

Changes to the CBA due to EO 14003

MEMORANDUM of UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING (MOU) is between the USDA Forest Service for Schenck and Lyndon B. Johnson Job Corp Centers (Management) and The American Federation of Government Employees/ AFGE Local #446 (Union) hereafter referred to collectively as “the Parties.” This MOU is a Supplemental Agreement under Article 10 of the 2019 Collective Bargaining Agreement between the Parties, and it documents the Parties’ full and final agreement on the negotiable topics as stated in Executive Order 14003 dated January 22, 2021.

Therefore, the Parties have agreed to the following in this Memorandum of Understanding:

- 1) It is agreed that the CBA language listed below, which derived from Executive Orders 13836, 13837 & 13839, are hereby rescinded and considered DELETED from the current CBA.**

Article 5. 6. b: Union Rights and Representation

Union officials who are Agency employees shall spend the majority of their paid time performing Agency business or attending necessary assigned training in order that they develop and maintain the skills necessary to perform their Agency duties at a successful performance level.

This provision is related to EO 13837 requirement that federal employees should spend the clear majority of their duty hours working for the public.

Article 5. 7. b. 4: Union Rights and Representation

b. A request for release to perform representational duties may be denied or delayed for

4. The union representative has not been performing the majority of their employed time performing agency business or ensuring that they develop and maintain the skills necessary to perform their agency assigned duties at the fully successful performance level.

This provision is related to the EO 13837 requirement that federal employees should spend the clear majority of their duty hours working for the public.

Article 7. 1. b.: Union Office Space and Equipment

b. Use of government equipment, facilities and services may be made available to the Union on a limited basis for performing representational work on official time.

This provision is related to the EO 13837 requirement that prohibited Agencies to permit the free or discounted use of government property or other agency resource.

Article 7. 2. a-b.: Union Use of Electronic Communication (EC) Systems

a. Designated Union officials may be authorized to use EC systems on official time for representational purposes as defined in Article 5.6 (c). Such use is not permitted for internal union business.

b. Union use of EC systems will comply with all existing rules, regulations, and standards of employee responsibilities and conduct, including USDA DR 4070-735- 001. EC systems are defined as the current and future computer systems and software, fax, cellular phones and land-line phone systems. Union use of EC systems that management determines is a violation of Agency policies, laws and regulations will be discontinued.

This provision is related to the EO 13837 requirement that prohibited Agencies to permit the free or discounted use of government property or other agency resource.

Article 8.3. f. h. j: Grievance Procedure

Grievance Exclusions

f. The assignment of a performance rating of record that is Superior or higher;

h. An award in any form of incentive pay; including cash awards; quality step increases; or recruitment, retention or relocation payments.

j. Separation or reduction-in-grade action taken under 5 U.S.C. 7515

(Adverse Actions) or 5 U.S.C. 4303 (Unacceptable Performance). Employees may have appeal rights for these actions.

These provisions are related to the requirement in EO 13839 to remove awards, performance ratings and removals from the negotiated grievance procedure.

2) The Parties agree to “replace” the CBA language above with those articles and sections of the CBA identified below with the agreed to new language.

Article 5. 6. b: Union Rights and Representation

Union officials who are Forest Service employees will be granted reasonable amounts of official time to perform the representational functions listed in 5.6.a. The actual amount of time to be used may vary in each situation.

Article 5. 7. b. 4: Union Rights and Representation

b. A request for release to perform representational duties may be denied or delayed for the following reasons:

1. Insufficient information provided in release request to determine a reasonable amount of time and if the release is necessary and/or in the public interest;

2. To meet immediate workload needs and the agency mission, goals and objectives;

3. Emergency or staff safety situations.

Article 7. 1. b.: Union Office Space and Equipment

- a. The Union shall be responsible for the proper use and care of the facilities, services and equipment provided in this Article.
- b. Upon request AFGE Local 0446 shall be provided reasonable office space and equipment at Schenck and LBJ Job Corps Center suitable to conduct representational functions. Union office shall be reasonably private and to assure confidentiality of records and conversations. Office equipment will include telephone service, telecommunications (electronic communications, fax, etc.) and standard office furniture.
- c. If future concerns over space arise, the PARTIES will sit down and negotiate another area for Union consistent with the above language.

Article 7. 2. a-b.: Union Use of Electronic Communication (EC) Systems

- a. Union Officials employed by the Forest Service will be allowed to use electronic communications systems (EC) to communicate to all employees of the Schenck and LBJ Job Corps Centers, and Union members as provided for in this section. Use of EC systems will be consistent with applicable laws and regulations. EC systems are defined as the current and future computer system, fax, Wi-Fi and land-line phone systems. Additional EC systems may be furnished by the Forest Service. (i.e. cellular phones, laptops) subject to negotiations.
- b. Union Officials will be authorized to use EC systems for representational purposes, Internal Union business for such purposes as information sharing and to prepare/send newsletters and emails.

Article 8.3. f. h. j: Grievance Procedure

Grievance Exclusions

- a. Any claimed violation of Title 5, Chapter 73, Subchapter III, relating to prohibited political activities (Hatch Act);
- b. Retirement, life insurance, or health insurance;
- c. A suspension or removal under 5 U.S.C. 7532 (national security reasons);
- d. Any examination or certification administered by the Office of Personnel Management;
- e. Appointments;
- f. The classification of any position that does not result in the reduction in grade or pay of any employee;
- g. Reduction-in-Force or furloughs of more than 30 days;
- h. Separations during a probationary or trial period;
- i. Bills of Collection issued to employees, which are covered by special process in Article 21, Section 10;
- j. Collections from accountable officers (unless case law allows it to be grieved);

k. Determinations of exempt/nonexempt status and claims for compensation under the Fair Labor Standards Act

This MOU becomes effective on the date of final approval by the Agency Head, or that date on which the thirty (30) day time limit for Agency Head review expires, whichever is earlier. This MOU will terminate when the new Collective Bargaining Agreement is renegotiated at the end of its term.

**ARTHUR
PHALO**

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ARTHUR PHALO
Date: 2021.07.14 17:06:47
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ARTHUR PHALO
Center Director
Lyndon B. Johnson

July 14, 2021

DATE

**Angela C
Surrette 361162**

Digitally signed by Angela C
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CHRISTINE SURRETTE
AFGE President
Local #446

DATE