

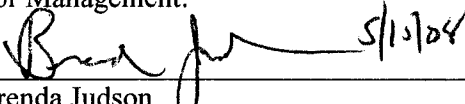
SETTLEMENT AGREEMENT BETWEEN
U.S. DEPARTMENT OF LABOR
NATIONAL COUNCIL OR FIELD LABOR LOCALS
Re: ARB-OSHA-0207254

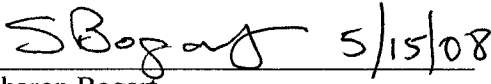
OSHA recognizes and supports the opportunity for employees to perform work at sites other than their official duty station. Nothing in this Agreement will curtail the current use of episodic flexiplace as defined in Article 28 of the DOL-NCFLR Agreement. In settlement of the above referenced arbitration case, the U.S. Department of Labor, Occupational Safety and Health Administration/Region II (the Agency) and the National Council of Field Labor Locals, Local 2513 (the Union), agree to the terms listed herein.

1. The parties mutually agree to foster the furtherance of episodic flexiplace in the OSHA Region II offices by providing guidance to managers and employees on its use.
2. Guidance on flexiplace will be developed by a labor-management workgroup. It is anticipated that the guidance provided by this workgroup will facilitate new pilot program initiatives, as contemplated in Article 28, Section 2. The group will consist of an equal number of management and union participants. Human Resources staff will also attend the meeting to provide technical guidance to the workgroup.
3. The local union president will have the opportunity to review recommendations prior to a final decision. The OSHA Regional Administrator will have final authority on issuing the guidance.
4. The workgroup will meet within 45 days of the signing of this Agreement. The workgroup will make maximal use of teleconferencing and e-mail to accomplish the work of the group with minimal expenditure of resources.
5. Management agrees to disseminate the guidance to Region II employees.
6. The parties recognize that technology advances in the future may increase the portability of work and provide additional opportunities for flexiplace arrangements.
7. Management agrees to grant the NCFLR one hour of official time semi-annually to meet with employees in each office to facilitate usage of episodic flexiplace. The parties agree that no travel costs will be paid for this purpose.
8. Nothing in this Agreement should be construed as a concession by either party on the grievability/arbitrability of this matter.


Signature of the Parties:

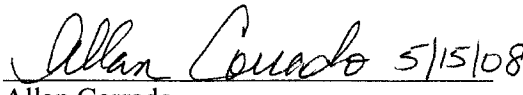
For Management:

 5/15/08
Brenda Judson
Assistant Regional Administrator

 5/15/08
Sharon Bogart
Employee Relations Manager

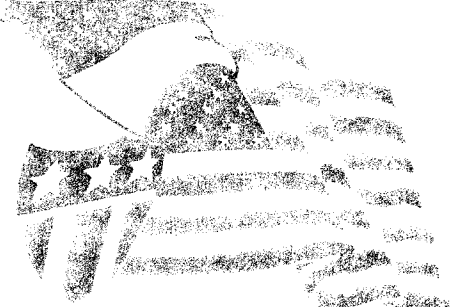
For the Union:

 5/15/08
Nancy Nolan
NCFLR President, Local 2513

 5/15/08
Allan Corrado
NCFLR, Executive VP, Local 2513

COPY

NCFLLL



Date: 10-2-07

Ms. Sandy Keppley, Director
OELMR
U.S. Dept. of Labor
200 Constitution Ave, N.W.
Rm. N5470
Washington, D.C. 20210

National Council of Field Labor Locals, AFGE, AFL-CIO

RE: GRN-OSHA-02-07-254
(NCFL)

Dear Ms. Keppley,

In accordance with Article 15 of the collective bargaining agreement, the NCFLL invokes arbitration in the above referenced case.

~~Mr~~/Ms Nancy Nolan will be the NCFLL representative in this issue. All future correspondence should be directed to them.

If you have any question regarding this invocation or if any problems arise in the processing of this case, please advise.

Sincerely,

Richard W. Coon, Chairman
NCFLL Arbitration Committee

CC. H. Smith
D. DeMay
N. Nolan

Flexiplace

- Officers
- Ron Yarmen
President
- Jim Weyrauch
Executive Vice President
- Hugh Smith
Treasurer
- Eric Ramirez
Recording Secretary
- Barbara Brandt
Vice President
- Richard Coon
Vice President
- Bennis DeMay
Vice President
- Bill Henson
Vice President
- Roger Jackson
Vice President
- Nancy Nolan
Vice President
- Dampster Wheeler
Vice President

Visit our Web site at:
www.NCFL.org

AFGE LOCAL 2513
AFL-CIO

P.O. Box 7051
Syracuse, NY 13261



August 30, 2007

Mr. Richard Coon, Chair
NCFL Arbitration Committee
P.O. Box 25367
Denver, CO 80225

Dear Richard,

Enclosed is an institutional grievance along with OSHA management and OELMR's responses. This grievance was filed in December 2006. The grievance involves the failure of OSHA Region 2 to approve episodic flexiplace.

The grievance was filed with the Area Director of the Manhattan Area Office for OSHA as the DOL/NCFL contract requires episodic flexiplace requests to be worked out between employees and their supervisor.

Article 28, Section 9 of the contract states further that:

Nothing in Article 28, Section 9 will interfere with the Union's right to file an institutional grievance, as described in Article 15, seeking relief regarding the application of Article 28.

As the grievance states [pertaining to Region 2 OSHA]:

...episodic flexiplace is rarely, if ever, allowed. The Union has asked management numerous times at LMR meetings if they support the use of episodic flexiplace and they have responded by saying they do. However, documents provided to the union at these meetings in recent years indicate a limited number of times (less than a total of 20 individual instances per year) where episodic flexiplace has actually been allowed to be utilized by bargaining unit employees in Region 2.

In January 2007, at the Regional LMR, a meeting was held with management and the union on this grievance. The Manhattan AO agreed to run a "pilot" as anticipated in the new collective bargaining agreement. This pilot began in April 2007 and ran through mid-May 2007. At the end of the "pilot" it was agreed that the union and management would reconvene to discuss the outcome.

At the January grievance meeting the Union noted that if no negative impact was reported from the pilot the Union anticipated that Flexiplace would be 'rolled out' to all the OSHA Region 2 Area Offices, as stated in the Remedy Desired section of the grievance.

It is now 3+ months since the flexiplace pilot was concluded and no further dialogue has taken place between the parties regarding the results of the pilot. Employees in the OSHA Manhattan office who have requested episodic flexiplace subsequent to the end of the flexiplace trial are being told that the 'pilot' has ended!

Courtesy of the
National Council of Field Labor Locals

www.NCFL.org **Where America Works... We're Working for You**

I forwarded this grievance to the National Office – OELMR on August 2, 2007. At Ms. Owens request I agreed to wait until August 31, 2007 for a reply from the OELMR. I received their response on August 28, 2007.

The response is absurd, lacking any logical nexus between the events cited and this grievance.

Before OELMR's interpretation of Article 28 or its grievability becomes an acceptable practice I would ask that the committee take action and invoke arbitration for the enclosed grievance. If you have any questions please feel free to contact me. I have already discussed it with Denny DeMay. Thank you for your consideration.

In solidarity,

Nancy A. Nolan
President, AFGE #2513

AFGE LOCAL 2513

AFL-CIO
P.O. Box 7051
Syracuse, NY 13261
(315) 448-0624



August 2, 2007

Ms. Sandra Keppley
Director, Labor Relations
USDOL-OASAM-OELMR
200 Constitution Av. N.W.
Washington, D.C. 20010

COPY

Dear Ms. Keppley,

Enclosed is a copy of an institutional grievance filed with OSHA, NY on Article 28 - Flexi-place.

During the week of the January 2007 LMR in Manhattan a meeting was held with Brenda Judson OSHA ARA, and Richard Mendelson, Manhattan AD to discuss this grievance. Our Labor Relations officer, Peter Beil, also attended this meeting.

Management and the Union did reach an agreement to "Pilot" the use of flexi-place starting in the Manhattan Area Office. At that time it was agreed that the pilot would run for a one month period beginning in April 2007. At the end of that pilot period there would be an evaluation of the program and a report would be provided to the Union on the outcome. The union noted at that meeting that it was our position, as requested in the grievance, that barring any major difficulties encountered in this pilot we would anticipate expanding flexi-place opportunities to all Area Offices in the NY Region.

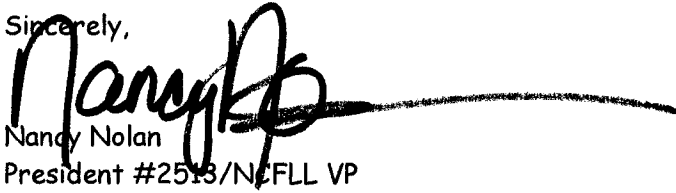
The pilot actually ran in the Manhattan AO from April 1 through May 14, 2007. In June the parties met again at our semi-annual LMR. The pilot was discussed briefly and a report was not provided but promised. It is now August and we are fast approaching the 3 month mark on the end of the pilot with no report in sight.

I think it is important to note that within days of the pilot ending in Manhattan one of the bargaining unit employee's in that office was denied flexiplace based on the fact that "the pilot has ended" and no discussion had been held with the Union on the outcome. While that misunderstanding of the contract article appears to have been cleared up we still do not have any idea what the Agency's position on pilot is/was. And, I feel compelled to add, OSHA Region II's understanding of their contractual obligation on this matter seems to continue to progress at a glacial pace.

I am forwarding this information to your office in hopes that this matter can be resolved rather than arbitrated. I would be happy to discuss this matter further with you. if you

have any questions please feel free to contact me at (315) 448-0624. Thank you in advance for any assistance you can provide.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy Nolan", with a long horizontal flourish extending to the right.

Nancy Nolan

President #2513/NCFL VP

Nolan, Nancy - ESA

From: Nolan, Nancy A - OASAM

Sent: Tuesday, August 28, 2007 11:14 AM

To: Nolan, Nancy - ESA

Subject: FW: Grievance Response -regarding Flexiplace Grievance dated August 2, 2007 (GRN-OSHA-02-07-254)

From: Owens, Yolanda - OASAM

Sent: Tuesday, August 28, 2007 11:13:28 AM

To: Nolan, Nancy A - OASAM

Cc: Beil, Peter - OASAM; Maldonado, Cecimil - OSHA

Subject: Grievance Response -regarding Flexiplace Grievance dated August 2, 2007 (GRN-OSHA-02-07-254)

Auto forwarded by a Rule

Nancy,

This is in response to the August 2, 2007 grievance concerning flexiplace for a group of employees. There are several threshold issues; first, the matter is not grievable because it was previously challenged under the unfair labor practice procedure (FLRA Case No. CH-CA-07-0487). The FLRA statute prohibits raising the same matter in two forums. The ULP practice charge alleging a violation of Article 28 was filed on March 9, 2007. The FLRA Regional Director dismissed the charge on June 20, 2007. Subsequently, this grievance was initiated also alleging a violation of Article of 28. The grievance is barred by 5 USC 7116(d) because the unfair labor practice charge was filed first.

Second, Article 15, Section 2.B.h specifically excludes grievances over individual participation in a Flexiplace Program. Article 28, Section 9 provides a method of dispute resolution when supervisors and employees cannot agree on participation. It further provides that management's decisions are final and binding. This grievance circumvents that procedure.

Third, the matter is procedurally defective as a Union-filed Employee grievance. Article 15, Section 7.D.2 defines a Union-filed Employee grievance as a grievance that seeks personal relief for an individual or group of employees. The grievance seeks that OSHA Region 2 employees participate in episodic flexiplace. Article 15, Section 7.D.2a. requires mutual agreement by the parties in order for the Union to file a Union-filed employee grievance.

I am in the process of working with Pete regarding your concerns of management's evaluation of the April 1 thru May 14, 2007 pilot. I will keep you updated as I receive progress.

Based on the above, the grievance is denied.

Thanks
Yolanda
202-693-7689

DOL/NCFLG Grievance Form

Name of Grievant: Institutional	Region: II – NY Agency: OSHA – Manhattan Area Office
Name of NCFLG Representative [if any]: Nancy Nolan, Vice President NCFLG	Date of Alleged Violation: Ongoing
Alleged Violation(s) – Contract Article(s), Section(s), Subsection(s), Regulation(s), or Working Conditions: Article 28 Flexi-place - Section 1 and Section 3A	
Nature and Facts of Grievance: On August 7, 2006 District Director, Richard Mendelson of the Manhattan AO sent the following email in response to a question raised by Shop Steward, Peter Steinke regarding flexiplace <div style="margin-left: 40px;"> From: Mendelson, Richard - OSHA Sent: Monday, August 07, 2006 11:34 AM Subject: RE: Flexplace </div> First of all, thanks for this very detailed and well thought out e-mail. As I have discussed with Al & Tony P, episodic flexiplace is available for him (and others). The specific days need to be worked out & agreed upon between the individual employee and his supervisor. Many of the points which you raised are valid considerations. I would like to note that there are distinct differences between our office (covering 2 counties) and the Englewood AO, which covers more than 1/2 of the State of Colorado. We cannot have a situation where CSHOs are not around, and would have to come in to the office to get a GOV, etc., if an assignment comes up. The handling of telephone calls & NFCs would also be inequitable (i.e., those not in the office would share less of the load). That said, a CSHO that is performing work that could be done remotely (i.e., writing up a fatality, doing research) may be able to perform that work remotely. Your points about the NCR connectivity are well founded. We have a few laptops, but they do not permit CSHOs to access the NCR remotely (also cannot be done via Citrix). Therefore, writing up multiple 1Bs may not be that much of a time savings, as opposed to a fatality narrative, interviews, etc.. Bottom line: episodic flexi place may be used when appropriate. I would be happy to try an experiment for several days to see how it works, and then adjust as needed.	
<hr/> The Union is aware that no bargaining unit employees in OSHA Region 2 have participated in a formal flexiplace arrangement in Region 2 for over a decade. In addition episodic flexiplace is rarely, if ever, allowed. The Union has asked management numerous times at LMR meetings if they support the use of episodic flexiplace and they have responded by saying they do. However, documents provided to the union at these meetings in recent years indicate a limited number of times (less than a total of 20 individual instances per year) where episodic flexiplace has actually been allowed to be utilized by bargaining unit employees in Region 2. This local has a signed Memorandum of Understanding that contains language providing a means to maximize the potential of using episodic flexiplace (see attached MOU, item #4).	

DOL/NCFLLE Grievance Form

However, use of episodic flexiplace continues to be denied and no bargaining unit employee in the Manhattan AO has had the opportunity, subsequent to Mr. Mendelson's memo, to participate in episodic flexiplace on an experimental or otherwise basis.

Remedy Desired:

Initiate a pilot program, as recommended but never implemented in Mr. Mendelson's memo, for episodic flexiplace in each Area Office of OSHA Region 2 as described in Article 28 Section 2 of the DOL/NCFLLE Collective Bargaining Agreement.

Step 1 Grievance – Signature of Grievant:

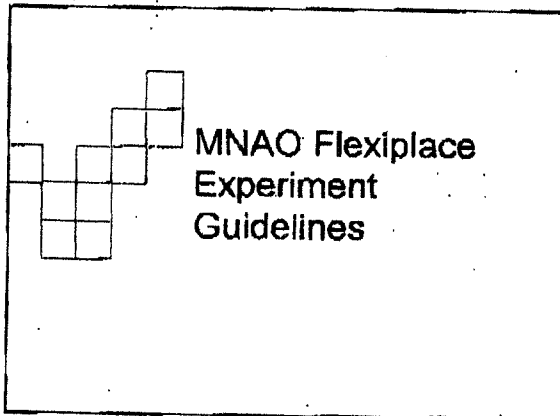
Nancy A. Nolan, VP NCFLLE

Date:

12/5/06

Step 2 Grievance – Signature of Grievant:

Date:



- Call in to sup'v no later than 08:30. If no answer, leave a voice mail message.
- Call in to sup'v when done for the day (leave message if necessary).
- Minimum core hours 09:30-15:00.
- Call in if routine / schedule changes unexpectedly.
- Call in for extenuating circumstances.
- No earning credit hours, unless sup'v approval rec'd in advance.
- Provide a contact number for that day (home, cell, etc.).
- Check work voicemail 2X/day.
- Check OWA 3X/day (unless cannot and explained in advance to sup'v).

- Work can be at home, library, other office, or other suitable location arranged in advance with sup'v. Sup'v must be informed where ea will be.
- Must be available for recall in case of emergency. CSHO will *not* be req'd to have PPE/equip at home.
- No expectation of gov't computer / laptop, phone, car. If equipment is mission-req'd and available, arrangements may be made thru sup'v.
- Workload expectations will be discussed and established with sup'v prior day (i.e., 1A narrative, fatality CPL narrative, 1Bs items 20-27, etc.).

- Report out next day to sup'v re: work product / results.
- Participation will be balanced with minimum AO coverage (50% of discipline).
- No consistent Mondays & Fridays (@20%).

- Experiment for one month (April '07).
- Inform your supervisor of interest to participate.
- Everyone will be evaluated separately.
- Reserve right to terminate participation for abuse.
- Everything hinges on results.

- ### Remote Voicemail
- Option 1 – dial your extension and press #, follow prompts.
 - Option 2- dial 212-620-3251, press #, enter your 7-digit extension, follow prompts.

- ### Remote e-mail (OWA)
- URL: <https://webmail.osha.gov/>
 - Login: first initial and last name, example "rmendelson"
 - Password: regular desktop password
 - Can access folders on server, not C-drive

From: Mendelson, Richard - OSHA
Sent: Wednesday, May 09, 2007 3:46 PM
To: zzOSHA-MANHATTAN-ALL
Subject: MNAO Flexiplace experiment

Although we had agreed to run this experiment for the month of April, I allowed it to run a bit longer to accommodate any additional requests. Effective Monday 5/14/07, however, we will be ending the experiment so that we can prepare an evaluation for the Region and OASAM. If anyone has any feedback they would like me to consider, please let me or your supervisor know. Of course, bargaining unit employees are also free to contact Peter Steinke, the shop steward. I will keep you advised of any future developments in this regard.

U.S. Department of Labor

Occupational Safety and Health
201 Varick Street, Room 670
New York, New York 10014
Tel: (212) 337-2378
Fax: (212) 337-2371



February 12, 2007

MEMORANDUM FOR:

Nancy Nolan
NCFLL Local President

A handwritten signature in cursive script that reads "Brenda S. Judson".

FROM:

Brenda S. Judson
Assistant Regional Administrator

SUBJECT:

Institutional Grievance Response

I am in receipt of your institutional grievance dated December 5, 2006 alleging violations of Article 28, Sections 1 and 3(A) of the DOL/NCFLL Agreement. On January 25, 2007 a meeting was held to discuss the grievance and desired remedies. Present at this meeting were you, I, NCFLL Vice President Tom Resznyak, Labor Relations Officer Peter Beil and Lead Management Analyst Babette Velez. Having read the grievance and the DOL/NCFLL Agreement, I am prepared to issue a response.

Your grievance alleges violations of Article 28, Sections 1 and 3(A) of the DOL/NCFLL Agreement as the NCFLL believes that management is not affording the bargaining unit employees of the Manhattan Area Office the opportunity to use episodic flexiplace. During our meeting we mutually agreed to hold a conference call on February 12, 2007 with Area Director Richard Mendelson to discuss the implementation of a Flexiplace pilot program in the Manhattan Area Office for a period of 30 days. Mr. Mendelson has agreed to implement the program in April 2007 and will have a staff meeting with the employees to prior the commencement of the pilot program to address the expectations of the program and any concerns of both the employees and managers. OSHA management and the NCFLL will regroup at the conclusion of the pilot program to discuss the results.

Based on the foregoing, I find that this grievance has been settled by mutual accord.

In accordance with Article 16 of the DOL/NCFLL Agreement, within 20 workdays upon receipt of this response the NCFLL may invoke arbitration.