



**UNITED STATES OF AMERICA  
FEDERAL LABOR RELATIONS AUTHORITY  
CHARGE AGAINST AN AGENCY**

**FOR FLRA USE ONLY**

Case No.

Date Filed

**1. AGENCY AGAINST WHICH CHARGE IS BROUGHT**

a. Name of Charged Agency (include address, city, state, & ZIP)  
U.S. Department of Housing and Urban Development  
451 Seventh Street, S.W.  
Washington, DC 20410  
Telephone: (202) 402-4275  
Fax: (202) 708-2155

b. Agency Representative (include name, title, address)  
Karen Newton-Cole, Deputy Chief Human Capital Officer  
451 Seventh Street, S.W., Room 2258B  
Washington, DC 20410  
Telephone: (202) 402-4275

tel. \_\_\_\_\_ fax \_\_\_\_\_  
e-mail \_\_\_\_\_

**2. CHARGING PARTY**

a. Name of Charging Party (include address, city, state, & ZIP)  
AFGE Council 222 of HUD Locals  
451 Seventh Street, SW, Room 3172  
Washington, DC 20410  
Telephone: (202) 402-5243

b. Charging Party Representative (include name, title, address)  
Holly Salamido, President, Council 222 of HUD Locals  
451 Seventh Street, SW, Room 3172  
Washington, DC 20410  
Telephone: (202) 402-5243

tel. \_\_\_\_\_ fax \_\_\_\_\_  
e-mail \_\_\_\_\_

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**3. BASIS OF THE CHARGE**

a. Set forth a clear and concise statement of the facts constituting the alleged unfair labor practice, including date and location of the particular acts.  
On October 16, 2014, local union officials in Fort Worth, Texas received an email from a concerned employee, stating that another agency employee had spent time with someone on a CDC Ebola "watch list." (See Exhibit A). The employee expressed concerns about interacting with her co-worker. Local union officials verified that the company mentioned by the HUD worker (Alcon) did, in fact, have an employee who was admitted to the hospital (Exhibit A). Local union officials sent an email to the local manager, asking that situational telework be instituted to respond to employee concerns.

That same day, October 16, 2014, in response to the specific concerns raised by employees in the Fort Worth, TX office, Council 222 of HUD Locals (the "Union") filed a Demand to Bargain over specific measures relating to the threat posed by the Ebola virus. The Demand to Bargain was carefully tailored to address the specific issues arising with regard to Ebola. For example, the Union requested a specific protocol that any employee on a CDC "watch list" and being monitored for exposure to Ebola, be permitted to telework from home (Exhibit B).

On October 16, 2014, the Union also requested a meeting with management officials at Headquarters in Washington, DC, to discuss measures that could be taken to respond to employee concerns. On the afternoon of October 16, 2014, the President of Council 222 of HUD Locals (the "Union"), Holly Salamido, met with Chief Human Capital Officer, Michael Anderson, (cont. on page 2)

b. Which subsection(s) of 5 U.S.C. 7116(a) do you believe the Agency has violated? (1)  (2)  (3)  (4)  (5)  (6)  (7)  (8)

c. Have you or anyone else raised this matter in any other procedure? No  Yes  If yes, where?  
 Grievance Procedure  Federal Mediation and Conciliation Service  Federal Service Impasses Panel  
 Equal Employment Opportunity Commission  Merit Systems Protection Board  Office of Special Counsel  
 Other Administrative or Judicial Proceeding  Negotiability Appeal to FLRA  Other \_\_\_\_\_

**4. DECLARATION**

I DECLARE THAT I HAVE READ THIS CHARGE AND THAT THE STATEMENTS IN IT ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT MAKING WILLFULLY FALSE STATEMENTS CAN BE PUNISHED BY FINE AND IMPRISONMENT, 18 U.S.C. 1001.

THIS CHARGE WAS SERVED ON THE PERSON IDENTIFIED IN BOX 1b BY [check all appropriate boxes]

In Person  1st Class Mail  Fax  Commercial Delivery  Certified Mail  e-mail (see reverse)

Holly Salamido

*Holly Salamido*

10/29/14

Type or Print Your Name

Your Signature

Date

(continuation of #6)

Deputy Chief Human Capital Officer, Karen Newton-Cole, Deputy Director of Employee and Labor Relations, Michael Stein, and another management official. Union representatives participating in the meeting by telephone included Salvatore Viola, Tracy Krebs, Marinella Murillo and Lorraine Chambers (the local Fort Worth Union official). At the meeting, the Union requested implementation of protocols for agency offices with an employee diagnosed with Ebola, or an employee on a CDC "watch list." The Union also requested participation in any meetings management had to discuss responses and/or protocols related to Ebola. Management refused, stating that management officials would meet on their own, and would not involve the Union.

On Friday, October 17, 2014, a manager from the Fort Worth office sent an email to employees, stating that information shared with management concerning a possible Ebola exposure to a HUD Fort Worth employee was "false." The manager indicated that any reports relating to Ebola exposure would be investigated by management "for validity." The Union immediately brought this to the attention of the Deputy Chief Human Capital Officer, Karen Newton-Cole, asking if this represented the policy of HUD (See Exhibit C). The Union received no response.

On October 21, 2014, the Union received an email from Employee Labor Relations Branch Chief, Dee Dee Hankinson, responding to the Union's Demand to Bargain (see Exhibit D). The Agency stated therein that they were refusing to bargain in response to the Union's October 16, 2014 demand, claiming that health and safety measures related to Ebola were covered by Article 26 of the parties' collective bargaining agreement, Supplement 99 to the collective bargaining agreement and the agency's "Pandemic Planning and Response Guidance."

Management's refusal to bargain and invocation of the "covered by" doctrine is clearly erroneous. First, Article 26 of the collective bargaining agreement contains only general provisions related to health and safety of employees (See Exhibit E). While Section 26.09 contains a provision concerning "imminent danger situations," it does not address communicable diseases, CDC watch lists, situational telework or other matters raised in the Union's Demand to Bargain.

The absence of any applicable provision in Article 26 is highlighted by the parties' negotiation of Supplement 99, the second document Ms. Hankinson refers to in her "covered by" claim. Supplement 99 is entitled "Pandemic Planning and Response Guidance" (See Exhibit F). The scope of that Supplement is clearly limited to Pandemic Flu outbreaks, however management's engagement in negotiations for Supplement 99 is an implicit acknowledgement that Article 26 of the collective bargaining agreement does not cover communicable diseases.

As to Ms. Hankinson's reference to the "Pandemic Planning and Response Guide," this is not a negotiated agreement, but a management document clearly marked "FOR OFFICIAL USE ONLY."

It is the Union's position that the emergence of the Ebola virus in the United States is a health and safety issue "not reasonably contemplated" by the parties at the time of negotiation of the collective bargaining agreement in 1998 or the Pandemic Flu Supplement in 2008. Management's refusal to bargain over health and safety measures specific to the Ebola threat is in bad faith and violates the parties' collective bargaining agreement and the Statute.

The Union advised management that their reliance on the "covered by" doctrine was misplaced, and asked that they reconsider their position; a lengthy memorandum was sent with this request on October 24, 2014, with citations to supporting caselaw (See, Exhibit H). No response has been received from management.

Relief Requested

1. Requiring the Agency to comply with their bargaining obligation, and come to the bargaining table in response to the October 16, 2014 Demand to Bargain;
2. Requiring the Agency to post, mail and read a notice to all employees of their violation of the Statute;
3. That management be directed to cease and desist from promulgating policy regarding this matter without negotiating with the Union; and
4. Any other relief deemed appropriate to make the Union whole.

Point of Contact for this Action:

Holly Salamido, President, Council 222 of HUD Locals  
451 Seventh Street SW, Room 3172  
Washington, DC 20410  
(202) 402-5243  
Email: holly.salamido@hud.gov