



LIUNA! 1776
National Guard Council

LABORERS'
INTERNATIONAL UNION
OF NORTH AMERICA

Protect National Guard Technicians

DISCRIMINATION PROTECTIONS

For decades the National Guard Bureau (NGB) has mishandled discrimination complaints filed by Technicians. Rather than bring their program into legal compliance, NGB is proposing to issue new regulations which deny Technicians coverage under Title VII of the 1964 Civil Rights Act. These new regulations deny Technicians their right to seek relief from the Equal Employment Opportunity Commission (EEOC).

FACT: EEOC has consistently found that NGB has denied Technicians their civil right to a workplace free from discrimination.

CONCERN: Without EEOC oversight the denial of Technician civil rights will worsen.

PROPOSAL: Require that NGB recognize the EEOC's jurisdiction and comply with Title VII.

NGB attempts to justify their proposed changes by alleging the EEOC complaint process is too long and denies swift justice. However, it is NGB's mismanagement of the program, and their deliberate mischaracterization of a complainant's status (military vs. civilian) which has rendered the complaint process useless as a means to address discriminatory misconduct.

NGB proposed legislation in the FY 14 NDAA that would have permanently shifted jurisdiction away from the EEOC and into military channels. Those efforts did not make it beyond the Senate Armed Services Committee due in large part to strong opposition from LIUNA, AFGE, and NAGE (see reverse). It appears NGB is now trying to by-pass the law by asserting jurisdiction and making internal regulatory changes.

IT'S ABOUT CIVIL RIGHTS

NGB has a history of systemically denying Technicians their civil rights, women and minorities in particular. Considering that these brave men and women serve our Nation, simultaneously in both a civil service and military capacity, it is a dishonor that those who devote the most time to defend our freedoms are at the same time deprived from the protections their service guarantee to the rest of us.

CALL TO ACTION

Title VII protections are guaranteed for all civilian workers. A Technician is a Federal civil service employee (10 USC § 10216(a)(1)), and an employee of the Dept. of the Army or Air Force, as the case may be, and an employee of the United States (32 USC § 709(e)). As such they are covered by Title VII, and NGB lacks the legal authority to assert jurisdiction over Technician complaints of discrimination.

We ask that you join us in defending those that protect us.

Please contact:

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May 21, 2013

The Honorable Carl Levin
Chairman
Senate Armed Services Committee
228 Russell Senate Office Building
Washington, D.C. 20510

Dear Chairman Levin:

On behalf of the Laborers' International Union of North America (LIUNA), the American Federation of Government Employees (AFGE) and the National Association of Government Employees (NAGE), we are writing to express our opposition for inclusion of language in the Fiscal Year 2014 (FY 14) National Defense Authorization Act (NDAA) that would take away critical discrimination protections from National Guard dual-status technicians. Our unions represent thousands of National Guard dual-status technicians throughout the United States. These brave men and women serve their country honorably every day and deserve basic discrimination protections in the workplace.

This proposed language would strip civilian discrimination protections from National Guard dual-status technicians, leaving them with only the limited military discrimination rights, even if the discriminatory event occurred while the technician is in his or her civilian status. In many cases, the military chain of command and civilian chain of supervision are completely different. Therefore, filing a claim in the military channels would force people who have no knowledge of the situation to oversee these workplace discrimination cases.

This language would eliminate a federal worker's Title VII rights to a neutral third party. This means that a female technician subjected to sexual harassment in the workplace would not have access to the EEOC or a judge to hear her case, only her military commanders. This language would also remove protections against age discrimination under the Age Discrimination in Employment Act (ADEA) and disability discrimination under the Rehabilitation Act.

Finally, this proposed language appears to be an attempt by the National Guard Bureau to further "militarize" the dual-status technicians, who are by definition both civilian and military. Section 519 of the FY 12 NDAA required a study on the future of the National Guard technician program which is due to be released in September 2013. Therefore, we ask that your committee refrain from making any changes to the law that would make these workers more "military," with fewer rights while the study is pending.

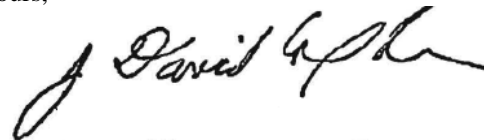
We ask that you reject this misguided provision from inclusion in the FY 14 NDAA. Please contact Danielle LeClair, Director of LIUNA's Public Employee Department, at (202) 639-4145 or dleclair@liuna.org with any questions.

With kind regard, we are

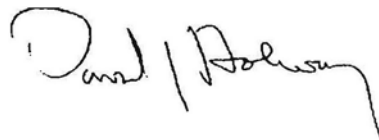
Sincerely yours,



TERRY O'SULLIVAN
General President, LIUNA



J. DAVID COX, SR.
National President, AFGE



DAVID HOLWAY
National President, NAGE

cc: Senator Jim Inhofe, Ranking Member, Senate Armed Services Committee