

## **Attendance of Training and Educational Activities by Works Council Members**

Under the conditions of section 46, paragraphs 6 and 7, German Federal Personnel Representation Law (subsequently referred to as "the law"), works council members are entitled to time off with pay for attendance of training and educational courses. The following rules must be observed in connection with the release of council members to training and educational activities:

### **Release Pursuant to Section 46, Paragraph 6 of the Law**

This legal provision requires the agency chiefs at all levels to excuse works council members from their regular duties and to pay for the expenses of attending certain educational programs, i.e., issue temporary duty (TDY) orders to the respective council members. This section applies only to regular members of works councils (not to alternate members) and to members of youth and apprentices representations.

The educational measures must serve to provide concrete knowledge of immediate interest and importance which is required for the performance of the functions of the respective council. The educational measures must provide knowledge and information which, in light of the concrete situation of the respective agency and the specific functions of the works council involved, are immediately required for the performance of the present or anticipated duties and functions of the works council or which relate to matters with which the council is or will be constantly confronted.

Basic training on the provisions of the law falls into this category for council members who have been elected for the first time or for council members who have been repeatedly elected but had no previous exposure to this kind of training. Special training designed to prepare the council or certain of its members for specialized assignments on certain council committees would also generally be covered.

If the council determines that a particular educational program is suited to provide this type of training, it must decide by majority vote which one of its members should attend. Attendance of all council members is justifiable only in exceptional cases, e.g., if a works council is elected for the first time, or if the subject of the training program is a new, particularly difficult field that is of immediate interest to the entire works council.

Unlike section 46, paragraph 7 of the law, which will be discussed below, section 46, paragraph 6 of the law does not establish a time limitation for the attendance of educational programs. However, in its decision whom to send and for what duration, the council must consider the needs of the agency. If the attendance of a particular council member would cause a serious disruption of the orderly work processes (e.g., during peak work load periods, because the council member selected for attendance is of crucial importance to the agency, or because of the absence of suitable substitutes), the council may not authorize the attendance of this particular council member. Inasmuch as the duration of educational programs is concerned, the council is compelled to consider the budgetary situation of the respective agency. This is in consonance with the general policy on the economical expenditure of public funds. Therefore, works councils at all levels should be kept informed of the availability of funds for training and education measures.

Works councils are required to timely notify their respective agency chief of the decision to send one or more of its members to training or educational programs so it can be determined whether or not this would cause a serious disruption of the orderly work processes. The notification must not only identify the council member or members to attend the program, but must also indicate the time, place, duration and subject matters of the program, the organization conducting the program, and the reasons justifying the attendance of the member or members.

### **Release Pursuant to Section 46, Paragraph 7 of the Law**

This legal provision entitles each member of a works council or a youth and apprentices representatives (regardless of the level where established) to a paid educational work release for up to three weeks (or 4 weeks for newly elected members) during their regular term of office to attend educational programs certified by the German Federal Head Office of Political Education ("*Bundeszentrale für politische Bildung*") as appropriate and useful for the performance of council functions.

Individual council members may take advantage of this release regardless of whether or not they also attended programs pursuant to section 46, paragraph 6 of the law or the amount of time spent at such programs. As in section 46, paragraph 6 of the law, this legal provision only applies to regular council members and not to alternate members.

In meeting the requirements of this section, educational programs may be more general in nature than those under section 46, paragraph 6 of the law. They may provide general training in labor law, on social, economical and political questions, economic and business principles, parliamentary matters, management, work safety, work hygiene, etc. Not covered by this legal provision are pure union functions and programs that address general political or union questions. Also not covered are attendances at trade fairs or meetings of occupational organizations.

As a rule, the works council will also notify the agency chief of the decision to send one or more of its members to programs under section 46, paragraph 7 of the law. However, under this legal provision, individual council members may also request time off with pay for attending such programs on their own. At any rate, the council or the individual council member will be required to present documentation that the training or educational program has been certified by the above German authority as being useful for the performance of works council functions. Both the council and the individual council members must also consider the interests of the agency and must ascertain that the agency's orderly work processes will not be seriously disturbed by the temporary absence of the respective council members.

#### **Release of Works Council Members for Attendance at Training and Educational Programs (General)**

Before releasing council members for attendance of training and educational courses under section 46, paragraph 6 of the law, agency chiefs must verify whether or not the course meets the requirements of law. This verification will be made on the basis of a thorough review of the course agenda provided by the works council. If review of the agenda indicates that the majority of course topics (i.e., over 50 percent of course duration) do not meet the requirements of section 46, paragraph 6, but do meet requirements of section 46, paragraph 7 of the law, TDY orders will not be issued. In this case, the council member will be released from duty with pay for the time required. If application of section 46, paragraph 6 of the law to a specific training or educational program is questionable, agency chiefs must obtain a resolution from HQ USAREUR/7A, ATTN: AEAGA-CL.

Decision on whether or not to release a council member from duty for attendance of training and educational programs under the above legal provisions rests solely with the respective agency chiefs. They will decide whether or not the release is consistent with operational requirements. Denials of release for attendance of training and educational programs are only authorized on the basis of serious disruptions of the agency's orderly work processes resulting from the council member's attendance.