



American Federation of Government Employees
National Council of HUD Locals 222

Affiliated with AFL-CIO

451 7th Street, SW, Suite 3142
Washington, DC 20410

Jerry Gross
Bargaining Committee Co-Chair

Phone: (703) 280-9063
E-mail: jerry.gross@hud.gov

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MEMORANDUM FOR: Sonya Gaither, Director, Employee and Labor Relations Division
FROM: Jerry Gross, Bargaining Committee Co-Chair, AFGE Council 222
SUBJECT: Unfair Labor Practice-Grievance of the Parties: Repudiation of Supplement 18, Implementation of Anti-Harassment Policy

AFGE Council 222 (the Union) files this Unfair Labor Practice–Grievance of the Parties against the Department of Housing and Urban Development (HUD or the Agency) pursuant to the HUD-AFGE Collective Bargaining Agreement (CBA) Article 51, Section 51.15, due to HUD’s failure to negotiate in good faith over the Agency’s implementation of an anti-harassment policy and HUD’s repudiation of the negotiated Supplement 18 (Attachment 1), thereby committing unfair labor practices and violating the CBA. Article 51, Section 51.01(3)(b) permits the Union to grieve “Any claimed violation, misinterpretation or misapplication of any law, rule, or regulation affecting conditions of employment.” The Union thus charges HUD with violating the Federal Service Labor-Management Relations Statute, 5 U.S.C. Chapter 71 (the Labor-Management Statute), including but not limited to §§ 7116(a)(1) and 7116(a)(5) by:

- (1) interfering with, restraining, or coercing any employee in the exercise by the employee of any right under this chapter; and
- (2) failing to consult or negotiate in good faith with the Union.

The Union also charges HUD with violating Article 49, including but not limited to Sections 49.06(k) and 49.06(n), and Article 53, including but not limited to Sections 53.05, 53.06 and 53.07, and with failure to comply with Supplement 18, including but not limited to Sections 4, 15, 16, and 35.

Background

On January 11, 2018, the Parties concluded negotiations over the Agency’s proposed new Anti-Harassment Policy of August 2017 (Attachment 2). At the time, the Agency had other anti-harassment policies in effect, including [Handbook 793.1](#), Workplace and Domestic Violence Prevention and Response Handbook: Procedures for Preventing, Identifying, and Responding to Acts of Workplace and Domestic Violence, Sexual Assault, *Harassment*, and Stalking (June 2015) (emphasis added) and annual statements issued by the Secretary of HUD, such as the recent one issued by Secretary Fudge on August 12, 2011 (Attachment 3). Handbook 793.1 and the Secretary’s policy statement remain current and in effect as of this date.

On August 18, 2021, the Agency provided a notice pursuant to Article 49 of the CBA of Management’s intent to implement a new Anti-Harassment Program (Attachment 4). In that

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notice, Management stated, “There is not currently an official Anti-Harassment Program at HUD.”

In response, on August 31, 2021, the Union responded with a demand that HUD cease and desist from implementing new policies and procedures that are covered by Supplement 18. To preserve the Union’s rights, the Union proposed only that “The Parties Agree that Supplement 18, ‘Implementation of Anti- Harassment Policy’ of the 2015 HUD-AFGE Agreement remains in force” (Attachment 5).

On September 1, 2021, the Union clarified its position (Attachment 6) in a more formal response to HUD’s Article 49 notice, supplementing and superseding its previous response. In the September 1 response, the Union noted:

- (1) HUD misled the Union about the nature of the document provided, which was labeled a “Program Instruction” rather than a policy and which lacked a handbook number.
- (2) HUD attempted to issue a new policy to replace the policy covered by Supplement 18 by misleading the Union.
- (3) The proposed new policy was inconsistent with the provisions and requirements of Supplement 18.
- (4) HUD failed to comply with Article 49 notice requirements by falsely stating that “There is not currently an official Anti-Harassment Program at HUD.”

In its September 1 correspondence, the Union demanded that HUD provide the Union with an updated Anti-Harassment Program policy that complies with Supplement 18; post a link to the appropriate contact information and other relevant documents on the HUD@Work internal website under the Quick Links pull-down “I Want To” menu, as required by Supplement 18; and add Supplement 18 to the HUD@Work AFGE/HUD Agreements page. The Union asked the Agency to complete those actions within ten days of the Union’s memo.

At the Agency’s request, Council 222 President Salvatore Viola met with the Agency on April 7, 2022, because the Agency wanted to discuss the Agency’s anti-harassment policy. No action was taken at that meeting, during which the Union maintained the position it had expressed previously.

On April 18, 2022, the Agency provided the Union with four documents via email:

- (1) A memorandum regarding the Agency’s rationale for the new Anti-Harassment Policy, with a request to begin negotiations (Attachment 7).
- (2) The August 18, 2021, Article 49 notice.
- (3) The August 2021 proposed anti-harassment policy.
- (4) The Agency’s proposed draft supplement.

On April 22, 2022, the Union replied via email, restating its position (Attachment 8). Among the points made by the Union were:

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- The Article 49 notice is invalid as it falsely states there is no official anti-harassment program at HUD and fails to provide a complete nature, scope, and rationale for each proposed change to Supplement 18.
- The matter is covered by Supplement 18 and Article 9, Section 9.02(3) (“the EEO program shall include, but not be limited to . . . (c) Managing an anti-harassment policy and program intended to take immediate and appropriate corrective action . . . to eliminate harassing conduct against employees, managers, and supervisors”).
- HUD asserted that some of the timeframes in Supplement 18 do not meet the EEOC requirements, but nothing in Supplement 18 prevents the Agency from acting more quickly than is required by the supplement.
- HUD’s continued failure to post Supplement 18 to the HUD@Work HUD/AFGE Agreements page constitutes an ongoing act of repudiation of the agreement.
- HUD continues to fail to negotiate procedures for bullying and hostile work environment and other forms of harassment regardless of whether it is based on protected classes, as required under Supplement 18.

On July 1, 2022, the Union discovered that HUD still had not posted Supplement 18 on the HUD intranet. The Union emailed the HUD OCHCO web manager to request HUD post the missing supplement. Following an exchange of emails, on July 14, HUD’s director of employee and labor relations Sonya Gaither replied that HUD would not post the supplement because “the Agency did not implement the policy Supplement 18 addresses, and is currently moving forward with a new AHP [anti-harassment policy].” The Union responded on July 18 by restating that the supplement does not specify a particular policy, the Agency has existing anti-harassment policies, and that HUD is welcome to move forward with any new anti-harassment policy as long as it is consistent with Supplement 18. The Union also requested that HUD take action, as required by Supplement 18, to negotiate procedures for bullying and hostile work environment (Attachment 9).

Unfair Labor Practice

The Agency’s refusal to accept Supplement 18 as governing the implementation of a HUD anti-harassment policy, indicated by the Agency’s statements such as “the Agency did not implement the policy Supplement 18 addresses, and is currently moving forward with a new AHP” and the Agency’s continued refusal to post the supplement on the Agency’s website, demonstrate the Agency’s repudiation of Supplement 18 and its violation of §7116(a)(5). The Authority has previously held that where a party repudiates an agreement in its entirety, such conduct is violative of the Statute. *AFGE and EPA*, 21 FLRA 986 (1986).

The Authority analyzes repudiation allegations under the two-pronged test set forth in *Department of the Air Force, 375th Mission Support Squadron, Scott Air Force Base, Illinois*, 51 FLRA 858 (2015). Under this test, the Authority examines: (1) the nature and scope of the alleged breach of an agreement (i.e., was the breach clear and patent?); and (2) the nature of the

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agreement provision allegedly breached (i.e., did the provision go to the heart of the parties' agreement?).

In this matter, the Agency breach was clear and patent: The Agency refuses to acknowledge the validity of the entire agreement. The nature of the agreement provision breached, in this case, the entire agreement, not only goes to the heart of the agreement but is the whole of the agreement.

Here, as in *Fed. Bureau of Prisons and AFGE Local 3935*, 68 FLRA 786 (2015), it seems that the Agency believes that it did not repudiate the agreement because the agreement never went into effect. Nevertheless, Supplement 18 took effect not based on the Agency's implementation of any specific policy but instead "upon signature at the completion of negotiations," as stated in Article 49, Section 49.06(n).

Under the covered-by doctrine, AFGE Council 222 is not obligated to renegotiate a matter that is already covered by the existing collective bargaining agreement. *See Department of Health and Human Services, Social Security Administration, Baltimore, Maryland and AFGE National Council of Social Security Administration Field Office Locals, Council 220*, 47 FLRA 1004 (1993). HUD's anti-harassment policy is expressly covered by Supplement 18 of the 2015 HUD-AFGE Agreement; this meets prong 1 of the covered-by doctrine. Also, insisting on bargaining to impasse for matters already covered by an existing collective bargaining agreement is an Unfair Labor Practice. *See Social Security Administration, Baltimore and Social Security Administration, Seattle Region*, 64 FLRA 17 (2009).

Contract Violations

HUD violated Article 49, including but not limited to Sections 49.06(k) and 49.06(n):

- (1) Section 49.06(k) provides, "Supplements shall become an integral part of this Agreement and subject to all of its terms and conditions." HUD has refused to accept that Supplement 18 became an integral part of the Parties' collective bargaining agreement upon execution on January 11, 2018. HUD failed to comply with the terms and conditions in Article 53 to which this supplement was subject.
- (2) Section 49.06(n) states, "The product of mid-term bargaining is enforceable upon signature at the completion of negotiations." That provision does not offer any exceptions for the Agency changing its mind about which versions of a policy it wishes to implement. By refusing to honor and comply with Supplement 18 and refusing to accept that the supplement became enforceable upon signature at the completion of negotiations, the Agency has repudiated the agreement.

HUD also violated Article 53, including but not limited to Sections 53.05, 53.06 and 53.07. Section 53.05 requires the Parties to mutually agree to re-open or amend any part of the Agreement. The Union has repeatedly advised the Agency that we do not agree to renegotiate Supplement 18, and the Agency has refused to accept that response, as indicated by its refusal to post Supplement 18. Section 53.06 states, "Any amendments to this Agreement shall become a part of this Agreement." This obligates HUD to comply with all of the provisions governing the Parties' collective bargaining agreement, including Section 53.07. Section 53.07(1) requires HUD to "distribute an electronic copy of . . . all supplements to each employee by the effective date, along with a statement of where to locate the Agreement and Supplements on the HUD

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website.” It also states, “New Employees shall be provided a copy within ten (10) days of employment.” By failing to accept the validity of Supplement 18 and refusing to post the supplement on the HUD website, HUD has violated Article 53.

HUD additionally failed to comply with Supplement 18, including but not limited to Sections 4, 15, 16, and 35, by:

- (1) failing “to negotiate the procedures for bullying and hostile work environment and all other harassment whether or not it is based on protected classes” within one year of signing Supplement 18,
- (2) failing to notify employees annually of the Agency’s anti-harassment policy and procedures,
- (3) failing to provide the contact information for utilizing the anti-harassment policy on HUD@Work,
- (4) failing to provide training that reiterates employees’ rights to be represented by the local union,
- (5) failing to require supervisors and managers to receive training to understand their responsibilities under the agency’s anti-harassment policy and complaint procedure,
- (6) failing to notify the Union of all fact-finding inquiries and investigations into allegations of workplace harassment, and
- (7) failing to provide the Union with copies of OCHCO’s quarterly aggregate statistical reporting related to addressing harassment.

These are continuing violations and, as such, may be grieved at any time in accordance with Article 56, Section 51.06(1), which states, “A continuing violation may be grieved at any time. . . Either party may grieve a continuing condition at any time.”

Meeting

The Union is not requesting a meeting with you for resolution pursuant to Section 51.15(2) of the CBA.

Remedies

The Union requests the following remedies for HUD’s violations of the CBA and the Labor-Management Statute:

- (1) An order that the Agency immediately post Supplement 18 on the HUD@Work website on the HUD/AFGE Supplements page.
- (2) An order directing the Agency to distribute a complete copy of Supplement 18 by email to each HUD employee.
- (3) An order directing HUD to comply with all the terms of Supplement 18, including but not limited to negotiating the procedures for bullying and hostile work environment and all other harassment with the Union, notifying employees annually of the Agency’s anti-harassment policy and procedures, providing the contact information

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- for utilizing the anti-harassment policy on HUD@Work, providing training that reiterates employees' rights to be represented by the local union, requiring supervisors and managers to receive training to understand their responsibilities under the Agency's anti-harassment policy, notifying the Union of all fact-finding inquiries and investigations into allegations of workplace harassment, and providing the Union with copies of OCHCO's quarterly aggregate statistical reporting related to addressing harassment.
- (4) A finding that the Agency committed unfair labor practices by violating §§ 7116(a)(1) and 7116(a)(5).
 - (5) An order directing the Agency to specifically acknowledge its violations in an electronic message to all bargaining unit employees and pledging to not violate the Labor-Management Relations Statute in the future. Management shall send an Unfair Labor Practice (ULP) email notices to all AFGE bargaining unit employees in the national consolidated bargaining unit as well as post physical notices on all bulletin boards at all HUD Offices represented by AFGE Council 222; the notices shall state that the Department will not repudiate National Supplement 18 for anti-harassment policy implementation. An electronic posting is an appropriate remedy available for a ULP violation. See *U.S. Department of Justice, Federal Bureau of Prisons, Federal Transfer Center, Oklahoma City and American Federation of Government Employees (AFGE), Council of Prison Locals 33, Local 171*, 67 FLRA 222 (January 31, 2014). The Union will subsequently provide the ULP posting language to be sent by email and physically posted at all HUD Office bulletin boards.
 - (6) An order directing the Agency to implement an Anti-Harassment Policy that complies with Supplement 18 within 30 days.
 - (7) Payment of all arbitration fees and expenses in accordance with Article 52, Section 52.04 of the HUD-AFGE Agreement should the Union have to pursue arbitration for denial of this Grievance of the Parties.
 - (8) Attorneys' fees related to the preparation and conduct of arbitration, if arbitration is necessary, as well as the full costs of arbitration, including but not limited to arbitrator's fees, reporting services, and the travel expenses and per diem of Union witnesses who travel to the arbitration site to testify.
 - (9) Any other remedy available to the fullest extent of the law, rule, regulation, policy, past practice, the HUD-AFGE Agreement, and arbitrator's award.

In accordance with Article 51, Section 51.15(3) of the CBA, your written response is required within thirty days of receipt of this grievance.

Thank you for your prompt response to the Union's unfair labor practice grievance of the parties. Please send all responses to jerry.gross@hud.gov and salafge@outlook.com.

cc: Salvatore Viola, President, AFGE Council 222

Attachments

- (1) Supplement 18, Implementation of Anti- Harassment Policy, January 11, 2018.

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- (2) Final Anti-Harassment Policy, August 17, 2017.
- (3) Secretary Fudge Memo for All HUD Employees, Anti-Harassment Program Statement, August 12, 2021.
- (4) Alejandro Hernandez Memo for AFGE Union Officials, Union Notification of Anti-Harassment Program, August 18, 2021.
- (5) Salvatore Viola Memo for Ginger Burnett and Sonya Gaither, HUD Anti-Harassment Program Instruction, August 31, 2018.
- (6) Salvatore T. Viola Memo for Ginger Burnett and Alejandro Hernandez, Union Response to HUD's Article 49 Notice of Anti-Harassment Policy, September 1, 2021.
- (7) Ginger Burnett Memo for Salvatore Viola, Anti-Harassment Program, April 18, 2022.
- (8) Sal Viola email to Ginger Burnett, Anti Harassment Policy Article 49 Notice, April 22, 2022.
- (9) Email exchange between Jerry Gross and HUD officials, Add Missing Supplement to Union Information Web Page, July 1–July 18, 2022.

**NATIONAL SUPPLEMENT 18
BETWEEN
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
AND
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
NATIONAL COUNCIL OF HUD LOCALS 222**

SUBJECT: Implementation of Anti- Harassment Policy

SCOPE: The scope of this supplement encompasses the impact and implementation of the Anti- Harassment Policy. The purpose of this policy is to stop harassing behavior. Nothing in this supplement shall limit the employee from utilizing available protections, recourses, and remedies as provided in statute, policy, or this Agreement. This policy is not intended to provide for remedies that are covered by EEO or Grievance process. The parties understand the policy will apply to reports received after the effective date of the policy and this supplement. The parties agree that for the purposes of this supplement new complaints must be held on their own accord. Prior complaints or incidents that have occurred before implementation will be used if they have a direct correlation with the new complaint and is ongoing and continuous.

1. Implementation of the Department's procedures regarding Anti-Harassment shall not diminish or waive any rights that bargaining unit employees have under the AFGE Agreement, law, rule or regulation.
2. Harassment is unwelcomed or offensive treatment or conduct (verbal, physical, psychological, or visual) that a reasonable person would find intimidating, hostile or abusive and that unreasonably interferes with and is detrimental to an employee's work performance, professional advancement, mental or physical health, and or economics, creating an intimidating, hostile, or offensive environment. Harassing behavior and misconduct based on race, color, religion, sex (including, but not limited to sexual orientation, gender identity, or pregnancy), national origin, age, disability or genetic information, marital status, parental status, veteran status, political status, or reprisal is prohibited. This is consistent with the Secretary's Anti-Harassment Statement, dated July 26, 2017.
3. Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name- calling, false accusations, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance.

4. Within one year from the date of implementation of this supplement, management agrees to negotiate the procedures for bullying and hostile work environment and all other harassment whether or not it is based on protected classes, with the goal of including such procedures in this supplement.
5. When an employee files an allegation pursuant to the Anti-Harassment Policy, the employee will be informed that they have the right to file a EEO or Grievance at the same time. The employee shall be notified in writing that the timeframes and deadlines for filing a grievance or EEO run concurrently to the CRC process. The employee has the right to be represented by a representative of choice at any stage of the Anti-Harassment Policy procedures. The employee will designate his or her representative in writing. The CRC Advisory Form to be presented to the employee (containing the rights of the employee and the anti-harassment policy procedures, including points of contact and timeframes) will be reviewed and accepted by the Union prior to implementation of this policy. At all times under this procedure, the employee shall maintain their rights per Article 6, Section 6.08 of the agreement.
6. Retaliation, in any form against any person who reports harassment or participates in a fact-finding process, is strictly prohibited and may result in disciplinary action including but not limited to dismissal.
7. This supplement, the Policy and procedures regarding how investigations and fact-finding inquiries involving allegations of Harassment shall not supersede any article in the Agreement including but not limited to Article 6, Employees Rights/Standards of Conduct”, Article 9, “Equal Employment Opportunity and Discrimination Free Workplace”, Articles 51, “Grievance Procedures” and Article 52, “Arbitration”. If there is any conflict between this supplement/procedures and Articles 6, 9, 51 and 52, then Articles 6, 9, 51 and 52 will govern.
8. One of the most important priorities of any good employer is the safety of the workforce. The Department has zero tolerance for any acts of violence or acts which have the potential to result in a violent or volatile situation. Upon receiving an allegation of harassment, or witnessing what is believed to harassing conduct or behavior the appropriate management official will assess the situation to determine the severity of the alleged misconduct and provide any immediate corrective action required to protect the harassed party from further misconduct, imminent harm or threat in consultation of the CRC.
9. The CRC must be a neutral official. The Parties agree that the CRC will not have witnessed or been otherwise previously aware of the events, or alleged incidents. In the event of circumstances that may present a conflict of interest (e.g. when the accused and the CRC are within the same supervisory chain), management will

identify an alternate CRC. The parties recognize that the function of the CRC is ineligible for inclusion in the Bargaining Unit.

10. The Conflict Resolution Coordinator (CRC) will act promptly to acknowledge receipt of the complaint within 5 business days and appoint a fact finder within ten (10) business days, of receipt of the complaint, unless unusual circumstances prevent acknowledge and appointment.
11. Generally, the fact-finder will complete the fact-finding and deliver a fact-finding report to the decision-maker, within 15 business days of his or her designation. The time for completing the fact-finding and report may be extended by the CRC under certain circumstances (e.g., unavailability of witnesses).
12. The time-period for completing the fact-finding and report may be extended by the decision-maker under certain circumstances (e.g., unavailability of witnesses). The following may be considered as guidance in conducting fact finding investigation:
 - 1) Fact-finding will usually include, at a minimum, interviews with:
 - i. The affected person(s);
 - ii. The alleged harasser(s);
 - iii. Any witnesses to the alleged harassment, and;
 - iv. Any other person who could reasonably be expected to have relevant information that could corroborate or refute allegations, (e.g., the person did not witness the harassment but spoke to the affected person immediately after the alleged event and could provide useful information).
 - 2) Fact-finding will include at a minimum, standardized questions for the parties:
 - i. Questions to Ask the Affected Person:
 1. Who committed the alleged harassment?
 2. What exactly occurred or was said?
 3. When did it occur and is it still ongoing?
 4. Where did it occur? How often did it occur?
 5. How did it affect you?
 6. How did you react?
 7. What response, if any, did you make when the incident(s) occurred or afterwards?
 8. Are there any other persons who have relevant information?
 9. Was anyone present (or heard) when the alleged harassment occurred?
 10. Did you tell anyone about it?
 11. Did anyone see you immediately after the alleged harassment?
 12. What is your relationship to alleged harasser?

13. Did the person who you believe harassed you harass anyone else at that time?
14. Do you know whether anyone else complained about harassment by that person?
15. Are there any notes, physical evidence, or other documentation regarding the incident(s)?
16. Do you fear retaliation or retribution for participating in this inquiry?
17. Do you know of any other relevant information?

ii. Questions to Ask the Alleged Harasser:

1. What is your relationship to the alleged affected person?
2. What is your response to the allegations?
3. If you disagree with the facts related, provide us your recollection of the “who, what, when, where, and how” for the alleged event(s).
4. Are there any persons who have relevant information?
5. Are there witnesses to the alleged incident?
6. Are there any notes, physical evidence, or other documentation regarding the incident(s)?
7. Do you know of any other relevant information?

iii. Questions to Ask Potential or Actual Witnesses to the Alleged Harassment:

1. What did you see or hear?
2. When did this occur?
3. Describe the alleged harasser's behavior toward the affected person and toward others in the workplace.
4. What did the affected person tell you?
5. When did she/he tell you this?
6. Do you know of any other relevant information?
7. Are there other persons that have relevant information?

- 3) The fact-finder must remind the affected person, alleged harasser, and any other persons interviewed about the agency's prohibition against retaliation. Additionally, the fact-finder must advise any interviewee, prior to the start of the interview, that he or she will be required to certify the accuracy of his/her written statement, or of the interview summary prepared by the fact-finder.
- 4) The fact-finder must complete summaries of any interviews conducted and obtain signatures from interviewed persons attesting to their accuracy, or obtain signed statements, affidavits, declarations, or transcribed interviews, under oath, as appropriate. If an interviewed person refuses to attest to the accuracy of the information he or she provides to the fact-finder that is reflected in an interview summary or other document prepared by the fact-finder, the fact-finder may still include such document in the fact-finding report for consideration by the decision-maker. In such situations, the fact-finder must ask the interviewed person

to explain his/her refusal for attesting to the accuracy of the document, and include such explanation in the fact-finding report.

- 5) The fact-finding shall be confined solely to the reported allegation(s) of harassment. If additional unrelated allegations of harassment are made, or evidence of additional harassment comes to light during the fact-finding, the fact-finder shall immediately consult with the decision-maker to determine whether the scope of the fact-finding should be expanded, or a new and separate fact-finding should occur.
 - 6) Unless required by applicable laws and regulations, an employee's cooperation in fact-findings regarding allegations of harassment shall be voluntary. Employees participating in this process are entitled will be afforded any applicable rights and procedures in accordance with the Agreement.
13. The fact-finder must be a person who is not named in the allegation(s) of harassment and who has not witnessed the alleged incident(s) of harassment. The fact-finder must also not act as an advocate on behalf of either party. The fact-finder may not be a supervisor or manager in the alleged harasser's chain of supervision. The fact-finder may be a supervisor or manager outside the alleged harasser's organization, an agency HR official, a contractor, or another uninvolved individual. The fact-finder, however, shall not be a subordinate employee to the alleged harasser.
14. The Unless exigency circumstances are warranted for immediate fact-finding interviews, the Department will ensure that potential witnesses will be given a minimum of two (2) business days' notice of a fact-finding interview. Potential witnesses will be advised that their participation is required.
15. The parties agree that for the Anti-Harassment Policy (AHP) to be effective, managers and supervisors will be trained on their responsibilities under this policy. Employees will be notified annually of the AHP policy and procedure, and the contact information to utilize the AHP will be available on HUD@work (or successor entity). The Department will conduct training to assist employees to address situations that will lead to workplace harassment; training in conflict resolution, and effective communications. The training will include but not be limited to the Department's policy on acts of workplace harassment and the provisions of this supplement. The training will also include steps employees need to take with incidents involving coworkers and incidents from individuals from outside the agency perpetrating harassment. During the training the Department will reiterate employees' rights to be represented by the local union while participating in workplace harassment fact-finding. The Department will require

that supervisors and managers receive training to understand their responsibilities under the agencies' anti-harassment policy and complaint procedure. Such training may explain at a minimum: the types of conduct that violate the agency's anti-harassment policy; the seriousness of the policy; the responsibilities of supervisors and managers when they learn of alleged harassment; and the prohibition against retaliation.

16. Whenever the Department conducts a fact-finding inquiry/investigation into allegations of Workplace Harassment, the Union will be notified in accordance with Article 4.04 of the HUD AFGE Agreement. The notice will include 1) who will conduct the investigation and 2) summary of the allegations raised.
17. To the extent possible management shall ensure that the person conducting the fact-finding inquiry investigation will have the necessary experience in fact finding/investigations. This could include fact finders from other agencies who have implemented anti-harassment programs (shared services).
18. If the Union objects to either the fact-finding inquirer/investigator's qualifications or the ability to be impartial, the Department shall address the objections prior to the commencement of the investigation. The Union's objections and the Department's response shall be in writing. {5 USC 7106 (B)(1)}. Such objection will not impede the commencement of the investigation of the alleged harassment.
19. At the beginning of a Workplace Harassment fact finding inquiry/investigation, employees who participate in the investigation will be advised of their rights and obligations and include but not limited to the following:
 - a. The employee's right to representation by the local union;
 - b. The right of an employee to a copy of his/her personal statement or testimony; and,
 - c. The right of an employee not to incriminate him/herself in a criminal matter.

The inquiry/investigation will be in compliance with Article 6 of the Agreement.

20. Any meeting or interview held during an inquiry/investigation or fact-finding process is a formal meeting and the Union has the right to represent per Article 4 and Article 6 of the Agreement.
21. The Parties shall ensure that the affected employees' identities involved in fact finding investigation and/or the substance of the allegation(s) will be kept confidential, to the extent possible. Managers and supervisors, however, should only discuss the matter with those who have a need to know, as a part of the assigned duties.

22. The maintenance of records and any disclosure of information from these records will comply with the Privacy Act, 5 U.S.C. § 552a, as amended, and records management requirements contained in the Federal Records Act, 44 U.S.C. § 3101, et seq., as amended.
23. Upon conclusion of the fact-finding investigation, the complaint and their representative shall receive a written summary of findings for the complaint. If additional information is warranted, the Union may request a complete copy of the final report through FOIA or Request for Information under 7114 of the Labor Statute, in accordance with applicable privacy laws.
24. If a final report of a fact-finding investigation is used in a grievance, disciplinary or other personnel action, an employee's representative will receive a complete copy of all evidence used to support the Department's action, in accordance with Article 12 and Article 51. This includes, but is not limited to, copies of all testimony/transcripts, recommendation and/or findings, and photographs. In accordance with the law and the Agreement, the Department will provide additional information requested by the employee's representative. The Department will provide a written explanation of any denial of information requested in a timely manner no later than 10 calendar days.
25. For the Anti-Harassment Policy, the use of the EAP shall be pursuant to Article 11, Section 11.05. If the employee's supervisor is involved in the complaint, an alternative designee shall be provided for the purposes of approving leave.
26. Management will consider the employee's participation in the Employee Assistance Program (EAP) when considering discipline or adverse action, in accordance with Article 11.02 of the HUD AFGE agreement.
27. If the fact-finding inquiry/investigation final report establishes that any HUD employee engaged in harassing conduct under this Policy and the Deciding Official decides to use discipline to correct the accused employee's behavior, any disciplinary action shall be administered in accordance with the provisions of Article 12 of the Agreement. Disciplined employees' contractual rights shall be maintained in accordance with HUD AFGE Agreement.
28. Performance elements and standards shall be administered in accordance with Article 30, Section 30.07(5), factors beyond an employee's control, to include but not limited to the employee's participation in the Anti-Harassment Policy process.
29. If an employee is reassigned to another position as a settlement for a workplace harassment complaint, the affected bargaining unit employees must be qualified for such

position or comparable position. A reasonable amount of time for training will be provided, if necessary. Training for newly assigned duties will be in accordance with the terms of the Agreement.

30. The implementation of the Policy will be in compliance with the Departmental Reasonable Accommodation Policy and Article 45 of the Agreement. The fact-finding process, inquiry/investigation and any finding or settlement of a complaint will not alter any reasonable accommodations currently in effect.
31. Mediation services or alternative dispute resolution methods may be utilized to assist in the resolution of harassment complaints. If both parties agree to this, the CRC cannot deny it.
32. The CRC will advise appropriate management officials on any non-disciplinary corrective measures. ELR is responsible for recommending disciplinary actions. The Anti-Harassment Policy will be amended to be in compliance with the intent of this supplement, see AHP Draft Sections 2.3(d) and 3.5(b).
33. Management will discuss with the aggrieved person and the Union Representative actions and or solutions that may be taken to ensure the wellbeing of the aggrieved person based on his or her request. Such actions or solutions shall not adversely affect the complainant.
34. Upon request, the Union shall be notified of any contracting for the services of necessary independent fact-finders and mediators. If the Union objects to a contracted mediator or fact-finding inquirer/investigator's qualifications the Department shall address the objections prior to the commencement of the investigation. The Union's objections and the Department's response shall be in writing. Such objection will not impede the commencement of the investigation of the alleged harassment.
35. OCHCO will provide to the union copies of quarterly aggregate statistical reporting.
36. Bargaining unit employees shall not be expected to reimburse OCHCO for the cost of any required independent third-party fact-finding or mediation.
37. This supplement will be used in addition to the policy, in cases where conflict arise, the supplement shall supersede.

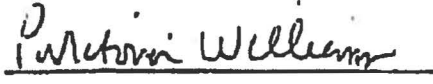
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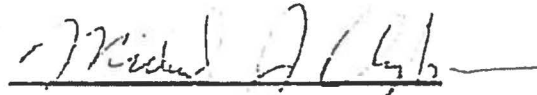
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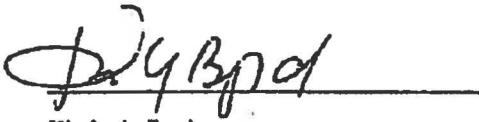
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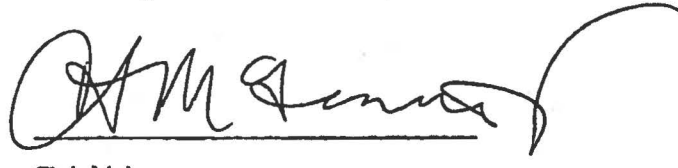

Vette White, Chief Negotiator

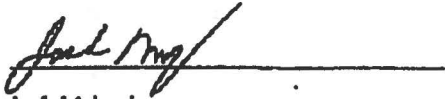

Salvatore Viola, Chief Negotiator



P. Victoria Williams



Michael Clyburn


Kimberly Byrd


Chris McLennon


Jack Malgeri


Cynthia Carter


Tracy Vargas

U.S. Department of Housing and Urban Development



ANTI-HARASSMENT POLICY



August 17, 2017

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Chapter 1. General Provisions

1-1 Purpose

The U.S. Department of Housing and Urban Development (HUD) is committed to creating and maintaining a workplace environment that encourages and empowers each individual employee to perform at his or her best. Harassment directed against employees has no place within HUD. The intention of this departmental anti-harassment policy (Policy) is to prohibit and prevent harassment in the HUD workplace and to promptly address harassment that is directed against HUD employees. This Policy prohibits harassment by or against any employee, supervisor, manager, executive, contractor, vendor, job applicant, or any other individual with whom HUD employees come into contact through their work for HUD.

This Policy establishes a Department-wide procedure under which HUD employees and other individuals may report allegations to initiate prompt and effective action when allegations of harassment arise. The Policy also identifies employees' rights, roles, and responsibilities for the investigation of alleged harassment and the implementation of corrective measures against a harasser, so that harassment does not occur again.

1-2 Policy

It is the policy goal of HUD to maintain a work environment free from harassment and to provide a safe and healthy work environment for all its employees.

Prohibited harassment is unwelcome conduct that is based on: race, color, religion, sex (including, but not limited to sexual orientation, gender identity, or pregnancy), national origin, age (40 or older), disability or genetic information (emphasis added). Harassment becomes unlawful where: 1) enduring the offensive conduct becomes a condition of continued employment; or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws. Harassment is conduct that may be directed at both employees and management officials.

Unlike other forms of discrimination, harassment is typically cumulative in nature. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable individuals based upon repeated actions. Thus, isolated incidents will generally not rise to the level of illegality unless extremely serious; and petty slights and annoyances seldom rise to the level of illegality. Civil and professional management criticism of a subordinate's work does not constitute harassment. Further, valid work performance instructions from a supervisor or other management official to an employee does not constitute harassment.

Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name-calling, false accusations, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance. Harassment can occur in a variety of circumstances, including, but not limited to, the following:

- The harasser can be the aggrieved person's supervisor, a subordinate employee, a supervisor in another area, a co-worker, a contractor, or a non-employee.
- An individual experiencing harassment can be anyone affected by the offensive conduct and not limited to the aggrieved person;
- Unlawful harassment may occur without economic injury to, or discharge of, the aggrieved person.

The Department does not tolerate retaliation against an employee for reporting harassment or assisting another individual to report harassment, or participating in an inquiry into a report of harassment, or opposing discrimination or harassment. Any person who believes he or she has been subject to retaliation should use the same reporting procedures as for complaints of harassment.

The process and procedures established under this Policy for addressing harassment are entirely separate and apart from the departmental Equal Employment Opportunity (EEO) complaint process. An employee who reports harassment in accordance with this Policy has not filed an EEO complaint under 29 CFR part 1614. A consultation with the Conflict Resolution Coordinator (CRC) is not EEO counseling for purposes of filing an EEO complaint. An employee who wishes to file an EEO complaint of discrimination must contact HUD's Office of Departmental Equal Employment Opportunity (ODEEO) within 45 days of the alleged harassment, as required by EEO process requirements.

An employee may file both an EEO complaint for harassment under 29 CFR part 1614 and report alleged harassment under this Policy. When a HUD management official learns from an employee or other individual that he or she believes harassment has or is occurring in the workplace, the HUD management official will inform the employee or individual of their right to file an EEO complaint under 29 CFR part 1614, and their right to consult with the CRC to seek resolution of the alleged harassment.

1-3 Scope

This Policy prohibits harassment by or against any employee, supervisor, manager, executive, contractor, vendor, job applicant, or other individual with whom HUD employees come into contact through their employment with HUD.

1-4 Authorities

Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000 *et seq.*

The Age Discrimination in Employment Act of 1967 (ADEA), as amended, 29 U.S.C. § 621 *et seq.*

The Americans with Disabilities Act of 1990 (ADA), as amended by the ADA Amendments Act of 2008, 42 U.S.C. § 12101 *et seq.*

The Rehabilitation Act of 1973, as amended, 29 U.S.C. § 791 *et seq.*

The Genetic Information Nondiscrimination Act, as amended, 42 U.S.C. § 2000ff *et seq.*

1-5 References

Guidance for Agency-Specific Domestic Violence; Sexual Assault, and Stalking Policies, OPM, February 2013.

Harassment Guidance, U.S. EEOC, <https://www.eeoc.gov/laws/types/harassment.cfm>.

Enforcement Guidance on Vicarious Employer Liability for Unlawful Harassment by Supervisors, U.S. EEOC, <https://www.eeoc.gov/policy/docs/harassment.html>.

HUD Handbook 752.02 REV-3, Adverse Actions, December 1, 2000.

HUD Handbook 791.1, Workplace and Domestic Violence Prevention and Response Handbook, June 2015.

Chapter 2. Rights, Roles, and Responsibilities

2-1 Employees

A. All Departmental Employees

It is the responsibility of each HUD employee to act professionally and to refrain from engaging in harassing conduct. Every HUD employee should become familiar with the provisions of this Policy, comply with all requirements of this Policy, and cooperate with any inquiry or investigation under this Policy.

B. Employees who believe they have been subjected to harassing conduct or behavior have the right to:

1. Present and pursue an allegation of harassing conduct or behavior free from restraint, interference, coercion, harassment, reprisal, or retaliation.
2. Receive notification upon completion of the CRC sponsored fact-finding. However, to the extent that disciplinary or adverse action is taken in accordance with HUD's disciplinary policies and procedures, the aggrieved person shall not be apprised of the disciplinary action taken; and
3. Request mediation services from the CRC. The approval of such services is at the sole discretion of the CRC.

C. Employees alleging harassment have the responsibility to:

1. Present and provide accurate and truthful information;
2. Cooperate with investigations/assessments of their allegations including the scheduling of interviews or meeting, responding to correspondence, and providing requested material or information in the processing of their allegations of harassing conduct; and
3. Contact the CRC with any questions or concerns about this Policy.

2-2 Executives, Managers, and Supervisors

1. Inform their employees of this Policy and its requirements;
2. Management officials who observe or are notified of allegations of harassing conduct, as defined above in section 1-2 of this Policy, will act promptly, effectively, and in accordance with this Policy;

3. When a HUD management official learns from an employee or other individual that he or she believes harassment has or is occurring in the workplace, the HUD management official will inform the employee or individual of their right to file an EEO complaint under 29 CFR part 1614, and their right to consult with the CRC about a resolution to the alleged harassment;
4. Consult with the CRC about an observed potential harassment or an employee allegation of harassment;
5. Take appropriate steps, as necessary, to protect the aggrieved person from any further misconduct, imminent harm, or threat;
6. Provide assistance as requested by the CRC or designated fact-finder in any necessary fact-finding concerning allegations of harassment or with mediators assisting the Department to resolve the allegations of harassment;
7. In instances where an employee's first-line immediate supervisor is the alleged harasser, or if it is determined through the fact-finding process that the immediate supervisor is involved in the allegation, another management official will perform the responsibilities outlined above. The management official will normally be the next higher management official in the chain of command, who will consult with the CRC to address the matter. The CRC may involve senior departmental leadership if necessary to ensure impartiality, neutrality, and confidentiality; and
8. Take prompt and appropriate corrective and disciplinary action, in consultation with the Office of the Chief Human Capital Officer (OCHCO) Employee Labor Relations Division and the CRC, up to and including removal, against personnel who have engaged in harassing conduct or who have not carried out their responsibilities under this Policy.

2-3 Conflict Resolution Coordinator (CRC) will:

- A. Respond promptly to any alleged harassment assertion received from an employee or management official;
- B. Designate a fact-finder, if necessary, after discussion with the employee or management official seeking assistance, to conduct an independent fact-finding investigation of the alleged harassment;
- C. Utilize mediation services or alternative dispute resolution methods, as appropriate, to assist in the resolution of harassment complaints;

- D. Advise appropriate management officials about the harassment fact-finding process and develop with the applicable management official(s) corrective measures, including mediation or any appropriate disciplinary action;
- E. Consult with the aggrieved person, and as necessary, consult with other OCHCO staff to initiate actions to ensure the wellbeing of the aggrieved person; and
- F. Maintain harassment fact-finding reports and decisions concerning the harassment allegation in accordance with the Privacy Act, FOIA, and other laws and regulations.

2-4 Office of the Chief Human Capital Officer (OCHCO) will:

- A. Serve as the overall lead office with responsibility for the dissemination and implementation of this Policy and the CRC function in coordination and collaboration with ODEEO and other appropriate departmental offices;
- B. Staff the CRC position and provide administrative support for the CRC to ensure compliance with the Policy, including providing access to contracting for the services of any necessary independent fact-finders and mediators;
- C. Generate quarterly aggregate statistical reporting to ODEEO, and the Office of the Deputy Secretary in relation to addressing harassment to ensure accountability, efficiency, and effectiveness concerning the implementation of the Policy;
- D. Lead efforts to provide a safe and secure workplace by sponsoring initiatives to create awareness, consultation, guidance, training, and other resources and assistance to the HUD workforce concerning harassment and conflict resolution matters; and
- E. Encourage aggrieved persons or other individuals to obtain assistance, if necessary, with any personal problems through the Employee Assistance Program (EAP). Encourage employees or other individuals who believe they have been discriminated against in violation of EEO laws, rules, and regulations to seek the assistance of the Department's EEO counselors in ODEEO.

2-5 OCHCO Employee Assistance Program Office (EAP) will:

- A. Provide a referral for counseling for employees experiencing personal problems on and off the job because of alleged harassment;
- B. Offer access to short-term counseling and provide referrals to community resources for an employee needing long-term counseling; and

- C. Assist in the development of training to assist employees to address situations that may lead to workplace harassment.

2-6 Office of Departmental Equal Employment Opportunity (ODEEO) will:

- A. Provide mediation and other Alternative Dispute Resolution (ADR) services in certain cases to assist employees in resolving alleged harassment cases;
- B. Partner with OCHCO and the CRC to provide training in conflict resolution, effective communications, and departmental outreach to proactively avoid harassment situations; and
- C. Assist OCHCO and the CRC in determining an anti-harassment response plan for the wellbeing of an aggrieved person.

2-7 Departmental Program Offices

- A. Cooperate fully with the CRC in the investigation/assessment and resolution of an alleged harassment or hostile work environment case;
- B. Support departmental training initiatives for executives, managers, supervisors, and employees on prohibited harassment conduct and prevention of such misconduct and unlawful behaviors; and
- C. Reimburse OCHCO for the cost of any required independent third-party fact-finding or mediation based upon where the alleged harasser(s) works, after consideration of the case by the CRC. If the alleged harassment spans offices, the cost will be allocated proportionately.

Chapter 3. Anti-Harassment Procedures

3-1 General

Reports of harassment referred for investigation/assessment or mediation by the CRC will be addressed through a prompt, thorough, and impartial review for appropriate action. Reports of harassment will be kept confidential to the fullest extent possible. HUD will take prompt corrective action when it determines that harassment has occurred. Any employee found to have engaged in harassment may be subject to disciplinary or adverse action, up to and including removal from employment.

3-2 Anti-Retaliation Protection

HUD does not tolerate retaliation against any individual for reporting harassment or assisting another individual in reporting harassment, for providing information or serving as a witness related to such a report, for filing an EEO complaint, or for opposing conduct that they believe is harassing. Any person who believes he or she has been subject to reprisal or retaliation shall report the conduct using the same reporting procedures as for complaints of harassment. Any employee found to have engaged in retaliation for the reporting of harassment may be subject to disciplinary or adverse action, up to and including removal from employment.

3-3 Reporting Process

- A. The Department cannot address harassment if the conduct is not known. Employees and other parties who believe that they have experienced harassment in violation of this Policy, as defined in section 1-2 of this Policy, should promptly report the matter to their immediate supervisor. In the event the supervisor fails to act promptly upon an employee's allegations, the employee should contact the CRC directly.
 - 1. In the event that the employee's or other parties first-line immediate supervisor is the alleged harasser, the employee should contact a higher management official in the employee's leadership chain or the CRC.
 - 2. When an employee reports alleged harassment to their supervisor or manager, the following steps will occur:
 - 1) Upon receiving an allegation of harassment or witnessing what is believed to be harassing conduct or behavior, the appropriate management official will assess the situation to determine the severity of the alleged misconduct and provide any immediate corrective action required to protect the harassed party from further misconduct, imminent harm, or threat in consultation with the CRC. In addition, the management official will, in consultation with the CRC, document the allegation received and their efforts to address it the allegation.

3-4 Fact-Finding, Mediation, and Recommendations

- A. Where fact-finding is determined to be necessary in a particular alleged harassment case, the CRC will designate a fact-finder to conduct fact-finding into allegations of harassing conduct. Fact-finders will either be neutral HUD employees trained in investigations/assessments or neutral third party fact-finders obtained from another federal agency or contractor. There may be some situations where fact-finding is not needed. For example, if the alleged harasser does not deny the accusation, there would be no need to interview witnesses, and management with the advice of the CRC could determine an appropriate resolution. However, there needs to be documentation noting the incident and its resolution, with a copy provided to the CRC.
- B. The primary goal of fact-finding is to ascertain: the facts pertinent to the alleged harassment incident; what caused the alleged incident to occur; the outcome of the alleged conduct; and what, if any, corrective actions are necessary to help ensure that similar conduct does not occur in the future.
- C. The fact-finding will include, at a minimum, interviews with: (1) the alleged aggrieved person(s), (2) the alleged harasser(s), and (3) any witnesses to the alleged harassment conduct. The fact-finder may collect evidence including, but not limited to e-mails, witness statements or pictures as needed.
- D. A written report will be prepared by the fact-finder. The information contained in the fact-finding report will include a summary of all fact-finding steps taken, and evidence gathered, and the results of any mediation. A copy of the fact-finding report will be provided to the CRC promptly after the fact-finding is completed.
- E. Fact-finders will refer other allegations brought to their attention during the course of the fact-finding to the appropriate office or agency (e.g., Office of the Inspector General, Federal Protective Service, and Office of the General Counsel) concerning other matters raised such as prohibited personnel practices, threats of violence, or unethical conduct.
- F. The CRC will provide the copy of the fact-finding report and any CRC recommendation for corrective actions to the appropriate program management official. The CRC will maintain fact-finding and related records in accordance with the Privacy Act, HUD record retention policies, and laws and regulations pertaining to records retention and records release.
- G. In certain circumstances, with the approval of the CRC and the alleged aggrieved person, a neutral third party may attempt to mediate the dispute and find a resolution to a situation without precluding the possibility of discipline against the harasser.
- H. Mediators will be obtained from the Federal Mediation and Conciliation Service (FMCS). Mediator practices and confidentiality will follow the Mediator Codes of Conduct and FMCS policies and practices will be recognized under this Policy.

- I. All report information or other documentation prepared under this procedure will be kept confidential to the extent possible. Information about the investigation/assessment on an allegation of harassment will be shared only with those who need to know about it. The maintenance of records and any disclosure of information from these records will be in complete compliance with the Privacy Act, 5 U.S.C. § 552a. Such information, however, may need to be disclosed to defend the Department in any litigation to which the information may be relevant and necessary. Further, information may need to be disclosed to those management officials and employees within the Department with a need to know to carry out the purpose and intent of this Policy.

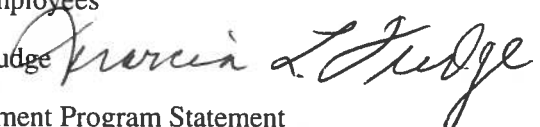
3.5 Post Fact-Finding and Resolution

- A. The appropriate program management official will review and evaluate the fact-finding inquiry and determine in consultation with the CRC, what resolution, if any, is necessary in the particular case. The resolution decision normally rests with the first-line immediate supervisor of the employee alleged to have engaged in the harassing conduct. In instances where an employee's first-line immediate supervisor is the alleged harasser, or if it is determined through the fact-finding process that the immediate supervisor is involved in the allegation, another management official will perform the responsibilities outlined above. The management official will normally be the next higher management official in the chain of command, who will consult with the CRC to address the matter. The CRC may involve senior departmental leadership if necessary to ensure impartiality, neutrality, and confidentiality;
- B. Where the inquiry establishes that any HUD employee engaged in harassing conduct under this Policy, he or she shall be subject to appropriate corrective action, disciplinary or otherwise, in accordance with Chapter 75 of the Civil Service Reform Act, and with HUD's discipline and adverse action policies, up to and including removal. The CRC working in conjunction with OCHCO's Employee and Labor Relations Division and departmental senior management will implement the appropriate corrective or disciplinary action.
- C. Where the fact-finding inquiry establishes that a management official did not properly carry out the responsibilities provided for under this Policy, he or she shall be subject to appropriate corrective action, disciplinary or otherwise, in accordance with Chapter 75 of the Civil Reform Act, and with HUD's discipline and adverse action policies, up to and including removal.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
THE SECRETARY
 WASHINGTON, DC 20410-0500

August 12, 2021

MEMORANDUM FOR: All HUD Employees
 FROM: Marcia L. Fudge 
 SUBJECT: Anti-Harassment Program Statement

As Secretary of the US Department of Housing and Urban Development (HUD) I am committed to providing a work environment free of discrimination, harassment, and unwelcome conduct to all employees, applicants, contractors, and business partners. Treating each person with dignity, respect and valuing the diverse perspectives within the organization are HUD priorities. To this end, it is HUD's Anti-Harassment Policy to maintain a safe and harassment-free workplace.

A safe workplace free of discrimination is the right of every employee, applicant, contractor, and business partner at HUD. Civil Rights laws, Executive Orders, and EEOC directives protect our stakeholders from discrimination based on protected classes: race, color, sex (pregnancy, gender identity and sexual orientation), religion, national origin, age (40 years or older), disability (physical or mental), marital status, parental status, veteran status, genetic information, and retaliation/reprisal (for prior EEO activity).

HUD's efforts are aimed to prevent and remove any barriers to a harassment free workplace, so that all persons can participate fully and successfully in the workplace and are treated with dignity and respect.

All persons will be protected from retaliation/reprisal for making a good faith report of workplace harassment under this program or any other applicable policy or procedure, and for assisting with an inquiry into such allegation of harassment. Anti-discrimination laws prohibit workplace harassment against individuals in retaliation for filing an equal employment opportunity (EEO) complaint; testifying or participating in any way during an inquiry, proceeding, and/or a lawsuit under these laws; or opposing employment practices they reasonably believe discriminate against individuals. All HUD employees must refrain from engaging in harassing conduct in the workplace. Any employee who is found to have harassed anyone or to have subjected a person to unwelcome conduct while conducting business on behalf of HUD or retaliated or committed reprisal will be subject to disciplinary or adverse action, up to and including removal from employment.

Harassment is defined as unwelcomed conduct based on a protected class. Unwelcome conduct is conduct that is unwanted by the affected person and may include bullying. Unlawful harassment is conduct that is severe or pervasive enough to create a work environment that a reasonable person would find intimidating, hostile, or abusive and that unreasonably interferes with and is detrimental to an employee's work performance, professional advancement, and mental and physical health; causes economic harm; or creates an intimidating, hostile, and offensive work environment. Prohibited harassing conduct includes, but is not limited to, offensive jokes, slurs, epithets, or name calling, undue attention, physical assaults or threats, unwelcome touching or contact, intimidation, bullying, ridicule or mockery, insults, or put-downs, constant or unwelcome questions about an individual's identity, mistreatment on social media, and offensive objects or pictures.

We have a shared responsibility of preventing workplace harassment. Executives, managers, and supervisors must ensure that every reported incident of harassing conduct is reviewed and responded to immediately and appropriately. HUD employees who experience or witness harassing behavior or misconduct are encouraged to immediately report the incident to their first-line manager/supervisor (unless their first-line manager/supervisor is the alleged perpetrator), an appropriate management official or the Anti-Harassment Program's staff at AHP@HUD.gov.

Once the Department is aware of the claims of harassment, it will immediately conduct a prompt, thorough, and impartial inquiry into the claim(s) via the Anti-Harassment Program procedures.

HUD, to the greatest extent possible, will take every step to protect the confidentiality of individuals alleging harassment. Immediate and appropriate corrective action will be taken if it is determined that harassment has occurred. Employees who believe they have been harassed may also, and separately, file a grievance under an applicable collective bargaining agreement or initiate an EEO complaint with the Office of Departmental Equal Employment Opportunity by telephone at (202) 708-5921 or by email at EEO@HUD.gov.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

OFFICE OF THE CHIEF HUMAN CAPITAL OFFICER

MEMORANDUM FOR: AFGE Union Officials

THROUGH: Ginger Burnett, Employee & Labor Relations

FROM: Alejandro Hernandez, Safe Workplace Programs Officer, with
OCHCO's Safe Workplace Programs' Anti-Harassment Branch

DATE: August 18, 2021

SUBJECT: Union Notification of Anti-Harassment Program

In accordance with Article 49 of the HUD/AFGE Agreement, this memorandum serves as notification to the Union of Management's intent to implement a new Anti-Harassment Program for the Department. Information required by Article 49, Section 49.03(4) is below:

(a) Copy or statement of the current policy or past practice

N/A – There is not currently an official Anti-Harassment Program at HUD.

(b) The nature, scope and rationale for the proposed change

The Anti-Harassment Program (AHP) Policy's intent is to provide the entire HUD workforce accountability for professional conduct, a mechanism for reporting unwelcome conduct, and prevent potentially harassing activity and promptly correct harassing behaviors, regardless of whether or not the conduct violated law. The AHP promotes a "speak-up" culture, bolsters employee morale, and increases employee engagement, satisfaction, and retention. The AHP prevents all harassing conduct before the conduct can become severe or pervasive. As such, the AHP is a mission imperative for all stakeholders.

(c) A copy of the statement of the proposed new policy or practice

Please see attached.

(d) The proposed implementation date.

September 20, 2021, or as soon as practicable.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

OFFICE OF THE CHIEF HUMAN CAPITAL OFFICER

Please provide any proposals to Ginger Burnett at ginger.s.burnett@hud.gov in accordance with Article 49. We look forward to holding an informational briefing session prior to bargaining.

Attachment



National Council of HUD Locals


AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
AFFILIATED WITH AFL-CIO

Council 222

8/31/2021

MEMORANDUM FOR: Ginger Burnett, Senior Labor Relations Advisor,
Labor & Employee Relations Division, Office of the Chief
Human Capital Officer

Sonya Gaither, Director of Labor & Employee Relations Division,
Office of the Chief Human Capital Officer

FROM: Salvatore Viola, President 
AFGE National Council of HUD Locals No. 222

SUBJECT: Bargain: HUD Anti-Harassment Program Instruction

In accordance with Article 49, Section 49.04(1) of the HUD-AFGE Agreement please find the AFGE National Council of HUD Locals No. 222's (AFGE Council 222 or Union) demand to bargain and preliminary bargaining proposal in response to the Department's Article 49 mid-term bargaining notice for its Anti-Harassment Program Instruction (AHPI) dated August 18, 2021 received by the Union August 19, 2021. In accordance with Article 49, Section 49.06 of the HUD-AFGE Agreement, the Union reserves the right to submit additional bargaining proposals until negotiations commence or based on new information received during negotiations, or discovery occurring after the implementation of the Departmental Anti-Harassment Program Instruction.

AFGE Council 222 demands the Department of Housing and Urban Development (HUD) cease and desist from imposing increased requirements related to the Departmental Anti-Harassment Policy beyond what is already stated in our collective bargaining agreement, including but not limited to the specific covered-by provisions contained within Supplement 18, "Implementation of Anti-Harassment Policy" of the 2015 HUD-AFGE Agreement. Only proposed provisions outside of Supplement 18 are negotiable.

The Council is offering the following preliminary proposal for consideration and negotiation:

1. The Parties Agree that Supplement 18, "Implementation of Anti- Harassment Policy "of the 2015 HUD-AFGE Agreement. remains in force. Any new provision in the proposed Departmental Anti-Harassment Program Instruction shall not supersede any article or supplement in the current Agreement including but not limited to Supplement 18, "Implementation of Anti-Harassment Policy", Article 6, Employees Rights/Standards of Conduct", Article 9, "Equal Employment Opportunity and Discrimination Free Workplace", Articles 51, "Grievance Procedures" and Article 52, "Arbitration". If there is any conflict between the new proposed Anti-Harassment Program Instructions, and the current provisions of Supplement 18, Articles 6, 9, 51 and 52, then Supplement 18, Articles 6, 9, 51 and 52 will govern.

If you have any questions, I can be reached at (917) 607-1474.

Thank you.



American Federation of Government Employees
National Council of HUD Locals 222

Attachment 6
(internal attachments
omitted)

Affiliated with AFL-CIO

451 7th Street, SW, Suite 3142
Washington, DC 20410

Salvatore T. Viola
President

Phone: (917) 607-1474
E-mail: salafge@outlook.com

September 1, 2021

MEMORANDUM FOR: Ginger Burnett, Employee & Labor Relations, OCHCO

Alejandro Hernandez, Safe Workplace Programs Officer, Anti-
Harassment Branch, OCHCO

FROM:

Salvatore T. Viola, President, AFGE Council 222

SUBJECT:

Union Response to HUD's Article 49 Notice of Anti-Harassment
Policy

On August 18, 2021, at 4:45 p.m., the Department of Housing and Urban Development (HUD) issued a notice of a midterm policy change to AFGE Council 222 (the Union) regarding the Department's new Anti-Harassment Policy (Attachment 1). Pursuant to Article 49, Section 49.02, the effective date of receipt was August 19, 2021, and under Section 49.04 the Union has fifteen days, until September 3, 2021, to issue a demand to bargain.

The document provided to the Union as the "new policy" was neither labeled a "policy" nor did it contain a proposed handbook number, as do other HUD policies. For example, OCHCO's Workplace and Domestic Violence Prevention and Response Handbook is Handbook 793.1, and its Nepotism Policy is Handbook 730.1. In contrast, HUD titled the document provided to the Union as an "Anti-Harassment Program Instruction" (Attachment 2). Consequently, the Union was misled about the nature of the document provided, as shown by the emails exchanged between Salvatore Viola and Ginger Burnett (Attachment 3).

The Union sought to preserve its bargaining rights by submitting a demand to bargain on August 31, 2021 (Attachment 4). In that memo, the Union noted that the parties already have an agreement that covers implementation of HUD's anti-harassment policies, Supplement 18, Implementation of Anti-Harassment Policy, to the 2015 Collective Bargaining Agreement (CBA) (Attachment 5). The Union also demanded that HUD cease and desist from imposing increased requirements related to the Departmental Anti-Harassment Policy beyond what is included in the CBA, including but not limited to Supplement 18. **This memorandum supplements and supersedes our memo of August 31, 2021.**

The Union objects to (1) HUD's attempt to issue new policies that are covered by and in conflict with our CBA as stated in Supplement 18 and (2) HUD's failure to provide a proper Article 49 notice, as described below.

1. Policies in conflict with Supplement 18. A brief review of OCHCO's proposed Anti-Harassment Program Instruction shows that there are several instances where HUD has created new policies that are inconsistent with the provisions of Supplement 18. Some of these are a

change in terminology, such as establishing a Safe Workplace Program (SWP) Officer in lieu of Supplement 18's Conflict Resolution Coordinator (CRC). The Union objects to HUD's frequent change of responsible positions and titles, as that serves only to confuse and hinder both employees and Union representatives.

Other changes from the provisions of Supplement 18 are even more serious, and following are just a few of the examples noted:

a. *Fact-finder requirements.* In contrast to the brief statement in the proposed Anti-Harassment Program Instruction that investigators "may either be contractors, third-party factfinders obtained from another federal agency, or staff of the Department" (Section 5.c), Supplement 18 provides specific, detailed criteria for both the CRC and the factfinder: Section 9 of the supplement states, "The CRC must be a neutral official. The Parties agree that the CRC will not have witnessed or been otherwise previously aware of the events, or alleged incidents." Similarly, Section 13 requires,

The fact-finder must be a person who is not named in the allegation(s) of harassment and who has not witnessed the alleged incident(s) of harassment. The fact-finder must also not act as an advocate on behalf of either party. The fact-finder may not be a supervisor or manager in the alleged harasser's chain of supervision. The fact-finder may be a supervisor or manager outside the alleged harasser's organization, an agency HR official, a contractor, or another uninvolved individual. The fact-finder, however, shall not be a subordinate employee to the alleged harasser.

HUD's omission of these criteria from the proposed Anti-Harassment Program Instruction harms the rights of both the affected person (the accuser) and the alleged harasser and violates the provisions of Supplement 18.

b. *Fact-finding process.* The Anti-Harassment Program Instruction creates a more complicated process than was envisioned by Supplement 18. Under Supplement 18, Section 10, the CRC receives a complaint and appoints a fact finder. The Anti-Harassment Program Instruction stretches that out to a two-part process in Section 7.b.4, with the SWP Officer or "the management official" (it is not stated whether this is the affected person's or alleged harasser's manager) conducting an initial inquiry to determine whether further investigation by an Anti-Harassment Program investigator is warranted. Stretching out the inquiry harms the rights of all persons involved, denying them a prompt resolution, and violates the provisions of Supplement 18.

c. *Deadlines for completing investigations.* Supplement 18, Sections 10 and 11, require the CRC to appoint a fact finder with ten business days of receipt of the complaint, and the fact finder to deliver a report of the findings within fifteen business days, although the CRC may extend that deadline under circumstances such as the unavailability of witnesses. In other words, the final fact-finding report should be completed within five weeks, barring any holidays. In contrast, the Anti-Harassment Program Instruction at Section 7.b.4 grants the SWP Officer three business days to complete a preliminary investigation followed by ten business days to assign the investigation to an Anti-

Harassment Program investigator, who has sixty business days to complete a report. Thus, the Anti-Harassment Program Instruction exceeds the time limits of Supplement 18 by approximately ten weeks. Stretching out the inquiry harms the rights of all persons involved, denying them a prompt resolution, and violates the provisions of Supplement 18.

d. *Definition of retaliation narrowed.* The Anti-Harassment Program Instruction narrowed the definition of retaliation and reprisal to actions by an employer who subjects an employee to adverse actions for engaging in legally protected activity. This conflicts with and violates Supplement 18, which does not limit retaliation to actions by employers (e.g., management); rather it states that it is “any form” of action against any person who reports harassment or participates in a fact-finding process. By failing to recognize that retaliation or reprisal may take the form of new or additionally harassment by a non-supervisory employee or by a supervisor outside the affected person’s management structure, the Anti- Harassment Program Instruction harms the rights of affected persons and violates the provisions of Supplement 18.

e. *Contact policy unavailable.* Supplement 18, Section 15, requires that contact information to utilize the Anti-Harassment Policy will be available on HUD@Work (or successor entity). The Anti-Harassment Program Instruction fails to mention this. A brief check on HUD@Work does not show any contact information for contacting responsible officials regarding harassment, in violation of Supplement 18. HUD also failed to include Supplement 18 on the HUD@Work AFGE/HUD Agreements page.

f. *Notice to Union omitted.* The Anti-Harassment Policy omits any obligation to notify the Union of investigations, as required by Supplement 18, Section 16.

2. Failure to comply with Article 49 notice requirements. In response to the Article 49, Section 49.03(4) requirement to provide a copy or statement of the current policy or past practice, HUD stated: “N/A – There is not currently an official Anti-Harassment Program at HUD.” In response to the Section 49.03(4) requirement to provide the nature, scope, and rationale for the proposed change, HUD provided a statement of the rationale for the proposed policy but did not provide any information about the scope of proposed changes from a past policy or practice.

There are clearly current policies, as indicated by the Secretary’s Anti-Harassment Policy Statements of July 26, 2017; July 19, 2018; December 5, 2019; December 4, 2020, and August 12, 2021. Furthermore, the parties’ joint agreement to Supplement 18 serves as a current statement of HUD’s Anti-Harassment policy. Not only did HUD fail to provide a copy of the current policy as required under Article 49, Section 49.03(4), HUD failed to identify the scope of proposed changes, such as but not limited to those changes identified above. For these reasons, the notice received by the Union on August 19, 2021, is invalid and does not impose any deadline on the Union’s right to invoke bargaining over proposed midterm changes.

The Union therefore demands that HUD modify its proposed Anti-Harassment Program Instruction to comply with all the provisions of Supplement 18, including:

- Providing the Union with an updated Anti-Harassment Program policy that complies with Supplement 18, including but not limited to the items listed under Section 1, Policies in conflict with Supplement 18, above.
- Posting a link to the appropriate contact information and other relevant documents on HUD@Work under the Quick Links pull-down "I Want To" menu, as required by Supplement 18, no later than ten days from receipt of this memorandum.
- Adding Supplement 18 to the HUD@Work AFGE/HUD Agreements page, no later than ten days from receipt of this memorandum.

Should HUD wish to propose mid-term changes, you are obligated to ensure that any future notices comply fully and accurately with the requirements of Article 49, including but not limited to specifically identifying all changes from current policies and practices.

Finally, as a reminder, the Union demands that HUD cease and desist from implementing any policies or procedures that conflict with our existing CBA, including but not limited to Supplement 18.

cc:

Sonya Gaither, Acting Director, Employee and Labor Relations Division

Mark Zaltman, Acting Branch Chief, Employee and Labor Relations Headquarters Branch

Attachments

1. HUD Article 49 notice of new Anti-Harassment Policy, received August 19, 2021.
2. HUD Anti-Harassment Program Instruction.
3. Emails between Salvatore Viola, AFGE Council 222, and Ginger Burnett, HUD
4. Union preliminary demand to bargain, August 31, 2021,
5. Supplement 18, Implementation of Anti- Harassment Policy.

Anti-Harassment Policy

Burnett, Ginger S <Ginger.S.Burnett@hud.gov>

Mon 4/18/2022 2:35 PM

To: salafge <salafge@outlook.com>

Cc: Miranda, Ricardo <Ricardo.Miranda@hud.gov>; Gross, Jerry <jerry.gross@hud.gov>; Hernandez, Alejandro <Alejandro.Hernandez@hud.gov>

 4 attachments (465 KB)

AFGE Memo AHP 04182022.docx; Draft Supp AHP Mgmt Prop 04182022.docx; Article 49 Union Notification - AHP Aug 2021.docx; HUD AHP Policy.pdf;

Dear Sal, Ricardo and Jerry,

Thank you, Sal, for meeting with me and Alejandro on April 7th. Please see attached a memorandum regarding the Agency's rationale for the new Anti-harassment Policy, with a request to begin negotiations. I know that we talked about possibly issuing a new Art 49 notice, but since we issued one last August, we are reattaching the information here from the prior Article 49 notice, but still of course offering a new 15 days for the Union to express an interest to bargain.

We look forward to hearing from you!

Thanks!

Ginger Burnett (Richardson)
Sr. Labor Relations Advisor
ELR Division, Office of the Chief Human Capital Officer
U.S. Dept of Housing and Urban Development
One Sansome Street, 12th Floor
San Francisco, CA 94104
415-489-6707
415-489-6710 fax

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<External Message> RE: Anti Harassment Policy Article 49 Notice

Sal Viola <salafge@outlook.com>

Fri 4/22/2022 6:10 PM

To: Burnett, Ginger S <Ginger.S.Burnett@hud.gov>

Cc: Hernandez, Alejandro <Alejandro.Hernandez@hud.gov>; Miranda, Ricardo <Ricardo.Miranda@hud.gov>; Gross, Jerry <jerry.gross@hud.gov>

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Ginger,

Here's my response:

Both you and Alejandro are making another attempt to mislead me into bargaining provisions that are covered by the contract. You can forget it! Alejandro went to sunny Miami after being taken out of ELR and I'm sure his locality pay wasn't lowered the way REAC employees lost their pay. So find something else for Alejandro to do. We will not reopen any covered by provisions of this contract especially Supplement 18 .

Now, let's get into the technicalities.

This is absolutely covered by Supplement 18, as I said in my September 1, 2021, letter (attached, in case you don't have it handy). HUD did not even add Supplement 18 to the HUD@Work AFGE/HUD Agreements page since last September as an act of good faith in all the months since then. Your refusal to do so is an ongoing act of repudiation.

The matter is also covered by Article 9, Section 9.02(3), which says: "Consistent with this Agreement and EEO regulations, the EEO program shall include, but not be limited to...(c) Managing an anti-harassment policy and program intended to take immediate and appropriate corrective action, including the use of disciplinary actions to eliminate harassing conduct against employees, managers, and supervisors." That policy appears to be included in [Handbook 793.1](#), Workplace and Domestic Violence Prevention and Response Handbook: Procedures for Preventing, Identifying, and Responding to Acts of Workplace and Domestic Violence, Sexual Assault, Harassment, and Stalking, dated June 2015.

You noted that some of the timeframes in Supplement 18 do not meet all EEOC requirements: "for example, provision 10 of Supplement 18 states that the Conflict Resolution Coordinator will acknowledge receipt of a complaint within 5 days and then appoint a fact finder within 10 days. The EEOC requires that the investigation actually begin within 10 days." There's nothing in provision 10 or any other provision that precludes the Agency from starting the investigation sooner or acting more quickly than the maximum amount of time provided by Supplement 18.

You have not shown how Supplement 18 interferes with the Agency providing "A complaint process that provides a prompt, thorough, and impartial investigation." You should provide a new Anti-Harassment Policy that complies with the CBA and Supplement 18, as well as meeting EEOC requirements.

Furthermore, Supplement 18, provision 4, required HUD "to negotiate procedures for bullying and hostile work environment and all other harassment whether or not it is based on protected classes, with the goal of including such procedures in this supplement" within one year. I am not aware of that happening in the four years since the supplement was signed. If that new Anti-Harassment Policy is a "gold standard" and a "model for other agencies," HUD should simply show how it complies with Supplement 18, including with provision 4. It sure hasn't 'happened in Region 6 with all its harassment and bullying complaints. Region 6's way of handling complaints doesn't even meet the tin can standard. There is a serious need to issue reprimands, PIPs and OIPs to ELR staff in Region 6. C

Regardless of whether it's a gold-standard policy, or Region 6's tin can standard, HUD is required to comply with its contractual agreements and has not shown any reason for us to accept a new policy. How is the new "holistic strategy" policy any "more inclusive" than Handbook 793.1, Workplace and Domestic Violence Prevention and Response Handbook: Procedures for Preventing, Identifying, and Responding to Acts of Workplace and Domestic Violence, Sexual Assault, Harassment, and Stalking?

The eight-month-old Article 49 notice is not valid, especially since it falsely states, "There is not currently an official Anti-Harassment Program at HUD." The "official" program exists, as stated in Supplement 18, the annual anti-harassment letters from the Secretary, and [Handbook 793.1](#).

It also failed to include a complete nature, scope and rationale for each change that would include a specific list of each and every problem with the current Supplement 18, a statement identifying exactly what the Agency proposes in place of those specific issues identified, and the reason why.

So, in closing you have provided an outdated, defective Article 49 notice for a covered-by topic. If you proceed with any implementation of your outdated defective Article 49 notice, this will be grieved immediately and Council 222 will waste no time to bring it before a third party. This Agency and the way it treats it's harassed and bullied employees should be ashamed of itself .

Have a nice weekend!

Sal Viola
President
AFGE Council 222

From:Burnett, Ginger S <Ginger.S.Burnett@hud.gov>

Sent:Monday, April 18, 2022 2:37 PM

To:salafge <salafge@outlook.com>

Cc:Miranda, Ricardo <Ricardo.Miranda@hud.gov>; Gross, Jerry <jerry.gross@hud.gov>;

Hernandez, Alejandro <Alejandro.Hernandez@hud.gov>

Subject:Anti-Harassment Policy

Dear Sal, Ricardo and Jerry,

Thank you, Sal, for meeting with me and Alejandro on April 7th. Please see attached a memorandum regarding the Agency's rationale for the new Anti-harassment Policy, with a request to begin negotiations. I know that we talked about possibly issuing a new Art 49 notice, but since we issued one last August, we are reattaching the information here from the prior Article 49 notice, but still of course offering a new 15 days for the Union to express an interest to bargain.

We look forward to hearing from you!

Thanks!

Ginger Burnett (Richardson)
Sr. Labor Relations Advisor
ELR Division, Office of the Chief Human Capital Officer
U.S. Dept of Housing and Urban Development
One Sansome Street, 12thFloor
San Francisco, CA 94104
415-489-6707
415-489-6710 fax

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Re: Add Missing Supplement to Union Information Web Page

Gross, Jerry <jerry.gross@hud.gov>

Mon 7/18/2022 7:36 PM

To: Gaither, Sonya A <Sonya.A.Gaither@hud.gov>; Hankinson, D'andra A <Dandra.A.Hankinson@hud.gov>

Cc: salafge <salafge@outlook.com>; Miranda, Ricardo <Ricardo.Miranda@hud.gov>

Bcc: Robinson, Ashaki <Ashaki.Robinson@hud.gov>; Carter, Cynthia F <Cynthia.F.Carter@hud.gov>; Zimmer, Tobey J <Tobey.J.Zimmer@hud.gov>

Sonya,

You stated that the Agency will not honor Supplement 18 because "the Agency did not implement the policy Supplement 18 addresses." If you will review Supplement 18 (attached), you will see that it does not specify a particular Anti-Harassment policy.

Contrary to the assorted claims raised by ELR since this supplement was signed in 2018, the Agency has, in fact existent Anti-Harassment policies. These include [Handbook 793.1](#), Workplace and Domestic Violence Prevention and Response Handbook: Procedures for Preventing, Identifying, and Responding to Acts of Workplace and Domestic Violence, Sexual Assault, **Harassment**, and Stalking (June 2015) (emphasis added) and the Secretary's annual anti-harassment statement, the most recent one being Secretary Fudge's memo of August 12, 2021 (attached).

You stated that the Agency is currently moving forward with a new AHP. You are welcome to do so--as long as any policy you develop is consistent with Supplement 18.

Moreover, the Agency has so far failed to negotiate procedures for bullying and hostile work environment and all other harassment whether or not it is based on protected classes," as required under provision 4 of Supplement 18. I encourage you to propose such procedures and provide them to the Union in lieu of attempting to create new policies that conflict with Supplement 18.

Thank you,

Jerry Gross

Bargaining Committee Co-Chair

From: Gaither, Sonya A <Sonya.A.Gaither@hud.gov>**Sent:** Thursday, July 14, 2022 3:08 PM**To:** Gross, Jerry <jerry.gross@hud.gov>**Cc:** salafge <salafge@outlook.com>; Harrington-Young, Monica S <Monica.S.Harrington-Young@hud.gov>; Kirk, Rachele T <Rachele.T.Kirk@hud.gov>; Miranda, Ricardo <Ricardo.Miranda@hud.gov>; Hankinson, D'andra A <Dandra.A.Hankinson@hud.gov>**Subject:** RE: Add Missing Supplement to Union Information Web Page

Jerry,

Thank you for your message. I apologize for any confusion, I was on leave in travel status the week of July 1st, and did not realize that the Union was referencing the supplement pertaining to the previously drafted anti-harassment policy. Supplement 18 was not posted on HUD@work, because the Agency did not implement the

policy Supplement 18 addresses, and is currently moving forward with a new AHP, which the Union was invited to bargain. We respectfully are not in agreement with posting Supplement 18.

Thank you,

Sonya

From: Gross, Jerry <jerry.gross@hud.gov>
Sent: Friday, July 08, 2022 10:33 AM
To: Gaither, Sonya A <Sonya.A.Gaither@hud.gov>; Hankinson, D'andra A <Dandra.A.Hankinson@hud.gov>
Cc: salafge <salafge@outlook.com>; Harrington-Young, Monica S <Monica.S.Harrington-Young@hud.gov>; Kirk, Rachelle T <Rachelle.T.Kirk@hud.gov>; Miranda, Ricardo <Ricardo.Miranda@hud.gov>
Subject: Re: Add Missing Supplement to Union Information Web Page

Hi Sonya and Dee Dee,

It was my understanding that on July 1 Sonya asked Rachelle to have the missing Supplement 18 posted on the HUD@Work web page for AFGE/HUD agreements. Please see the email chain below.

Please remember that our collective bargaining agreement provides that:

- The product of mid-term bargaining **is enforceable upon signature** at the completion of negotiations. (Article 49, Section 49.06(n))
- Supplements shall become an integral part of this Agreement and subject to all of its terms and conditions. (Article 49, Section 49.06(k))
- Management shall distribute an electronic copy of this Agreement **and all supplements** to each employee by the effective date, along with a statement of where to locate the Agreement and Supplements on the HUD website. (Article 53, Section 53.07(1))

Supplement 18, which I have attached again for your convenience, was "duly executed by the parties" on January 11, 2018, as required by Section 49.06(k). Management's choice to implement any specific Anti-Harassment policy or procedures does not invalidate the duly executed supplement.

It is an unfair labor practice for management to negotiate and then repudiate an agreement. The Union requests that you take all steps necessary to have Supplement 18 posted within a week, no later than July 15, 2022.

Thank you,
Jerry

From: Kirk, Rachelle T <Rachelle.T.Kirk@hud.gov>
Sent: Friday, July 8, 2022 9:17 AM
To: Gross, Jerry <jerry.gross@hud.gov>
Cc: salafge <salafge@outlook.com>; Hankinson, D'andra A <Dandra.A.Hankinson@hud.gov>; Gaither, Sonya A <Sonya.A.Gaither@hud.gov>; Harrington-Young, Monica S <Monica.S.Harrington-Young@hud.gov>
Subject: RE: Add Missing Supplement to Union Information Web Page

Good morning Jerry,

I am unable to forward this supplement for posting because it is in dispute between Management and the Union and has not been implemented. If there are further questions about the status, you may reach out to Sonya or Dee Dee. Thank you.

From: Gross, Jerry <jerry.gross@hud.gov>
Sent: Thursday, July 7, 2022 12:34 PM
To: Kirk, Rachelle T <Rachelle.T.Kirk@hud.gov>
Cc: salafge <salafge@outlook.com>; Hankinson, D'andra A <Dandra.A.Hankinson@hud.gov>; Gaither, Sonya A <Sonya.A.Gaither@hud.gov>; Harrington-Young, Monica S <Monica.S.Harrington-Young@hud.gov>
Subject: Re: Add Missing Supplement to Union Information Web Page

Hi Rachelle,

I'm following up on the addition of Supplement 18 to the Union Information web page. Please let me know if or when that has been done.

Thanks,
Jerry

From: Gaither, Sonya A <Sonya.A.Gaither@hud.gov>
Sent: Friday, July 1, 2022 2:06 PM
To: Gross, Jerry <jerry.gross@hud.gov>
Cc: Harrington-Young, Monica S <Monica.S.Harrington-Young@hud.gov>; Kirk, Rachelle T <Rachelle.T.Kirk@hud.gov>; salafge <salafge@outlook.com>; Hankinson, D'andra A <Dandra.A.Hankinson@hud.gov>
Subject: Re: Add Missing Supplement to Union Information Web Page

Hello All,

I am out of town for a few days!! Just asked Rachelle to handle on Tues. next week. She is off line for the day.

Happy Holiday Everyone!

Sonya

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From: Gaither, Sonya A <Sonya.A.Gaither@hud.gov>
Sent: Friday, July 1, 2022 1:59:26 PM
To: Kirk, Rachelle T <Rachelle.T.Kirk@hud.gov>
Subject: Fwd: Add Missing Supplement to Union Information Web Page

Can ya please see if you can handle this on Tues! Thanks!

Sonya

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From: Gross, Jerry <jerry.gross@hud.gov>
Sent: Friday, July 1, 2022 1:57:15 PM
To: Gaither, Sonya A <Sonya.A.Gaither@hud.gov>
Cc: salafge <salafge@outlook.com>; Miranda, Ricardo <Ricardo.Miranda@hud.gov>; Kirk, Rachelle T <Rachelle.T.Kirk@hud.gov>; Miller, Troynicia <Troynicia.Miller@hud.gov>
Subject: Re: Add Missing Supplement to Union Information Web Page

Hello Sonya,

As Monica indicated by copying you on her response to me, please submit a request to correct the web content for the AFGE/HUD Agreements web page (<http://hudatwork.hud.gov/HUD/chco/po/arh/union/hudafgesupplementals>). That page continues to omit the signed National Supplement 18, which I have attached for your convenience. The Union has requested this correction in the past. HUD is obligated to post all supplements, like the Agreement to which they apply, on the Agency's website, in addition to distributing all supplements to employees.

Thank you for promptly correcting this erroneous omission,
Jerry

From: OCHCO Web Manager <OCHCOWebManager@hud.gov>
Sent: Friday, July 1, 2022 12:41 PM
To: Gross, Jerry <jerry.gross@hud.gov>
Cc: salafge <salafge@outlook.com>; Miranda, Ricardo <Ricardo.Miranda@hud.gov>; Kirk, Rachelle T <Rachelle.T.Kirk@hud.gov>; Miller, Troynicia <Troynicia.Miller@hud.gov>; Gaither, Sonya A <Sonya.A.Gaither@hud.gov>
Subject: RE: Add Missing Supplement to Union Information Web Page

Good Afternoon,

Thank you for providing the OCHCO Web Manager mailbox error. I have fixed the e-mail address. However, all web content updates for the AFGE/HUD Agreements Web Page must be provided by the ELR Web POC(s) (Rachelle Kirk and Troynicia Miller) and/or the ELR Web Content Owner (Sonya Gaither). Please contact one of the identified persons to submit a request for the changes you have provided.

Thank you,

Monica Harrington-Young

Web Manager | Human Capital Information Systems
Office of the Chief Human Capital Officer
U.S. Department of Housing and Urban Development
Monica.S.Harrington-Young@hud.gov
Phone: (336) 851-8099



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From: Gross, Jerry <jerry.gross@hud.gov>
Sent: Friday, July 1, 2022 11:08 AM
To: OCHCO Web Manager <OCHCOWebManager@hud.gov>

Cc: salafge <salafge@outlook.com>; Miranda, Ricardo <Ricardo.Miranda@hud.gov>

Subject: Add Missing Supplement to Union Information Web Page

Please add the missing Supplement # 18, Implementation of Anti-Harassment Policy, January 11, 2018, to the list of AFGE supplements

on <http://hudatwork.hud.gov/HUD/chco/po/arh/union/hudafgesupplementals>. I have attached the supplement for your convenience.

Please also correct the email address provided

at <http://hudatwork.hud.gov/HUD/chco/po/a/aboutus/ohr> on the Comments and Questions link, which incorrectly lists the email address as OCHCO.Webmanager (with the dot between the words) and

on <http://hudatwork.hud.gov/HUD/chco/po/arh/union/hudafgesupplementals>, which lists the contact as Norman.Mesewicz.

Thank you,

Jerry Gross

AFGE Council 222 Bargaining Co-Chair