



**American Federation of Government Employees (AFL-CIO)**  
**AFGE Local 704**  
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DATE: September 25, 2024

SUBJECT: Grievance of the Parties

FROM: Nicole Cantello //s//  
AFGE Local 704

TO: LaShawn McGrue  
Designated Management Official

AFGE Local 704 is filing this Grievance of the Parties II (GOP II) on behalf of AFGE Local 704 in accordance with the provisions of the Negotiated Grievance Procedure of the Collective Bargaining Agreement (CBA).

EPA is in violation of Section IA and Section IB of the Health, Safety and Wellness Article of the CBA by failing to provide a workplace free of hazards or a safe and healthful workplace.

On September 11, 2024, the General Services Administration (GSA) sampled water sources in the Ralph H. Metcalf Federal Building for Legionella bacteria, lead and copper. Sources on the 9<sup>th</sup> and 17<sup>th</sup> floor, where EPA employees are located, showed unsafe levels of Legionella. Sources on the 5<sup>th</sup> and 10<sup>th</sup> floor, where EPA employees work, tested over the safe limit for lead and copper. A description of the sampling and the results is attached. The water sources were previously found to be contaminated on July 30, 2024, and the union filed a grievance of the parties (GOP I) regarding that contamination on August 28, 2024.

On September 11<sup>th</sup>, GSA also sampled a new location, the 3<sup>rd</sup> floor bottle filler. It was found to have unsafe levels of copper. The 3<sup>rd</sup> floor is a shared space and EPA employees often frequent it.

Many sources at the Metcalfe Building have not been tested for Legionella, lead and copper. Based on the sampling that has been done, it is reasonable to believe that a significant number of the below untested sources are contaminated with Legionella, lead or copper.

The following sources have not been tested for lead and copper:

- 4<sup>th</sup> Floor CID Kitchen
- 5<sup>th</sup> Floor South Kitchen

6<sup>th</sup> Floor North Kitchen  
6<sup>th</sup> Floor South Kitchen  
7<sup>th</sup> Floor South Kitchen  
9<sup>th</sup> floor North Kitchen  
9<sup>th</sup> floor South Kitchen  
10<sup>th</sup> floor South Kitchen  
All 13<sup>th</sup> floor Kitchens  
14<sup>th</sup> Floor North Kitchen  
14<sup>th</sup> Floor South Kitchen  
15<sup>th</sup> Floor North Kitchen  
16<sup>th</sup> Floor North Kitchen  
16<sup>th</sup> Floor South Kitchen  
18<sup>th</sup> Floor North Kitchen  
18<sup>th</sup> Floor South Kitchen  
19<sup>th</sup> Floor North Kitchen  
19<sup>th</sup> Floor South Kitchen

The following sources have not been tested for Legionella, lead and copper:

At least one bathroom faucet on each of the floors that Region 5 employees are stationed

4<sup>th</sup> Floor Bottle Filler  
5<sup>th</sup> Floor South Drinking Fountain  
5<sup>th</sup> Floor Bottle Filler  
7<sup>th</sup> Floor South Drinking Fountain  
7<sup>th</sup> Floor Bottle Filler  
8<sup>th</sup> Floor South Drinking Fountain  
8<sup>th</sup> floor Bottle Filler  
9<sup>th</sup> Floor Bottle Filler  
10<sup>th</sup> Floor South Drinking Fountain  
10<sup>th</sup> Floor Bottle Filler  
12<sup>th</sup> Floor South Drinking Fountain  
12<sup>th</sup> Floor Bottle Filler  
13<sup>th</sup> Floor South Drinking Fountain  
13<sup>th</sup> Floor Bottle Filler  
14<sup>th</sup> Floor South Drinking Fountain  
14<sup>th</sup> Floor Bottle Filler  
15<sup>th</sup> Floor Bottle Filler  
17<sup>th</sup> Floor South Drinking Fountain  
17<sup>th</sup> Floor Bottle Filler  
18<sup>th</sup> Floor South Drinking Fountain  
18<sup>th</sup> Floor Bottle Filler  
19<sup>th</sup> Floor South Drinking Fountain  
19<sup>th</sup> Floor Bottle Filler  
All bathroom water sources on Floors 3-19

The Health, Safety and Wellness Article of our Collective Bargaining Agreement states:

## Section I. General Agency Locations, Buildings, and Worksites

A. The Agency shall furnish to each employee a place of employment which is free from recognized hazards and provide a working environment consistent with controlling health and safety regulations and laws.

B. When the Agency cannot provide a safe and healthful workspace consistent with Section 1A. above, it will make alternative arrangements which may include temporary relocation of employee(s) or telework/remote work in accordance with those Articles.

### Legionella Bacteria

Recent sampling results have shown unsafe levels of Legionella in drinking water sources in the Metcalfe Building. Most outbreaks of Legionella have occurred in large buildings-- complex systems allow the bacteria to grow and spread more easily. Most people become infected when they inhale microscopic water droplets containing legionella bacteria, such as a spray from a shower, faucet or whirlpool, or water from the ventilation system in a large building. Legionella can cause a severe type of pneumonia (Legionnaires' disease) and mild flu-like illness (Pontiac fever). Because of this, allowing hand washing at sources which may be contaminated with Legionella is unsafe.

Legionella is a workplace hazard. OSHA's website recognizes that Legionella in water sources in an occupational setting as a [workplace hazard](#). The National Institute for Occupational Safety and Health (NIOSH) [has conducted](#) Health Hazard Evaluations (HHEs) for Legionella.

Legionella in the drinking water of the Metcalfe Building at high levels is a workplace hazard and is not consistent with a safe and healthful workplace.

### Lead

Recent sampling results have shown high levels of lead in drinking water sources in the Metcalfe Building. Lead can enter drinking water when plumbing materials that contain lead corrode, especially where the water has high acidity or low mineral content that corrodes pipes and fixtures.

Lead is [harmful](#) to health, and there is no safe level of lead in drinking water. The US legal limit for lead in water is 15 parts per billion. Exposure to lead can cause serious health problems including brain damage, kidney damage, nervous system damage and blood cell interference.

Lead in the drinking water of the Metcalfe Building is a hazard and is not consistent with a safe and healthful workplace.

### Copper

Recent sampling results have shown high levels of copper in drinking water sources in the Metcalfe Building.

Acute ingestion of excess copper in drinking water can cause gastrointestinal (GI) tract disturbances and chronic ingestion can lead to liver toxicity in sensitive populations. In 1991, EPA promulgated an MCLG of 1.3 mg per liter (L) for copper in drinking water to protect against adverse GI tract effects.

Copper in the drinking water of the Metcalfe Building is a hazard and is not consistent with a safe and healthful workplace.

### **I. Requested Relief**

The Union has identified the following relief to resolve this grievance:

- A. Shut down all drinking water sources (including prohibiting hand washing) tested or not tested for Legionella, lead and copper until all sources can be shown to be safe;
- B. Provide alternative drinking water sources for all employees on each floor;
- C. Allow Teleworking Employees to work at their alternative work location until all sources can be shown to be safe;
- D. Provide a safe and healthful workplace and remove workplace hazards by remediating the contamination in the Metcalfe water sources;
- E. Fully comply with the CBA;
- F. Pay any damages incurred by the union; and
- G. Any other remedy and damages as justice may require.

### **II. Information Request**

The union requests the following information to aid in its investigation and processing of this grievance. The union will use the information to determine if management's actions complied with the Health, Safety and Wellness Article and the CBA:

- 1- Since January 2024, any communication between management or GSA regarding water sources in the Metcalfe building.
- 2- Since January 2024, all documents regarding testing of water sources in the Metcalfe Building.

This information request is not exhaustive. The union reserves the right to supplement it. The FLRA requires robust communication with regard to information requests. Please inform the union as soon as possible if the requests above need clarification.

FLRA adopted the "particularized need" standard to determine whether requested information is "necessary" under the Federal Labor Relations Statute. *IRS, Wash., D.C. & IRS, Kansas City Serv. Ctr., Kansas City, Mo.* 50 FLRA 661. To be "necessary," an information request must relate to subjects within the scope of bargaining. The FLRA gives a broad reading to subjects that are "within the scope of collective bargaining." The duty to provide information to a union applies not only to information needed to negotiate an agreement, but also to data relevant to its administration and the "full range" of a union's representational responsibilities under the Statute. *Dep't of HHS, SSA*, 64 FLRA 293. The full range of union representational responsibilities under the Statute includes:

- Contract administration;

- Processing a grievance;
- Representing an employee in response to proposed discipline;
- Determining whether to file a grievance or ULP. *FAA*, 55 FLRA 254, 259-60.

We look forward to your response.

Cc: Amy Sanders  
Debra Shore