

U.S. DEPARTMENT OF LABOR  
OFFICE OF APPRENTICESHIP  
AND  
N.C.F.L.L. AFGE LOCAL #2513

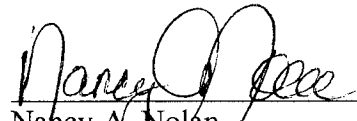
RE: MEDIATION SETTLEMENT AGREEMENT  
ARBN-ETA-02-08-022; ARBN-ETA-02-08-023

Management and the Union agree to the following as regards to the above cited arbitrations:

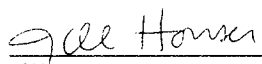
1. From now until the end of the current rating cycle, the grievant will develop and submit a plan that outlines the promotional activities that the grievant intends to initiate throughout the remainder of FY-08.
2. The plan must identify targeted outreach directed toward specific industries, followed up with no less than one promotional activity per week.
3. Provided that the grievant receives a rating of meets or higher in Element #4 on her FY2008 Performance rating of record, management agrees to re-examine the materials the grievant submitted to management with respect to her FY2007 performance rating as regards to Element #4.
4. Management and the Union agree that the above captioned arbitrations will be held in abeyance until the grievant has received her FY2008 Rating of Record.
5. The parties agree that as soon as possible thereafter a conference call will be conducted between the respective advocates to determine the status of these arbitration requests.

  
Peter Beil  
Labor Relations Officer

5/22/08  
date

  
Nancy A. Nolan  
President #2513

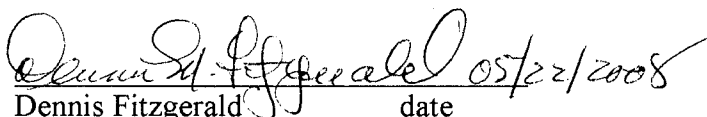
5/22/08  
date

  
Jill Houser  
Regional Director

5-22-08  
date

  
Anita Reyes  
Grievant

5/22/08  
date

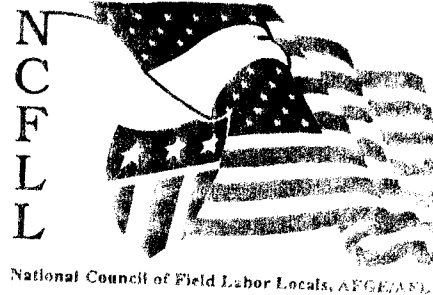
  
Dennis Fitzgerald  
Acting State Director

05/22/2008  
date

# AFGE LOCAL 2513

AFL-CIO

P.O. Box 7051  
Syracuse, NY 13261



January 8, 2008

Mr. Dennis DeMay  
NCFL Arbitration Committee Chair  
8 N. 3<sup>rd</sup> Street, Suite 207  
Lafayette, IN 47901

**COPY**

Dear Denny:

Enclosed is a grievance and packet of information regarding the FY07 Performance Evaluation for our Recording Secretary, Anita Reyes.


In Ms. Reyes' memo to me I believe she accurately describes the events that lead up to and occurred during the grievance procedure. I believe that, as she has stated, no real attempt was made to take any of her "additional" work into consideration in evaluating her performance.

Ms. Reyes' and Ms. Houser have a LONG standing difference of opinion on various work related topics, including SAC vs. BAT state work. In FY07 I believe it manifested itself as a negative rating of record for Anita.

At the time that the parties reached a mediated settlement on a previous grievance, both management and the Union thought we had crafted an acceptable solution. However, it should be noted that Ms. Houser was basically forced into accepting the settlement by her immediate supervisor. It appears that her revenge was to take Anita's additional SAC state work into account and then ignore its impact.

I hope you can give Anita's case every consideration, and agree to invoke on her behalf. Please let me know if you have any questions or concerns on this matter. I would be happy to provide additional information.

In Solidarity,

  
Nancy A. Naldn  
President #2513



**Anita T. Reyes, ATR**  
**U. S. Department of Labor**  
**Office of Apprenticeship**  
**Leo O'Brien Federal Bldg., Room 820**  
**Albany NY 12207**  
**Phone: 518-431-4008 FAX: 518-431-4006**  
**reyes.anita@dol.gov**

January 7, 2008

MEMORANDUM FOR: Nancy Nolan, President  
AFGE Local #2513

FROM: Anita Reyes, ATR

SUBJECT: Request for Arbitration

I am hereby requesting arbitration on grievance GRN-ETA-02-08-023 alleging violation of Article 11, Section 1A and the mediation settlement agreement signed and dated 05/09/07 and grievance GRN-ETA-02-08-022 alleging violation of Article 43, Sections 1 & 7 and DPR 430 (dated 05/09/06) Section 7, E 1.

The grievant, in grievance GRN-ETA-02-08-023, requested a desired remedy that the supervisor, Ms. Jill Houser, adhere to the mediation agreement & recognize all (NY) state monitoring reviews under the "Other Significant Accomplishments" section of the grievant's rating of record and in recognizing this additional work, change the overall Rating of Record to (at the very least) Effective.

On September 31, 2007 management requested that grievant waive Step One and go straight to Step Two. Grievant agreed to waive Step One. On December 7, 2007, management requested that the union extend the Step Two time limits. The union agreed. On December 11, 2007 the grievant was given a Step Two decision. The decision response to grievance GRN-ETA-02-08-023 did not, however, address the third remedy desired which was to change the overall Rating of Record to (at the very least) Effective. Shop Steward/Regional Representative Thomas Rezsnyak addressed this lack of response to the remedy with LRO Peter Beil on 12/13/07. The subsequent, amended grievance response received December 17, 2007 noted that "Although these are important activities, they are not directly related to the performance standard under dispute in Element #4". At no time were the two grievances linked to each other. Grievance GRN-ETA-02-08-023 is a stand alone grievance. Again, the response did not correctly address the grievant's remedy desired. It should also be noted that the response stated, "I have considered the comments THAT WILL BE PLACED..." The Step 2 official responded to something that was not even put on the grievant's rating of record as yet.

On December 28, 2007, after numerous requests, LRO Peter Beil faxed to Shop Steward Rezsnyak an amended Rating of Record for the grievant. The grievant's supervisor placed a statement under Other Significant Accomplishments stating, "ATR Reyes reported she performed 36 AT 12 reviews. I believe 12 were done concurrently with Federal EEO or Quality Assurance reviews." It is obvious from the supervisor's statement that not only does she not know what work the grievant is held accountable for by New York State Department of Labor, but that she also had no intention of crediting or recognizing the grievant for the work completed. The statement (which lacks any real substance) is obviously placed there by the supervisor just to suffice the grievance process.

In regards to GRN-ETA-02-08-022, the grievant's supervisor rated the grievant on Element #4 as "Needs to Improve" with the written comment of "marketing and outreach did not occur consistently throughout the year."

Grievant submitted documentation showing outreach and promotional efforts, along with copies of correspondence received by the grievant from the immediate supervisor denying opportunities to conduct outreach and promotion to the reviewing official for consideration in changing the element rating to from "Needs to Improve" to "Meets" and changing the overall rating to (at the very least) effective. It is my contention that the reviewing official did not earnestly review and take into consideration the restrictions placed on me by my supervisor in order to meet the element.

Based on what has transpired with the filing and the mishmash responses received by management to the remedies, I feel that no matter what I did, no matter what supporting documentation I submitted, management was not going to change the rating. Even with their denials, I submit it is the intention of Office of Apprenticeship management to close the Albany, NY office. Not by being upfront and offering a transfer to a "federal state" but by destroying a 23+ year career employee's work record.

I have attached all supporting documentation for these two grievances. I thank you for your consideration and support. Please let me know if there is any additional information you need.

## Rezsnyak, Tom - OSHA

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**From:** Beil, Peter - OASAM  
**Sent:** Monday, December 17, 2007 11:27 AM  
**To:** Rezsnyak, Tom - OSHA  
**Cc:** Reyes, Anita - ETA; Hersh, Joseph - ETA  
**Subject:** Step Two Grievance Decision: Anita Reyes ( GRN- ETA-02-08-022, GRN-ETA-02-08-023, GRN-ETA-02-08-024)

**Importance:** High

Tom: I am sending you a copy of the amended Step Two grievance decision concerning the above captioned grievances.

This is a response to three Step Two grievance that was filed on October 25, 2007

By way of background in accordance with the terms of Article 15, Section 9 (A) of the DOL/NCFLR Agreement the parties mutually agreed to waive Step One for all three grievances and move them directly to Step Two for disposition. In addition in accordance with Article 15, Section 9 (A) of the parties mutually agreed to extend the time limits for a Step One response to close of business Tuesday, December 11, 2007.

Grievance GRN-02-08-022 alleges a violation of Article 43, Section 1 and 7, DPR 430 Sections 7, (e) (1)

Grievance GRN-ETA-02-08-023 alleges a violation of Article 11, Section (A) and the mediation settlement agreement with respect to GRN-ETA-01-07-023, GRN-ETA-01-07-024 and GRN-ETA-02-07-129 items (1) and (3).

Grievance GRN-ETA-02-08-024 alleges a violation of Article 43, Section 7 of the DOL/NCFLR Agreement.

In an effort to amicably resolve grievances GRN-ETA-02-08-023 the parties agreed that for the rating cycle November 2, 2006 to September 30, 2007 management will record under " Other significant accomplishments" all state monitoring reviews completed by the grievant during the rating cycle will be noted. I have considered the comments that will be placed in the "Other significant accomplishments" section of the grievant's performance appraisal and rating. Although these are important activities, they are not directly related to the performance standard under dispute in element #4.

In an effort to amicably resolve grievances GRN-ETA-02-08-024 the parties agreed to extend the period in which the grievant can submit written comments concerning the tentative performance evaluation that she received on October 4, 2007 from REA Jill Houser to close of business Friday, November 30, 2007.

The actions taken by management with respect to GRN-ETA-02-08-023 and GRN-ETA-02-08-024 were done to amicably resolve these matters and to promote harmonious labor-management relations and not as admission that the agency violation any of the provisions contained in the DOL/NCFLR Agreement, or any provisions contained in any Department wide regulation.

In this portion of my decision I will address the merits of grievance GRN-ETA-02-08-022. The grievance as submitted alleges a violation of Article 43, Sections and 7 and DPR 430 Sections 7, e (1).

In the nature and facts portion of her grievance the grievant alleges that REA Houser did not take into account that the grievant had demonstrated, through weekly activity reports and local business articles, activities related to the outreach and promotion of the apprenticeship system. In addition, on three separate occasions REA Houser denied and/or severely restricted the grievant the opportunity to conduct outreach by not allowing her to attend conferences/meetings. On one occasion when the grievant was allowed to attend, REA Houser restricted the grievant attendance to only two sessions that REA Houser deemed important. Finally, REA Houser did not take into account that participation in apprenticeship is

voluntary, thus outside the control of the employee.

As a remedy the grievant wants REA Houser to take all of the just enumerated factors into consideration and change the rating for Element to "Meets" and change the overall rating to (at the very least) Effective.

In accordance with the agreement reach with respect to grievance GRN-ETA-02-08-024 on November 28, 2007, I received the written comments and reports from the grievant concerning the performance evaluation that she received by REA Houser on October 4, 2007. I have thoroughly reviewed and considered all of the materials that were submitted. Taking into consideration the restrictions outlined in the grievant's nature and facts of grievance statement and her written submission I also do not find enough marketing and outreach activities by the grievant for the remainder of the rating cycle to warrant changing the needs to improve rating which was given to the grievant for element #4. Further, there is no evidence that in arriving at a rating of record REA Houser did not consider the grievant's weekly activity reports and those factors which are present in this element which are beyond the control of the grievant.

Article 43, Section 4 contains specific procedures and appropriate arrangements which management must follow when preparing an annual rating of record. It is important to note that a violation of Article 43, Section 4 cannot be established simply because the reviewing official after carefully considering an employee's written remarks chooses not to change the tentative rating given by the rating official. The provisions contained in Article 43, Section 4 do not amount to veto power over management's right to issue to an employee a rating of record. In the instant matter as previously stated as the reviewing official I have thoroughly reviewed the grievant written submission and have chosen not to change the rating which was issued by the rating official for element #4 or change the overall performance rating to a "meets".

Finally, I am also satisfied that in arriving at a rating for element #4 the rating official fully complied with both Article 43, Section 7 and DRR 430, Section (e) (1) and took into consideration those factors which were outside the grievant's control.

Based upon the foregoing, this grievance concerning element #4 and the requested remedies, are hereby denied.

This Step Two decision may be appealed to arbitration in accordance with Article 15, Section in accordance with the procedures outlined in Article 15, Section 7 (B) (3) and Article 16 of the DOL/NCFLA Agreement.

DOL/NCFLLGRIEVANCE FORM

<b>Name of Grievant(s):</b> Anita Reyes	<b>Region:</b> Boston-New York
	<b>Agency:</b> Office of Apprenticeship
<b>Name of NCFL Representative (If Any):</b> Thomas Rezsnyak	<b>Date of Alleged Violation:</b> 10/04/07 and continuing

**Alleged Violation(s) – Contract Article(s), Section(s), Subsection(s), Regulation(s), or Working Condition(s):**  
 Article 43, Sections 1 and 7  
 DPR 430 (dated 05/09/06) Sections 7, E 1  
 all other applicable rules, regulations, policies and procedures.

**Nature and Facts of Grievance:**  
 On October 4, 2007, Regional Executive Administrator [REA] Houser met with and reviewed Apprentice Training Representative [ATR] Reyes on her performance for FY 2007 in the Albany, NY Office of Apprenticeship [OA] office.

A signed copy of the Performance Management Plan [PMP] was faxed to ATR Reyes on October 5, 2007.

During ATR Reyes' review, REA Houser did not take into account that ATR Reyes had demonstrated, through weekly activity reports and local business articles, activities related to the outreach and promotion of the apprenticeship system.

REA Houser, on three separate occasions, denied and/or severely restricted ATR Reyes opportunity to conduct outreach by not allowing ATR Reyes to attend conferences/meetings. On the one occasion when ATR Reyes was allowed to attend, REA Houser restricted Reyes' attendance to only two sessions that REA Houser deemed important.

1. Metropolitan Correctional Center's Building Bridges to Freedom (Attachment 1)
2. Regional Career & Tech Ed Conference 2007 (Attachment 2)
3. ETA's Focus on Reemployment (2-Day) Conference (Attachment 3)

On two occasions, REA Houser restricted ATR Reyes' promotional efforts by attending the meetings herself or requesting that New York State Department of Labor ATRs attend meeting(s) in place of ATR Reyes.

1. National Burglar and Fire Alarm Association (Attachment 4)
2. NYATEP (Attachment 5)

REA Houser also did not take into account that participation in apprenticeship is voluntary, thus outside the control of the employee.

**Remedy Desired:**

1. REA Houser will take into consideration the weekly activity reports submitted relating to outreach and promotion.
2. REA Houser will take into consideration meetings and conferences that she denied, restricted, and/or turned over to herself or NYSDOL staff to attend in place of ATR Reyes.
3. REA Houser will take in account issues that are outside the control of the employee.
4. Change the rating of Element #4 to "Meets" and change the overall performance rating to (at the very least) Effective.

<b>Step 1 Grievance-Signature(s) of Grievant(s):</b>	<b>Date:</b>
<b>Step 2 Grievance-Signature(s) of Grievant(s) or NCFL Official:</b>	<b>Date:</b>

Grievance #2

DOL/NCFLLGRIEVANCE FORM

Name of Grievant(s):

Anita Reyes

Region:

Boston-New York

Agency:

Office of Apprenticeship

Name of NCFLL Representative (If Any):

Thomas Rezsnyak

Date of Alleged Violation:

10/04/07 and continuing

**Alleged Violation(s) – Contract Article(s), Section(s), Subsection(s), Regulation(s), or Working Condition(s):**

Article 11, Section A  
Mediation Settlement Agreement GRN-ETA-01-07-023; GRN-ETA-01-07-024; GRN-ETA-02-07-129 (1); (3)  
all other applicable rules, regulations, policies and procedures.

**Nature and Facts of Grievance:**

On October 4, 2007, Regional Executive Assistant (REA) Houser met with and reviewed Apprenticeship Training Representative (ATR) Reyes on her performance for FY 2007 in the Albany, NY Office of Apprenticeship [OA] office.

A signed copy of the Performance Management Plan [PMP], along with a copy of the mediation agreement, was faxed to ATR Reyes on October 5, 2007.

During ATR Reyes' review, REA Houser did not consider, nor show, New York State Department of Labor monitoring reviews conducted as stated in the 05/09/07 Mediation Settlement Agreement signed by both ATR Reyes and REA Houser

**Remedy Desired:**

REA Houser will adhere to the mediation agreement.

REA Houser will notate in the Other Significant Activities section of the performance appraisal, all state monitoring reviews conducted this Fiscal Year by ATR Reyes.

With the additional work required by NYS DOL taken into consideration REA Houser will change the rating of record to (at the very least) Effective.

**Step 1 Grievance-Signature(s) of Grievant(s):**

**Date:**

**Step 2 Grievance-Signature(s) of Grievant(s) or NCFLL Official:**

**Date:**

U. S. DEPARTMENT OF LABOR  
OFFICE OF APPRENTICESHIP  
AND  
N.C.F.L.L. AFGE LOCAL #2513

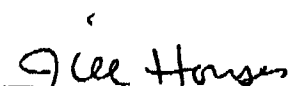
RE: MEDIATION SETTLEMENT AGREEMENT  
GRN-ETA-01-07-023; GRN-ETA-01-07-024; GRN-ETA-02-07-129

Consistent with management's right to assign work it is recognized that management retains the right to develop performance elements and standards. That withstanding, consistent with Article 43, Section 2 (B) of the DOL/NCFLC agreement and in complete agreement of the above grievances, the parties agree as follows:

1. For current rating cycle 2007, under other significant accomplishments, the state monitoring reviews will be shown. Ms. Reyes will specify what additional work needs to be done over and above what occurs in a federal review.
2. For FY 2008 rating cycle, the state monitoring review work will be captured on either the Quality Assessment element or the EEO compliance review element.
3. In coming up with a rating of record for Element #4, if an employee can demonstrate that he/she engaged in those activities identified in the element, such activities will be taken into consideration. Further, consideration will be given to those factors that are outside the employee's control. Failure to meet the numeric goal outlined in bullet point #7 will not be the sole factor in arriving at a rating of record for this element.
4. Upon the full execution of this agreement, the NCFLC agrees to withdraw the following grievances (GRN-ETA-01-07-023, GRN-ETA-01-07-024, and GRN-ETA-02-07-129) with prejudice.

FOR THE DEPARTMENT:

  
\_\_\_\_\_  
Joseph Hersh, Acting Regional Director

  
\_\_\_\_\_  
Jill Houser, NY Acting State Director

FOR THE UNION:

  
\_\_\_\_\_  
Anita Reyes, Grievant

  
\_\_\_\_\_  
Thomas Rezsnyak, Regional Rep. Local 2513

Date: 05/09/07