



(June 15, 2016)

In order to further improve the lines of communication and to respond to the concerns between the National VA Council and you our members, I have established a National VA Council Briefing. This NVAC Briefing will bring you the latest news and developments within DVA and provide you with the current status of issues this Council is currently addressing. I believe that this NVAC Briefing will greatly enhance the way in which we communicate and the way in which we share new information, keeping you better informed.

Alma L. Lee
National VA Council, President

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**In This Briefing: Push-Ups, \$17,000 and Union Reps**  
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FEDSMILL - "Respect for Employee Rights, Ideas, Insights, Participation and Unions Generates the Power to Improve Government"

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CBP WOMEN TURN TO LAW FIRM RATHER THAN NTEU

Customs and Border Protection requires that in order to physically qualify to be a CBP Officer applicants must pass the push-up requirements in each of three rounds of tests. Between 2012 and 2014 1.1% of the men who took those tests failed the push-up requirement while 16.9% of the women did. As a result, over 350 women were turned away during that time. Nothing happened with that enormous disparity until one woman, who was terminated late in her probationary period for failing only the push-up test, decided to pushback by contacting a law firm for help. The firm promptly filed

an EEO class action complaint on behalf of all women and just last week the EEOC certified the case as a class action. That is a very, very big deal not just for CBP women, but all CBP officers. The complaint could lead to hundreds of the women being offered retroactive appointments with back pay, interest, income tax supplements, and damages. It could also mean that this law firm will have a great deal to say over what changes, if any, will be made to the push-up requirements of new hires as well as current employees. The firm could wind up having more control over the physical fitness requirements for CBP Officers than NTEU, the exclusive representative of CBPOs. The union's influence is limited by the management rights clause of the labor law—unless it is in charge of an EEO case. Once designated the representative in an EEO case, especially a class action, the management rights clause does not apply to the union's settlement negotiations. (See Candice B. v. Jeh Johnson, DHS, CBP, EEOC No. 0120160714, June 2016) [Continue reading →](#)

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\$17,000 SLIPS THROUGH NTEU HANDS

No union likes to have its mistakes laid out for all the public to see, especially costly ones due to staff errors. But bad publicity is the price those errors often come with when the FLRA gets involved in assessing who did the right thing and who did the wrong thing. Not long ago we wrote about how NTEU lost its attorney fee claim of about \$40,000 in a post entitled, "[NTEU Trips Itself Up.](#)" Then, last Friday FLRA published a decision rejecting another NTEU attorney fee claim due to technical mistakes. \$17,000 is almost insignificant for a union with an annual budget approaching \$30 million, e.g., the cost of three more arbitrations, the tab for sending a staff members to work in the field for political candidates/goals this election season, etc. But a loss like this does not help any union promote itself as providing top professional legal representation to members. While FLRA did not say anything new about the technical requirements for claiming fees, apparently it is worth reminding folks what the rules are. [Continue reading →](#)

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TEN REASONS TO BE A UNION REPRESENTATIVE

There are lots of good reasons to be a union rep, whether you get involved in grievances, negotiations, arbitrations, employee meetings, or information gathering &

analysis. Here are ten that we hope lead you to think about getting involved. [Continue reading](#) →