



**A Hearing of the Subcommittee on Government Operations of the
U.S. House Committee on Oversight and Government Reform
“Union Time on the People’s Dime: A Closer Look at Official Time”
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Chairman Meadows, Ranking Member Connolly, and members of the Subcommittee. Thank you for the opportunity to testify at this hearing. I am the Vice President of Governance Studies and Director of the Center for Technology Innovation at the Brookings Institution and the author of several books: *The Future of Work: Robots, AI, and Automation* (Brookings Institution Press, 2018), *Going Mobile: How Wireless Technology Is Reshaping Our Lives*, (Brookings Institution Press, 2015), *Digital Schools: How Technology Can Transform Education* (Brookings Institution Press, 2012), *The Next Wave: Using Digital Technology to Further Social and Political Innovation* (Brookings Institution Press, 2011), *Digital Medicine: Health Care in the Internet Era* (Brookings Institution Press, 2009), and *Digital Government: Technology and Public Sector Performance* (Princeton University Press, 2005).

In my testimony, I will address the notion of official time, how much it costs the federal government, the benefits of official time, and how proposed changes would affect federal employees. The remainder of this memo outlines my thinking on these topics.¹

What is Official Time?

According to the Civil Service Reform Act of 1978, the U.S. federal government allows employees to “organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them”. The rationale is that such participation will yield several benefits: 1) safeguard the public interest, 2) contribute to the effective conduct of public

¹ Darrell M. West, *The Future of Work: Robots, AI, and Automation*, Brookings Institution Press, 2018.

business, and 3) facilitate and encourage the amicable settlement of disputes between employees and their employers involving conditions of employment.²

In Section 7131 (a) of that legislation, employees are allowed “official time” to engage in representational activities, discussions of grievances, dispute resolution, labor relations training, labor-management relations, and department initiatives, among other things. The idea is that by establishing vehicles for communications, grievance-airing, and conflict resolution, this paid time will aid in agency operations.³

The Equal Employment Opportunity Commission “require[s] managers and supervisors to allow complainants who are employees ‘a reasonable amount of official time, when in official duty status, to prepare their EEO complaint and to respond to agency and EEOC requests for information.’”⁴ This includes time to discuss issues, prepare for complaints, attend meetings, participate in hearings, and talk with supervisors.

These requirements are echoed by the Federal Labor Relations Authority. Its rules note that “any employee representing an exclusive representative in the negotiation of a collective bargaining agreement under this chapter shall be authorized official time for such purposes, including attendance at impasse proceeding, during the time the employee otherwise would be in a duty status.”⁵

Union organizing activities are explicitly prohibited as part of official time. In its guidelines to members, the American Federation of Government Employees notes that “union representatives are not allowed to use official time to conduct union-specific business, such as soliciting members, holding internal union meetings, electing union officers or engaging in partisan political activities.”⁶

How Much Does It Cost the Federal Government?

In an April, 2018 report entitled “Official Time Usage in the Federal Government: Fiscal Year 2016”, the United States Office of Personnel Management estimated that official time in FY 2016 totaled 3,611,112 hours (or \$174,789,810) for the 1,224,160 non-postal federal employees represented by bargaining units. That comes to 2.95 hours per employee each year. That total

² The Civil Service Reform Act of 1978, 5 U.S. C., Section 7101 (a).

³ The Civil Service Reform Act of 1978, 5 U.S. C., Section 7131 (a).

⁴ U.S. Department of Defense Security Service, “Guidelines for Use of Official Time and Agency Resources,” undated.

⁵ Federal Labor Relations Authority, “The Statute: Section 7131. Official Time,” undated.

⁶ American Federation of Government Employees, “Official Times Q & A,” undated.

compares to the 2.88 hours devoted in FY 2014, 2.81 hours in FY 2012, 2.82 hours in FY 2011, or 2.61 hours in FY 2010.⁷

The OPM report concludes the overall FY 2016 hourly average represents an “increase” over FY 2014, but that conclusion is not warranted by the data. The difference between the 2.95 hours per employee in 2016 versus the 2.88 hours per employee in 2014 is 0.07 hours, or about four minutes per employee for the year. A Government Accountability Office (GAO) analysis indicated concern about the OPM methodology since it estimated wage costs “by multiplying the reported official time hours by each agency’s average bargaining unit employee hourly wage plus fringe benefits.”

The GAO review notes the OPM estimate could be “higher or lower”, depending on the particular methodological approach taken. The personnel agency acknowledges that “actual salary costs for specific bargaining unit employees on official time is not readily available to OPM.”⁸ Given the data limitations, it is impossible to know whether official time costs are rising, staying the same, or decreasing.

What Are the Benefits of Official Time?

Paid official time enables employees to represent their own interests or have representatives who do so before supervisors and managers. Among the activities that take place include things such as discussions of grievances, dispute resolution, labor relations training, labor-management relations, and department initiatives, among other things.

These activities are important for labor-management relationships. They establish vehicles for communications, provide opportunities for employees to air grievances, and offer a mechanism to resolve conflict. As such, they are vital for agency operations.⁹

Having opportunities to complain about work arrangements is in keeping with traditional American values of freedom, accountability, and responsiveness. The federal government would be less effective if employees did not have a chance to express discontent or have representatives with paid time to discuss employee-employer relationships.¹⁰

⁷ United States Office of Personnel Management, “Official Time Usage in the Federal Government,” April, 2018, p. 5.

⁸ United States Office of Personnel Management, “Official Time Usage in the Federal Government,” April, 2018, p. 13.

⁹ Darrell M. West, *Digital Government: Technology and Public Sector Performance*, Princeton University Press, 2005.

¹⁰ Darrell M. West, “The Future of Work in the Federal Government,” IBM Center for the Business of Government, forthcoming, 2018.

How Would Proposed Changes Affect Federal Employees?

Critics of official time argue it is time to end the practice. They suggest official time enables “frivolous grievances” and that “activities performed on official time benefit only labor unions and their members, not the public.”¹¹

In keeping with these sentiments, there have been several efforts to alter current rules on official time. For example, the U.S. Department of Education has eliminated official time as part of its new labor contract.¹² Organizations representing these federal employees have complained about this contract and argued that its provisions on official time are unfair. In the past, federal workers had time, office space, and equipment to represent other employees in their efforts to air grievances, address labor-management problems, and discuss new initiatives.

In addition, the Official Time Reform Act of 2017 proposes major changes in the existing law. For example, it says “an employee may not be granted official time under this section for any time such employee would otherwise be in a duty status for purposes of engaging in any political activity, including lobbying activity.” It also says “an employee may not be allowed credit under this section for any day of service spent principally on official time.”¹³

In my view, adoption of these provisions would weaken labor-management relations in the federal government, reduce the ability of government employees to air their concerns with management, and undermine agency performance. Like every other American, it is important that federal employees have the right to express their viewpoints and petition government for a redress of grievances. Curtailing those rights would deny federal workers important privileges that are guaranteed by the U.S. Constitution.¹⁴

¹¹ Trey Kovacs, “It Is Time to End Official Time,” Competitive Enterprise Institute, April 19, 2017.

¹² Frederick Hess and Grant Addison, “A Quiet Win at the US Department of Education,” American Enterprise Institute, March 27, 2018.

¹³ Congress.Gov, “H.R. 1364 - Official Time Reform Act of 2017,” introduced March 6, 2017.

¹⁴ Constitution Center, “Amendment I Freedom of Religion, Speech, Press, Assembly, and Petition,” Ratified December 15, 1791.