

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 *J. Pyles*
Edwin Kirtom, 1st Vice President, AFGE Local 408
Clarence Peace, President Local 3696 *C. Peace*
Heidi R. Burakiewicz, Mehri & Skalet, PLLC

4. Informal resolution attempted with

Complex Warden Kenny 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), (3); Article 18, Section 1(2); and Article 27, Section h. This is a violation of bargaining unit employees' right to be reasonably accommodated for work and non-work related injuries, as required by the Federal Employee's Compensation Act (FECA), 5 U.S.C. § 8151, 20 C.F.R. 10.505, and 20 C.F.R. 10.507; and the Rehabilitation Act, 29 U.S.C. § 701, et seq, and 29 C.F.R. 1614.203; as well as Program Statement 1601.04, Worker's Compensation Program.

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

The Unions allege that the Agency has failed to lawfully accommodate bargaining unit employees who have suffered work-related or non-work-related injuries. The Agency has failed to provide modified job duties to accommodate bargaining unit employees' work-related injuries, or offered bargaining unit employees a light duty or temporary assignment of duty (TAD) position that accommodates the work-related injury, in violation of FECA. The Agency has also failed to provide reasonable accommodations to bargaining unit employees with non-work-related injuries, or offered bargaining unit employees a vacant, light duty positions, in violation of the Rehabilitation Act. For example, there are multiple light duty positions that injured bargaining unit employees can perform at FCC Butner, such as monitoring inmate phone calls, working in the mail room, or in the computer lab. However the Agency is not offering these positions to injured bargaining unit employees, who then have to used sick leave or LWOP because the Agency failed to lawfully accommodate their injuries. Further, injured bargaining unit employees are prevented from working overtime shifts.

7. Date(s) of violation(s)

This violation is continuing and ongoing.

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

The Union seeks any and all relief available as a result of the Agency's failure to follow the Master Agreement and applicable laws set forth above. The Union requests that the Agency correct its practices to be compliant with applicable law. The Union requests that each affected bargaining unit employee who expresses an interest in receiving damages by signing the Union's required forms be made whole in every way, including, without limitation, back pay, including for overtime shifts the Agency prevented the employee from working; restoration of leave; taxes; interest; and attorneys' fees and costs, pursuant to FECA and the Rehabilitation Act as well as any other relief the Arbitrator determines is warranted.

9. Person with whom filed
John F. Caraway

10. Title
Mid-Atlantic 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)
J. Pyles, President Local 405
C. Peace, President Local 3696

14. Signature of Representative

C. Peace *Proctor 23121*

Pyles, Sec Treasurer for E. Kirtom Local 408
Pyles, Sec Treasurer for E. Kirtom Local 408