

December 22, 2021

MEMORANDUM

TO: HHS Chapter Presidents

RE: ULP Grievance Regarding HHS Breach of Fair Labor Standards Act Settlement Agreement

SUMMARY: NTEU has filed an unfair labor practice grievance alleging that HHS has breached a 2018 Fair Labor Standards Act settlement agreement.

NTEU filed an unfair labor practice (ULP) grievance today alleging that HHS has breached a May 2018 settlement agreement. Under that agreement, HHS was required to designate all Program Specialists in the Administration for Children and Families, GS-13 and below, as covered by the Fair Labor Standards Act (FLSA). Pursuant to the 2018 agreement, more than 250 employees were properly redesignated as FLSA nonexempt, entitling them to the FLSA's time-and-a-half overtime rate. Many of those employees received back pay and matching liquidated damages.

NTEU filed an FLSA grievance on September 22, 2021, arguing that Program Specialists (Case Management) and Case Management Program Specialists should be designated as FLSA nonexempt. See Chapter Presidents' memo dated September 23, 2021. NTEU has since learned, however, that the Program Specialist (Case Management) position should have been redesignated as FLSA nonexempt under the 2018 agreement, but was not. NTEU has therefore filed a ULP grievance alleging that HHS's failure to redesignate this position as FLSA nonexempt was a breach of the 2018 agreement.

This grievance is one of NTEU's many ongoing efforts to ensure that HHS employees receive proper overtime compensation under the FLSA. NTEU recently concluded an arbitration hearing on the FLSA designation of HHS Investigators within the Office for Civil Rights. And on December 17, 2021, NTEU filed an FLSA grievance for Equal Opportunity Specialists in the same office.

Anthony M. Reardon
National President

Attachment