Department for Professional Employees, AFL-CIO

July 13, 2007

U.S. House of Representatives
Washington, DC 20515

Dear Representative:

On behalf of the Department for Professional Employees, AFL-CIO (DPE) and the 23 national unions affiliated with it, I urge you to support and co-sponsor the Re-Empowerment of Skilled and Professional Employees and Construction Tradesworkers (RESPECT) Act (H.R. 1644).

DPE is a coalition of national unions representing over four million highly skilled, white-collar employees. DPE unions include professional and technical workers in over three hundred separate and distinct occupations in many sectors including: science, engineering and technology; health care and education; journalism, entertainment and the arts; public administration and law enforcement. DPE is the largest association of professional and technical workers in the U.S.

For professional and technical workers, the RESPECT Act is among the highest and most urgent legislative priorities.

The reason is simple: In an increasingly knowledge-based economy, companies frequently call on professional and technical employees, by virtue of their expertise, to guide other employees. A September 2006 set of decisions by the National Labor Relations Board (NLRB) radically redefined the employees entitled to legal protection for organizing and collective bargaining. Its rationale put professional and technical employees at risk of having *no legal protection* for collective action. The RESPECT Act will restore the original intent of Congress.

Under the National Labor Relations Act (NLRA), "supervisors" do not have protection to form and join unions, and can be legally fired for union activity. In *Oakwood Healthcare, Inc.* and two other cases, the NLRB dramatically redefined the term "supervisor" to include employees with only minor supervisory duties. It broadened its interpretation of two terms in the NLRA definition of "supervisor": authority to "assign" other employees and authority "responsibly to direct" other employees.

The NLRB interpreted "assign" to include assigning a patient to a nurse for a single shift, or assigning another employee the task of restocking shelves. It interpreted "responsible direction" to include "ad hoc instructions to perform discrete tasks," such as changing a catheter. The NLRB ruled employees are supervisors if they have supervisory authority for as little as 10 to 15 percent of their time on a regular basis.

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The dissent in *Oakwood* concludes that the majority opinion "threatens to exclude ... countless professionals and others who oversee less-skilled co-workers—from the protection of the Act... Indeed, it is difficult to see who would be left in the category of minor supervisory employees that Congress clearly intended to protect."

Among the workers potentially affected are 843,000 registered nurses; 397,000 computer systems analysts; 123,800 licensed practical nurses; 152,000 electricians; 53,700 physician assistants; 33,000 aerospace engineers; 24,100 editors and reporters; 8,600 librarians; and 4,300 broadcast equipment operators.

This is not what Congress intended. The legislative history is quite clear that Congress did not intend to deny federal labor law protection to "minor supervisory employees," professionals, or other skilled workers.

The *Oakwood* decisions cannot be appealed, but they are certain to generate many more years of litigation. A February 2007 decision by an NLRB regional director in Salt Lake City provides an example of the uncertainty and mischief *Oakwood* is already creating. In *Salt Lake City Regional Medical Center*, all the Registered Nurses in the neonatal intensive care unit were declared to be supervisors, essentially "supervising" each other on a rotating basis; in the inpatient rehabilitation unit, 10 of the 12 RNs were declared to be supervisors; and in the labor and delivery unit, the ratio of supervisors to employees was 12 to 5.

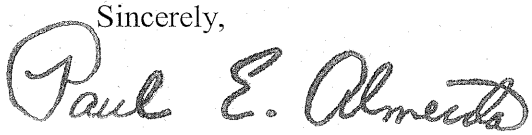
To restore the rights of professional and technical workers requires a legislative solution. Even the majority in *Oakwood* advises that if the decision "should lead to consequences that some would deem undesirable, the effective remedy lies with Congress."

The RESPECT Act would make two minor modifications to the NLRA. It would (1) delete the words "assign" and "responsibly to direct" from the NLRA definition of "supervisor"; and (2) define "supervisor" to be an employee who has supervisory authority for at least 50 percent of his or her work time. These changes will avoid unnecessary litigation by providing a clear definition of "supervisor."

With these two minor modifications, supervisors with substantial authority to affect employees' terms and conditions of employment – such as authority to reward or discipline employees, or even authority to effectively recommend such reward or discipline – would still be excluded from federal labor law protection. The RESPECT Act would thus respect the original intent of Congress by distinguishing between "minor supervisory employees," whom Congress clearly intended to protect, and "supervisors vested with genuine management prerogatives," the individuals Congress intended to exclude from federal labor law protection.

I respectfully request your support. I urge you to join more than 50 other Members in the House of Representatives and co-sponsor the RESPECT Act; please contact Carlos Fenwick with Rep. Andrews at 202-225-3725.

Sincerely,



Paul E. Almeida
President