

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL
EMPLOYEES, DISTRICT COUNCIL 20

and

THE DISTRICT OF COLUMBIA

The American Federation of State, County and Municipal Employees, District Council 20 ("AFSCME") and the District of Columbia Government ("District") (collectively referred to as the "Parties") have engaged in impact and effects bargaining over the District's proposed rule changes to Chapter 16 of the District Personnel Manual ("DPM"), as published on November 20, 2015, and have come to the following mutual understandings and agreements with regard to the application of these rules to employees of the District represented by AFSCME:

1. Pursuant to 6B DCMR § 628, whenever there is a dispute as to cause in a disciplinary matter, the District shall bear the burden of proving disputed material facts by a preponderance of the evidence.

2. Section 1602.2 of the proposed regulations addressing how any conflicts between the regulations and an applicable collective bargaining agreement should be resolved shall serve only as guidance to District officials and has no legal or binding effect on the Parties.

3. With respect to the proposed section 1602.3, the District agrees to notify AFSCME of any need or request for any extension of time to complete an investigation and to take comments from AFSCME on that subject. ~~The District of Columbia Department of Human Resources ("DCHR")~~ will then consider the reasons for the request for an extension of time and AFSCME's comments, if any, and make a determination as to whether it will grant the requested extension.

4. Section 1605.4(a)(4) addressing certain conduct prejudicial to the District, including off-duty conduct that affects the employee's trustworthiness, is related to trustworthiness as to the performance of the employee's official duties and does not include conduct that is not related to the employee's work.

5. The District agrees to create and publish a definition for the term "personal history record" as used in the proposed section 1605.4(b)(1). The parties agree that discipline based on a falsification of a personal history record must be based on a record submitted to the District in the context of the employee's employment.

6. In order to establish cause for adverse or corrective action against an employee for engaging in "fiscal irregularities" (see proposed section 1605.4(c)), the District must demonstrate that the fiscal irregularities were on-duty or otherwise related to the employee's job duties.

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7. "Neglect of duty" as used in proposed section 1605.4(e) is defined as carrying out or failing to carry out official duties or responsibilities as would be expected of a reasonable individual in the same position. Neglect of duty includes, a failure to perform assigned tasks or duties, undue delay in completing assigned tasks or duties, careless work habits, wasting time, conducting personal business while on duty, abandoning an assigned post, sleeping or dozing on the job, and loafing. The Parties agree that neglect of duty should not be used as a catch-all to encompass other misconduct addressed by other causes for discipline.

8. The Parties agree that, in defining corrective action at section 1613.1 to include reassignment, the District does not intend to suggest that all reassignments should be considered corrective action. The only time a reassignment constitutes a corrective action is when it is done for cause.

9. Section 1613.3 of the proposed regulations provides for a resolution conference for proposed corrective actions. The Parties agree that section 1613.3(b) will not apply to employees represented by AFSCME unless an AFSCME representative was given a reasonable opportunity to be present at the resolution conference or the AFSCME representative was given a reasonable opportunity to be present and available for the conference, but the employee turned away representation and confirmed his or her desire not to be represented in a written document a copy of which was supplied to the AFSCME representative.

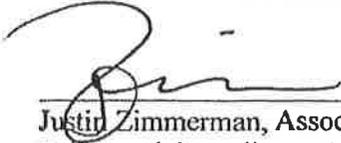
10. The Parties agree that employees represented by AFSCME who have been placed on administrative leave pending a final disciplinary decision will be informed of any request for an extension of the time limit set forth in section 1619.2, the reason for the request, whether the extension was granted or denied, and the reason for such grant or denial of the extension of time.

11. The Parties agree that, if not deleted from the final published regulations, the language of the proposed section 1621.6 shall not apply to employees represented by AFSCME. That language, as proposed, states as follows: "At the time of the response, an employee shall raise every defense, fact or matter in extenuation, or mitigation that is relevant to the reasons for the proposed or summary action."

12. The Parties agree that, in reaching a final decision with regard to proposed corrective or adverse action, the final decision maker may not increase the proposed penalty.

The foregoing twelve numbered paragraphs represent the entirety of the Parties' agreement as to the impact and effect of the new proposed regulations on District employees represented by AFSCME.

For the District of Columbia:

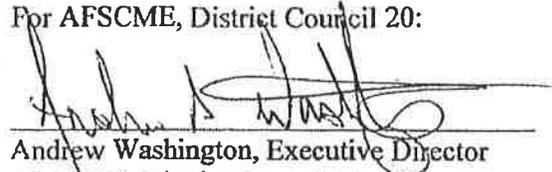


Justin Zimmerman, Associate Director
Policy and Compliance Administration
D.C. Department of Human Resources

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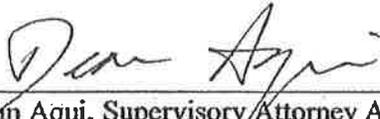
For AFSCME, District Council 20:



Andrew Washington, Executive Director
AFSCME, District Council 20

3/14/16

Date



Dean Aqi, Supervisory Attorney Advisor
D.C. Office of Labor Relations and
Collective Bargaining

3/17/16

Date