



AFGE Fair Practices: Criteria for Representation

The Fair Practices Department has four EEO Attorneys who are responsible for a wide range of duties. These duties include representation in EEOC and MSPB hearings, arbitrations, and court proceedings. The Attorneys also conduct EEO training for AFGE Locals, Councils and Districts. In order to treat requests for representation fairly, standard review criteria are applied to each request for representation. These criteria address three simple questions: Who, When and Why?

Who is requesting representation? It is important that Local officers participate in members' requests for representation. All such requests are referred to the Local for consultation and recommendation. We will not take cases without the knowledge or consent of the elected Local President and National Vice President. All requests must have a Request for Representation Form completed and endorsed by either: (1) the Local President and District NVP; (2) Council President; or (3) a National Women's Advisory Coordinator (NWAC) or National Fair Practices Affirmative Action Coordinator (NFPAAC). **Please note that the Fair Practices Department will only review cases where the employee was a dues-paying bargaining-unit member at the time of the action giving rise to the complaint.**

When are we being asked to get involved? Due to our limited staff of Attorneys, we cannot participate in the counseling and investigative stages of an EEO complaint. However, the attorneys are available to answer questions and provide guidance during these stages of the EEO process. The attorneys must review the investigative file, called the Report of Investigation (ROI), in order to evaluate the merits of a case to determine if the case can be accepted for representation. Cases referred to the Fair Practices Department with hearing dates scheduled fewer than 3 months from the date of request for representation do not provide sufficient time for an attorney to review and prepare for a hearing. Therefore, we ask that the ROI and request for representation be sent to our office as soon as the ROI is received by the member.

Why is the case being referred to the National Fair Practices Dept.? The Fair Practices Department applies the criteria adopted by the National Executive Council that is known as the Legal Representation Fund criteria: cases accepted for representation must present meritorious issues of either *precedential value* or *substantial significance* to the Federation as a whole. Furthermore, our EEO attorneys can only be at one place at one time. For instance, in just one week in August, the Fair Practices Department received requests to review and accept 30 EEO cases. While individual cases may have merit, it is possible our attorneys may not be able to accept a case due to availability constraints.

It can be a daunting task to review each request for representation. The Fair Practices Department is fortunate to have the assistance of legal interns from nearby law schools who contribute to handling the intake responsibilities. We also look to the District Coordinators for their recommendations as to why a case meets the criteria for acceptance. The Department often proceeds as a co-counsel in cases along with local representatives, dividing workloads and providing the opportunity to mentor future union leaders. And we continue to consult and advise hundreds of on-going cases where we are unable to make an appearance and where the AFGE local union maintains the role of complainant's representative.