



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Office of Federal Operations
P.O. Box 77960
Washington, DC 20013

[REDACTED]
Claudia A,¹
Grievant,

v.

Matthew Ammon,
Acting Secretary,
Department of Housing and Urban Development,
Agency.

Appeal No. 2024003382

DECISION

Grievant filed an appeal with the Equal Employment Opportunity Commission (EEOC or Commission) from the Agency's decision entitled "Grievance Dismissal," dated April 17, 2024, dismissing a Step 2 grievance alleging employment discrimination. Upon review, the Commission finds that this matter is appropriate for dismissal.

ISSUE PRESENTED

Whether the Commission has jurisdiction to review procedural determinations by an agency solely related to the grievance process.

BACKGROUND

On March 15, 2024, Grievant filed a Step 1 grievance under the Agency's collective bargaining agreement regarding a letter of reprimand that was issued to her on February 2, 2024.

¹ This case has been randomly assigned a pseudonym which will replace Complainant's name when the decision is published to non-parties and the Commission's website.

The grievance alleges that the letter of reprimand is a form of retaliation in response to complaints made against the Supervisory Equal Opportunity Specialist "for unethical behavior, conflict of interest and harassment" and that HUD violated Articles 5, 10, 12, 13, 29, and 55 of the HUD/AFGE Collective Bargaining Agreement.

On September 2, 2016, the Agency issued a response to Grievant's Step 1 grievance. The Agency found that the reasons for the reprimand to be fully supported. The Agency did not find any evidence to support Grievant's allegations of retaliation and violations of Articles 5, 10, 12, 13, 29, and 55.

In a Step 2/Final Step Grievance response from the Agency dated April 17, 2024, the Agency denied the grievance finding it was untimely. The Agency noted the "grievance was filed after the negotiated timeframes outlined in Article 51 of the HUD/AFGE Agreement. Your Step 2 Grievance will not be considered and is being dismissed as untimely." Grievant filed the instant appeal with the Commission.

CONTENTIONS ON APPEAL

Grievant asserts, "My grievance was concerning a disciplinary due to retaliation concerning EEO. I decided not to file it with my internal EEO complaints and to instead, have the Union process it via the grievance route."

ANALYSIS

EEOC Regulation [29 C.F.R. 1614.401\(d\)](#) provides that a grievant may appeal to the Commission from a final decision of the agency, an arbitrator or the Federal Labor Relations Authority on a grievance when an issue of employment discrimination was raised in a negotiated grievance procedure that permits such issues to be raised.

As set forth above, the Agency found that under the grievance procedure, the grievance was untimely filed. The Commission has consistently found that it does not have jurisdiction to review procedural determinations by an agency solely related to the grievance process and the collective bargaining agreement. [Reese v. Dep't of Agriculture, EEOC Appeal No. 02970023 \(October 3, 2000\)](#); [Johnson v. EEOC, EEOC Appeal No. 02900040 \(March 20, 1991\)](#).

Accordingly, Grievant's appeal is DISMISSED.

STATEMENT OF RIGHTS - ON APPEAL
RECONSIDERATION (M0124.1)

The Commission may, in its discretion, reconsider this appellate decision if Grievant or the Agency submits a written request that contains arguments or evidence that tend to establish that:

1. The appellate decision involved a clearly erroneous interpretation of material fact or law; or
2. The appellate decision will have a substantial impact on the policies, practices, or operations of the agency.

Requests for reconsideration must be filed with EEOC's Office of Federal Operations (OFO) **within thirty (30) calendar days** of receipt of this decision. If the party requesting reconsideration elects to file a statement or brief in support of the request, **that statement or brief must be filed together with the request for reconsideration.** A party shall have **twenty (20) calendar days** from receipt of another party's request for reconsideration within which to submit a brief or statement in opposition. See 29 C.F.R. § 1614.405; Equal Employment Opportunity Management Directive for 29 C.F.R. Part 1614 (EEO MD-110), at Chap. 9 § VII.B (Aug. 5, 2015).

Grievant should submit their request for reconsideration, and any statement or brief in support of their request, via the EEOC Public Portal, which can be found at <https://publicportal.eeoc.gov/Portal/Login.aspx>

Alternatively, Grievant can submit their request and arguments to the Director, Office of Federal Operations, Equal Employment Opportunity Commission, via regular mail addressed to P.O. Box 77960, Washington, DC 20013, or by certified mail addressed to 131 M Street, NE, Washington, DC 20507. In the absence of a legible postmark, a complainant's request to reconsider shall be deemed timely filed if OFO receives it by mail within five days of the expiration of the applicable filing period. See 29 C.F.R. § 1614.604.

An agency's request for reconsideration must be submitted in digital format via the EEOC's Federal Sector EEO Portal (FedSEP). See 29 C.F.R. § 1614.403(g). Either party's request and/or statement or brief in opposition must also include proof of service on the other party, unless Grievant files their request via the EEOC Public Portal, in which case no proof of service is required.

Failure to file within the 30-day time period will result in dismissal of the party's request for reconsideration as untimely, unless extenuating circumstances prevented the timely filing of the request. **Any supporting documentation must be submitted together with the request for reconsideration.** The Commission will consider requests for reconsideration filed after the deadline only in very limited circumstances. See 29 C.F.R. § 1614.604(f).


GRIEVANT'S RIGHT TO FILE A CIVIL ACTION (S0124)

You have the right to file a civil action in an appropriate United States District Court **within ninety (90) calendar days** from the date that you receive this decision. If you file a civil action, you must name as the defendant in the complaint the person who is the official Agency head or department head, identifying that person by their full name and official title. Failure to do so may result in the dismissal of your case in court. "Agency" or "department" means the national organization, and not the local office, facility or department in which you work. If you file a request to reconsider and also file a civil action, **filing a civil action will terminate the administrative processing of your complaint.**

RIGHT TO REQUEST COUNSEL (Z0815)

If you want to file a civil action but cannot pay the fees, costs, or security to do so, you may request permission from the court to proceed with the civil action without paying these fees or costs. Similarly, if you cannot afford an attorney to represent you in the civil action, you may request the court to appoint an attorney for you. **You must submit the requests for waiver of court costs or appointment of an attorney directly to the court, not the Commission.** The court has the sole discretion to grant or deny these types of requests. Such requests do not alter the time limits for filing a civil action (please read the paragraph titled Grievant's Right to File a Civil Action for the specific time limits).

FOR THE COMMISSION:


Carlton M. Hadden, Director
Office of Federal Operations

February 3, 2025

Date