



UNITED STATES OF AMERICA
FEDERAL LABOR RELATIONS AUTHORITY

Charge Against an Agency

FOR FLRA USE ONLY

Case No.
eOGC011091

Date Filed
2022-06-08

1. AGENCY AGAINST WHICH CHARGE IS BROUGHT

a. Name of Agency (include address, city, state, & ZIP)
Name of Charging Party Organization or Individual - EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
N/A
Local Name of Charging Party Organization or Individual - Headquarters
City of Charging Party Organization or Individual - Washington
State of Charging Party Organization or Individual - DC

b. Agency Representative (include name, title, address)

First Name - Steven
Last Name - Schuster
Title - Senior Attorney Advisor - OCHCO
Street Address - 131 M Street, NE
Street Address 2 - N/A
City - Washington
State - DC
ZIP Code - 20507

tel. 202-921-3105 fax
e-mail Steven.schuster@eeoc.gov

2. CHARGING PARTY

a. Name of Charging Party (include address, city, state, & ZIP)
Name of Charging Party Organization or Individual - N/A
Name of Charging Party Organization or Individual - AFGE Council 216
Party Type of Charging Party Organization or Individual - Union
Local Name of Charging Party Organization or Individual - Council 216
City of Charging Party Organization or Individual - Miami
State of Charging Party Organization or Individual - FL

b. Charging Party Representative (include name, title, address)

First Name - Jadhira
Last Name - Rivera
Title - Council 216 2nd Vice President
Street Address - Street Address 2 - N/A
City -
State -
ZIP Code -
tel. fax
e-mail jadhira.rivera@eeoc.gov

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.

The Agency refused to bargain with the Union by unilaterally making and implementing changes to the Agency Safety Plan and accompanying Memorandum of Understanding (MOU) between the parties without first providing the Union notice and the opportunity to bargain. On March 15, 2022, the parties agreed to the Agency Safety plan and accompanying MOU between the parties which both explicitly state that there are occupancy limits that should be followed in EEOC's workplaces when local COVID-19 transmission rates are high or substantial, including that EEOC workplaces should be no more than 25% capacity during periods of high community transmission. In fact, EEOC currently has 15 offices in the HIGH COVID level. The agreed upon MOU also states that any changes will be noticed and bargained for with the Union. Yet, the Agency on their weekly COVID-19 Community Level Update sent agency-wide has repeatedly stated that "that there are no longer occupancy limits for EEOC offices. . . [t]his means that offices no longer need to limit the number of people to 25%." EEOC's unilateral change is substantially impacting working conditions, including health and safety of the workplace. Exposure incidents are occurring, including in offices in the HIGH level. The Union has not been provided with the opportunity to bargain over this substantial change to the Safety Plan. Status quo should be maintained until bargaining obligations have been met per the statute. This has resulted in a chilling effect that the Union has no involvement. By its actions, the Agency is interfering with, restraining, and coercing the exclusive representative in its ability to represent the bargaining unit.

b. Which subsection(s) of 5 U.S.C. 7116(a) do you believe the Agency has violated?

[X] (1) [X] (2) [X] (3) [X] (4) [X] (5) [X] (6) [] (7) [X] (8)

c. Have you or anyone else raised this matter in any other procedure?

No [X] 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]

[] Certified Mail [] Commercial delivery [X] e-mail (see reverse) [] Fax [] 1st Class Mail [] In Person

Jadhira Rivera

06/08/2022

Type or Print Your Name

Your Signature

Date

INSTRUCTIONS FOR COMPLETING FORM 22

General

Use this form if you are charging that a labor organization or its agents committed an unfair labor practice under paragraph (b) and/or (c) of section 7116 of the Federal Service Labor-Management Relations Statute. File an original form with the appropriate Regional Director, Federal Labor Relations Authority. If you do not know that address, contact the Office of the General Counsel, Federal Labor Relations Authority, (202) 218-7910. If filing the charge by fax, you need only file a fax-transmitted copy of the charge (with required signature) with the Region. You assume responsibility for receipt of a charge. A charge is a self-contained document without a need to refer to supporting evidence and documents that are also submitted to the Regional Director along with the charge. If filing a charge by fax, do not submit supporting evidence and documents by fax. See 5 CFR Part 2423 for an explanation of unfair labor practice proceedings and, in particular, §§ 2423.4 and 2423.6, which concern the contents, filing, and service of the charge and supporting evidence and documents.

Instructions for filling out each numbered box

#1a. Give the full name of the labor organization (including the name of the local and number and its national or international affiliation, if any) you are charging and the mailing address, including the street number, city, state, zip code. If you are charging more than one labor organization with the same act, file a separate charge for each labor organization.

#1b. Give the full name, title and other contact information for the labor organization's representative. Be as specific and as accurate as possible.

#2a. Give the full name of the Charging Party and the mailing address, including the street number, city, state, zip code. If a union, and affiliated with a national organization, give both the national affiliation and local designation. If an agency, give the name of the agency and, if applicable, component.

#2b. Give the full name, title, and other contact information for you or your representative. Providing all available contact information, especially e-mail addresses, will assist the investigation of your charge.

#3a. It is important that the basis for the charge be brief and factual, rather than opinion. Describe what happened that constitutes an unfair labor practice, who did it, where it occurred and when.

-Give dates and times of significant events as accurately as possible.

-Give specific locations when important, e.g., "The meeting was held in the auditorium of Building 36."

-Identify who was involved by title, e.g., "Chief Steward Pat Jones" or "Lou Smith, the File Room Supervisor."

-Tell what happened, in chronological order.

#3b. Identify which one or more of the following subsections of 5 U.S.C. 7116(b), and/or (c) has or have allegedly been violated. List all sections allegedly violated:

7116(b) For the purpose of this chapter, it shall be an unfair labor practice for a labor organization-

(1) to interfere with, restrain, or coerce any employee in the exercise by the employee of any right under this chapter;

(2) to cause or attempt to cause an agency to discriminate against any employee in the exercise by the employee of any right under this chapter;

(3) to coerce, discipline, fine, or attempt to coerce a member of the labor organization as punishment, reprisal, or for the purpose of hindering or impeding the member's work performance or productivity as an employee or the discharge of the member's duties as an employee;

(4) to discriminate against an employee with regard to the terms or conditions of membership in the labor organization on the basis of race, color, creed, national origin, sex, age, preferential or nonpreferential civil service status, political affiliation, marital status, or handicapping condition;

(5) to refuse to consult or negotiate in good faith with an agency as required by this chapter;

(6) to fail or refuse to cooperate in impasse procedures and impasse decisions as required by this chapter;

(7) (A) to call, or participate in, a strike, work stoppage, or slowdown, or picketing of an agency in a labor-management dispute if such picketing interferes with an agency's operations, or (B) to condone any activity described in subparagraph (A) of this paragraph by failing to take action to prevent or stop such activity; or

(8) to otherwise fail or refuse to comply with any provision of this chapter.

#3c. If you or anyone else that you know of has raised this same matter in another forum, check the appropriate box or boxes.

#4. Type or print your name. Then sign and date the charge attesting to the truth of the charge and that you have served the charged party (individual named in box #1b). Check the box or boxes for all the methods by which you served the charge. You may serve the charge by e-mail only if the Charged Party has agreed to be served by e-mail.