

MAY 1994

U.S. DEPARTMENT OF JUSTICE**FEDERAL BUREAU OF PRISONS****1. Grievant(s)**

AFGE Locals - 405, 408, and 3696 (on behalf of all affected bargaining unit members)

2. Duty Station:Federal Bureau of Prisons
FCC Butner, North Carolina**3. Representative of Grievance(s)**Julius Pyles, President, AFGE Local 405
Anthony Little, President, AFGE Local 408
Clarence Peace, President Local 3696
Heidi R. Burakiewicz, Mehri & Skalet, PLLC**4. Informal resolution attempted with**
Complex Warden Atkinson**5. Federal Prison system Directive, Executive Order, Statute violation:**

The Unions allege that the Agency is violating the Master Agreement between the Federal Bureau of Prisons and the Council of Prison Locals including, without limitation, Article 3, Section b; Article 6, Section b(2). This is a violation of the premium pay laws regarding Hazard Pay and Environmental Differential Pay under Title 5, 5 U.S.C. § 5545 and 5 U.S.C. § 5343, and implementing regulations such as 5 C.F.R. § 550.901-907; and 5 C.F.R. § 532.511.

6. In what way were each of the above violated? Be specific.

The Unions allege that the Agency has failed to properly compensate bargaining unit employees entitled to Hazard Pay (GL employees) or Environmental Differential Pay (WS employees) for being exposed to hazardous working conditions during the outbreak of the Norovirus at FCC Butner, in violation of Title 5. A GL employee is entitled to Hazard Pay when he or she is exposed to hazardous working conditions that were not taken into account in the classification of their positions, such as virulent biologicals like the Norovirus. A WS employee is entitled to Environmental Differential Pay when he or she is exposed to unusually severe working conditions or hazards, such as micro-organisms like the Norovirus. Employees are entitled to Hazard Pay and Environmental Differential Pay for both regular hours and overtime hours worked. The Agency has failed to pay bargaining unit employees hazard pay or environmental differential pay for their exposure to hazardous working conditions during the Norovirus outbreak.

7. Date(s) of violation(s)

This violation is continuing and ongoing. Pursuant to Title 5's statute of limitations, the recovery period extends back to six years prior to the date the grievance is filed and into the future until the grievance is resolved and/or the violation stops. As such, the recovery period would extend back to April 6, 2009 and continuing into the future until the issue/grievance is resolved. To the best of the Unions' knowledge, the Norovirus outbreak at FCC Butner began in March 2015. If this is accurate, the recovery period would begin on the date bargaining unit employees were exposed to the hazardous working conditions and end on the date the hazardous working conditions concluded.

8. Request remedy (i.e., what you want done)

The Unions seek any and all relief available as a result of the Agency's failure to follow the Master Agreement and applicable laws as set forth above. The Unions request the Agency correct its practices to be compliant with applicable laws. The Unions request that each affected bargaining unit employee who expresses an interest in receiving damages by signing the Unions' required forms be made whole in every way including, without limitation, an award of backpay; restoration of sick leave for all bargaining unit staff affected by the Norovirus; taxes; interest; and attorney's fees and costs, pursuant to the Back Pay act. 5 U.S.C. § 5596.

9. Person with whom filed

John F. Caraway

10. Title

Regional Director

11. Signature of recipient**12. Date signed****I hereby certify that efforts at informal resolution have been unsuccessful.****13. Signature of Grievant(s)**

Julius Pyles /DED
Anthony Little /DED
Clarence Peace /DED

14. Signature of Representative

Julius Pyles /DED
Anthony Little /DED
Clarence Peace /DED