to Workforce Relations Division.

- c. In seeking support for, or consultation with the IRS, each employee organization agrees that the IRS will, in its sole discretion, determine the eligibility for, and level of support or consultation to be provided to, the organization in specific instances. This determination will be based on an assessment of the benefits to be obtained by the Service's programs or as a service to employees who are members of the organizations, but only where consistent with statute, regulation, executive order, any applicable court order, and availability of appropriation.
- d. Members of employee organizations are expected to comply with local rules and procedures as well as national policies as governed by applicable rules and standards of employee conduct and ethical behavior.

2. Service Responsibilities:

- a. The Workforce Relations Division will make the determination as to whether employee organizations seeking support or consultation comply with the standards stated in section B.
- b. The Service will consider requests from employee organizations to provide support or afford consultation. Approval of a request for support or consultation will be determined at the lowest appropriate level. For example, a request to use a conference room in an office will be considered according to established local procedures.

As described in section D below, the degree of support or consultation afforded in any instance may vary depending on the availability of resources, the benefits to be gained by the Service, the size of the employee organization, and other pertinent factors.

- c. Requests for support or consultation will be considered, and a decision reached, as promptly as possible. Advice and assistance will be available from the Labor Relations servicing office. Servicing Labor Relations Specialists may seek guidance from the LR/ER Strategic Policy Office.
- d. Business unit leaders will ensure that employee organizations operating in areas or in connection with programs under their jurisdiction do so in a manner that does not undermine the efficient and effective operations of the Service. If the issue is local and cross-functional in nature, the Senior Commissioner's Representatives (SCRs) will represent management in taking the appropriate action.

D. SUPPORT AND CONSULTATION

The Service will consider requests for support or consultation only from employee organizations that comply with the terms of this policy. A threshold determination will depend on whether affording the support or consultation is allowed, prohibited, or mandated by statute, regulation, executive or court order, or departmental or agency policy. Where the support involves a Government expenditure being justified as a "necessary expense" of the Service, it must:

- not be prohibited by law,
- make a direct contribution to carrying out either a specific appropriation or an authorized agency function for which more general appropriations are available, and
- not be an item that falls within the scope of a more specific appropriation or statutory funding scheme.

The Service reserves the right to set ceilings for the support of employee organizations for specific events or for specific items based on such factors. Subject to the above, the Service typically affords the following types of support and/or consultation:

1. **Support:**

- a. **Facilities:** (Group 1 & 2) Employee organizations may use Service premises for meetings or activities in accordance with local office policy, procedure, and building regulations, provided such use will not interfere with or result in higher costs of Government operations.
- b. **Use of Interoffice Mail, Official Bulletin Boards, Electronic/Voice Mail, and the Internet:** (Group 1 & 2) The IRS retains the right to remove, destroy, or delete material that, in the judgment of the Service, undermines the efficient and effective operation of the Service. Organizations must comply with local rules and procedures as well as Government wide rules and procedures controlling the posting of notices and other material on Government property.

Employee organizations may use *interoffice mail* to communicate with their membership only upon approval by Workforce Relations Division for Service-wide communications, by heads of individual business units for distribution within a particular business unit, or in the case of local, cross-functional mailings, the Senior Commissioner's Representative. Approval shall be granted only when the mailings do not impede official business, such as when the mailing's regularity and volume do not result in significant expense or diminish the efficiency of interoffice mail for official business.

Employee organizations may use *official bulletin boards* after posting material has been approved by the SCR or their designee. SCRs must decline to post messages that may violate law, subject the Service to liability, improperly imply endorsement of the organization or its views, or that may otherwise undermine the effective or efficient operation of the IRS.

Employee organizations may use *electronic and/or voice mail* to communicate with their membership without prior approval, subject to the following limitations. Electronic mail message size may not exceed 20 kilobytes (2½ pages) including attachments. Voice mail messages may consist of a single part only (no multiple page messages will be allowed). Employee organizations may not use electronic or voice mail to solicit members or communicate with non-member employees. The privacy and confidentiality of employee organization information and materials distributed or received by employees via IRS electronic information delivery systems are disclaimed. Employee organizations may use the *Internet* to establish websites on the IRWEB page. Each organization may have one main web page set up for the national chapter with individual chapters having the ability to add-on to that web page. Any requests to establish or modify a web page must be sent to the MITS Web Services Program Office.

NOTE: Information on establishing or modifying a web page can be found at:

<http://ws.web.irs.gov/WebReg/Register/Default.asp>

NOTE: See the "IRS Policy on Limited Personal Use of Government Information Technology Equipment/Resources" which can be found on the IRWeb at:

<http://nhq.no.irs.gov/dcos/policy/Internetpolicyfinalr122004.htm>

Workforce Relations Division will provide advice and assistance for any unresolved issues.

- c. **Use of IRS Newsletters:** (Group 1 & 2) Employee organizations may submit articles for publication subject to local editorial standards. In addition, articles will be edited and

approved according to local editorial standards as any other article submitted for publication. IRS may print a disclaimer in publications, such as: "The views expressed in this article are not necessarily those of the Internal Revenue Service". Articles published will inform, not solicit membership.

Newsletter staff should decline to publish articles that might violate law, subject the IRS to liability, improperly imply Service endorsement of the organization or its views, or that might otherwise undermine the effective or efficient operation of the Service.

- d. Use of Government Supplies, Services and Equipment: (Group 1 & 2) Any use of government supplies, services and equipment must abide by agency policy and regulations. There are instances where it is appropriate to provide support to employee organizations in the form of use of the Service's supplies, services, or equipment, but only when such actions would be beneficial to the Service's mission. For example, the Service, in appropriate cases, could permit employees to use equipment or administrative support services for preparing papers to be presented at conferences if there is a direct benefit to the Service in promoting such presentations. Supervisors should not authorize the use of Government postage paid mail (of all types), facsimile and photocopy machines, paper, etc. to further the interests of internal employee organization business.
- e. Attendance at Conferences, and Training Events:(Group 1 Only) In appropriate circumstances, the Service will support or sponsor employee attendance at an employee organization conference or training seminar either as part of their IRS official duties, or as out-service training.

1. Attendance by Virtue of Official Position: For officials and employees attending Employee Organization conferences or training events in an official capacity, (by virtue of their official position), IRS will fund travel, per diem, and any applicable conference fees and expenses. Such funding will be provided where an employee or official is invited to speak or make a presentation in connection with his/her official IRS position, or where the employee's official IRS program responsibilities dictate attendance (e.g., an Equal Employment Opportunity (EEO) official, Human Resources (HR) official, or IRS recruitment community outreach liaison). Such attendance constitutes a normal business and travel expense and should not be charged as a training expense.

2. Out-Service Training: Where the conference, convention, seminar, or meeting of the Employee Organization is approved in advance, according to agency procedures, as an out-service training event, the IRS will make available a limited amount of training funds to support the attendance of employees. In this regard, identified office heads may expend up to, but may not exceed, a percentage set by the Director, Learning and Education, Human Capital Office. Actual funding in support of attendance, however, will depend upon demonstration by the sponsoring Employee Organization that the conference will provide training to enhance an employee's ability to perform his/her official duties or prepare them for other career opportunities.

3. Non-Official Attendance and Attendance as a Trainee: While there is no "entitlement" for employees to attend conferences on official duty time, approval to attend conferences will be at the manager's discretion. For employees who are not attending in an official capacity and are not approved to receive travel and per diem, voluntary attendance at approved conferences on official duty time may be considered on a case by case basis by the manager. Otherwise, an employee may request annual leave or leave without pay (LWOP) to attend. Managers should consult their business unit leadership if they have questions regarding the applicability of these guidelines to either themselves or to their employees. Executives should consult their appropriate Deputy Commissioner concerning their own attendance or to address questions specific to their office.

- f. Reimbursement of Travel and Per Diem Expenses: (Group 1 Only) Travel and per diem expenses will be paid when the employee is traveling on official duty. Heads of business units or individuals delegated authority by them have the discretion to determine who attends in an official duty capacity and the duration of that attendance. This would

include those who are serving as speakers or instructors at the training conferences as well as those whose program responsibilities would dictate attendance. Employees with out-service training approvals attend in an official duty capacity.

NOTE: For further information see memo on “National Training Conferences for Recognized Employee Organizations which can be found at:

<http://hco.web.irs.gov/devtrain/training/servlearn/trainconf.html>

2. **Consultation:** Subject to applicable law, the Internal Revenue Service may, in its discretion, consult with an organization that complies with this policy on any matter of mutual interest.

E. LIMITATIONS

The list below describes, in a general way, certain significant limitations on the operations of employee organizations and their members. The list is not intended to be exhaustive. Where referenced, the full text of statutes and regulations should be consulted, and advice from the Director, Workforce Relations Division, should be obtained when in doubt.

1. 5 USC §7101 et seq.

Statutes, regulations, and executive orders restrict employee organizations from participating in activities reserved for labor unions granted exclusive recognition rights. Employee organizations may not participate in collective bargaining negotiations, grievances, personnel policies, and practices or other matters involving conditions of employment of bargaining unit employees. The Internal Revenue Service complies with Executive Order 1149, Labor-Management Relations in the Federal Service,” and also adheres to analogous provisions of 5 CFR § 251.

2. 18 USC §205

As amended, 18 USC §205 will allow employees, *if not inconsistent with the faithful performance of their duties*, to represent before the Federal Government, *without compensation*, nonprofit cooperative, voluntary, professional, recreational, or similar organizations composed primarily of Federal employees, their spouses, or dependent children, except in matters that involve: (1) a claim against the Government, (2) a judicial or administrative proceeding where the organization is a party, or (3) a grant, contract, or other agreement (or request therefore) providing for the disbursement of Federal funds to the organization.

3. 18 USC §208

In the unusual circumstance where the Service determines that an employee's participation in the affairs of an employee organization *constitutes official activity*, this Statute may preclude the employee from serving on the organization's board of directors or from assuming other official roles in that organization. Obtaining legal advice in such cases is highly recommended.

4. 18 USC §1913

No part of the money appropriated by an enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels,

requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

5. 5 CFR §251.202

The provision of support or consultation to any employee organization is not to be construed as Federal sponsorship, sanction, or endorsement of the organization or its activities. The Internal Revenue Service, by its adoption and application to this policy, does not intend to endorse or sanction specific groups or their activities. The activities, programs, and business of employee organizations shall not be represented directly or indirectly as official activities of the Internal Revenue Service. The Internal Revenue Service does not assume legal or financial responsibility for employee organization activities or programs.

6. 5 CFR Part 2635, Subpart G

Although support of employee organizations is permissible under certain circumstance, authority to use Government resources for employee organization activities is strictly limited to that authorized. Generally, an employee shall not use public office for the endorsement of any product, service, or enterprise, or for the private gain of others, *including nonprofit organization of which the employee is an officer or member.*

7. Fundraising Activities

The Standards of Ethical Conduct do not explicitly prohibit employees from raising funds for employee organizations. However, the standards provide limitations on executive branch employees' fund raising capabilities.

An employee may participate in fundraising activities in his/her personal, or nonofficial, capacity provided that the employee does not personally solicit support from subordinates or any prohibited source. Examples of prohibited sources would include corporations that an employee knew or should have known were seeking a revenue ruling, competing contractors for a Service procurement contract, and contractors currently performing under a contract. In this regard, any taxpayer engaged in litigation with the Service or under examination would be a prohibited source for all employees who participated in or had official responsibility for the litigation or examination. Moreover, employees must endeavor to avoid any actions that create the appearance that they are violating the law or ethical standards. Therefore, an employee is not only prohibited from personally soliciting funds from a prohibited source, but is also barred from directing another individual to do so.

Employees are also prohibited from using or permitting the use of their official titles, position, or any authority associated with his/her public office to further the fundraising effort. This prevents an inference that the Government has in some way endorsed an employee organization or fundraising activity. Administrative leave approval is inappropriate for fundraising activities; however, an employee may request annual leave or leave without pay in accordance with Service policy.

F. MODIFICATION AND EFFECTIVENESS

The Internal Revenue Service reserves the right to modify this policy for any lawful reason. This policy is effective immediately and will remain in effect until revised or terminated.

10/23/06
Date

Beverly Ortega Babers
Beverly Ortega Babers
Chief Human Capital Officer

EMPLOYEE ORGANIZATION LISTING

September 2006

<u>Organization Name</u>	<u>Contact Person</u>	<u>Phone Number</u>	<u>E-mail Address</u>
Group 1			
AIM-IRS	George Shores Jr.	405-297-4246	George.M.Shores@irs.gov
ASPIRE	Bryan Inoue	213-576-3673	Bryan.T.Inoue@irs.gov
ANA	Roxane Posada	559-456-5359	Roxane.Posada@irs.gov
BIG	Eunice G. Johnson	202-283-5912	Eunice.G.Johnson@irs.gov
C-FIRE	Lexie White	512-499-5078	Lexie.A.White@irs.gov
DAP	John A. Cann	215-516-3730	John.A.Cann@irs.gov
FEW	Teresa Bonham	202-622-6781	Teresa.A.Bonham@irs.gov
GLOBE	William Lipsett	202-283-4072	William.J.Lipsett@irs.gov
HIRE	Elizabeth J. Kovash	505-837-5511	Elizabeth.J.Kovash@irs.gov
IRS DEAF	Jim Bishop	202-283-5777	Jim.B.Bishop@irs.gov
VIEW	Ted Figueroa	202-283-3118	Ted.Figueroa@irs.gov

Group 2

Currently there are no Group 2 organizations