

June 18, 2003

MEMORANDUM FOR: Norman Mesewicz, Deputy Director, Labor and Employee
Relations Division, ARHL

FROM: Carolyn Federoff, President, Council of HUD Locals 222

SUBJECT: Grievance of the Parties
Non-duty hour travel

Please accept this grievance of the parties concerning management directed travel by employees during non-duty hours.

On Sunday, May 4, 2003, employees were required to travel to attend training. We believe that the requirement to travel on Sunday is a violation of the HUD/AFGE Agreement, law, rule and regulation.

Section 25.02(1) of the HUD/AFGE Agreement states:

Management shall, to the maximum extent practicable, schedule administratively controllable travel to occur within each employee's standard weekly working hours.

Section 610.123 of 5 C.F.R. states:

Insofar as practicable travel during nonduty hours shall not be required of an employee. When it is essential that this be required and the employee may not be paid overtime under Section 550.112(g) of this chapter the official concerned shall record his reasons for ordering travel at those hours and shall, upon request, furnish a copy of his statement to the employee concerned.

We further believe that the requirement to travel during non-duty hours: 1) is a violation of the employees' right to direct and pursue their private lives without interference, coercion or discrimination by Management, in violation of Section 4.01; and 2) manifests a failure to treat employees with the utmost respect resulting in an adverse impact on employee morale, in violation of Section 4.06.

Additionally, we believe that employees who are or should be covered by the Fair Labor Standards Act did not receive compensation for travel as passengers on a non-workday during hours that correspond to their regular working hours, in violation of the HUD/AFGE Agreement at Section 25.03.

Finally, we believe that this is part of a pattern and practice by the agency to violate the HUD/AFGE Agreement, law, rule and regulation regarding non-duty hour travel.

As remedy, we seek:

- 1) to the maximum extent permitted by law, all employees who are or should be covered by the Fair Labor Standards Act be awarded back pay, interest, etc. for all non-duty hour travel ordered by

management in connection with travel ordered for May 4, 2003;

- 2) because this is part of a pattern and practice of violation, to the maximum extent permitted by law, all employees who are or should be covered by the Fair Labor Standards Act be awarded back pay, interest, etc. for all non-duty hour travel ordered by management at any time during the employees' tenure with HUD;
- 3) for all travel in the future, Management must make a decision regarding compensation no later than one week prior to the travel, and if no compensation will be provided, the employee must be advised that the travel during non-duty hours is voluntary. Employees will be allowed to travel during duty hours, and Management may take no retaliation of any kind against an employee exercising his/her right to travel during duty hours.
- 4) and such other relief as may be just.

In order to determine the full extent of the problem, including the possibility of additional violations, please provide the following information:

- 1) In connection with the May 4 travel:
 - a. Were employees advised that travel during non-duty hours would be voluntary?
 - b. Please provide a copy of the statement made pursuant to 5 C.F.R. Section 610.123 supporting management's decision that travel during non-duty hours was "essential."
 - c. Please provide a list of all persons who traveled on May 4, including their name, position, series, grade and FLSA status, and advise if they were compensated for non-duty hour travel. If any person is GS-11 or below and the agency has determined that s/he is FLSA exempt, please provide a copy of the person's position description.
- 2) In order to establish that this is part of a pattern and practice and in order to secure monetary relief:
 - a. For the last three years, please provide a complete list of all employees who traveled during non-duty hours;
 - b. For each employee identified, please provide a copy of the statement made pursuant to 5 C.F.R. Section 610.123 supporting management's decision that travel during non-duty hours was "essential."
 - c. For each employee identified, please provide his/her name, position, series, grade and FLSA status, and advise if s/he was compensated for non-duty hour travel. If any person is GS-11 or below and the agency has determined that s/he is FLSA exempt, please provide a copy of the person's position description.

After review of the requested information, we may identify additional violations. We reserve the right to amend this grievance accordingly.

Please contact me to discuss resolution of this matter.

cc: Council 222 Executive Board
and Local Presidents

