



Date: May 16, 2023

To: Ashby Crowder, President
American Federation of Government Employees
Local 2578

From: Laurence Brewer, Chief Records Officer
Office of the Chief Records Officer

Subject: Negotiated Grievance Decision

This memorandum is in response to the group grievance filed on behalf of the bargaining unit employees of the Office of the Chief Records Officer, received on April 27, 2023.

In the grievance, you allege that the Agency violated the Memorandum of Understanding (MOU) between the National Archives and Records Administration and the American Federation of Government Employees (AFGE), Council 260, Section I; 5 Code of Federal Regulations (CFR) §531.605; and all other applicable laws, rules, regulations, and provisions of the collective bargaining agreement (CBA). As a remedy for the alleged violations, you are requesting that the Agency rescind the erroneous guidance previously provided to employees and provide the correct guidance to employees. Additionally, you requested that the appropriate Agency officials consider and adjudicate leave requests in accordance with the applicable provisions of the CBA. You requested that the Agency refrain from making duty station adjustments that would violate the CBA, applicable laws, and regulations. You did not request a grievance meeting.

In the written grievance you stated that on or around April 26, 2023, the bargaining unit employees (BUEs) within the Office of the Chief Records Officer were advised that if they reside and telework more than 50 miles from their duty station, they are required to report to their duty station a minimum of two days per pay period, regardless if they are on approved leave on the days they are scheduled to report to their official duty station, unless the employee is on approved leave for the entirety of the pay period. You stated that this guidance is a misapplication of the applicable regulations and provisions of the CBA.

The written grievance referenced the MOU, effective November 2022, Section I.A.2.d. You stated that the “parties” contemplated the scenario of ordinary leave use affecting the number of days an employee would report to their official duty station and established that such use of approved leave would not affect the designation of the employees’ official duty stations, and when applicable, the employees’ locality pay. You stated that the parties clearly contemplated such a scenario would occur and did not prohibit it.

The written grievance referenced Title 5 Code of Federal Regulations (CFR) §531.605(d)(2), stating in part, ““An authorized agency official may make an exception to the twice-in-a-pay-period standard...in appropriate situations of a temporary nature...” You stated that the use of ordinary approved leave, referred to in the MOU, is among the “appropriate situations” identified in the MOU.

I have objectively reviewed and considered the written grievance. I have determined that the agency did not truly violate the MOU, Section I; 5 CFR §531.605; or any other applicable laws, rules, regulations, and provisions of the CBA. However, I have determined that the Agency will rescind the guidance provided to the BUEs of the Office of the Chief Records Officer on or around April 26, 2023, and issue the appropriate guidance to employees. Further, the appropriate management official will consider and make determinations on leave requests and the impact such leave request might have on the provisions of the CBA. The Agency will make determinations regarding duty station adjustments in accordance with the MOU, CBA and the applicable laws and regulations. Therefore, your grievance and remedy are granted.

If you are not satisfied with my decision, you may request reconsideration from Jay Trainer, Executive within 10 workdays from the date you receive this decision. Further, you may invoke arbitration pursuant to Article 26, Section 9. Arbitration must be invoked within 30 calendar days from the date you receive this decision. Arbitration must be invoked in writing and delivered to the Labor Relations office at labor.relations@nara.gov.



LAURENCE BREWER
Chief Records Officer
for the U.S. Government