



FEDERAL LABOR RELATIONS AUTHORITY
OFFICE OF ADMINISTRATIVE LAW JUDGES
Suite 700 - 1111 20th Street, NW.
Washington, D.C. 20036

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In the Matter of

VETERANS ADMINISTRATION
VA CENTER, LABORATORY
SERVICE, TEMPLE, TEXAS
Respondent

Case No. 63-8479 (CA)

and

VALERIE E. GRAVES, VICE
PRESIDENT, AMERICAN FEDERATION
OF GOVERNMENT EMPLOYEES, AFL-CIO,
LOCAL UNION 2109
Complainant

.....
MR. PETE EVANS

National Representative
American Federation of Government
Employees
203 Timothy Trail
Duncanville, Texas 75137
For the Complainant

HERB STANDEVEN, ESQUIRE

Assistant District Counsel
Veterans Administration
1400 North Valley Mills Drive
Waco, Texas 76710

On Brief: Richard J. Jones, Esquire
District Counsel
D. Keith Rollins, Esquire
Attorney
For the Respondent

Before: WILLIAM B. DEVANEY
Administrative Law Judge

RECOMMENDED DECISION AND ORDER

Statement of the Case

This is a proceeding under Executive Order 11491, as amended (hereinafter also referred to as the "Order"). While instituted with the Labor-Management Services Administration, United States Department of Labor, pursuant to transition rules and regulations, Federal Register, Vol. 44, No. 1, January 2, 1979 (5 C.F.R. Section 2400.2) all proceedings in this matter after January 1, 1979, were conducted before the Federal Labor Relations Authority, the Notice of Hearing was issued by a Regional Director of the Authority, and this decision is issued in the name of the Authority in accordance with Transition Rules and Regulations, republished as Chapter XIV, Subchapter A, Part 2400, Federal Register, Vol. 44, No. 147, July 30, 1979.

On, or about, May 23, 1978, Complainant filed a charge (ALJ Exh. 1-A) and on July 24, 1978, Complainant filed a Complaint, each of which had alleged violations of Sections 19(a)(1) and (4) of the Order. However, the Notice of Hearing issued only as to alleged violations of Section 19(a)(1) of the Order. 1/

1/ As the "Basis of the Complaint", Complainant incorporated the May 23, 1978, charge. The portion of the charge denominated "Charge #2" set forth allegations of reporting restrictions placed on Complainant, Valerie R. Graves, and not on other employees; but erroneously asserted that such action constituted a violation of Section 19(a)(4) of the Order. In his letter accompanying the Notice of Hearing, the Regional Director stated that, in his view, "evidence and testimony should be adduced at the hearing concerning, but not necessarily limited to the following issues: 1. Did Respondent . . . interfere with, restrain, and coerce Valerie Graves in the conduct of her union duties by imposing extraordinary reporting restrictions upon her which were not imposed on other employees? . . . 3. . . . did such action constitute a violation of Section 19(a)(1) of the Order?"

At the commencement of the hearing, I informed the parties that the Regional Director's decision to refuse to issue a Notice of Hearing on alleged 19(a)(4) violations was jurisdictional; that no evidence would be received as to any 19(a)(4) violation, but that evidence would be received in support of all allegations in the complaint to the extent that such allegations constituted a violation of 19(a)(1), notwithstanding that such allegations might also constitute violations of Section 19(a)(4). Cf. United States Army Aviation Center, Fort Rucker, Alabama, 1 FLRA No. 98 (1979).

Each party was represented, was afforded full opportunity to be heard, to examine and cross-examine witnesses, to introduce evidence bearing on the issues involved herein, and to present oral argument. At the close of the hearing, July 2, 1979, was fixed as the date for mailing briefs and Respondent's brief, timely mailed, was received by this office on July 5, 1979; however, on July 2, 1979, at request of Complainant, and upon representation of the serious illness and hospitalization of Complainant's representative, Mr. Pete Evans, the time for filing briefs was extended to July 24, 1979, and Respondent, because it had already mailed its brief, was granted leave to file a reply brief on or before August 7, 1979. Complainant's brief, timely mailed, was received by this office on July 30, 1979. Respondent has not filed a reply brief.

Upon the basis of the entire record, including my observation of the witnesses and their demeanor, I make the following findings, conclusions and recommended order.

Findings

Mrs. Valerie Elizabeth Graves is a genetic counselor at the Veterans Administration Hospital, Temple, Texas. She began as a student at the Hospital in 1969 in the laboratory and in 1970 began full time work as a Medical Technician. From about September, 1972, until March, 1974, she lived in Topeka, Kansas, and was not employed by Respondent. She returned to Texas in 1974, and has been employed by Respondent continuously since about March, 1974. From 1974 until about June, 1978, she worked in the Chemistry Department of the Hospital. In about June, 1978, she was transferred to her present job. From 1975 until she left the Chemistry Department, her immediate supervisor was Mrs. Georgia Sehon. In 1976, Mrs. Graves received an outstanding performance rating. Mrs. Graves testified that her relationship with Mrs. Sehon was good until the latter part of 1977 when she (Mrs. Graves) became active in the Union. Although she had been a member of the Union for a long period of time, she did not take any active part until she was appointed to the Safety Committee in 1977. In April, 1978, she was elected Vice President of Local 2109. Mrs. Graves testified that her good relationship with Mrs. Sehon began to deteriorate in 1977 after she became active in the Union; nevertheless, the testimony and evidence shows principally three matters in March, April and May, 1978.

1. Denial of right to attend pre-negotiation meeting and denial of right of grievants to attend arbitration of their grievances.

a) Pre-negotiation meeting of March 28, 1978.

On March 28, 1978, Mrs. Williams called Mrs. Graves at about 9:00 a.m. and told her that a pre-negotiation meeting, called by the Federal Mediator, Mr. Guy, would be held at about 10:30 a.m. and that she should notify her supervisor. Mrs. Graves did notify Mrs. Sehon who informed her that she could not be spared and could not go; however, Mrs. Sehon said that she would talk to Mr. Rogers. Mrs. Sehon did talk to Mr. Rogers and was told that Mrs. Graves could not attend the pre-negotiation meeting. Mrs. Graves called Mrs. Williams and told her that she had been denied permission to attend the pre-negotiation meeting.

There is no doubt that: a) Mrs. Williams had appointed Mrs. Graves as a member of the Union's negotiation committee; that she (Mrs. Williams) had notified Mrs. Graves not less than a week prior to March 28 and that Mrs. Williams had also advised Ms. Weaver, the third member of the Union's committee, of Mrs. Graves' appointment; b) that Mrs. Williams did not notify Respondent of Mrs. Graves' appointment; and c) that the Union's negotiating committee, which had had 2 or 3 prior pre-negotiation (ground rules) meetings with Respondent, previously had not included Mrs. Graves. Although Mrs. Graves testified that she had advised Mr. Rogers about two weeks before March 28, 1978, that she had been appointed to the union's negotiating committee, Mr. Rogers denied that he had been so advised prior to March 28; Mrs. Sehon denied that she had been advised, prior to March 28, that Mrs. Graves had been appointed to a pre-negotiation committee; and Mr. Ford stated that prior to March 28, neither he, nor anyone in personnel, had been advised that Mrs. Graves had been appointed to the Union's negotiating team. In view of Mrs. Graves' testimony concerning Mrs. Williams' call, it is doubtful in the extreme that Mrs. Graves had given any notice prior to March 28, 1978, of her appointment to the Union's negotiating team. However, the more significant consideration is that Respondent, when fully advised on March 28, 1978, of Mrs. Graves' appointment to the Union's negotiating committee, persisted in refusing to allow Mrs. Graves attend the meeting as a duly appointed member of the Union's negotiating committee and relented only when the Hospital Director, Mr. Belda, intervened.

Thus, Mr. Rogers called Mrs. Williams and asked why Mrs. Graves was to attend the meeting when she was not a union officer. When Mrs. Williams told him that she, as president, had appointed Mrs. Graves to the committee, Mr. Rogers said that she could not attend. Mrs. Williams went to see Mr. Rogers in person and Mr. Rogers told her that Mr. Ford, Personnel Management Specialist, had told him that Mrs. Graves could not attend the meeting. Mrs. Williams then went to the Hospital Director, Mr. Belda, who accompanied Mrs. Williams and Ms. Weaver to the office of the Director of Personnel, Mr. Robinson. Present in Mr. Robinson's office were Mr. Lewis and Mr. Blankenship. Mr. Blankenship stated that Mrs. Graves was "not going to be on that committee." After a heated discussion between Mrs. Williams and Mr. Blankenship, Mr. Belda interrupted and asked Mr. Robinson if Mrs. Graves were supposed to be at the meeting and when he said yes, Mr. Belda said ". . . well, dammit somebody get her in there. . . ." Thereafter, Mrs. Graves was allowed to attend the meeting.

b) Arbitration hearing of May 2, 1978.

Nine employees filed a grievance which was set for hearing before an arbitrator on May 2, 1978. Three of the grievants, including Mrs. Graves, worked in the Chemistry Department under the immediate supervision of Mrs. Sehon. Mrs. Sehon told the three employees in her section (Mr. Farrar Keetch, Mrs. Graves and Ms. Lynda Weatherby) that they could not attend their arbitration hearing. Whether she directly told Mrs. Graves or Mr. Keetch in Mrs. Graves' presence is of no moment since all three employees were aware that Mrs. Sehon had denied permission for them, or any one of them, to attend the hearing. However, Mrs. Sehon did contact Mr. Rogers who told her they could attend the hearing and, accordingly, Mrs. Sehon advised all three that they could attend the arbitration hearing and each did so.

2. The Gary Baty matter. Mr. Baty, a cousin of Mrs. Graves' husband, is a disabled veteran who had been an out-patient at the hospital. On April 1, 1978, while waiting for prescriptions to be filled, he came to the laboratory to see Mrs. Graves. Mrs. Graves continued her work; had called in her report; and had walked to the door of the Chemistry Department to chat with Mr. Baty, who was leaving, when Mrs. Sehon returned from lunch and ordered Mr. Baty to leave, telling him that he was interrupting work. There is no dispute that it had been a long and well established practice that visitors freely came to the Chemistry Department. Mr. Baty was, obviously, angered by Mrs. Sehon's conduct, so much so that he wrote a letter to a Congressman in which he complained about his treatment.

However, at the time, when Mr. Baty had gone, Mrs. Graves told Mrs. Sehon that if she had wanted Mr. Baty to leave she (Mrs. Sehon) could have said something to her (Mrs. Graves) and not to Mr. Baty. Mrs. Graves testified that Mrs. Sehon responded that as a supervisor it was her right to do what she thought best. Mrs. Graves was concerned about Mrs. Sehon's treatment of Mr. Baty and asked for a meeting with Mr. Losson Rogers, Laboratory Supervisor, and Mrs. Sehon's immediate supervisor. In April, a meeting with Mr. Rogers and Mrs. Sehon was arranged. Mr. James S. Ford, Personnel Management Specialist, was also present and Mrs. Graves brought with her Ms. Billye Weaver, Chief Steward. Mr. Ford said Ms. Weaver could not attend the meeting so the meeting was aborted.

In early May, 1978, the date not having been precisely fixed, except that it was after May 2 and before May 10, 1978, Dr. Tessmer, Chief of Pathology and Chief of Laboratory Service, called Mrs. Graves to his office to investigate the letter Mr. Baty had written his Congressman complaining about his treatment by Mrs. Sehon on April 1st. Mrs. Graves asked Mrs. Jewell B. Williams, President of Local 2190, to accompany her. Mr. Rogers was also present. Dr. Tessmer accused Mrs. Graves of instigating the writing of the letter, which allegation Mrs. Graves denied. Mrs. Graves told Dr. Tessmer what had occurred and Mrs. Graves testified that Dr. Tessmer stated, ". . . there would be a policy issued about visitors coming into the laboratory and that the people in the lab would not be allowed to have any more visitors in their department and the employees would have me to thank for that." Although Dr. Tessmer did not testify, Mr. Rogers stated that "in view of what had happened in this particular incident with Mrs. Graves, that we should have something in writing. . . to maybe stop this sort of thing in the future -- to keep unauthorized personnel from the lab." Mrs. Graves' testimony as to Dr. Tessmer's statement at the meeting was fully corroborated by the testimony of Mrs. Williams and by direct inference by the testimony of Mr. Rogers and, accordingly, I fully credit her testimony concerning Dr. Tessmer's statement.

3. Restrictions on Mrs. Graves' Activities.

Mrs. Graves testified that in April, after she had been elected Vice President of the Union, Mrs. Sehon had told her not to talk to fellow employees in the corridor; told her that she had noticed for sometime, and it was worse lately, that Mrs. Graves was too friendly with everyone and spoke

to everyone and that she was going to put a stop to it; that she (Mrs. Graves) was not to talk to fellow workers in the laboratory and when Mrs. Graves, Ms. Weatherby and Ms. Klien were talking while counting tests performed for a report had told Mrs. Graves to be quiet that her conversation was distributing her (Mrs. Sehon). Mrs. Graves further testified that Mrs. Sehon told her that anytime she stepped out of the Chemistry Department, whether to get a drink of water or to go to the restroom, she should tell her (Mrs. Sehon) where she was going and how long she expected to be gone.

About the middle of April (Ms. Weaver stated about a week after the aborted meeting, Mrs. Graves had requested about the Baty matter) a meeting with Mr. Rogers and Mrs. Sehon, requested by Mrs. Graves, was held and Ms. Weaver was present with Mrs. Graves. Mrs. Graves brought up the various restrictions imposed by Mrs. Sehon, including going to the restroom. Ms. Weaver testified that at that point Mr. Rogers said, ". . . don't you think that's a little too much, Georgia [Mrs. Sehon], and she said well, no, because a supervisor has the right to know where her employees are at all times and he said well, I'd hate for this to be -- go into effect because it might become a laboratory policy and then, I would have to ask Dr. Tessmer everytime I needed to go to the bathroom." But, Ms. Weaver stated, Mrs. Sehon ". . . would not draw back on that."

Mrs. Sehon denied that she ever instructed Mrs. Graves to report to her prior to or upon return from the restroom. Mr. Rogers admitted that the restroom matter was discussed but insisted that, ". . . here again we were trying to have people conform to, I guess, an unwritten policy in the lab . . . which we feel like is a common courtesy, if you are going to be out of the lab, that somebody should know where you are." Mr. Rogers said that Mrs. Graves asked whether this meant she could not even go to the bathroom and ". . . we said, no. But this was where the context of these words came from." Mr. Rogers testified that Mrs. Graves was told simply ". . . if you are going to be away from the lab, tell somebody where you are going to be - this was all." Mrs. Sehon testified that part of the problem with Mrs. Graves had been that she had had reports that Mrs. Graves had been causing problems in other sections, possibly interfering with other work in other sections, although she stated that she did not know what section or the names of the persons that reported it to her.

The clearest statement as to what Mr. Rogers and Mrs. Sehon actually said is Mrs. Graves' statement, which I fully credit, that

"They told me that I spent too much time discussing Union activities in the hall." (Tr. 63)

However, I do not credit Mrs. Graves' statement that she did not discuss union activities in the hall for the simple reason that she admitted that ". . . well, if someone says, you know, I need to talk to you about so and so I say OK, you need to clear it with your supervisor and mine. But I don't consider that discussing the whole thing."

Mrs. Graves readily admitted that the procedure in the laboratory had always been that if you left the laboratory you told your supervisor; that if you were going across the hall for a drink of water, you didn't say anything; and if you were going to the restroom, you would say "I'll be back in a second, you didn't have to announce to everyone I'm going to the bathroom." Ms. Weaver testified that she was not subjected to any similar restrictions; that she regularly receives telephone calls; that, as a courtesy to the people she works with in the laboratory, when she leaves the laboratory service she advises her supervisor, Mr. Rogers; that if she were leaving on union business she would leave a note for Mr. Rogers but she never had to give him the length of time she would be gone; and if she were going to the restroom, she simply told someone that she would be back in a minute.

Conclusions

Mrs. Sehon's initial refusal on May 2, 1978, to release three employees to attend an arbitration hearing on their personal grievances was improvident; however, she immediately checked with her immediate superior, was told that the three employees could attend the arbitration hearing, and she promptly advised the employees that they could attend the hearing and each did so. Consequently, without deciding whether there was, or was not, a violation of Section 19(a) (1), if there were a "technical violation", it was rendered moot by reversal of position whereby all three employees were released prior to the scheduled hearing, to attend the arbitration hearing. Moreover, the effect of such momentary denial of permission had such a de minimus effect that a finding that the activity violated the Order is not warranted. Cf. Vandenberg Air Force Base, 4392d Aerospace Support Group, Vandenberg Air Force Base, California, FLRC No. 74A-77, 3 FLRC 491 (1975), A/SLMR No. 554, 5 A/SLMR 574 (1975).

Respondent's refusal, on March 28, 1978, to permit Mrs. Graves to attend a pre-negotiation meeting as a duly appointed member of Local 2109's negotiating committee, clearly appears to have been a deliberate ploy to compel Local 2109 to retain a National Representative of AFGE on its negotiating committee. The parties had "bargained" to impasse on Respondent's demand that the Union designate its Chief negotiator and Respondent had sought to characterize Ms. Griffin, an AFGE National Representative, who had attended the pre-negotiation meetings before March 28, 1978, as the Chief negotiator. With full knowledge of Mrs. Graves' appointment, Mr. Blankenship had stated that Mrs. Graves was "not going to be on that committee". This was stated in the presence of Mr. Robinson, Chief of Personnel, and with his implicit approval. Not until the Hospital Director intervened and directly asked Mr. Robinson if Mrs. Graves were supposed to be at the meeting did Mr. Robinson reluctantly admit that she was, whereupon the Hospital Director, obviously annoyed, said, in effect, well, get her there. Although Mrs. Graves was merely the victim of Respondent's ploy, as she had been duly appointed to the Union's negotiating committee, Respondent's action interfered with, restrained, and coerced her in the exercise of rights assured by the Order which include the right to act for Local 2109 as a representative of Local 2109. Cf. Internal Revenue Service, Omaha District Office, A/SLMR No. 417, 4 A/SLMR 493 (1974). Any effort by an agency to interfere with the right of an employee to serve as a duly designated representative of an exclusive representative is so serious a violation of the purpose and intent of the Order that I do not deem Vandenberg, supra, applicable. That is, Respondent's conduct was not rendered moot by its subsequent reversal of position and its allowance of Mrs. Graves to attend the meeting as a member of Union's negotiating team, nor can Respondent's conduct, under the circumstances, be considered to have had a de minimus effect.

Dr. Tessmer's meeting in May, 1978, obviously, was the result of Mr. Baty's letter to his Congressman. It is equally obvious that Dr. Tessmer believed that Mrs. Graves had instigated the letter and that he announced that the employees could thank Mrs. Graves for the new policy (Comp. Exh. 1) prohibiting visitors in the laboratory; but did this constitute a violation of Section 19(a)(1)? Mrs. Graves denied that she instigated the writing of the letter, indeed, denied any knowledge that any such letter had been written until she learned that a copy had been received by Respondent. At the time that Dr. Tessmer stated that the employees could thank Mrs. Graves for the new policy, Mrs. Graves was a union official; however, there is nothing in the record that suggests that Dr. Tessmer directed his comments to Mrs. Graves because she was a union officer. Nor does the record

contain any evidence that this was part of any general plan or design to discredit Mrs. Graves because of her Union membership or activity. Accordingly, I do not find that Dr. Tessmer's statement violated Section 19(a)(1) of the Order.

Respondent concedes that Mrs. Graves was told that when she left the laboratory she must "tell somebody where you are going to be" and I have further found that Mrs. Graves was told that she spent too much time discussing union activities in the hall. Use of official, or duty, time for the conduct of union business is not an inherent matter of right under the Order. Department of the Air Force, Base Procurement Office, Vandenberg Air Force Base, California, A/SLMR No. 485, 5 A/SLMR 112 (1975), FLRC No. 75A-25, 4 FLRC 586 (1976), A/SLMR No. 767, 6 A/SLMR 702 (1976) (Supplemental Decision); Puget Sound Naval Shipyard, Department of the Navy, Bremerton, Washington, A/SLMR No. 768, 6 A/SLMR 709 (1976). As Mrs. Graves' union duties, first as a member of the Union's Safety Committee and later, on and after April 1st, as Vice President, increased, demands upon her time for union activities obviously increased. Indeed, Mrs. Graves readily admitted that employees stopped her in the corridors when they wanted to meet with her and accepting her testimony that she told them to clear it with their supervisor and hers, it is clear that union activities made inroads on her time. As in Vandenberg (No. 484), supra, an agency may monitor time spent on union activities and Respondent's insistence that Mrs. Graves advise her supervisor when she was leaving the laboratory was consistent with long established practice; but, Mrs. Sehon's instructions to Mrs. Graves went much further. Thus, Mrs. Sehon instructed Mrs. Graves to report when she was going to the restroom and how long she expected to be gone, a requirement imposed on no other employee; and instructed her not to speak to employees in the hall because she spent too much time discussing union activities. By contrast, Ms. Weaver, Chief Steward, testified that no similar restrictions were place on her; that she regularly received telephone calls about union matters; and that the only requirement imposed on her when she left the laboratory on union business was that she advise Mr. Rogers, generally by leaving a written note, where she was going. As Mrs. Sehon imposed restrictions on Mrs. Graves wholly unrelated to union activity, which restrictions were imposed on no other employee, as well as restrictions on Mrs. Graves which, to some extent, did relate to employee contacts about union matters, and which, to some extent, did not relate to union activities, which restrictions were imposed on no other

employee, including other union officers, I conclude that the restrictions placed on Mrs. Graves because of her union activities violated Section 19(a)(1) of the Order. Complainant has not questioned the propriety of reporting, when leaving the laboratory, where she was going. Indeed, the record shows that Complainant accepted without question the requirement that she obtain permission to leave the laboratory on union business; but to extend these requirements to Mrs. Graves' going to the restroom, when no such restriction was placed on any other employee, because she was a union officer, was improper. In the same manner, to restrict Mrs. Graves from all conversation in the halls, because she was a union officer, a restriction not placed on any other employee, was also improper. Moreover, the total restriction on employee contact by Mrs. Graves also interfered with, restrained, or coerced Mrs. Graves in the exercise of rights assured by the Order.

Having found that the Respondent has engaged in conduct which violated Section 19(a)(1) of the Order, I shall recommend that the Authority adopt the following order designed to effectuate the policies of Executive Order 11491, as amended.

RECOMMENDED ORDER

Pursuant to Section 6(b) of Executive Order 11491, as amended, 29 C.F.R. Section 203.26(b), and Section 2400.2 of the transition rules and regulations (5 C.F.R. Section 2400.2, Fed. Reg., Vol. 44, No. 1, January 2, 1979, Vol. 44, No. 147, July 30, 1979), the Authority hereby orders that the Veterans Administration, VA Center, Laboratory Section, Temple, Texas, shall:

1. Cease and desist from:

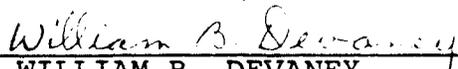
a) Interfering with, restraining, or coercing its employees in the exercise of their rights assured by the Executive Order by, inter alia, refusing to permit Mrs. Valerie E. Graves to attend negotiating meetings as a duly appointed member of the union's negotiating team; by instructing Mrs. Valerie E. Graves not to speak to persons in the corridors; or by imposing on Mrs. Valerie E. Graves any restriction on her personal activity not uniformly required of all employees.

b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of their rights assured by Executive Order 11491, as amended.

2. Take the following affirmative action in order to effectuate the purposes and policies of the Order:

a) Post at its facilities in Temple, Texas, copies of the attached notice marked "Appendix" on forms to be furnished by the Authority. Upon receipt of such forms they shall be signed by the Hospital Director and shall be posted and maintained by him for 60 consecutive days thereafter, in conspicuous places, including all bulletin boards and other places where notices to employees are customarily posted. The Hospital Director shall take reasonable steps to insure that such notices are not altered, defaced, or covered by any other material.

b) Pursuant to 29 C.F.R. Section 203.27 and Section 2400.2 of the transition rules and regulations, notify the Authority in writing within 30 days from the date of this Order as to what steps have been taken to comply herewith.



WILLIAM B. DEVANEY
Administrative Law Judge

Dated: 28 AUG 1979
Washington, D.C.

APPENDIX

NOTICE TO ALL EMPLOYEES

PURSUANT TO

A DECISION AND ORDER OF THE

FEDERAL LABOR RELATIONS AUTHORITY

and in order to effectuate the policies of

EXECUTIVE ORDER 11491, as amended

We hereby notify our employees that:

WE WILL NOT interfere with, restrain, or coerce our employees in the exercise of their rights assured by Executive Order 11491, as amended, by, inter alia, refusing to permit Mrs. Valerie E. Graves to attend negotiating meetings as a duly appointed member of the Union's negotiating team; by instructing Mrs. Valerie E. Graves not to speak to persons in the corridors; or by imposing on Mrs. Valerie E. Graves any restriction on her personal activity not uniformly required of all employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of their rights assured by Executive Order 11491, as amended.

Activity

Date: _____ By: _____

This Notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced or covered by any other material.

If employees have any questions concerning this Notice or compliance with any of its provision, they may communicate directly with the Regional Director, Dallas Regional Office, Federal Labor Relations Authority, whose address is: Room 450, Downtown Post Office Station, P.O. Box 2640, Dallas, TX 75221.

Directorate of Supply Operations, Defense Logistics Agency,
Headquarters, Defense Logistics Agency, Assistant Secretary Case
No. 22-08768(CA). The individual Complainant (Louis J. Derdevanis) alleged, in substance, that the activity violated section 19(a)(1) and (2) of E.O. 11491 by failing to promote him to a particular position because of his union activities; and, in addition, that an activity official, at a meeting to discuss the Complainant's nonselection and a related performance appraisal and rating, threatened to lower the performance appraisal and rating because of the Complainant's union activities. The ALJ found that the activity had violated section 19(a)(1) of the Order by the conduct of the activity official at the meeting in question. The ALJ further found that the official had considered the Complainant's union background when evaluating him for the job, and that the Complainant might have been selected if the performance appraisal ratings had been made absent consideration of his union activities. However, the ALJ concluded that no discrimination in the promotion action based on union considerations had been established as he was unable to find that the Complainant would have been selected but for his activities on behalf of the union. The ALJ therefore recommended that the section 19(a)(2) allegation in the complaint be dismissed. The Authority adopted in part and modified in part the findings, conclusions and recommendations of the ALJ. More specifically, the Authority concluded, contrary to the ALJ, that the activity had violated section 19(a)(2) of the Order because discrimination based on union considerations played a part in the failure to select the complainant for the position in question. The Authority thereupon issued a remedial order.