



# AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

**John Gage**  
National President

**J. David Cox, Sr.**  
National Secretary-Treasurer


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National Vice President for  
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7z/C-238/268365

October 2, 2009

Charles Orzechoskie, President  
Council 238  
Po Box 664  
Chicago, IL 60690-0664

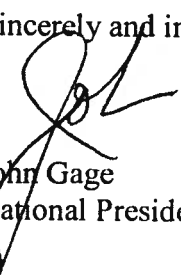
Dear President Orzechoskie:

  
This responds to your request for National Executive Council approval of amendments to the Constitution and Bylaws of National Council of EPA Locals, C-238, as adopted at your July 21, 2009 meeting.

We have made one change to your Constitution. In an email, dated September 28, 2009, Council Treasurer John O'Grady raised questions about filling vacancies in the office of Council President. Per your telephone conversation with attorney John Thompson on October 1, 2009, you agreed that the appropriate interpretation of your Constitution would be that vacancies in the office of Council President should be filled by special election. We have inserted the following sentence at the end of Article IX, Section 3: "In the case of a vacancy in the office of President, the vacancy shall be filled by special election to occur within six months."

Please find enclosed a copy of the NEC-approved Constitution and Bylaws for AFGE Council 238. The National Office keeps a copy.

Sincerely and in solidarity,

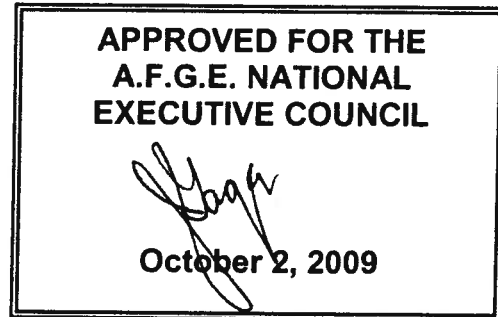
  
John Gage  
National President

Enc.

cc: NVP James  
C-238 Executive Board

**CONSTITUTION AND BYLAWS OF THE  
NATIONAL COUNCIL OF EPA LOCALS  
C-238  
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES**

**Adopted July 21, 2009  
National Labor College, Silver Spring, Maryland**



## CONSTITUTION AND BYLAWS OF THE NATIONAL COUNCIL OF EPA LOCALS

### PREAMBLE

For the purpose of promoting unity of action in all matters affecting the mutual interests of the membership of affiliated locals, we, as members of the American Federation of Government Employees, hereby, adopt this Constitution and Bylaws.

### ARTICLE I NAME

Section 1. This Council shall be known as the National EPA Council.

Section 2. The headquarters of this Council shall be the residence of the Council President.

### ARTICLE II OBJECTIVES AND METHODS

Section 1. In order to provide maximum service to the membership, this Council shall promote the interests and shall improve the effectiveness of the affiliated locals, by providing a concerted voice of strength in unity achieved by the combined efforts of those affiliated locals.

Section 2. This Council does not advocate the overthrow of the Constitutional form of government in the United States; does not discriminate with regard to membership because of race, creed, color, national origin, sex, age, political affiliation, disability, marital status, sexual orientation, or preferential or nonpreferential civil service status; and is not subject to corrupt influences or influences opposed to basic democratic principles.

Section 3. This Council subscribes to the provisions of Public Law (PL) 95-454, where applicable.

### ARTICLE III CONTROLLING PROVISION

Section 1. This Constitution shall not be inconsistent with the AFGE National Constitution. Should any provision of this Constitution conflict with the National Constitution, the National Constitution

shall prevail.

Section 2. Consistent with the AFGE National Constitution, the National President shall insure that all provisions of this Constitution are met and shall take necessary action to do so.

#### **ARTICLE IV** **MEMBERSHIP**

Section 1. All locals in good standing with AFGE whose membership includes EPA employees shall be eligible for membership in this Council.

Section 2. Such locals as indicated in Section 1 of this Article shall be required to affiliate with this Council. Locals are required to pay per capita tax when the per capita tax structure is implemented.

Section 3. Representation in the Council shall be by duly elected delegates from the affiliated locals.

(a) Each local shall be entitled to one delegate and one alternate. An alternate delegate may be seated in the absence of the delegate.

(b) Each delegate shall be entitled to cast one vote on any matter before this Council, except in the election of officers, each delegate shall be entitled to cast a proportionate share of votes of his/her respective local based on the average membership strength for the past 12 months.

(c) Official AFGE Credential Form C-3 will be issued to delegates and alternate delegates, elected by secret ballot majority plurality vote, for attendance at Council meetings or Council conventions. Credentials will be properly executed by member locals. Delegates and alternate delegates will be furnished one copy; one copy will be retained by the local; and one copy will be forwarded to the Council.

(d) Delegates and alternate delegates to the Council will be elected to serve for a period consistent with the local's Constitution.

#### **ARTICLE V** **REPORTING AND FINANCIAL REQUIREMENTS**

Section 1. This Council will comply with the reporting requirements of PL 95-454 and all other applicable regulations (submission of LM Report and Constitution and Bylaws to the Department of Labor).

(a) This Council will comply with Internal Revenue Service regulations (submission of Form 990 for the preceding year).

(b) A copy of the above forms will be provided to the AFGE National Office.

Section 2. An annual audit report on AFGE Form 41 will be submitted to the National Office.

Section 3. All representatives or employees of this Council who handle funds or property thereof shall be bonded in accordance with PL 95-454 and regulations issued by the Assistant Secretary of Labor pursuant thereto. The Council must be bonded for at least ten percent of all the monies that are handled by the Council in the year. In accordance with Article XXIV, Section 8 of the AFGE National Constitution, the National President shall negotiate on behalf of the Council a blanket position bond in the amount of \$5,000 to cover up to five people who handle the Council's funds for the protection of the Council. In the event that the Council needs, desires or is required by the Labor-Management Reporting and Disclosure Act of 1959, as amended, to be bonded for additional amounts or for additional people who handle the Council's funds, it shall be incumbent upon the Council to bear the additional expense of such additional bond. The Council will be responsible for payment of all charges for all bonding of the Council, including the initial \$5,000 blanket position bond negotiated by the National President, and the Council shall own all bonding paid for by the Council. In order for the bond to be effective, the Council must file within 90 days after the close of its fiscal year a copy of the AFGE form for the annual audit and a copy of the Department of Labor required form.

Section 4. Copies of all official publications will be submitted to the National Office at the time of publication.

## ARTICLE VI REVENUE

Section 1. Per capita tax to this Council shall be \$1.60 per member, per biweekly pay period, and shall be payable to the Council.

(a) Any local failing to pay the monthly per capita tax shall be notified promptly by the Treasurer if in arrearages. If at the end of three months the local is still in arrears, it will be subject to the same penalties as failure to pay per capita tax to the Federation (as provided in the AFGE National Constitution).

(b) A suspended local may be reinstated to full membership in this Council upon payment of all arrearages.

Section 2. Special assessments may be levied by majority vote of the Executive Board of this Council when, in its judgment, it becomes necessary to carry on the work of the Council. However, such assessments shall not exceed the sum of 25¢ per member, per month, and there shall be no more than four assessments in one year. Such action on the part of the Executive Board shall be effective only until the next regular convention.

Section 3. This Council has the authority to negotiate a dues withholding agreement, at the national level, covering all constituent members of all constituent locals, requiring that all dues deductions from such locals be forwarded to the AFGE National Secretary-Treasurer for appropriate distribution and remittance.

Section 4. All receipts, checks, and cash disbursements shall be properly recorded and accounted for in the financial records of this Council. The Treasurer shall sign and the President shall countersign checks covering proper expenditures for the Council. In the absence of either officer, the Executive Vice President shall sign.

Section 5. The books, records, and financial accounts of this Council shall be open to inspection at all times to the National President and the National Secretary-Treasurer or their duly designated representative and any duly authorized and accredited representative of this Council or member of a local in good standing.

## ARTICLE VII OFFICERS: QUALIFICATIONS AND ELECTION

Section 1. The delegates of this Council shall elect the following officers, and these officers shall constitute the Executive Board:

President	Secretary
Executive Vice President	Treasurer
First Vice President	Sergeant-at-Arms
Second Vice President	

Section 2. The term of office shall be for three years or for the balance of the unexpired term.

Section 3. To be qualified as a candidate for Council office, an individual must meet the following qualifications: be a member in good standing of a constituent local; be a member for one year of an AFGE local, immediately preceding the closing of the nomination process; and must not be a member of any labor organization not affiliated with the AFL-CIO.

Section 4. Council officers shall be nominated and elected in accordance with applicable provisions of the AFGE National Constitution. Protests must be received by the Election Committee prior to, during, or within five days of adjournment of the Council meeting.

Section 5. The officers shall be elected by secret ballot and by majority vote of the delegates voting on a proportionate basis of their respective locals in accordance with Article IV, Section 3(b) of this Constitution.

Section 6. An Election Committee shall be constituted to conduct each election. The Committee shall consist of not less than three members, and if a larger Committee is required, it shall contain an odd number of members. Its members shall be selected, and it shall meet at a reasonable time before the commencement of the nomination procedure. No member of the Committee may be an incumbent or a candidate for the office for which the election is being conducted.

Section 7. All candidates for office must be treated equally with respect to the availability of lists of members and mailing of campaign literature. The Council will comply with all reasonable requests

to distribute by mail or otherwise campaign literature in aid of such persons' candidacy to all Local Presidents, Local Treasurers, and known delegates in good standing, at the candidates' expense, and will refrain from favorable or unfavorable discrimination toward any candidate with respect to the availability of lists of delegates.

No monetary or other resources of AFGE or any employer shall be contributed or applied to promote the candidacy of any candidate in an election. Such resources include, but are not restricted to, dues monies and assessments, publications, facilities, office equipment, union or employer email, stationery, or other supplies. While the preceding restrictions apply to use of AFGE resources to promote the candidacy of any candidate, such resources may be used for such things as notices, factual statements of issues not involving the candidates, and other expenses necessary to conduct an election.

Section 8. Adequate safeguards to insure a fair election shall be provided, including the right of any candidate to have observers of his or her choice who are AFGE members present throughout the election procedure, including the tally of ballots. The election of officers may be accomplished by mail ballot in accordance with the AFGE National Constitution.

Section 9. In any secret ballot election, a reasonable opportunity shall be given for the nomination of candidates. A quorum is not required for nominations and/or elections. Every member in good standing and otherwise qualified shall be eligible to be a candidate and to hold office. Every delegate shall have the right to nominate and vote for or otherwise support the candidate or candidates of his/her choice, without being subject to penalty, discipline, or improper interference or reprisal of any kind by the Council or any delegate thereof.

Not less than 30 days prior to the election, notice thereof shall be mailed to each Local President, Local Treasurer, and known delegates at the last known home address. Each delegate in good standing shall be entitled to vote in accordance with Article IV, Section 3(b) of this Constitution. The votes cast by delegates shall be counted, and the results published separately. All election-related documents (including those pertaining to nominations and the minutes of any meetings) must be sealed and preserved by the Election Committee (who has authority to reopen the records) through the protest period and then forwarded to the National Secretary-Treasurer at the National Office for one year after the election, unless the records are requested by higher authority in the appeal process or are still relevant. The Treasurer shall preserve for one year the ballots and all other records pertaining to the election. The ballots and records shall be available to the National President of AFGE.

## **ARTICLE VIII** **DUTIES OF OFFICERS**

Section 1. The President shall function as the presiding officer of the Council and shall exercise general supervision of the affairs of the Council, subject to approval of the Executive Board. The President shall comply with the AFGE National Constitution and this Constitution, and in accordance with the mandates of the Council, additional duties of the President shall be to plan and pursue policies which will promote the welfare of this Council; keep the membership fully advised

of his/her activities; preside at Council conventions and meetings of the Executive Board, and sign all documents pertaining to his/her office. The Council President may hire and fire employee(s), subject to the approval of the Council Executive Board, providing the delegates to the Council or the Executive Board has given prior approval, either by adoption of an annual budget that provides for employee(s), or by authorizing the expenditure of funds for employee(s). Employees of the Council must have a service or employment contract, and will be advised before hiring that the contract incorporates the following: (1) any such service or employment contract must be submitted in writing for prior review and approval by the Council Executive Board, (2) it does not extend beyond the term of office of the Council President or is otherwise specifically limited to a lesser duration, (3) it is subject to an approved budget and availability of funds, (4) it may not cause deficit spending, (5) it may be terminated for just cause, including a disciplinary or performance based removal, or in the event of insufficient funds, for lack of work, or for other valid reason, subject to approval of the Executive Board, and (6) by entering into a contract, the Council and the employee agree that the National Office of the Federation is neither a party to the contract nor responsible for any matter arising from the contract, including the enforcement or termination of the employment. The President or his/her designee shall be the chairperson of the Council's Negotiation Committee and shall designate Executive Board members to serve on the Committee. National contracts negotiated with the agency are subject to review by the National President, and the agency shall be so notified.

Section 2. The Executive Vice President shall assist the President in performing his/her duties. The Executive Vice President shall preside at any Council convention or meeting from which the President is absent. In the absence of both, the First Vice President shall preside. In the absence of all three the delegates shall elect a temporary chairperson for that meeting.

Section 3. The First Vice President shall be an ex officio member of all committees, with the exception of the Audit and Election Committees or a committee of investigation, and shall be responsible for coordinating the activities of committees. He/she shall perform additional duties as may be assigned by the President.

Section 4. The Second Vice President shall perform the duties as may be assigned by the President.

Section 5. The Secretary shall keep a record of the minutes of all meetings and keep all official records of the Council except those that are specifically assigned to others. He/she shall keep the Constitution up to date and shall keep the official roster of member delegates/locals and notify them of all regular or special meetings. If the Secretary is absent from a meeting, the presiding officer may appoint a temporary Secretary who will keep a record of the minutes and furnish them to the Secretary.

Section 6. The Treasurer shall receive, receipt for, disburse, and keep account of all monies received or disbursed for the Council; deposit money in a federally insured financial institution; and render an account at all meetings and whenever otherwise requested to do so by the President. Any surplus funds may be deposited only in bank(s), state chartered credit unions, or federally insured financial institutions whenever such investment is authorized by a majority vote of the Council delegates voting, and the results of all such votes must be recorded. The Treasurer shall submit the Council's



books to the Audit Committee for an annual audit and at the end of his/her term of office.

Section 7. The duties of the Sergeant-at-Arms shall be to attend the outer door to see that no one enters the meetings without proper authority; to assist the presiding officer in the maintenance of order; to welcome and introduce guests; and to perform other duties as may be assigned.

Section 8. No officer or Council representative shall engage in any business or financial activities on behalf of this Council which conflict with his/her fiduciary obligation to the Council.

## **ARTICLE IX** **EXECUTIVE BOARD DUTIES**

Section 1. The Executive Board will meet at the call of the President or by request of a majority of Board members.

Section 2. It shall be the duty of the Executive Board to devise and initiate such actions as may be necessary during the interim between Council meetings; but such actions shall not be inconsistent with the objectives of this Council, this Constitution, or the AFGE National Constitution.

Section 3. In the case of a vacancy in any office of this Council except that of President, the President with the approval of the Executive Board may appoint an individual to fill the vacancy. In the case of a vacancy in the office of President, the vacancy shall be filled by special election to occur within six months.

Section 4. The Executive Board shall prepare an annual budget for approval by the delegates of the affiliated locals. The President and the Executive Board will be guided by the budget which has received previous approval of the delegates. Expenditures by the Council President in excess of \$500 per month must have prior approval: (a) by the Council's Executive Board, (b) as authorized by the budget approved by the delegates, or (c) by separate vote of the Council's delegates. All expenditures authorized by the Executive Board will be reported in writing at the next regular meeting of the Council. Upon request a copy of such report will be made available to any officer in good standing of the Council.

Section 5. The Council's Negotiation Committee shall be comprised of the Executive Board or designee(s) (with approval of the Executive Board) in accordance with Section 1 of Article VIII of this Constitution.

## **ARTICLE X** **COMMITTEES**

Section 1. Special committees may be established as the Council may direct, including the Election Committee, and the membership of such committees shall be appointed by the President and shall be subject to Executive Board approval.

Section 2. Standing committees shall be Audit, Credentials, Complaints, Fair Practices, Legislation,

Negotiation, Organizing, and Safety.

Section 3. A quorum of any committee shall consist of a majority of members thereof.

## ARTICLE XI MEETINGS

Section 1. This Council shall meet at least annually at a time and place that will be determined by the Executive Board and announced to the member delegates/locals by the Council President. The announcement of any regular or special Council meeting will be provided at least 30 days prior to such meeting.

Section 2. Special meetings may be called at any time by the President, by request of a majority vote of officers, or upon written request from a representative group of one-third of constituent locals. When the 30-day advance notice is provided to the membership, the specific purpose of the meeting also shall be provided. Only those items listed in the notice will be discussed or voted on at such special meetings.

Section 3. For the purposes of this Constitution and Bylaws, the term “meeting” shall include, and authorize the Executive Board and Council to conduct meetings by videoconference or teleconference or other suitable means that allow all persons participating to hear each other at the same time. Electronic mail (email), bulletin boards, facsimiles, or other electronic means, as well as postal or other delivery services are not suitable for the conduct of meetings under this Constitution and Bylaws. However, nothing in this Section changes the obligation of the Council to meet at least once annually at the time and place determined by the Executive Board as outlined in Section 1 above or Section 2 above.

Special rules for order and standing rules, as appropriate, to specify precisely how recognition is to be sought and the floor obtained during videoconferences or teleconferences may be developed by the Executive Board, if deemed necessary. All other Sections within this Article remain unchanged.

## ARTICLE XII DELEGATES

Section 1. This Council is entitled to two delegates for representation at the AFGE National Convention.

Section 2. The selection of such delegates shall be accomplished in the following manner: The President and Executive Vice President of this Council, by virtue of their election to those offices, shall serve as delegates but may not participate in the election of National Officers. Any alternate delegates shall be elected. The expense of attendance will be subject to the availability of funds.

**ARTICLE XIII**  
**LOCAL'S RIGHTS**

Section 1. All constituent locals have the right to conduct internal local business without interference, coercion, or restraint by this Council insofar as such matters are not in conflict with this Constitution and the AFGE National Constitution.

Section 2. Each constituent local shall be entitled to full participation on all matters before this Council through the medium of delegate(s).

Section 3. Each constituent local shall be entitled to negotiate and enforce supplemental collective bargaining agreements with local management for the purpose of implementing the national agreement and covering those matters more appropriately negotiated at the local level. Such agreements shall not renegotiate matters negotiated at the national level; the agreements shall be subordinate to the national agreement and shall not conflict with or repeal it.

Section 4. Any local having EPA membership must affiliate with this Council and must be in good standing to conduct any business on behalf of this Council.

**ARTICLE XIV**  
**COMPLAINTS AND APPEALS**

Section 1. Complaints against any of the Council officers or delegates arising out of or resulting from an individual's conduct or status as a Council officer on matters concerning the operation of the Council, excluding Council officer elections (which are processed in accordance with the procedures set forth in Appendix A of the AFGE National Constitution), will be processed as follows:

(a) Constituent locals or members thereof shall register a complaint first with the Council President. A committee of investigation and, if probable cause is found, a trial committee shall be appointed by the Council President, or the Executive Board if the Council President is the accused. The Council President or the Executive Board, as appropriate, shall insure that neither the committee of investigation nor the trial committee includes the complainant(s) or the accused, and in no case will the committee of investigation and the trial committee be composed of any of the same members. No member of the Executive Board may serve on the committee of investigation. No member shall be eligible to serve on the committee of investigation or trial committee for the hearing of charges under this Article if he or she is directly or indirectly involved in the matter which gave rise to the charges upon which the accused is to be tried, and the committees shall otherwise be impartial. A hearing on the complaint shall be conducted consistent with applicable provisions of Article XXIII of the AFGE National Constitution, not less than two weeks after the mailing of the notice nor more than 180 days after the preferring of charges. The trial

committee's findings of fact and decision shall become effective after 45 days of its publication or service by mail to all constituent locals, unless disapproved by a majority of them during that 45 day period. A committee of investigation's finding of no probable cause or trial committee's decision exonerating the accused shall not be subject to Council approval, or be subject to any further action within the Council or the Federation.

(b) The trial committee shall render a decision suspending the accused for a specific time from his or her office, removing him or her from the office, barring him or her from holding any office for a specified time, and/or suspending for a specified time or expelling him or her from membership, or finding him or her not guilty as accused. After decision of the trial committee, an officer suspended or expelled from office and/or membership shall have the appeal right to the National Executive Council set forth in Article XXIII, Section 9, of the AFGE National Constitution, by service upon the National Secretary-Treasurer within 15 days of receipt of the trial committee's decision.

(c) The NEC shall review the case and affirm or reverse the decision, reduce the penalty, or return the case to the Council for a new trial before a different trial committee. If the decision of the NEC should affirm any adverse action taken against the appellant by the Council, upon receipt of the NEC's written decision, the appellant may further appeal to the next AFGE National Convention.

## **ARTICLE XV** **AMENDMENTS**

**Section 1.** This Constitution and any amendments thereof shall become effective and remain so when it is approved by a two-thirds vote of the delegates of this Council, present and voting at a regular or special meeting, and subsequently by the AFGE National Executive Council.

**Section 2.** Any proposed amendment to this Constitution shall be submitted to the Secretary in writing not less than 30 days prior to a regular Council meeting. The Secretary shall notify all delegates of the proposed amendment not less than 15 days prior to the date on which action will be taken to amend.

**Section 3.** Amendments may be adopted between meetings through mail ballot by two-thirds vote of the votes cast by member locals.

**Section 4.** Amendments concerning a change in per capita tax structure may be adopted by a majority vote and by secret ballot of the delegates in good standing voting at a general or special meeting of this Council after reasonable notice of the intention to vote upon such question, or by majority vote of the members of the constituent locals in good standing voting in a membership referendum conducted by secret ballot.

# BYLAWS

Section 1. The order of business at regular Council meetings will be:

- (a) Roll call of officers
- (b) Reading of the minutes of the previous meetings
- (c) Report of financial condition by Treasurer
- (d) Reports of committees
- (e) Unfinished business
- (f) New business
- (g) Comments for the good of the Council
- (h) Adjournment

Section 2. A quorum of the Council shall consist of not less than four delegates/locals.

Section 3. Unless otherwise specified by law (e.g., secret ballot election or dues referendum) or by Constitution, all questions before the Council will be decided by vote of the delegates present, first by voice vote, then by a show of hands, and then by roll call if requested by 25% of the delegates.

Section 4. The time allowed for debate on any particular issue before the Council and the time allowed for speeches will be governed by circumstances and by majority vote of those present. Any limitation as to time allowed for debate may be extended by a majority of those present and voting.

Section 5. Nominations shall be in June, and election and installation of officers shall be in July, every third year beginning in July 2004 (e.g., 2004, 2007, 2010, 2013, etc.).

Section 6. *Robert's Rules of Order Newly Revised* shall govern the proceedings of all meetings of the Council, when not inconsistent with the provisions of this Constitution and Bylaws.

Section 7. These Bylaws may be amended by a two-thirds vote of the delegates, as provided in Article XV of this Constitution.

Section 8. Copies of this Constitution and Bylaws shall be available to all locals in good standing upon request to the Secretary.

  
President

  
Treasurer

July 21, 2009  
(DATE OF ADOPTION)