



May 6, 2025

VIA ELECTRONIC MAIL

Mr. Adam Mervis
Branch Chief, Labor Relations HQ
LER National Operations
Human Resources Policy & Programs Directorate
U.S. Customs and Border Protection
90 K Street, N.E.
Washington, D.C. 20229

**RE: National Grievance and Unfair Labor Practice Charge — Agency’s
Violations of the Parties’ 2025 National Agreement, 5 U.S.C. § 6131, and
5 U.S.C. § 7116(a)(1), (5), (7), and (8)**

Dear Mr. Mervis:

The National Treasury Employees Union (NTEU) hereby files this national grievance on behalf of all affected bargaining unit employees pursuant to Article 27, Section 13 of the 2025 National Collective Bargaining Agreement (NCBA) between the U.S. Customs and Border Protection (CBP or agency) and NTEU. Because the violations NTEU alleges are continuing each day and/or week, the grievance and requested remedies are continuing in nature.

Background

On February 14, 2025, CBP issued a directive (the “directive”) to all bargaining unit employees cancelling all telework and remote work agreements no later than March 4, 2025, and requiring employees on a telework or remote work agreement to begin to physically report to CBP office locations on a full-time basis. In a separate notice to NTEU on February 14, 2025 (the “notice”), CBP also stated that CBP employees are no longer eligible for regular and recurring telework or remote work and that all bargaining unit employees must report for in-office work by March 5, 2025. In issuing both the directive and notice, CBP pointed to the January 20, 2025 Presidential Memorandum (PM) as authority. In the notice, CBP also stated that if a duty station does not have sufficient space for all employees to return in-person full-time, then management will identify in-person days and episodic telework days for each eligible employee until additional office space can be obtained.

Violations

Since the issuance of the directive and the notice, CBP has taken several actions to implement the directive and notice. *First*, it has directed all bargaining unit employees to return to in-person work, cancelling valid telework and remote work agreements, including for those

employees who were hired as remote work employees. **Second**, it has, as stated, implemented shared workstations without engaging NTEU. **Third**, CBP has directed union officials who were under existing agreements to work at non-CBP facilities to return to their assigned Port of Entry to perform union work on-site. **Finally**, CBP has directed employees who have telework and/or remote work as a result of a settlement agreement or third-party remedy (e.g., arbitration award, MSBP decision, EEOC decision) to report to the office in conflict with applicable orders.

On April 27, 2025, CBP sent an email to all bargaining unit employees directing them to report to the office five days per week, Monday through Friday, starting on April 28, 2025, with limited exceptions. In addition, the email stated that all Alternative Work Schedules were suspended immediately unless the schedule was provided as a reasonable accommodation. That same evening, CBP began contacting employees, directing them to report to a CBP facility the next day.

On April 28, 2025, CBP implemented the directions set forth in the email, resulting in employees throughout the country reporting for and being scheduled to work on days that would otherwise be their regular day off and on shifts with different start and/or end times. In addition, NTEU chapter representatives who were authorized to work outside of a non-CBP facility and/or on Alternative Work Schedules were directed to report to their assigned CBP facility and adjust their work schedules to an eight-hour Monday through Friday shift. Further, in several locations, NTEU representatives have been told that they are not authorized to leave their assigned CBP facility to perform representational functions at other CBP facilities that fall under the chapter's jurisdiction.

On May 2, 2025, CBP changed its position on suspending Alternative Work Schedules and provided NTEU with a notice stating that all Alternative Work Schedules are cancelled, effective immediately, and that CBP's cancellation of such schedules aligns with the PM. The May 2, 2025 notice also stated that CBP would allow limited exceptions based on operational needs and would have post-implementation discussions with NTEU on these matters. NTEU immediately demanded to bargain and demanded that the Alternative Work Schedules remain in effect until the parties fulfill their bargaining obligations. Nonetheless, CBP continued with the cancellation of Alternative Work Schedules.

These actions are in violation of Articles 14, Alternative Work Schedules; 15, Telework; 30, Union Representatives and Official Time; 39, Reassignments; and 52, Remote Work of the 2025 NCBA; the Federal Service Labor-Management Relations Statute, 5 U.S.C. § 7101 *et seq.* as amended ("statute"), and any other Article, Section, law, rule or regulation that may apply.

Article 14, Alternative Work Schedules, sets forth the procedures for cancelling Alternative Work Schedules. In Article 14, Section 11, the parties agreed that Alternative Work Schedules will only be cancelled if there is an adverse agency impact as defined in the NCBA and at 5 U.S.C. § 6131. When CBP determines that an Alternative Work Schedule agreement has an adverse agency impact, it will provide notice to NTEU. Under Article 14, Section 11 and 5 U.S.C. § 6131, the termination of existing Alternative Work Schedules will not be implemented until the parties have fulfilled their bargaining obligations under the NCBA and 5 U.S.C. § 6131.

Article 15, Telework, Section 4 identifies the criteria for an employee to be eligible to participate in telework. In Article 15, Section 4.C(2), the parties broadly agreed that “most positions that do not require the wearing of a CBP uniform are presumed to be appropriate for telework.” Moreover, Section 4.C(1) states that many uniformed positions require in-person work, but requests for telework for uniformed employees should be considered on a case-by-case basis. Further Article 15, Section 18.E expressly states that telework agreements may only be terminated for cause or when an employee loses eligibility under Article 15, Section 4. The directive violates Article 15 by cancelling telework for bargaining unit employees for reasons that are neither authorized nor contained in Article 15. Further, the notice violates Article 15 by unilaterally changing the eligibility requirements for bargaining unit employees to participate in telework and/or remote work.

Article 15, Section 4.R and Article 52, Section 4.G, also set forth the parties’ process when employees will be required to share a workspace or participate in hoteling arrangements. Under Article 15, CBP must follow existing local agreements or notify NTEU at the national level and bargain over the conditions under which employees share workstations. Under Article 52, the agency must follow existing local agreements. The notice violates Articles 15 and 52 of the 2025 NCBA by unilaterally imposing a different process.

Article 28 – Arbitration, Section 12.A states that “[an] arbitrator’s award will be binding.” Additionally, Article 27 – Grievance Procedure and Article 28 both contain several provisions requiring the parties to meet in an attempt to resolve grievances through settlement. Implicit in these provisions, and as explicitly stated in each settlement agreement, is the requirement that the parties will fulfill the obligations set forth in the settlement agreement. The agency’s refusal to recognize arbitration awards, settlement agreements, and third-party decisions is a violation of Article 28, the controlling settlement agreement, and applicable regulations enforcing settlements/final orders issued by the MSBP and/or EEOC.

Article 30 – Union Representatives and Official Time, Section 4.K states that official time may be used in any reasonable location agreed to by the parties locally. Then, Section 4.L states that if the parties cannot agree on a location, the agency will provide representatives with a reasonable location to perform representational duties while on official time. Prior to the date of the directive and notice, several NTEU representatives had agreements at the local level to work from non-CBP facilities, and in some cases, home offices. In implementing the directive, CBP has unilaterally rescinded those existing agreements and directed employees to perform work at their assigned Port of Entry. The agency’s unilateral termination of existing local practices is a violation of Article 30, Section 4.K. Furthermore, the agency’s unilateral assignment of NTEU representatives to their assigned Port of Entry without an attempt to reach a local agreement or a case-by-case assessment of whether assigning the NTEU representative to their home port was a reasonable location is a violation of Article 30, Section 4.L.

Article 30 – Union Representatives and Official Time, Section 4.G requires that CBP recognize the Chapter President of each NTEU chapter as having the authority to represent employees on behalf of NTEU. Further, Article 30, Section 4.H, memorializes the parties’ commitment to reduce the amount of *ad hoc* official time by increasing the number of block-time

NTEU representatives. Moreover, the parties agreed that when a chapter has more than one block-time representative, one representative will be assigned to the day shift on weekdays, and the other block-time representatives may work on alternative shifts. Requiring NTEU representatives to report and remain at the employees' assigned CBP facility on a single Monday through Friday, eight-hour day shift, CBP is violating Article 30, Section 4. Further, CBP's restrictions limit which NTEU representatives are authorized to represent employees, which is also an Unfair Labor Practice under 5 U.S.C. § 7116(a)(1) and (8).

Article 52, Remote Work, Section 4 identifies the criteria for an employee to be eligible to participate in Remote Work. In Article 52, Section 3.D, the parties agreed that "Remote Work is appropriate for those positions whose assigned duties, tasks, or other work activities can, at the discretion of an approving official, be performed remotely without diminishing employee performance or mission accomplishment." Moreover, Section 3.D expressly states that determinations for local remote work are made on a case-by-case basis, and Section 5.B sets forth the criteria for assessing the individual eligibility of an employee to perform remote work. Finally, Article 52, Section 7.A and 7.D expressly states that remote work agreements may only be terminated when the remote work arrangement no longer meets operational needs, or for cause. The directive violates Article 52 by unilaterally cancelling remote work for all bargaining unit employees, including those who were hired into a position identified as a Remote Work position, for reasons that are neither authorized nor contained in Article 52. Further, the notice violates Article 52 by unilaterally changing the eligibility requirements for bargaining unit employees to participate in remote work.

Article 52, Section 8.D(2) states that when an employee is removed from a Remote Work distant arrangement, the direction will be considered a directed reassignment under Article 39, Reassignments. Article 39 of the 2025 NCBA requires CBP to notify and bargain with NTEU when it determines that it is necessary to involuntarily reassign bargaining unit employees outside of the employee's assigned duty location. The directive violates Articles 52 and 39 by cancelling all remote work agreements and involuntarily reassigning affected remote employees to a new duty location.

CBP's actions also constitute a repudiation of Articles 14, 15, 27, 28, 30, 39, and 52 of the 2025 NCBA, in violation of 5 U.S.C. § 7114(a)(1), which is an unfair labor practice under 5 U.S.C. § 7116(a)(1), (5), and (8). Moreover, to the extent that CBP claims the PM has the effect of a government-wide rule or regulation, the directive is an unfair labor practice under 5 U.S.C. § 7116(a)(7), which states that it is an unfair labor practice to enforce rules or regulations that conflict with any preexisting, applicable collective bargaining agreement.

To remedy these violations, NTEU requests that CBP: (1) immediately cease and desist from violating the 2025 NCBA and statute; (2) rescind the directive, notice, and directions in the April 27, 2025 email; (3) reinstate any and all telework and/or remote work agreements that were terminated as a result of the directive and/or notice; (4) reinstate any and all local agreements related to office space that were terminated as a result of the directive and/or notice; (5) reinstate any and all local agreements related to the location where NTEU representatives may use official time that were terminated; (6) reinstate any and all Alternative Work Schedule agreements that were cancelled as a result of CBP's April 27, 2025 email; (7) post a notice signed by the

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Commissioner of CBP admitting that the agency violated the statute by repudiating the 2025 NCBA; (8) make whole any and all impacted employees; and (9) grant any other remedy deemed appropriate including back pay under the Back Pay Act.

NTEU's representative in this matter will be Ryan Soon, Deputy Director for Negotiations. Please contact him via email at ryan.soon@nteu.org to schedule a meeting.

Sincerely,

A handwritten signature in black ink, appearing to read "Doreen P. Greenwald". The signature is fluid and cursive, with the first name "Doreen" being more prominent.

Doreen P. Greenwald
National President

cc: Lauren Coy, CBP
Ryan Soon, NTEU
Ken Moffett, NTEU
Jack Jarrett, NTEU