

NTEU

The National Treasury Employees Union

November 1, 2011

VIA E-MAIL AND FIRST CLASS MAIL

Ms. Jacqueline Thomas Clay
Director, Division of Workforce Relations
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Suite 801
Washington, D.C. 20201

**RE: National Institutional Grievance regarding the Agency's Failure to Process
Union and/or Employee Grievances**

Dear Ms. Clay:

Pursuant to Article 45, Sections 8.C and D of the 2010 HHS-NTEU Consolidated Collective Bargaining Agreement ("CBA"), the National Treasury Employees Union ("NTEU" or "union") hereby files this national institutional grievance. NTEU alleges that the U.S. Department of Health and Human Services ("HHS" or "agency") has failed to process grievances filed by the union and/or employees in accordance with Article 45 of the 2010 HHS-NTEU Consolidated CBA. As such, this action constitutes a violation of Article 45. Examples of HHS' failure to process grievances include, but are not limited to: not specifying the Deciding Official to whom the grievance may be appealed; not adhering to the grievance response time frames; and regularly refusing to process grievances through the negotiated step process based on the claim that such grievances lack specificity and/or that the grievance does not include "all known and alleged facts." As HHS is aware, the grievance procedures contained in Article 45 require the grieving party to provide sufficient notice of the claims and were never intended to require the union/employee to meet standards concerning the disclosure of evidence. NTEU further alleges that the agency's refusal to process grievances is a direct attempt to interfere with and/or restrain bargaining unit employees from exercising their statutory and contractual rights.

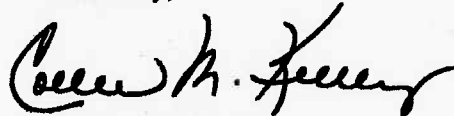
The agency's failure to process union and/or employee grievances also constitutes an unfair labor practice pursuant to 5 U.S.C. § 7116 (a) (1) and (5) because HHS has repudiated and/or patently breached provisions of the 2010 HHS-NTEU Consolidated CBA. Additionally, HHS' actions also constitute an unfair labor practice pursuant to 5 U.S.C. § 7116 (a) (1) and (8) as the agency's refusal to process grievances is in direct violation of 5 U.S.C. § 7121(b) (1).

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As a remedy, NTEU requests that HHS cease and desist violating the 2010 HHS-NTEU Consolidated CBA and immediately commence processing union and/or employee grievances, including those grievances that have already been rejected by the agency, consistent with federal law, rule, and regulation.

NTEU reserves its right to supplement this grievance as additional facts and violations become known. Our representative in this matter will be Alexa Rukstele, Assistant Counsel for Negotiations. She can be contacted via phone at 202-572-5500, extension 7042, or by e-mail at alexa.rukstele@nteu.org

Sincerely,



Colleen M. Kelley
National President

cc: Ken Brown
Jennifer Flores
Alexa Rukstele