



March 21, 2025

VIA E-MAIL

Max R. Wyche
Acting Chief Human Capital Officer
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

**RE: National Grievance and Unfair Labor Practice Charge – Agency’s Violations
of Article 55 (Reasonable Accommodation)**

Dear Mr. Wyche:

The National Treasury Employees Union (NTEU) hereby files this national grievance pursuant to Article 42, Sections 2 and 3 of the parties’ 2022 National Agreement (2022 NA). As set forth below, the Internal Revenue Service (IRS or agency) has violated the Federal Service Labor-Management Relations Statute (the Statute); the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 701 et seq.; the Privacy Act of 1974, as amended, 5 U.S.C. § 552a et seq.; Article 55, Sections 1, 2, and Exhibit 55-1 of the 2022 NA; past practice and any other section, article, law, rule or regulation that may apply by failing to grant proper interim accommodations for reasonable accommodation requests, and improperly requesting employee medical information.

On February 28, the IRS notified NTEU that it was implementing a Department of the Treasury directive titled, “Plan to Return to the Workplace,” issued that day. The directive cited the January 20, 2025, Presidential Memorandum (PM) as authority to terminate all telework and remote work agreements in March 2025.

NTEU recently learned that, pursuant to the Treasury Directive and PM, the IRS is refusing to grant interim accommodations to employees unless the employees immediately submit medical documentation and is only granting interim accommodations for a maximum of two weeks. Following the two-week period, employees are forced to use leave if they cannot travel into the office or work without accommodation while they wait for a determination on their reasonable accommodation request. These actions violate Article 55, Sections 1 and 2, as well as Exhibit 55-1 of the 2022 NA, which state, in relevant part:

- “The employer will afford reasonable accommodation to qualified disabled employees unless the accommodation would impose an undue hardship on the operation of the Employer’s program.” Article 55, Section 1.A.
- “Upon a request for a reasonable accommodation, the Employer and employee will engage in an ‘interactive process’ to determine the reasonable

accommodation as follows... the Employer, working with the employee, will identify a range of possible accommodations that have the potential to reduce the difficulties, either in the environment or the job tasks and which will allow the employee to perform the essential functions of the position.” Article 55, Section 2.A.3.

- “Nothing in this Agreement bars the granting of an additional right, benefit, or process if needed to reasonably accommodate a qualified employee with a disability where (1) the particular right, benefit or process does not conflict with the terms of this Agreement or past practice and (2) the accommodation would not adversely impact a unit employee.” Article 55, Section 2.D.
- “The reasonable accommodation process **begins as soon as the employee makes a verbal or written request for accommodation** to his/her immediate supervisor, a supervisor or manager in his/her immediate chain of command or servicing Reasonable Accommodation Services Area.” Exhibit 55-1 (emphasis added).

The IRS is violating these sections of the 2022 NA, as well as past practice, failing to immediately engage in the interactive process and requiring medical documentation in advance to grant appropriate interim accommodations for the necessary duration as required by the employee’s disability.

The Agency’s actions also constitute a repudiation of Article 55, Sections 1, 2, and Exhibit 55-1 of the 2022 NA, 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). Lastly, to the extent that the IRS claims the PM has the effect of a government-wide rule or regulation, the agency’s action 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.

These actions also violate the Rehabilitation Act and implementing regulations, which require the agency to have reasonable accommodations procedures that are, relevant here:

...post[ed] on its public Web site, and make available to all job applicants and employees in written and accessible formats, reasonable accommodation procedures that are easy to understand and that, at a minimum, [e]xplain that, when all the facts and circumstances known to the agency make it reasonably likely that an individual will be entitled to a reasonable accommodation, but the accommodation cannot be provided immediately, **the agency shall provide an interim accommodation that allows the individual to perform some or all of the essential functions of his or her job**, if it is possible to do so without imposing undue hardship on the agency.

29 C.F.R. § 1614.203(d)(3)(i)(Q). Requiring the employee to submit medical documentation before granting the interim accommodation and limiting interim accommodations to two weeks fails to take into account the interactive process and fails to grant employees necessary accommodations as required by the Rehabilitation Act.

Finally, NTEU received reports that the IRS is now requiring employees to submit medical documentation directly to their managers, which violates the Privacy Act and the parties' past practice of preserving employee privacy by submitting medical documentation to Reasonable Accommodation Coordinators, which may also constitute a per se violation of the Rehabilitation Act which prohibits improper agency disclosures of confidential medical information. See 42 U.S.C. §§ 12112(d)(3)(B), (4)(C); 29 C.F.R. § 1630.14.

To remedy these violations, NTEU requests that the IRS:

- 1) immediately cease and desist from violating the Rehabilitation Act, Article 55, Sections 1, 2, and Exhibit 55-1 of the 2022 NA;
- 2) immediately grant interim accommodations for the proper duration,
- 3) Restore all leave, or award the value of, with interest, for all employees affected by the agency's failure to provide interim accommodations pursuant to the Rehabilitation Act, including compensation for all adverse tax consequences, if any, for any lump sum award;
- 4) pay all pecuniary damages, with interest, to each employee negatively affected by the agency's failures to provide proper interim accommodations pursuant to the Rehabilitation Act, including, but not limited to back pay, with interest, for all hours any employee was unable to work because of the agency's violations, all medical and other expenses incurred by any employee because of the agency's violations, and all other pecuniary damages suffered by any employee because of the agency's violations;
- 5) provide sixteen (16) hours of in-person or interactive EEO training for all management officials on the Rehabilitation Act, including but not limited to personnel in the agency's Equity, Diversity and Inclusion (EDI) Department. The training shall emphasize the Rehabilitation Act's requirements with respect to an agency's duties to timely respond to employees' requests for a reasonable accommodation to ensure that similar violations do not occur;
- 6) pay non-pecuniary damages up to the statutory maximum of \$300,000 to each impacted employee for the agency's failure to grant proper interim accommodations;
- 7) reasonable attorney's fees and costs to NTEU;
- 8) post a notice, signed by the Acting Commissioner or Commissioner of the IRS, in an appropriate place that may be viewed by all employees indicating that the agency has violated the Statute and interfered with the rights of NTEU and employees in the bargaining unit; and

9) any other remedies that may be deemed appropriate under law, rule and/or regulation.

NTEU requests a meeting pursuant to Article 42, Section 3 of the 2022 NA within twenty (20) workdays of this filing. Our representative in this matter will be Hillary LeBeau, National Negotiator, who may be reached via e-mail at hillary.lebeau@nteu.org.

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 than the last name "Greenwald".

Doreen P. Greenwald
National President

cc: Geralda Larkins, Director, IRS LERN
Hillary LeBeau, NTEU National Negotiator
Rani Rolston, NTEU Deputy Director of Negotiations
Ken Moffett, Jr., NTEU Director of Negotiations