

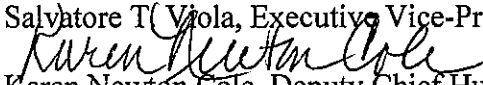


U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-3000

OFFICE OF THE CHIEF HUMAN CAPITAL OFFICER

November 7, 2014

MEMORANDUM FOR: Perry H. Casper, Chief Steward, AFGE Council 222
Salvatore T. Viola, Executive Vice-President, AFGE Council 222

FROM: 
Karen Newton Cole, Deputy Chief Human Capital Officer, A

SUBJECT: Grievance of the Parties Filed on October 7, 2014

This responds to the Union's Grievance of the Parties (GOP) concerning the Job Exchange Program related to the Multifamily Reorganization/Transformation (MFRT).

In the GOP, the Union alleges that the Department is in violation of Section 8 of Appendix 3 to Supplement 135, which deals with the Multifamily Reorganization/Transformation. That provision states, "[i]f there are any conflicts between agency policy and this Appendix, the Appendix shall take precedence." The Department disputes this allegation.

The Department maintains that there is no conflict between Appendix 3 and the Department's Job Exchange Pilot Program policy. (Exhibits 1 and 2). In fact, the language in the policy mirrors that of (38) of Supplement 135 to which Appendix 3 is appended. Supplement 135 (38) states, "The MFRT will allow employees in jobs throughout HUD to 'swap jobs' with MFH employees in consolidating offices who are being directed to relocate or electing to separate through VERA/VSIP as a result of MFRT." The Job Exchange Pilot Program Policy states at Section 1.2, "The MFT Job Exchange Program will allow employees in jobs throughout HUD to apply to "job swap" with MFH employees in consolidating offices who are being directed to relocate or electing to separate through VERA/VSIP as a result of MFT." (The terms Multifamily Reorganization/Transformation (MFRT) and Multifamily Transformation (MFT) are synonymous.) At Section 3.2(3) of the policy, the policy goes on to elaborate on the meaning of the shared language, specifically the phrase "throughout HUD." It states, "[b]oth candidates must be located at the same duty location." Thus job swaps would only occur within the same geographic area. The phrase "throughout HUD" refers to other program offices, such as "FHEO," within the same geographic area. There would be no swapping across geographic areas.

It should be noted that as part of the negotiation process, the Department informed the Union of its policy during the spring of 2014. At that time, the Union raised no objection to the Department's interpretation of (38) of Supplement 135, and the Department proceeded to apply

the program to Wave 1 of the MFRT. It was not until the negotiation of Appendix 3 to Supplement 135 in July of 2014 that the Union raised objections to the Department's interpretation of (38) of Supplement 135. By that time, the Department had established a clear record of the proper interpretation of (38) to Supplement 135.

Furthermore, it should also be noted that the bargaining history of Supplement 135 clearly shows that the intent of the provisions regarding the swapping of jobs was to allow employees who faced relocation to have the opportunity to remain in their current offices without moving. It was never to allow employees to move across geographic areas. The Department had already determined where efficiency would be served in the movement of employees. Job swap was only intended to minimize the adverse impact of this determination on employees who would have to move. It was never intended as an additional avenue of movement.

As explained above, when the Department issued its policy on Job Exchange, the Union raised no timely objection to the Department's interpretation of Supplement 135. Therefore, the Department's clear record of the interpretation of (38) of Supplement 135 stands. The GOP regarding this matter is untimely.

The Union's additional allegations in the GOP are addressed below.

"HUD failed to hire Bargaining unit employees, those employees covered by these agreements by favoring management and supervisory employees in HUD while denying bargaining employees as much flexibility as possible." The Union has provided no facts to substantiate this allegation.

"HUD has violated employee contractual rights to a fair and equitable treatment of the Contract (CBA), Policy and application of the negotiated processes." The Union has provided no facts to substantiate this allegation.

"HUD's denial based on ineligibility for applicants simply because they were from offices other than those affected in the 'wave' denies those employees in other offices from relocating or accepting buyout and/or early out authority. The Notice of ineligibility was incomplete, was inaccurate and denied employees a reasonable and timely appeal of the decision by HUD. Thus denying flexibility to more employees with an opportunity for a job swap or job exchange." This allegation has been addressed above.

"HUD did not base eligibility on qualification alone. HUD also diluted the qualifications by expressing qualifications for ineligibility instead of qualifications for eligibility." The Union has provided no facts to substantiate this allegation.

"HUD management/supervisors were unprepared and untrained in how to apply this job exchange/job swap program leading to further misuse of the process." The Union has provided no facts to substantiate this allegation.

For the above reasons, the Department does not find that the GOP has merit, and, therefore, no relief is warranted.

If the Union is not satisfied with this decision, it may refer this GOP to arbitration in accordance with Article 23 of the HUD/AFGE Agreement. Such referral must be made within 20 days of this decision. If the Union refers this GOP to arbitration, it should notify the Management Representative, Mark Zaltman. Mr. Zaltman may be reached at 312-913-8557 or at mark.zaltman@hud.gov.

Attachments:

Exhibit 1

Exhibit 2