



American Federation of Government Employees
National Council of HUD Locals 222

Affiliated with AFL-CIO

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October 22, 2018

MEMORANDUM FOR: Felicia Purifoy, Acting Deputy Chief Human Capital Officer
Joseph Sullivan, Director, Employee & Labor Relations

FROM: Ashaki Robinson, PhD, President /s/
AFGE National Council of HUD Locals #222

SUBJECT: Grievance of the Parties: Management Proposed Midterm
Bargaining on Covered Issues Maxiflex and Repudiation of the
Collective Bargaining Agreement

In accordance with Article 51.15 of the HUD-AFGE Council 222 Collective Bargaining Agreement (Agreement or CBA), I am filing this Grievance of the Parties (GOP) with you. This GOP concerns the Department of Housing and Urban Development's (the Agency's) violation of statutory and contractual provisions, unfair labor practices and other violations of Federal law, which requires management to honor an existing negotiated CBA until a new agreement has been negotiated. Management has breached and repudiated the contract by refusing to follow the clear and unambiguous language contained therein.

The Agency violated the Federal Labor Relations statute, engaged in unfair labor practices and breached the Agreement in the following manner:

1. The parties currently have a term CBA in place which was the subject of extensive negotiations over the period of 4 years. The current CBA was ratified by the Union membership and approved by a previous Secretary of Housing and Urban Development in July 2015.
2. The CBA contains extensive provisions regarding hours of duty, credit hours and alternative work schedules. The Parties negotiated "Maxiflex" schedules which are a type of alternative work schedules that contains core hours on 10 workdays or fewer in the biweekly pay period and in which a full-time employee has a basic work requirement of 80 hours for the biweekly pay period, but in which an employee may vary the number of hours worked on a given workday or the number of hours each week.
3. Maxiflex schedules are work schedules with a fixed starting time. Attached are examples of fixed Maxiflex schedules followed by AFGE bargaining unit employees.
4. The Agreement states in Article 16.03(2) that Maxiflex schedules include compressed work schedules (e.g. 5/4/9 and 4/10).

5. The Agreement also states in Article 16.06 (c) that an employee working a Maxiflex schedule shall be credited with holiday leave for the numbers of hours they were scheduled to work that day.
6. From July of 2015 through October 1, 2018, AFGE bargaining unit employees on a Maxiflex schedule were credited with holiday pay for the hours they were scheduled to work on a federal holiday.
7. On October 11, 2018 Daniel Raymond, Employee and Labor Relations Specialist, sent an email repudiating the negotiated contract provisions on Maxiflex, stating that, regardless of the number of hours a Maxiflex employee was scheduled to work on a Federal holiday, they would only get 8 hours of holiday leave. He specifically stated that those on Flexitour/Flexitime/Time Bands Flexible Work Schedules or 4/10 and 5/4/9 compressed work schedules will not be impacted as long as they are coded properly in WebTA.
8. The notification further states that those on Maxiflex schedule other than a 5/4/9 or 4/10 work schedule will only be credited for 8 hours of Holiday pay and that employees would be required to take leave to cover the time off for the additional hours that day.
9. The correspondence further stated that this update to WebTA is consistent with 5 USC§ 6124, 5 CFR§610.406(b) and Section 16.06(2)(e) of the HUD/AFGE Collective bargaining agreement (CBA).
10. The Maxiflex provision does not conflict with existing law or regulation. Therefore, abrogation of the contract and repudiation of Maxiflex provisions are not mandated.
11. The statute states that a compressed schedule scheduled is defined by as an 80-hour bi-weekly basic work requirement that is scheduled by an agency for less than 10 workdays (See 5 U.S.C. 6121(5)).
12. Maxiflex under the current CBA is a compressed work schedule.
13. The regulation provides that if a full-time employee is relieved or prevented from working on a day designated as a holiday by Federal state or Executive order, the employee is entitled to basic pay for the number of hours of the compressed work schedule on that day (5 CFR§610.406).
14. On October 17, 2018 the Union met with Ginger Richardson Branch Chief, Employee and Labor Relations and Linda Hawkins, Director of Policy Office of the Chief Human Capital Officer. At that time Ms. Hawkins admitted that the Maxiflex provisions of the contract did not conflict with state or regulation. She stated that repudiation of the contract was required by the OPM Handbook on Alternative Work Schedules.
15. The Handbook specifically states:

“The purpose of this handbook is to provide a framework for Federal agencies to consult in establishing alternative work schedules and to provide additional information to assist agencies in administering such programs. This handbook, with its appendices, provides detailed information on the administration of flexible and compressed work schedules, jointly referred to as alternative work schedules or AWS. However, this handbook does not cover every situation that may arise under an alternative work schedule or other work scheduling options

available under 5 U.S.C. 6101. Moreover, since AWS programs for bargaining unit employees are established by negotiated agreements, bargaining unit employees and their supervisors and managers should consult the applicable collective bargaining agreement for its AWS provisions.”

16. Further, the statute states in 5 U.S.C. 6130(a)(1) that:

“In the case of employees in a unit represented by an exclusive representative, any flexible or compressed work schedule, and the establishment and termination of any such schedule shall be subject to the provisions of this subchapter and the terms of a collective bargaining agreement between the agency and the exclusive representative.”

17. The Agency committed an unfair labor practice by repudiating the CBA and refusing to abide by the negotiated terms of the CBA (5 U.S.C. 7116(a)(1)).

18. The Agency violated Article 16.03(2) by not allowing certain employees who have Maxiflex schedules from receiving the number of hours for the Holiday that they were scheduled to work.

In accordance with 5 U.S.C. § 7116(d), this Grievance of the Parties also includes a claim that the department committed an Unfair Labor Practice in violation of Federal Service Labor-Management Relations Statute at 5 U.S.C. § 7116(a)(1) and (5) when it deliberately failed to honor negotiated contractual provisions regarding the hours of duty, credit hours and alternative work schedules.

Meeting

AFGE Council 222 is not requesting a meeting with you for resolution pursuant to Article 51.15(2) of the Agreement.

Remedy

1. Any employee who used annual or sick leave in order to receive full payment for their holiday will be reimbursed that time plus any interest due
2. Attorney’s fees related to the preparation and conduct of the arbitration, as well as the full costs of the arbitration, including but not limited to, arbitrator’s fees and the travel expenses and per diem of Union witnesses who traveled to the arbitration site to testify;
3. Immediate withdrawal of the proposed action to charge leave to employees on the Maxiflex schedule
4. Any other remedy available to the fullest extent of the law.

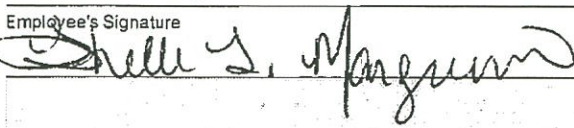
Response

In accordance with Article 51, Section 51.15(3) of the Agreement, please provide your written response within 30 days of receipt of this GOP.

Work Schedule Request

U.S. Department of Housing and Urban Development

(For CWS, this form must be submitted at least two (2) weeks prior to the start of the pay period in which the change takes place)

Employee's Name Lashelle T. Mangrum	Organization Name FHEO - Greensboro	Date of this request 2/17/2016
Employee's Signature 		Date of last work schedule change (for CWS) February 2014
		Proposed Effective Date (beginning of a pay period) 2/21/2016


First, mark the box which indicates the work schedule you are ending

End End FlexiTour End CWS (Compressed Work Schedule) End Fixed Tour

Second, mark the box and indicate the work schedule you wish to begin

Begin Begin FlexiTour Begin CWS (Compressed Work Schedule) Begin Fixed Tour

	Mon	Tue	Wed	Thur	Fri	Mon	Tue	Wed	Thur	Fri
Hours Worked	10	8	8	10	8	10	8	8	10	
Arrival Time	7:00	8:00	8:00	7:00	7:00	7:00	8:00	8:00	7:00	AWS

<input checked="" type="checkbox"/> Approved	Supervisor's Signature 	Date 2/17/16	Effective Date 2/17/16
<input type="checkbox"/> Disapproved			
Remarks			Next compressed work schedule change may be made no earlier than:

Work Schedule Request

U.S. Department of Housing and Urban Development

(For CWS, this form must be submitted at least two (2) weeks prior to the start of the pay period in which the change takes place)

Employee's Name Dawn Renee Huestis	Organization Name HUD-OGC	Date of this request 3/13/18
Employee's Signature <i>Dawn Renee Huestis</i>	Date of last work schedule change (for CWS) 3/17/18	
		Proposed Effective Date (beginning of a pay period) 3/18/18

First, mark the box which indicates the work schedule you are ending

End End FlexiTour End CWS (Compressed Work Schedule) End Fixed Tour

Second, mark the box and indicate the work schedule you wish to begin

Begin Begin FlexiTour *Maxiflex* Begin CWS (Compressed Work Schedule) Begin Fixed Tour

	Mon	Tue	Wed	Thur	Fri	Mon	Tue	Wed	Thur	Fri
Hours Worked	10	10	10	10		10	10	10	10	
Arrival Time	7	7	6	7		7	7	6	7	

<input checked="" type="checkbox"/> Approved	Supervisor's Signature <i>M. P. S.</i>	Date 3.13.18	Effective Date
<input type="checkbox"/> Disapproved			

Remarks

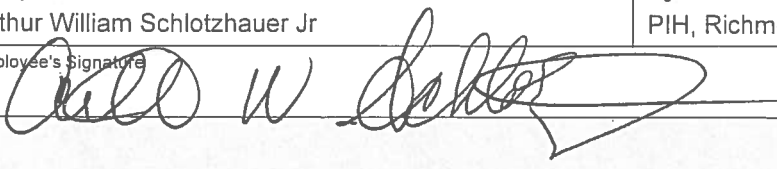
Next compressed work schedule change may be made no earlier than:

Request a change in accordance to the AFGE Union Contract, Article 10. - DCH

Work Schedule Request

U.S. Department of Housing
and Urban Development

(For CWS, this form must be submitted at least two (2) weeks prior to the start of the pay period in which the change takes place)

Employee's Name Arthur William Schlotzhauer Jr	Organization Name PIH, Richmond Field Office	Date of this request 3 November 2016
Employee's Signature 		Date of last work schedule change (for CWS) 19 October 2015
		Proposed Effective Date (beginning of a pay period) 30 September 2016

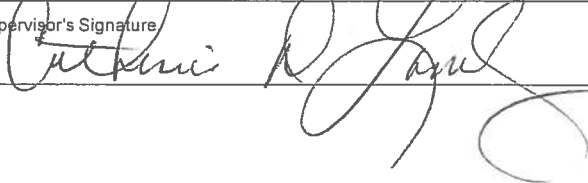
First, mark the box which indicates the work schedule you are ending

End End FlexiTour End CWS (Compressed Work Schedule) End Fixed Tour

Second, mark the box and indicate the work schedule you wish to begin

Begin Begin FlexiTour Begin CWS (Compressed Work Schedule) Begin Fixed Tour

	Mon	Tue	Wed	Thur	Fri	Mon	Tue	Wed	Thur	Fri
Hours Worked	10	10	85	85	6	10	10	85	85	
Arrival Time	6:00	6:00	7:15	7:15	6:00	6:00	6:00	7:15	7:15	

<input type="checkbox"/> Approved	Supervisor's Signature 	Date 11/3/16	Effective Date
<input type="checkbox"/> Disapproved			
Remarks			Next compressed work schedule change may be made no earlier than:

Work Schedule Request

U.S. Department of Housing
and Urban Development

(For CWS, this form must be submitted at least two (2) weeks prior to the start of the pay period in which the change takes place)

Employee's Name Crystal L. Martinez	Organization Name Multifamily	Date of this request 08/03/2017
Employee's Signature <i>Crystal L. Martinez</i>		Date of last work schedule change (for CWS)
		Proposed Effective Date (beginning of a pay period) August 6, 2017

First, mark the box which indicates the work schedule you are ending

End End FlexiTour End CWS (Compressed Work Schedule) End Fixed Tour

Second, mark the box and indicate the work schedule you wish to begin

Begin Begin FlexiTour Begin CWS (Compressed Work Schedule) Begin Fixed Tour

	Mon	Tue	Wed	Thur	Fri	Mon	Tue	Wed	Thur	Fri
Hours Worked	8	8	10	8	10		8	10	8	10
Arrival Time	7:30a	7:30a	7:00a	7:30a	7:00a		7:30a	7:00a	7:30a	7:00a

<input checked="" type="checkbox"/> Approved	Supervisor's Signature <i>David Bee Johnson</i>	Date 8-3-17	Effective Date 8-6-17
<input type="checkbox"/> Disapproved			
Remarks			Next compressed work schedule change may be made no earlier than: 10-29-17

Work Schedule Request

U.S. Department of Housing and Urban Development

(For CWS, this form must be submitted at least two (2) weeks prior to the start of the pay period in which the change takes place)

Employee's Name <i>Colleen M. Judge</i>	Organization Name <i>HUD</i>	Date of this request <i>8/21/18</i>
Employee's Signature <i>Colleen M. Judge</i>		Date of last work schedule change (for CWS) <i>8/20/17</i>
		Proposed Effective Date (beginning of a pay period) <i>9-2-18</i>

First, mark the box which indicates the work schedule you are ending

End End FlexiTour End CWS (Compressed Work Schedule) End Fixed Tour

Second, mark the box and indicate the work schedule you wish to begin

Begin Begin FlexiTour Begin CWS (Compressed Work Schedule) Begin Fixed Tour

MaxiFlex

	Mon	Tue	Wed	Thur	Fri	Mon	Tue	Wed	Thur	Fri
Hours Worked	<i>9</i>	<i>8.5</i>	<i>8.5</i>	<i>9</i>	<i>9</i>	<i>9 1/2</i>	<i>8.5</i>	<i>8.5</i>	<i>9 1/2</i>	<i>AW5</i>
Arrival Time	<i>6:00</i>	<i>6:30</i>	<i>6:30</i>	<i>6:00</i>	<i>6:00</i>	<i>6:00</i>	<i>6:30</i>	<i>6:30</i>	<i>6:00</i>	<input checked="" type="checkbox"/>

<input checked="" type="checkbox"/> Approved	Supervisor's Signature	Date <i>8/21/2018</i>	Effective Date <i>9/2/2018</i>
<input type="checkbox"/> Disapproved			

Remarks <i>Telework - Mo 1 & 2 Mondays / Thursdays</i>	Next compressed work schedule change may be made no earlier than: <i>9/16/2018</i>
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Work Schedule Request

U.S. Department of Housing
and Urban Development

(For CWS, this form must be submitted at least two (2) weeks prior to the start of the pay period in which the change takes place)

Employee's Name Cheryl Medeiros	Organization Name Multifamily, Asset Mgmnt	Date of this request 8/21/2018
Employee's Signature <i>Cheryl Medeiros</i>		Date of last work schedule change (for CWS) 10/5/2015
		Proposed Effective Date (beginning of a pay period) 9/2/18 PP18

First, mark the box which indicates the work schedule you are ending

End End FlexiTour End CWS (Compressed Work Schedule) End Fixed Tour

Second, mark the box and indicate the work schedule you wish to begin

Begin Begin FlexiTour Begin CWS (Compressed Work Schedule) Begin Fixed Tour

	Mon	Tue	Wed	Thur	Fri	Mon	Tue	Wed	Thur	Fri
Hours Worked	9	8.5	8.5	9	9	0	8.5	8.5	9.5	9.5
Arrival Time	6:30	6:30	6:30	6:30	7:00	X	6:30	6:30	6:30	6:30

<input checked="" type="checkbox"/> Approved	Supervisor's Signature	Date 8/21/2018	Effective Date 9/2/2018
<input type="checkbox"/> Disapproved			
Remarks <u>MAXIFLEX SCHEDULE</u> Week 2 - Monday - AUS			Next compressed work schedule change may be made no earlier than: 9/16/2018