

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL LABOR RELATIONS AUTHORITY  
WASHINGTON REGION**

U.S. Department of Education  
Washington, DC  
Respondent

and

Case Nos.      WA-CA-18-0173; WA-CA-18-0305;  
WA-CA-18-0333; WA-CA-18-0338;  
WA-CA-18-0341; WA-CA-19-0118;  
SF-CA-19-0157; WA-CA-19-0213;  
CH-CA-19-0295; WA-CA- 20-0025;  
WA-CA-20-0153; WA-CA-20-0154;  
WA-CA-20-0219; WA-CA-20-0365.

American Federation of Government Employees  
AFL-CIO  
Charging Party

and

American Federation of Government Employees  
Council 252, AFL-CIO  
Charging Party

**CONSOLIDATED COMPLAINT AND NOTICE OF HEARING**

This Consolidated Complaint and Notice of Hearing is based on charges filed by the American Federation of Government Employees, AFL-CIO (Union or AFGE) and AFGE Council 252 (Council 252). It is issued pursuant to Section 7118 of the Federal Service Labor-Management Relations Statute (Statute) and Section 2423.20(a) of the Rules and Regulations of the Federal Labor Relations Authority (the Authority) and alleges that the U.S. Department of Education (Respondent) has violated the Statute as described below:

1.            The Union or Council 252 filed the charges in the following cases on the dates set below, and copies were served on Respondent:

- Council 252 filed the charge in Case No. WA-CA-18-0173 on March 12, 2018.
- AFGE filed the charge in Case No. WA-CA-18-0305 on July 23, 2018.
- AFGE filed the charge in Case No. WA-CA-18-0333 on September 9, 2018.
- AFGE filed the charge in Case No. WA-CA-18-0338 on September 14, 2018.
- AFGE filed the charge in Case No. WA-CA-18-0341 on September 17, 2018.
- AFGE filed the charge in Case No. WA-CA-19-0118 on February 5, 2019.

- AFGE filed the charge in Case No. SF-CA-19-0157 on April 16, 2019.
- AFGE filed the charge in Case No. WA-CA-19-0213 on April 16, 2019.
- AFGE filed the charge in Case No. CH-CA-19-0295 on July 2, 2019.
- AFGE filed the charge in Case No. WA-CA-20-0025 on October 5, 2019.
- AFGE filed the charge in Case No. WA-CA-20-0153 on February 6, 2020.
- AFGE filed the charge in Case No. WA-CA-20-0154 on February 6, 2020.
- AFGE filed the charge in Case No. WA-CA-20-0219 on April 10, 2020.
- AFGE filed the charge in Case No. WA-CA-20-0365 on August 17, 2020.

2. These cases are consolidated because it is necessary to effectuate the purposes of 5 U.S.C. §§7101-7135 and to avoid unnecessary costs or delays pursuant to Section 2429.2 of the Rules and Regulations of the Federal Labor Relations Authority (the Authority).
3. The Respondent is an agency within the meaning of Section 7103(a)(3) of the Statute.
4. AFGE is a labor organization within the meaning of Section 7103(a)(4) of the Statute and is the certified exclusive representative of nationwide consolidated units of employees of the Department of Education, which includes employees of the Respondent (the unit).
5. The American Federation of Government Employees, Council 252 (Council 252) is an agent of AFGE for the purpose of representing the unit of employees employed at the Respondent.
6. The American Federation of Government Employees, Local 3899, AFL-CIO (Local 3899) is an agent of AFGE for the purpose of representing the unit of employees employed at the Respondent.
7. At all times material, the following individuals held the position opposite their names and have been supervisors or management officials of the Respondent within the meaning of Section 7103(a)(10) and (11) of the Statute and agents of the Respondent acting upon its behalf:

Randolph Willis	Deputy Assistant Secretary for Enforcement, Office of Civil Rights
Mark Brown	Chief Operating Officer, Federal Student Aid
Jared Smith	Acting Chief, Labor & Employee Relations Branch

Samantha Cutler	Director, Workforce Relations Division
Harold Thompson	Director, Workforce Relations Division, FSA
Cheryl Alix	Chief Negotiator Designee
Jennifer Arguello	Chief Negotiator
Anamaria Loya	Chief Regional Attorney, Region IX
Naghmeh Ordikhani	Acting Team Leader

WA-CA-18-0173

8. On February 8, 2018, the Respondent, through Alix and Arguello, provided the Union with a copy of Respondent's proposed-successor collective bargaining agreement (CBA).
9. On March 1, 2018, the Union submitted its counter proposal to Respondent's proposed-successor CBA.
10. On March 1, 2018, and continuing thereafter, Respondent, through Alix, indicated that the Union had not submitted a counter proposal by the date imposed by Respondent, namely February 28, 2018, and that it was moving forward with its proposed-successor CBA described in paragraph 8.
11. On March 12, 2018, Respondent implemented the successor CBA described in paragraph 8 without completing negotiations with the Union.
12. The subject described in paragraph 8 is a mandatory subject of bargaining under the Statute.
13. Since March 1, 2018, Respondent has refused to negotiate with the Union over the subject described in paragraph 8.
14. By the conduct described in paragraphs 10, 11, and 13, Respondent has been refusing to negotiate in good faith with the Union in violation of Section 7116(a)(1) and (5) of the Statute.

WA-CA-18-0305

15. On May 22, 2018, Respondent, by Cutler, notified the Union that it intended to implement a new telework program.

16. On June 29, 2018, the Union requested to negotiate over the change described in paragraph 15.
17. On October 1, 2018, the Respondent implemented the change described in paragraph 15.
18. The impact of the change described in paragraph 15 is substantial.
19. Respondent implemented the change in unit employees' conditions of employment described in paragraph 15 without providing the Union an opportunity to negotiate over the procedures and appropriate arrangements of the change.
20. By the conduct described in paragraphs 17 and 19, the Respondent has been refusing to negotiate in good faith with the Union and violating Section 7116(a)(1) and (5) of the Statute.

WA-CA-18-0333

21. On August 30, 2018, Respondent, by Smith, denied designated union representative Sharon Harris access to Respondent's headquarters in Washington, DC, preventing her from attending a formal discussion.
22. By the conduct described in paragraph 21, the Respondent has been interfering with, restraining, and coercing employees in the exercise of rights guaranteed in Section 7102 of the Statute and violating Section 7116(a)(1) of the Statute.

WA-CA-18-0338

23. On September 5, 2018, Respondent began offering voluntary overtime to unit employees within the Respondent's Office of Civil Rights.
24. The impact of the change described in paragraph 23 is substantial.
25. Respondent implemented the change in unit employees' conditions of employment described in paragraph 23 without providing the Union notice and an opportunity to negotiate over the procedures and appropriate arrangements of the change.
26. By the conduct described in paragraphs 23 and 25, Respondent has been refusing to negotiate in good faith with the Union in violation of Section 7116(a)(1) and (5) of the Statute.

WA-CA-18-0341

27. On May 25, 2018, AFGE Deputy General Counsel Cathie McQuiston (McQuiston) sent ten letters to the Respondent, delegating authority to union officials in each of the ten Regional Offices.

28. On May 29, 2018, Respondent, by Smith, advised McQuiston that the Respondent would not honor AFGE's delegation of authority to local officials.
29. Since May 29, 2018, Respondent has failed and refused to recognize the Union's delegation of authority.
30. By the conduct described in paragraphs 28 and 29, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7102 of the Statute and violating Section 7116(a)(1) of the Statute.

WA-CA-19-0118

31. On October 18, 2018, Respondent, by Smith, notified the Union that it intended to implement a reorganization to the Office of Chief Information Officer.
32. On October 26, 2018, the Union requested to negotiate over the change described in paragraph 31.
33. On November 6, 2018, the Respondent refused to bargain over the change described in paragraph 31.
34. On or around January 6, 2019, the Respondent began implementing the change described in paragraph 31.
35. The impact of the change described in paragraph 31 is substantial.
36. Respondent implemented the change in unit employees' conditions of employment described in paragraph 31 without providing the Union with an opportunity to negotiate over the procedures and appropriate arrangements of the change.
37. By the conduct described in paragraphs 34 and 36, Respondent has been refusing to negotiate in good faith with the Union and violating Section 7116(a)(1) and (5) of the Statute.

SF-CA-19-0157

38. On or about November 20, 2018, the Union chief steward requested official time to work on pending representational matters.
39. On or about November 20, 2018, Respondent, by Loya, denied the request for official time described in paragraph 38.
40. On or about December 4, 2018, the Union chief steward requested official time to prepare a grievance.

41. On or about December 4, 2018, Respondent, by Loya, denied the request for official time described in paragraph 40.
42. On or about January 24, 2019, the Union chief steward requested official time to work on a pending EEO matter.
43. On or about January 24, 2019, Respondent, by Ordikhani, denied the request for official time described in paragraph 42.
44. By the conduct described in paragraphs 39, 41, and 43, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7102 of the Statute and violating Section 7116(a)(1) of the Statute.

WA-CA-19-0213

45. On February 21, 2019, Respondent, by Willis, advised Office of Civil Rights management of new performance standards implemented for bargaining unit employees.
46. The impact of the change described in paragraph 45 is substantial.
47. Respondent implemented the change in unit employees' conditions of employment described in paragraph 45 without providing the Union with notice and an opportunity to negotiate over the procedures and appropriate arrangements of the change.
48. By the conduct described in paragraphs 45 and 47, Respondent has been refusing to negotiate in good faith with the Union in violation of Section 7116(a)(1) and (5) of the Statute.

CH-CA-19-0295

49. On May 3, 2019, Respondent, through Smith, notified the Union that it intended to relocate the Chicago Regional Office from its location at 500 West Madison Street to 230 South Dearborn Street, approximately .8 of a mile away, on or about June 7, 2019.
50. On May 6, 2019, the Union requested to negotiate over the change described in paragraph 49.
51. On May 21, 2019, Respondent, through Smith, informed the Union that it would implement the change described in paragraph 49, without negotiating with the Union regarding the procedures and appropriate arrangements of the change.
52. On or about June 7, 2019, Respondent implemented the change described in paragraph 49.

53. The impact of the change described in paragraph 49 is substantial.
54. Respondent implemented the change in unit employees' conditions of employment described in paragraph 49 without providing the Union with an opportunity to negotiate over the procedures and appropriate arrangements of the change.
55. By the conduct described in paragraphs 52 and 54, Respondent has been refusing to negotiate in good faith with the Union and violating Section 7116(a)(1) and (5) of the Statute.

WA-CA-20-0025

56. On September 12, 2019, the Union submitted a completed dues-withholding authorization (SF-1187) to Respondent for Nathaniel Thomas, an employee in the bargaining unit described in paragraph 4.
57. From September 12, 2019, until November 10, 2019, Respondent failed and refused to honor the Union's delegation of authority to its Secretary-Treasurer to certify the dues withholding authorization (SF-1187) described in paragraph 56.
58. By the conduct described in paragraph 57, Respondent failed and refused to comply with its obligations under Section 7115(a) of the Statute to honor dues withholding authorizations and make appropriate allotments to the exclusive representative.
59. By the conduct described in paragraphs 57 and 58, Respondent has been violating Section 7116(a)(1) and (8) of the Statute.
60. By the conduct described in paragraph 57, Respondent has been interfering with, restraining, and coercing employees in the exercise of the rights guaranteed in Section 7102 of the Statute and violating Section 7116(a)(1) of the Statute.

WA-CA-20-0153

61. On January 23, 2020, Respondent, by Mark Brown, held a meeting with unit employees.
62. During the meeting described in paragraph 61, Respondent discussed personnel policies, practices or other general conditions of employment.
63. The meeting described in paragraph 61 was formal in nature.
64. Respondent did not afford the Union the opportunity to be represented at the meeting described in paragraph 61.

65. By the conduct described in paragraphs 61 through 64, Respondent has been failing and refusing to comply with Section 7114(a)(2)(A) of the Statute.

66. By the conduct described in paragraphs 61 through 65, Respondent has violated Section 7116(a)(1) and (8) of the Statute.

WA-CA-20-0154

67. On January 28, 2020, Respondent, by Thompson, held a meeting with unit employees.

68. During the meeting described in paragraph 67, Respondent discussed personnel policies, practices or other general conditions of employment.

69. The meeting described in paragraph 67 was formal in nature.

70. Respondent did not afford the Union the opportunity to be represented at the meeting described in paragraph 67.

71. By the conduct described in paragraphs 67 through 70, Respondent has been failing and refusing to comply with Section 7114(a)(2)(A) of the Statute.

72. By the conduct described in paragraphs 67 through 71, the Respondent has violated Section 7116(a)(1) and (8) of the Statute.

WA-CA-20-0219

73. On February 11, 2020, the Union requested that Respondent negotiate with the Union over Executive Orders 13836, 13837, and 13839, including procedures for using official time for employees in the bargaining unit described in paragraph 4.

74. The subject described in paragraph 73 is a mandatory subject of bargaining under the Statute.

75. Since February 28, 2020, Respondent has been refusing to negotiate with the Union over the subject described in paragraph 73.

76. By the conduct described in paragraph 75, Respondent has been refusing to negotiate in good faith with the Union and violating Section 7116(a)(1) and (5) of the Statute.

WA-CA-20-0365

77. On July 28, 2020, Respondent, through Smith, notified the Union that it intended to relocate the Dallas Regional Office from its location at 1999 Bryan Street to 1201 Elm Street, approximately one mile away, on November 2, 2020.



78. On July 29, 2020, the Union requested to negotiate over the change described in paragraph 77.
79. On August 10, 2020, Respondent, through Smith, informed the Union that it would implement the change described in paragraph 77, without negotiating with the Union regarding the procedures and appropriate arrangements of the change.
80. On January 13, 2021, Respondent implemented the change described in paragraph 77.
81. By the conduct described in paragraph 79, Respondent has been refusing to negotiate in good faith with the Union and violating of Section 7116(a)(1) and (5) of the Statute.

### **Answer Requirement**

Respondent is notified that, pursuant to Section 2423.20(b) of the Authority's Regulations, it must file an answer to the complaint. Respondent must file an original and four (4) copies of the answer with the Office of Administrative Law Judges, FLRA, 1400 K St., NW, Washington, DC 20424-0001 by **August 23, 2021**. See Sections 2429.24(d) and 2429.25(a) of the Authority's Regulations. Respondent must also serve a copy of the answer on the Region and the Union. See Section 2429.27 of the Authority's Regulations.

An answer may also be filed electronically through the Authority's website. See Section 2429.24(f) of the Authority's Regulations. To file an answer electronically, go to **www.flra.gov**, select **eFile** under the **Filing a Case** tab and follow the instructions.

The answer must admit, deny, or explain each allegation of the complaint. A failure to file an answer or respond to any allegation will, absent a showing of good cause, constitute an admission.

### **Notice of Hearing**

PLEASE TAKE NOTICE that on **November 2, 2021** at **9 a.m.**, in a manner and at a location to be determined, a hearing on this complaint will be conducted before an Administrative Law Judge of the Federal Labor Relations Authority. This is one of several cases scheduled for a calendar call. The calendar call procedures are attached. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The hearing procedures are described in Sections 2423.30 to 2423.34 of the Authority's Regulations. The prehearing procedures are described in Sections 2423.20 to 2423.28 of the Authority's Regulations.



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Jessica S. Bartlett  
Regional Director  
Federal Labor Relations Authority  
Washington Region  
1400 K Street, NW, Second Floor  
Washington, DC 20424-0001

Date: July 27, 2021

### CERTIFICATE OF SERVICE

Case No. WA-CA-18-0173, WA-CA-18-0305, WA-CA-18-0333, WA-CA-18-0338, WA-CA-18-0341, WA-CA-19-0118, SF-CA-19-0157, WA-CA-19-0213, CH-CA-19-0295, WA-CA-20-0025, WA-CA-20-0153, WA-CA-20-0154, WA-CA-20-0219, and WA-CA-20-0365

I hereby certify that on July 27, 2021, I served the foregoing COMPLAINT AND NOTICE OF HEARING upon the interested parties in this case in the manner indicated below:

The Honorable David Welch  
Chief Administrative Law Judge  
Office of Administrative Law Judges  
Federal Labor Relations Authority  
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Douglas J. Guerrin